

POLICY ISSUE
NOTATION VOTE

RESPONSE SHEET

TO: Carrie M. Safford, Secretary
FROM: Commissioner Crowell
SUBJECT: SECY-24-0009: Proposed Revisions to the U.S.
Nuclear Regulatory Commission Enforcement Policy

Approved ☒ Disapproved ☐ Abstain ☐ Not Participating ☐

COMMENTS: Below ☐ Attached ☒ None ☐

Entered in STAR

Yes ☒

No ☐


Signature

Date 09/26/25

Commissioner Crowell's Comments on SECY-24-0009, "Proposed Revisions to The U.S. Nuclear Regulatory Commission Enforcement Policy"

I appreciate the staff's effort involved in this update to the NRC's Enforcement Policy. In particular, I commend the staff for focusing on clarity and gathering extensive input on a variety of topics from both internal and external stakeholders. The closer we can tie the severity level of violations to the risk, safety, or security significance of the underlying issue, the better served both the NRC and the regulated community are.

By its nature, the Enforcement Policy affords a certain level of judgment and discretion by NRC staff in assessing the severity and penalty associated with a violation. Ideally, outcomes would be consistent across different instances of a similar violation, but each violation can have unique circumstances associated with it. In that sense, the additional clarity provided for the qualitative descriptions for ROP colors (and associated accompanying changes in the Policy) is a worthwhile step to provide some additional uniformity in enforcement actions and outcomes across the NRC. Given that risk, safety, or security significance are the primary, but not the only, determinants in assessing a violation (e.g., how a willful violation would be treated very differently from a good faith discovery identified by a licensee), I find the staff's proposed changes strike an appropriate balance while maintaining the adequacy of NRC's important oversight function. Accordingly, I approve the proposed policy revisions outlined in the enclosure to the paper. I note that given the increased use of the very low safety (or security) significance process, it seems important that all stakeholders have a common, clear understanding of what "very low safety significance" entails, and I look forward to the staff continuing to exercise and refine the process, including through targeted outreach to stakeholders who have shown an interest in this topic.

I also approve the staff recommendation to explicitly delegate the authority granted by the Commission to the Executive Director for Operations (EDO) to implement, as necessary, updates to item f.3 in table A of the Policy in accordance with the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. I further approve delegating authority to the EDO to update items f.1 and f.2 in table A as needed, as these would also need to be adjusted for inflation so they should not be treated separately from item f.3 in Table A, to reflect three times the average cost of disposal of the material in question. Going forward, these updates will afford the staff the appropriate flexibility to keep base civil penalties up to date.

Finally, I propose changes to clarify the concept of "related violations" to establish a consistent, agency-wide, application of this concept as used in other agency policies and documents, such as Management Directive 8.13, "Reactor Oversight Process." I agree with retaining existing Commission policy to address certain violations – including those that involve willfulness, impact NRC oversight capabilities, and lead to potential or actual consequences – through both the Reactor Oversight Process and traditional enforcement. Such violations reflect the core of the NRC's mission to protect public health and safety, and thus, it is essential to establish a clear and consistent Enforcement Policy fully reflective of relevant Commission positions and expectations.

Lastly, the staff should seek Commission approval for any further revisions to the Enforcement Policy arising from implementation of the Accelerating Deployment of Versatile, Advanced

Nuclear for Clean Energy Act of 2024 (ADVANCE Act) and Executive Order 14300, "Ordering the Reform of the Nuclear Regulatory Commission."

| BRC edits

NRC Enforcement Policy

Month X, 202X

U.S. Nuclear Regulatory Commission
Office of Enforcement
Washington, DC 20555-0001



Enclosure 3

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- c. Whether the violation impacted the NRC's ability to perform its regulatory oversight function. The NRC considers the safety and security implications of noncompliances that may affect the NRC's ability to carry out its statutory mission. These types of violations include failures to provide complete and accurate information; failures to receive prior NRC approval for changes in licensed activities, when required; failures to notify the NRC of required changes in licensed activities, when required; failures to perform analyses under 10 CFR 50.59, "Changes, tests and experiments," and similar analyses; failures to maintain an up-to-date and accurate final safety analysis report (FSAR); and failures to comply with reporting requirements. Even inadvertent reporting failures are important because many of the surveillance, quality control, and auditing systems on which both the NRC and its licensees rely to monitor compliance with safety standards are based primarily on complete, accurate, and timely recordkeeping and reporting. The existence of a regulatory process violation does not automatically mean that the underlying issue is significant to safety or security. In determining the significance of a regulatory process violation, the NRC will consider appropriate factors for the particular failure. These factors may include the ~~potential-or~~ actual ~~or~~ potential consequences of the underlying issue, whether the failure actually impeded or influenced regulatory action, the level of individuals involved in the failure, the reason the failure occurred given their position and training, and whether the failure invalidates the licensing basis.

