

4.1 Considerations in Determining Enforcement Actions Involving Individuals

The U.S. Nuclear Regulatory Commission (NRC) recognizes that decisions regarding enforcement actions against individuals will have to be made on a case-by-case basis. The NRC may propose an enforcement action or refrain from taking an enforcement action after considering all the relevant circumstances of each case.

The primary factors considered by the NRC in considering whether to take action or what action to take are (1) the significance of the underlying violation or technical issue (not considered in discrimination cases) and (2) the individual's position within the organization (i.e., notwithstanding an individual's job title, consider the position of the individual within the licensee's organizational structure and the individual's responsibilities related to the oversight of licensed activities and to the use of licensed material).

Other factors include, but are not limited to, whether the violation was the result of deliberate misconduct (typically a prerequisite for taking action against a nonlicensed individual), the benefit to the wrongdoer (e.g., direct personal or corporate gain), the degree of management responsibility or culpability, and the attitude of the wrongdoer (e.g., admission of wrongdoing, acceptance of responsibility).

For Fitness-for-Duty (FFD) violations involving non-licensed individuals that violate drug and alcohol provisions of site FFD programs, which are explicitly described in 10 CFR 26.75, "Sanctions," the NRC will not typically consider FFD drug and alcohol-related violations for enforcement action unless there is an apparent deficiency in the licensee's FFD program to take the required sanctions against the individual(s) or deficiencies in implementation of the licensee FFD program.