



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

April 24, 1998

EGM 98-004

MEMORANDUM TO: Hubert J. Miller, Regional Administrator  
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John T. Greeves, Director, Division of Waste  
Management, NMSS

FROM: James Lieberman, Director  
Office of Enforcement

SUBJECT: ENFORCEMENT GUIDANCE MEMORANDUM  
CATEGORIZING THE SEVERITY LEVEL OF VIOLATIONS INVOLVING  
SECURITY AND CONTROL OF LICENSED MATERIAL

This memorandum is being issued to provide further guidance on the severity level of violations involving 10 CFR 20.1801 and 1802, security and control of licensed material.<sup>1</sup> The Enforcement Policy, Example IV.C.12, indicates that a *significant* failure to control licensed material is a Severity Level III violation [emphasis added]. Severity Level III also is assigned under Example VI.C.1 for failure to control access to licensed materials for radiation purposes as specified by NRC requirements.

The following guidance uses a more risk-informed, performance-based approach to determine the types of security violations that should be considered significant, vs. those of less serious concern and those of minor significance. This guidance is intended to focus licensees' attention on assuring a program of training, staff awareness, detection (auditing), and corrective action

<sup>1</sup>This guidance is not meant to imply that the release of an individual following decontamination conducted in accordance with the licensee's decontamination procedure is a violation of 10 CFR 20.1801 or 1802.

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(including disciplinary action) to detect and deter security violations. Such a program normally is not a specific regulatory requirement, but rather a function that licensees need to perform as an inherent part of their compliance program. Normally, security violations that occur despite such a program will be considered *isolated*.

As with other examples in the policy, the severity level may be increased if the violation involves willfulness, and may be increased or decreased as other circumstances warrant. For example, the severity levels of some security violations that involve large amounts of very low concentration material, such as a breach of the fencing at an SDMP site, may be reduced if warranted by the safety and regulatory significance of the specific violation.

This memorandum does not address loss, release, or disposal of licensed material, which is covered under separate examples in Supplement IV of the Enforcement Policy.

After gaining experience with this guidance, the staff plans to propose that the following guidance be incorporated as specific examples in the Enforcement Policy. At that time, the current examples IV.C.12 and VI.C.1 will be withdrawn.

Severity Level III - Violations involving, for example:

(a) failure to secure, or maintain surveillance over, licensed material in any aggregate quantity greater than 1000 times the quantity specified in Appendix C to Part 20, or that results in a substantial potential for exposures or releases in excess of the applicable limits in Part 20; or (b) failure to secure or maintain surveillance over licensed material not characterized above and involving an aggregate quantity greater than 10 times the quantity specified in Appendix C to Part 20, where such failure is accompanied by the absence of, or a breakdown<sup>2</sup> in, a program to detect and deter security violations that includes training, staff awareness, detection (including auditing), and corrective action (including disciplinary action).

Severity Level IV - Violations involving, for example:

isolated failures to secure, or maintain surveillance over, licensed material not characterized above and involving an aggregate quantity greater than 10 times the quantity specified in Appendix C to Part 20, provided that: (i) the material is labeled as radioactive or located in an area posted as containing radioactive materials; and (ii) such failure is non-programmatic in that the failure occurs despite a functional program to detect and deter security violations that includes training, staff awareness, detection (including auditing), and corrective action (including disciplinary action).<sup>3</sup>

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<sup>2</sup>The term "breakdown" as used herein has the same meaning as in Examples IV.C.13 and IV.C.7 of the Enforcement Policy.

<sup>3</sup>In accordance with the Enforcement Policy, Section VII.B.1, enforcement discretion normally is exercised to utilize non-cited violations (NCVs) for licensee-identified violations that would otherwise be categorized at Severity Level IV.



Note: It is unlikely that licensees can eliminate *all* security infractions within large, broad-licensed programs; therefore, licensees with vigilant programs are likely to detect these violations periodically. The fact that security violations recur does not necessarily mean that they are repetitive as defined in the Enforcement Policy. The Policy requires a consideration of whether corrective action was taken that was reasonably calculated to prevent additional similar violations. If the licensee has taken reasonable corrective action to prevent recurrence such as adopting a program of identification, staff awareness, auditing, training, and correction of individual security violations, normally Severity Level IV security violations should not be considered repetitive unless they involve the same individual(s), the same immediate supervisor, or the same workspace (e.g., the same laboratory).

Minor Violations<sup>4</sup> - Violations involving, for example:

Failures to secure, or maintain surveillance over: (1) licensed material involving aggregate quantities equal to or less than 10 times the quantity specified in Appendix C to Part 20; or (2) properly labeled sealed sources or waste forms measuring less than 0.02 mSv/hr (2 mrem/hr) at 30 cm.

Note: Enforcement action should not be taken against licensees for failure to secure from unauthorized removal quantities of material less than the quantities listed in Appendix C of 10 CFR Part 20. At the present time, guidance in NUREG/CR-6204 indicates that 10 CFR 20.1801 and 1802 do not apply to amounts less than the quantities listed in Appendix C to 10 CFR Part 20. The staff plans to withdraw this guidance. When the guidance is withdrawn, this EGM will be modified to include security issues involving quantities less than Appendix C as minor violations.

Security violations categorized as minor or Severity Level IV may be dispositioned by the Regions. For a period of three months from the date of this EGM, security violations categorized at Severity Level III should be coordinated with NMSS. After that date, actions that involve Severity Level III violations may be treated as normal delegated cases provided that they meet the delegation criteria.

cc: L. J. Callan, EDO  
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The Commission  
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<sup>4</sup>By definition, a minor violation may occur several times and still be of minor concern; however, if a licensee refuses to correct a minor violation within a reasonable time such that it willfully continues, the violation should be categorized at least at Severity Level IV. Enforcement Policy, Section IV.C.