Unless otherwise categorized in the violation examples contained in this Policy (i.e., section 6.0), the significance of a violation involving a failure to make a required report to the NRC will depend on the circumstances surrounding the matter that should have been reported. However, the significance of an untimely report, in contrast to no report, may be reduced depending on the circumstances. The NRC will not normally cite a licensee for a failure to report a condition or event unless the licensee was actually aware of the condition or event that it failed to report. On the other hand, the agency will normally cite a licensee for a failure to report a condition or event if the licensee knew of the information to be reported and did not recognize that it was required to make a report.

- d. Whether the violation involved willfulness. Willful violations are of particular concern because the NRC's regulatory program is based on licensees and their contractors, employees, and agents acting with integrity and communicating with candor. The Commission cannot tolerate willful violations. Therefore, a violation may be considered more significant than the underlying noncompliance if it includes indications of willfulness. Violations with willful aspects will typically be considered for escalated enforcement. The term "willfulness" as used in this Policy refers to conduct involving either a careless disregard for requirements or a deliberate violation of requirements or falsification of information. In determining whether to escalate the significance of a violation involving willfulness, the NRC will consider such factors as the position, training, experience level, and responsibilities of the person involved in the violation (e.g., licensee official or nonsupervisory employee); the ~~potential-or~~ actual ~~or~~ potential consequences of the underlying issue; the intent of the violator (i.e., careless disregard or deliberateness); and the economic or other advantage, if any, gained as a result of the violation. The relative weight given to each of these factors in the significance assessment will depend on the circumstances of the violation. However, if a licensee refuses to correct a minor violation within a reasonable time, in such a way that it willfully

continues, the violation should be considered more than minor. In responding to willful violations, licensees are expected to take significant remedial action commensurate with the circumstances, such that the action reflects the seriousness of the violation, thereby creating a deterrent effect within the licensee's organization.

2.2.2 Traditional Enforcement

Under its traditional enforcement process, the NRC assesses significance by assigning a severity level to all violations by those subject to the NRC's enforcement authority as defined in Section 1.2, "Applicability of the Enforcement Policy." ~~Section 6.0 of this Policy provides examples of severity level (SL) I, II, III, and IV violations, organized by activity area. These examples are not intended to be exhaustive or controlling.~~

Under traditional enforcement, the severity level assigned to a violation generally reflects the NRC's assessment of the violation's significance. Severity level designations reflect different degrees of significance depending on the activity area in which the severity level is designated. A higher severity level may be warranted for violations that have a greater risk, safety, or security significance, while a lower severity level may be appropriate for issues that have lower risk, safety, or security significance.

- a. SL I violations are those that resulted in or could have resulted in serious safety or security consequences (e.g., violations that created a substantial potential for serious safety or security consequences, or violations that involved systems failing when actually called on to prevent or mitigate a serious safety or security event).
- b. SL II violations are those that resulted in or could have resulted in significant safety or security consequences (e.g., violations that created the potential for substantial safety or security consequences, or violations that involved systems not being capable, for an extended period, of preventing or mitigating a serious safety or security event).
- c. SL III violations are those that resulted in or could have resulted in moderate safety or security consequences (e.g., violations that created a potential for moderate safety or security consequences or violations that involved systems not being capable, for a relatively short period, of preventing or mitigating a serious safety or security event). Additionally, violations involving licensee officials that impeded or influenced a specific regulatory action, such as a licensing decision or inspection activity, and that would likely have led to a different regulatory decision, or violations that were committed willfully, are typically assigned at least an SL III significance.
- d. SL IV violations are those that are less serious, but are of more than minor concern, that resulted in no or relatively inappreciable potential safety or security consequences (e.g., violations that created the potential of more than minor safety or security consequences). Additionally, a significance of SL IV is typically assigned to violations that impeded or influenced a specific regulatory action, such as a licensing decision or inspection activity, but that would likely not have led to a different regulatory decision.

- e. Minor violations are those that are less significant than an SL IV violation. Minor violations do not warrant enforcement action and are not normally documented in inspection reports. However, they must be corrected.

Section 6.0 of this Policy provides examples of SL I, II, III, and IV violations, organized by activity area. These examples are not intended to be exhaustive or controlling, and were developed using qualitative risk insights to determine the appropriate severity level for a violation. The duration of a violation is also an appropriate consideration in assessing its significance. Similarly, both the ROP and the cROP use quantitative and qualitative tools based on the significance determination process (SDP), which assigns an inspection color finding.

