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(50 FR 1142)



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OFFICE OF SECRETARY
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April 29, 1985

Secretary of the Commission
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
ATTN: DOCKETING AND SERVICE BRANCH

SUBJECT: Additional Comments on NRC Enforcement Policy
- (50 FR 1142)

Dear Sir:

At the last scheduled meeting of the Ad Hoc Committee on Enforcement on April 10 & 11, 1985, members of the Committee asked for more concrete proposals of desired recommended changes to the NRC Enforcement Policy. As an enclosure to this letter, we have provided draft recommendations for desired changes to the policy. Some members also asked if a dialogue could be arranged with utility persons dealing with, the NRC Enforcement Policy on a day-to-day basis. Arrangements have been made for two additional utility representatives to speak at your May 1, 1985 meeting: Mr. J. Pilant of Nebraska Public Power District and Mr. M. Howard of Florida Power Corp. Both of these individuals interface with NRC regional and headquarters personnel on enforcement matters on a daily basis, and can provide information and examples of the impact that the NRC Enforcement Policy has had on their utility and employees.

In providing the enclosed recommended changes to the NRC Enforcement Policy, we recognize that many pages of desirable comment could be included. KMC did provide considerable additional comments on the interim policy published in 1980 and we believe it remains valid; however, we now feel it most important to focus on two of the more serious problems and urge the Commission to move forward in correcting those. We believe that through dialogue with the NRC staff, other recommended changes could follow once the Commission decides major revision is in order. The two vital issues singled for attention are: material false statements, and the Commission's policy of establishing severity categories and subsequent escalated enforcement actions

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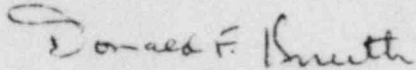
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such as civil penalties. We are of the opinion that the policy guidance itself should be brief and permit regional discretion in implementation.

We would be pleased to answer any questions you may have.

Sincerely,

A handwritten signature in cursive script that reads "Donald F. Knuth".

Donald F. Knuth
President

Encl.

ENCLOSURE 1

RECOMMENDED CHANGES IN ENFORCEMENT POLICY

A. Material False Statement (MFS)

The current policy toward material false statement should be revised to retain only a portion of the existing definition as a MFS and a category of "truth in reporting" should be established. A material false statement would be defined as written material submitted with the full knowledge that it was false and that it would be relied upon in the review process. In this category, Department of Justice review of the criminal aspects as well as NRC issuance of escalated enforcements (orders for suspension or civil penalty) could be pursued.

Other information submitted in conformance to reporting requirements or in response to NRC questions would be reviewed in the context of violating a "truth in reporting" requirement and would be segregated by severity level. A statement made with the intent to deceive (or intentionally withhold) for example would be placed in the more severe category whereas a factual inaccuracy without any intent to mislead would be of a lesser severity. Violations of "truth-of-reporting" could be subject of escalated enforcement in the established policy but would not be subject to Department of Justice criminal involvement.

B. Severity Categories and Escalated Enforcement

The current severity categories should be revised to reduce the number of severity categories and more importantly to restore the graded approach toward enforcement. The requirement for automatic fines for certain categories of violations and the policy to levy civil penalties should, by and large, be an escalated enforcement action when enforcement conferences and warnings to licensee management have not been acted upon. It is when utilities are unable or unwilling to correct problems that civil penalties and/or orders be used.