

NOTATION VOTE

RESPONSE SHEET

RELEASED TO THE PDR
1/24/94
date initials

TO: SAMUEL J. CHILK, SECRETARY OF THE COMMISSION
FROM: COMMISSIONER DE PLANQUE
SUBJECT: SECY-93-310 - RESPONSE TO THE HEALTH PHYSICS SOCIETY EDITORIAL

APPROVED _____ DISAPPROVED XX (w/comment) ABSTAIN _____
NOT PARTICIPATING _____ REQUEST DISCUSSION _____

COMMENTS:

See attached comments.

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PDR COMMS NRCC
CORRESPONDENCE PDR

E. L. de Planque
SIGNATURE

RELEASE VOTE

December 16, 1993
DATE

WITHHOLD VOTE

ENTERED ON "AS" YES X No _____

LF 01/11

Commissioner de Planque's comments on SECY-93-310:

I appreciated the staff providing background information on the specifics of the case cited in the Newsletter's editorial. Subsequent to issuance of SECY-93-310, "Response to the Health Physics Newsletter," the Newsletter published a letter to the editor from K. Paul Steinmeyer (attachment).

In my opinion, Mr. Steinmeyer's letter makes all of the points that one would reasonably expect an NRC letter to make had NRC provided a response to the editorial. That the letter was not written by NRC is another advantageous aspect.

I would note that the purpose of my original comment to staff on the Newsletter editorial was not to specifically solicit an NRC response to the Newsletter but rather to stimulate staff thinking about the overall concerns expressed in the editorial. Therefore, I appreciate the response indicating that staff is considering modifications of the enforcement process to make it more efficient and to ensure that appropriate consideration is given by staff to licensee efforts to self-identify and correct violations. I encourage the staff to proceed with these actions.

In view of the foregoing and absent further discussion of the issue in the Newsletter, I see no need for staff to send the proposed letter. Should the staff believe that correspondence to the Newsletter on this subject is still warranted, it should prepare a proposed letter for Commission consideration.

LETTERS TO THE EDITOR

Another View: NRC Violator

K. Paul Steinmeyer
Hebron, Connecticut

To the Editor:

I enjoyed reading your editorial in the September 1993 issue of the *Newsletter*. I'm providing a few thoughts for you to consider.

Is it just possible that the researcher you mentioned in paragraph five was a willful and frequent violator of procedures? Let me propose my own scenario to you.

A researcher (or more likely an entire group or department) considers himself to be above the petty and nettlesome requirements imposed by less educated and knowledgeable individuals (the RSO and the government). The rationalization for his actions is always the same, and it is the one you made in your editorial: the quantity of radioisotope being used would present no credible hazard even if it were all released, or (paraphrasing), the radiation dose would be unmeasurable, or only a tiny fraction of the applicable limit.

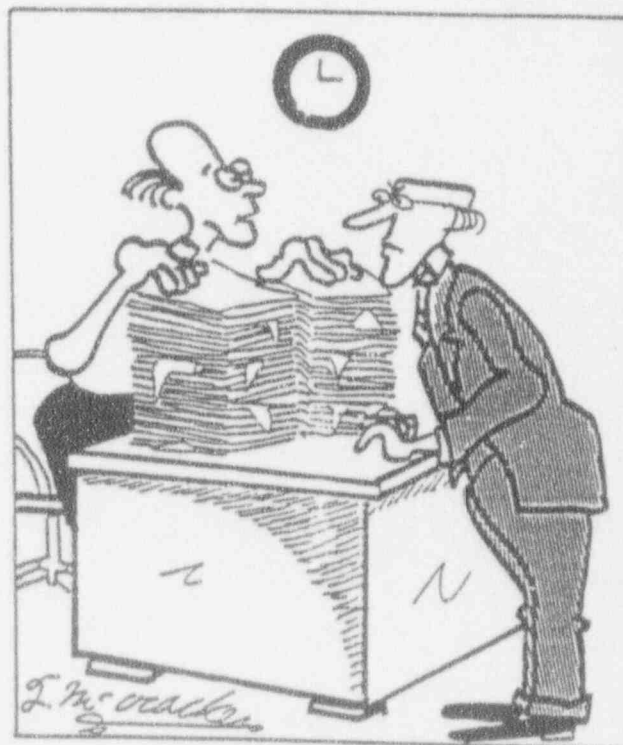
It is the radiation safety officer's job, in the view of this hypothetical researcher, to deal with compliance issues as best (s)he can, while the researcher does the really *important* work. In these cases, the RSO does as much as (s)he can, but has no real authority over the individual radioactive material users.

The RSO is caught between the rock and a hard place—the rock being the license and procedural requirements; the hard place being an administration unwilling to take effective action against a researcher(s), or a whole department, which brings in large quantities of grant money each year. The conclusion left to be drawn is "No harm, no foul." I think that this misses the whole point.

At some time during the licensing process, each licensee made a *written commitment* to a regulatory agency (license application) to meet certain requirements and to implement certain controls through procedures and training. Is it acceptable then to unilaterally set these commitments aside because some material users are convinced that no harm will be done if these commitments are ignored? I say "No!" If the licensee at the time of application never intended to fully comply with these commitments, then this is surely a willful violation. And if an administration tacitly permits repeated violations of procedures and/or license requirements by refusing to take effective corrective action against the violators, then this too is a willful violation of the law.

I have spoken to two RSOs who resigned their positions rather than continue to participate in an ineffective, sham program where they were expected to "go along, get along." A third RSO was "reassigned" after forcing the compliance issue with the university administration. If this is the situation behind the scenario you described, I applaud the NRC's actions.

On the issue of the NRC writing an NOV and imposing a civil penalty on a licensee-identified item, I'll agree that at first blush it seems like a cheap shot. However, licensee-identified items cannot be permitted to become an impenetrable shield for lax licensees to hide behind. We need to know more about your first scenario before we leap at the throat of the easy target.



"It's gravity sir.
They're what keep
my desk from
floating away."