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2.2.3 Assessment of Violations Identified under the Reactor Oversight Process (ROP) or Construction Reactor Oversight Process (cROP)

The assessment, disposition, and issuance of an NRC enforcement action related to an inspection finding at an operating power reactor or power reactor under construction is determined by either the ROP, or the cROP as described in the NRC inspection manual chapters. The ROP and cROP both implement a ~~significance determination process (SDP)~~ that incorporates risk insights, where possible, to help the NRC staff determine the significance of a noncompliance identified at an operating power reactor or power reactor under construction. An inspection finding processed through the SDP, including any associated violation, is documented in an inspection report and, depending on its significance, is assigned a color (red, yellow, white, or green).

With the exceptions noted below in section 2.2.4, violations associated with ROP or cROP inspection findings are not normally assigned severity levels, nor are they normally subject to civil penalties, although civil penalties are considered for any violation that involves actual consequences.

2.2.4 Using Traditional Enforcement to Disposition Violations Identified at Power Reactors

Certain violations at power reactors cannot be addressed solely through the SDP. Such violations are therefore dispositioned under the traditional enforcement process and assigned severity levels and can be considered for civil penalties in accordance with this Policy.

Violations with the following attributes are dispositioned using traditional enforcement:

- a. violations that resulted in actual safety or security consequences (as described in section 2.2.1.a)
- b. violations that may impact the NRC's ability to perform its regulatory oversight function (as described in section 2.2.1.c)
- c. violations involving willfulness (as described in section 2.2.1.d)
- d. violations not associated with ROP or cROP inspection findings

In determining the severity level assigned to such violations, the NRC will consider information in this Policy and the violation examples in section 6.0 of this Policy, as well as SDP-related information, when available. Violations with an underlying performance deficiency² ~~Related~~ ~~violations~~ may be dispositioned in parallel within both the traditional enforcement process and the ROP/cROP processes. The SDP will inform but may not necessarily determine the severity level, while the severity level or civil penalty amount should not influence the SDP.

2.2.5 Export and Import of Nuclear Equipment and Material

The NRC's export and import requirements for radioactive material and equipment within the scope of the NRC's export and import licensing authority (10 CFR 110.8, 110.9, and 110.9a) appear in 10 CFR Part 110, "Export and Import of Nuclear Equipment and Material." The NRC will normally take enforcement action for violations of these requirements related to (1) completeness and accuracy of information, (2) reporting and recordkeeping requirements (10 CFR 110.23, 110.26, 110.50, and 110.54), and (3) adherence to general and specific licensing requirements (10 CFR 110.20–110.27 and 10 CFR 110.50).

2.2.6 Construction

In accordance with 10 CFR 50.10, "License required; limited work authorization," no person may begin the construction of a production or utilization facility on a site on which the facility is to be operated until that person has been issued either a construction permit under 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities"; a combined license under 10 CFR Part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants"; an early site permit authorizing the activities under 10 CFR 50.10(d); or an LWA under 10 CFR 50.10(d). To preclude unnecessary regulatory burden on 10 CFR Part 52 combined license holders while maintaining safety, the NRC developed the Changes during Construction (CdC) Preliminary Amendment Request (PAR) process in the interim staff guidance (ISG) COL-025, "Interim Staff Guidance on Changes during Construction under 10 CFR Part 52," dated September 11, 2015. The license condition providing the option for a PAR as detailed in COL-ISG-025 allows the licensee to request to make physical changes to the plant that are consistent with the scope of the associated license amendment request (LAR). In response to the PAR, the NRC staff may issue a no-objection letter with or without specific limitations. Enforcement actions will not be taken for construction pursuant to a PAR no-objection letter that is outside of the current licensing basis (CLB) while the corresponding LAR is under review as long as the construction is consistent with the associated LAR and the no-objection letter (the latter of which may contain limitations on construction activities). The PAR no-objection letter authorization is strictly conditioned on the licensee's commitment to return the plant to its CLB if the requested LAR is subsequently denied or withdrawn. Failure to promptly restore the CLB may be subject to separate enforcement, such as an order, a civil penalty, or both.

In accordance with 10 CFR 70.23(a)(7) and 10 CFR 40.32(e), commencement of

² In this context, the term "related" refers to violations that have a cause-and-effect relationship or are directly related to the same event. An example, would be a willful failure to adequately perform a quality-related work order (dispositioned using traditional enforcement) that results in an inoperable structure, system or component (dispositioned using the ROP or cROP).

construction before the NRC finishes its environmental review of license or amendment applications for processing and fuel fabrication, scrap recovery, conversion of uranium hexafluoride, uranium enrichment facility construction and operation, or uranium milling is grounds for denial to possess and use licensed material in the plant or facility. Additionally, in accordance with 10 CFR 70.23(b), failure to obtain Commission approval for the construction of the principal structures, systems, and components of a plutonium processing and fuel fabrication plant before the commencement of such construction may also be grounds for denial of a license to possess and use byproduct, source, or special nuclear material in the plant or facility.

2.3 Disposition of Violations

This section describes the various ways that the NRC can disposition violations. The general tenets of this Policy are used to assess the appropriate enforcement outcome for safety or security significance of a violation.

Recognizing that the regulation of nuclear activities in many cases does not lend itself to a mechanistic treatment, judgment and discretion must also be exercised in determining the appropriate enforcement sanctions. This judgment and discretion includes the decision to issue an NOV, or to propose or impose a civil penalty and the amount of this penalty, after considering the general principles of this statement of policy and the significance of the violations, as well as the surrounding circumstances. The NRC also uses risk information to aid in determining the appropriate enforcement outcome. A higher severity level may be warranted for violations that have greater risk, safety, or security significance, while a lower severity level may be appropriate for issues that have lower risk, safety, or security significance. The severity level examples in section 6.0 of this Policy were developed using qualitative risk insights to determine the appropriate severity level for a violation, with SL IV being the least significant and SL I the most significant. Similarly, both the ROP and the cROP use quantitative and qualitative tools based on the SDP, which assigns an inspection color finding. The duration of a violation is also an appropriate consideration in assessing its significance.

2.3.1 Minor Violation

Violations of minor safety or security concern generally do not warrant enforcement action or documentation in inspection reports but must be corrected. Examples of minor violations can be found in the NRC Enforcement Manual and the applicable inspection manual chapter.

2.3.2 Noncited Violation

If a licensee or nonlicensee has implemented a corrective action program that the NRC has determined to be adequate,³ the NRC will normally disposition SL IV violations and violations associated with green ROP or cROP findings as noncited violations (NCVs) if all the criteria in paragraph 2.3.2.a are met.

For licensees and nonlicensees that the NRC has not credited as having adequate corrective

³ The NRC may credit a formal corrective action program that has been inspected and found to meet regulatory guidance, industry standards, or both.

- (b) Identified through an event—When a problem requiring corrective action is identified through an event (i.e., the problem is self-revealing), the decision as to whether to give the licensee credit for actions related to identification normally should consider (1) the ease of discovery, (2) whether the event occurred as a result of the licensee's self-monitoring effort (i.e., whether the licensee was "looking for the problem"), (3) the degree of licensee initiative in identifying the problem or problems requiring corrective action, and (4) whether prior opportunities existed to identify the problem.

Any of these considerations may be overriding if particularly noteworthy or egregious. For example, if the event occurred as a result of conducting surveillance or a similar self-monitoring effort (i.e., the licensee was looking for the problem), the licensee should normally be given credit for identification. Even if the problem was easily discovered (e.g., revealed by a large spill of liquid), the NRC may choose to give credit because the licensee exerted noteworthy effort in identifying the underlying cause or extent of conditions, or because no reasonable prior opportunities (e.g., procedural cautions, postmaintenance testing, quality control failures, readily observable parameter trends, repeated or locked-in annunciator warnings, or industry/manufacture information) existed to identify the problem.

- (c) NRC-identified—When a problem requiring corrective action is NRC-identified, the decision as to whether to give the licensee credit for actions related to identification should normally be based on an additional question: can the licensee reasonably be expected to have identified the problem (and taken action) earlier?

In most cases, this reasoning may be based simply on the ease of the NRC inspector's discovery (e.g., conducting a walkdown, observing in the control room, performing a confirmatory NRC radiation survey, hearing a cavitating pump, or finding a valve obviously out of position). In some cases, the licensee's missed opportunities to identify the problem may include a similar previous violation, NRC or industry notices, internal audits, or readily observable trends.

If the NRC identified the violation but concludes that, under the circumstances, the licensee could not reasonably have identified the problem earlier, the NRC will normally give the licensee identification credit for the purposes of assessing the civil penalty.

- (d) Mixed identification—For "mixed" identification situations (i.e., where multiple related⁷ violations exist, some identified by the NRC and some by the licensee, or where the NRC prompted the licensee to take action that

⁷ In this context, the term "related" refers to violations that have a cause-and-effect relationship or are directly related to the same event.

However, if the missed opportunity is the only violation, then it should not normally be counted twice (i.e., counting it as both a violation and a missed opportunity constitutes "double counting"), unless the number of opportunities missed was particularly significant.

The timing of the missed opportunity should also be considered. While a rigid timeframe is unnecessary, for consistency in implementation, 2 years should generally be considered as the period reflecting relatively current performance.

3. When the NRC determines that the licensee should receive credit for actions related to identification, the civil penalty assessment should normally result in either no civil penalty or a base civil penalty, depending on whether the corrective action is judged to have been reasonably prompt and comprehensive. When the licensee is not given credit for actions related to identification, the civil penalty assessment should normally result in an NOV with either a base civil penalty or a base civil penalty escalated by 100 percent, depending on the quality of corrective action.

c. Were the licensee's corrective actions prompt and comprehensive?

The purpose of the corrective action factor is to encourage licensees to (1) take the immediate actions necessary, upon discovery of a violation, to restore safety, security, and compliance with the license, regulations, or other requirements, and (2) promptly develop and implement lasting actions that not only will prevent recurrence of the violation at issue, but also will be appropriately comprehensive, given the significance and complexity of the violation, to prevent the occurrence of violations with similar underlying causes.

Regardless of other circumstances (e.g., past enforcement history, identification), the licensee's corrective actions should always be evaluated as part of the civil penalty assessment process. As a reflection of the importance given to this factor, an NRC judgment that the licensee's corrective action has not been prompt and comprehensive will always result in the issuance of at least a base civil penalty.

In assessing this factor, the NRC will consider the timeliness of the licensee's corrective action (including the promptness in developing the schedule for long-term corrective action), the adequacy of the licensee's corrective action, including an adequate underlying root cause analysis for the violation, and, given the significance and complexity of the issue, the comprehensiveness of the corrective action (i.e., whether the action is focused narrowly on the specific violation or broadly on the general area of concern).

In considering whether the licensee's corrective actions are prompt, regardless of who identified the problem (i.e., the licensee, a third party, or NRC), the timeliness of corrective actions should normally be measured from the date when the licensee first became aware of the problem. Corrective action would not typically be considered

When inspectors determine that violations of NRC requirements (e.g., 10 CFR Part 50, Appendix B) have occurred that could adversely affect the quality of a safety-significant product or service, the NRC will typically take enforcement action. NOVs and civil penalties will be used, as appropriate, for licensee failures to ensure that their contractors have programs that meet applicable requirements. The NRC may also issue NOVs to contractors and vendors who violate 10 CFR Part 21 and may issue NOVs for other violations, such as those resulting from deliberate misconduct. Civil penalties may be imposed against individual directors or responsible officers of a contractor organization who deliberately fail to provide the notice required by 10 CFR 21.21(d)(1). The NRC may issue NOVs or orders to nonlicensees who are subject to the specific requirements of 10 CFR Part 71 and 10 CFR Part 72, "Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater than Class C Waste." Notices of nonconformance will be used for contractors who fail to meet commitments related to NRC activities but are not in violation of specific requirements.

2.3.13 Failure to Control and Loss of NRC-Regulated Material

Failure to control NRC-regulated material and loss of NRC-regulated material are significant regulatory and security concerns because they can lead to unauthorized possession or use of the material and to uncontrolled exposure of members of the public to radiation. Therefore, as described below, for violations associated with lost or missing regulated material that is not recovered in a timely manner and where escalated enforcement action is warranted, the NRC may consider increased civil penalties based on 3 times the estimated or actual cost of disposal of the material. The civil penalty amounts should convey the agency's emphasis on the importance of maintaining control over licensed material and responding promptly to retrieve uncontrolled material.

Consultation with OE is required for all cases involving lost or missing regulated material (i.e., regulated material that is lost, abandoned, improperly transferred, or improperly disposed of). The NRC will assess the safety and security significance of all underlying violations by reviewing the violation examples in section 6.7, and may consider the actual or potential consequences of the licensee's loss of control of the material, including any effect on occupationally exposed individuals, members of the public, or the environment, to determine whether escalated enforcement is warranted.

In cases where the licensee did not promptly recover the regulated material and the NRC is considering escalated enforcement, corrective action credit under the civil penalty assessment process is not usually warranted, and the NRC will normally apply a civil penalty. The civil penalty amount for cases involving unrecovered or untimely recovered material will normally be the higher of either (1) the amount listed in section 8.0, table A, paragraph f (which is not adjusted by the multipliers in table B), or (2) the amount listed in section 8.0, table A, paragraphs a-e (adjusted by the applicable multiplier in table B).

In cases where the licensee recovered the regulated material in a timely manner with little or no risk to the public, and for which escalated enforcement is being considered, the normal civil penalty assessment process, including corrective action credit, will be used. The NRC will typically apply any resulting civil penalty using the amounts listed in section 8.0, table A,

paragraphs a-e (adjusted by the applicable multiplier in table B).

Notwithstanding the normal civil penalty assessment process, if the regulated material was recovered in a timely manner, but someone other than the licensee identified or discovered that it was uncontrolled or missing, the staff will normally consider using enforcement discretion in accordance with section 3.6 and assess a base civil penalty. This use of discretion is intended to convey the agency's emphasis on the importance of maintaining control over, and awareness of the whereabouts of, licensed material. However, if a licensee subsequently takes prompt action to recover the material, the civil penalty amount may be mitigated to reflect any decrease in risk resulting from the licensee's timely corrective actions.

In all cases involving the failure to control or loss of NRC-regulated material, the agency may escalate or mitigate the civil penalty amount based on the merits of a specific case. When appropriate, it may also consider the actual consequences and actual costs of disposal to determine an appropriate civil penalty amount.

2.4 Participation in the Enforcement Process

In cases where the NRC is considering escalated enforcement action (i.e., for an SL III or higher NOV or a greater-than-green ROP or cROP finding), before making a final enforcement decision, the staff will typically offer the organization or individual subject to the enforcement action a conference with the NRC to present facts relevant to the assessment and disposition of the apparent violations. The NRC may also request a conference if it needs more information to make a determination related to the assessment and disposition of the apparent violations (e.g., whether violations occurred, the severity level of the violations, any willfulness in the violations, and whether credit should be given for corrective actions or self-identification). The conference is normally held at an NRC regional office and is normally open to public observation except when it involves discussions of classified information or SGI, an enforcement action against an individual, proprietary information, or other sensitive, nonpublic information. In addition, licensees, nonlicensees, and individuals can be offered ADR (see Section 2.4.3, "Alternative Dispute Resolution").

2.4.1 Predecisional Enforcement Conference

A predecisional enforcement conference (PEC) is a conference held with a licensee for violations assessed using traditional enforcement. The term "licensee," as used in section 2.4.1, is applied broadly and includes NRC licensees, applicants, licensed and nonlicensed individuals, contractors, vendors, and other persons. The purpose of the PEC is to obtain information from the licensee to help the NRC determine whether an enforcement action is necessary and, if so, what action is appropriate. The PEC focuses on areas such as (1) a common understanding of the facts, underlying causes, and missed opportunities associated with the apparent violation and (2) a common understanding of the corrective actions taken or planned. If held, a PEC is normally the final step in the NRC's fact-finding process before the staff makes an enforcement decision.

Upon determining that there is a violation for which escalated enforcement action appears warranted, before making an enforcement decision, the NRC normally offers the licensee the

Individuals who are employed by licensees, contractors, and subcontractors are encouraged to report violations through the allegation program. Although a rare occurrence, it is possible that the NRC could determine, as the result of an investigation based on an allegation by a person subject to NRC jurisdiction (e.g., an employee of a licensee, contractor, or subcontractor), that the alleged has engaged in deliberate misconduct. Apparent violations involving allegeders who are found to have engaged in deliberate misconduct will be addressed through the normal enforcement process. However, an allegeder would typically be issued an appropriate enforcement sanction (e.g., an NOV or order) only if (1) the allegeder is a licensee official (as defined in section 7.0), (2) escalated enforcement due to the allegeder's actions appears to be warranted for the licensee, and (3) the allegeder continues to be employed within the NRC's jurisdiction (by either the original or a different licensee) or could be employed within the NRC's jurisdiction in the future. ~~Clear, significant~~ Escalation and mitigation factors may be considered in determining an appropriate sanction and will be documented in the final enforcement decision. An example of an escalation factor is the allegeder directing others to engage in deliberate misconduct. An example of a mitigation factor is the allegeder being a lower level licensee official whom a senior licensee official directed to engage in deliberate misconduct. If one or more significant mitigation factors exist, the NRC may reduce the allegeder's enforcement sanction or use discretion to not issue any enforcement sanction (e.g., if an enforcement action is taken against a more senior licensee official who directed the inappropriate action).

4.2 Notices of Violation and Orders to Individuals

Although the NRC has the authority to issue NOVs to any individual who holds an NRC license and violates NRC requirements, regardless of whether willfulness (either deliberate misconduct or careless disregard) was involved, actions against licensed individuals for nonwillful violations are rare. In the case of a licensed operator's failure to meet applicable FFD requirements (i.e., those of 10 CFR 55.53(j)), the NRC may issue either an NOV to the individual, or an order to suspend, modify, or revoke the individual's licensed operator's license under 10 CFR Part 55, "Operators' Licenses." The agency may also issue to licensed individuals orders containing provisions that would modify or revoke the individual's license or prohibit involvement in NRC-licensed activities for a specified period of time (normally no more than 5 years) or until certain conditions are satisfied (e.g., completing specified training or meeting certain qualifications).

The Commission may also take enforcement action (e.g., issue an order or NOV) against nonlicensed individuals, including contractors and subcontractors and their employees, who knowingly provide defective components, equipment, or other goods or services, related to a licensee's activities subject to NRC regulations. However, the NRC will not normally issue an enforcement action against a nonlicensed individual unless the individual's actions were a result of deliberate misconduct. When needed to ensure adequate protection of public health and safety and the common defense and security or the public interest, the NRC may issue an order to an unlicensed person, whether a firm or an individual, requiring (1) the removal of the person from all NRC-licensed activities for a specified period of time (normally, no more than 5 years) and (2) prior notice to the NRC before the person engages in NRC-licensed activities.

For either a licensed or a nonlicensed individual, the period of prohibition from NRC-licensed activities is normally based on the significance of the underlying violation and the individual's

3. Changes in reactor parameters cause unanticipated reductions in margins to safety.
4. A licensee fails to adequately oversee contractors, which results in the use of safety-significant products or services that are defective or of indeterminate quality.
5. Equipment failures caused by inadequate or improper maintenance substantially complicate recovery from a plant transient.
6. A licensee violates 10 CFR 50.59 by failing to obtain a license amendment for a change that has a consequence evaluated ~~under the SDP~~ as having white, yellow, or red ~~safety~~ significance under the SDP.
7. A licensee fails to update the FSAR as required by 10 CFR 50.71(e), and the un-updated FSAR is used to perform a 10 CFR 50.59 evaluation for a change to the facility or procedures, implemented without Commission approval, that results in a condition evaluated as having white, yellow, or red safety significance under the SDP.
8. A licensee fails to retain records¹⁴ as required by 10 CFR 50.71, "Maintenance of records, making of reports," 10 CFR Part 50, Appendix B, Criterion XVII, or 10 CFR 73.55(q), "Records" ~~that result in~~with a consequence evaluated ~~under~~ the SDP as having white, yellow, or red safety significance under the SDP.

d. SL IV violations involve, for example, the following:

1. A failure to comply with a technical specification action requirement demonstrates misapplication of the conventions in technical specifications Section 1.0, "Use and Application," or the allowances for LCO and surveillance requirement applicability in technical specifications section 3.0.
2. Violations of 10 CFR 50.59 result in conditions evaluated as having green ~~safety~~ significance ~~by~~under the SDP.
3. A licensee fails to update the FSAR as required by 10 CFR 50.71(e), and the lack of up-to-date information has a material impact on safety or licensed activities.
4. A licensee fails to adequately assess the risk of plant operations associated with implementation of a risk-informed technical specification allowance, so that the allowance is implemented inappropriately.
5. A licensee fails to retain records¹⁴ as required by 10 CFR 50.71, 10 CFR Part 50, Appendix B, Criterion XVII, or 10 CFR 73.55(q), or other

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¹⁴ This example is not limited to the record retention requirements in 10 CFR 50.71 and 10 CFR Part 50, Appendix B, Criterion XVII, or 10 CFR 73.55(q) ~~and~~but may apply to other regulatory requirements for record retention as related to technical specifications, fire protection, and licensed operators.

applicable record retention requirements where one of the following applies:

- (a) The lack of recordkeeping substantively affects some aspect of the regulatory process, such as the NRC's ability to adequately perform inspection activities.
- (b) A substantial number of similar types of records are affected, or the licensee routinely failed to retain similar types of records.
- (c) The lack of record calls into question the operability or functionality of a safety-related structure, system, or component that cannot be readily determined to be operable or functional by retest or through alternative methods.
- (d) The lack of a record adversely affected the licensee's ability to perform subsequent actions safely.

6.2 Fuel Cycle Operations

This section provides examples in the area of fuel cycle operations for licensees with an integrated safety analysis (ISA) under 10 CFR Part 70, "Domestic Licensing of Special Nuclear Material," Subpart H, "Additional Requirements for Certain Licensees Authorized to Possess a Critical Mass of Special Nuclear Material," and for fuel cycle licensees without an ISA. The NRC will determine the appropriate severity level for a specific violation by using the licensee's ISA methodology and other applicable risk information.

a. *SL I violations involve, for example, the following:*

- 1. Under 10 CFR Part 70, Subpart H, a high-consequence event occurs.
- 2. For licensees not under 10 CFR Part 70, Subpart H, an event occurs that has a consequence commensurate with a 10 CFR Part 70, Subpart H, high-consequence event, as a result of licensed materials or hazardous chemicals produced from licensed materials.

b. *SL II violations involve, for example, the following:*

- 1. Under 10 CFR Part 70, Subpart H, a high-consequence event is "not unlikely" based on a licensee's ISA.
- 2. Under 10 CFR Part 70, Subpart H, an intermediate-consequence event occurs.
- 3. For licensees not under 10 CFR Part 70, Subpart H, a very substantial increase in the likelihood of a consequence commensurate with a 10 CFR Part 70, Subpart H, high-consequence event occurs.
- 4. For licensees not under 10 CFR Part 70, Subpart H, an event with a consequence commensurate with a 10 CFR Part 70, Subpart H,

8. A licensee fails to meet or implement more than one emergency planning requirement under 10 CFR 70.22(i)(3) involving assessment (other than emergency classification) or notification¹⁵ during a site area emergency.

d. *SL IV violations involve, for example, the following:*

1. Under 10 CFR Part 70, Subpart H, a licensee fails to meet the requirements of 10 CFR 70.61 (a)–(f), "Performance Requirements," and the failure does not result in an SL I, II, or III violation.
2. A failure of safety systems or controls occurs such that an acceptable safety margin has not been maintained, and the failure does not result in an SL I, II, or III violation.
3. Under 10 CFR 70.72 or 10 CFR 40.44, a less significant failure to adequately evaluate a change to the facility results in implementation of the change without a required license amendment. The failure does not result in an SL I, II, or III violation.
4. Under 10 CFR 70.24, a criticality accident alarm system fails to provide either adequate detection or adequate annunciation coverage without compensatory measures for a less substantial time period (e.g., less than 30 days), during which operations involving the use or handling of ~~fr using~~ fissile material occur in the areas affected ~~(e.g., in a major processing area)~~.
5. During an actual alert emergency, a licensee fails to promptly do any of the following:
 - (a) Correctly classify and declare the event.
 - (b) Make required notifications (i.e., notifications required by the licensee's emergency plan or 10 CFR 70.22(i)(3)) to responsible Federal, State, and local agencies).
 - (c) Respond to the event (e.g., assess actual or potential offsite consequences, activate emergency response facilities, and augment shift staff).
6. A licensee fails to meet or implement more than one emergency planning requirement under 10 CFR 70.22(i)(3) involving assessment (other than emergency classification) or notification during an alert emergency.

¹⁵ As used in this example, "assessment" includes classification, assessment of the impact of a release of chemical or radioactivity, and the recommendation of protective actions. "Notification" includes initial and follow-up notifications to offsite response organizations. For fuel facilities, this includes the risk-significant requirements in 10 CFR 70.22(i)(3).

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5. An unqualified person conducts licensed activities. An unqualified person is characterized by either of the following:
 - (a) Lacking adequate qualifications, experience, or training to safely conduct activities.
 - (b) Lacking the required certification or training for positions such as radiographer; authorized user under 10 CFR Part 35, "Medical Use of Byproduct Material"; or irradiator operator under 10 CFR 36.51, "Training."
6. Licensed material is used on humans where such use is not authorized.
7. A licensee authorizes the release from its control of an individual who does not meet the release criteria in 10 CFR 35.75, "Release of individuals containing unsealed byproduct material or implants containing byproduct material."
8. An individual who has not been trained as required by 10 CFR 36.51 operates an irradiator without supervision.
9. A failure to have or to follow written procedures (including, but not limited to, operating procedures or procedures related to recordkeeping, surveys, and inventories) occurs that has radiological or programmatic significance. Such failures are typically characterized by one or more of the following:
 - (a) Actual safety or security consequences with low significance.
 - (b) Potential safety or security consequences with greater than low significance.
 - (c) Widespread failures to have or to follow procedures (e.g., failure to have procedures for multiple activities within or among program areas, or failure to follow procedures where the occurrence is more than isolated ~~or is more than limited relative to the number of activities~~).
10. A programmatic failure occurs to perform inspection and maintenance checks as required by 10 CFR 36.61, "Inspection and maintenance."
11. A licensee fails to seek required NRC approval before the implementation of a significant change in licensed activities that has radiological or programmatic significance, such as the following:
 - (a) A change in ownership.
 - (b) A change in the location where licensed activities are being conducted or where licensed material is being stored.

programmatic significance. Such failures are typically characterized by one or more of the following:

- (a) They have no actual safety or security consequences.
 - (b) They have potential safety or security consequences of low significance.
 - (c) They are ~~limited or~~ isolated failures to have or to follow procedures.
4. A licensee fails to document the required certification or training for positions such as radiographer, authorized user under 10 CFR Part 35, or irradiator operator under 10 CFR 36.51.
 5. A licensee fails to seek required NRC approval before the implementation of a change in ownership that has little or no adverse impact on radiological or programmatic activities or on the NRC's ability to inspect licensed activities, so that the unauthorized license transfer does not affect activity locations and types.
 6. A licensee fails to seek required NRC approval before replacing the RSO, where the new RSO has been evaluated as qualified.
 7. A licensee fails to seek NRC approval, when required, before changing the location where licensed activities are being conducted or where licensed material is being stored, but the failure has little or no radiological or programmatic significance, and all other safety and security requirements have been met.
 8. A licensee fails to secure a portable gauge as required by 10 CFR 30.34(i), when the gauge is not under the licensee's control and constant surveillance, but where one level of physical control exists, there is no actual loss of material, and the failure is isolated.
 9. Less significant failures occur involving decommissioning requirements, such as the following:
 - (a) A failure to ~~make a required~~ notification ~~to~~ the NRC in accordance with ~~a license condition or with~~ the regulations at 10 CFR 30.36, 10 CFR 40.42, or 10 CFR 70.38, ~~unlesswhen~~ a decommissioning plan is ~~not~~ required, ~~and~~ in the absence of any other decommissioning violations.
 - (b) A failure to begin decommissioning in accordance with the regulations at 10 CFR 30.36, 10 CFR 40.42, or 10 CFR 70.38, ~~unlesswhen~~ a decommissioning plan is ~~not~~ required, ~~and~~ in the absence of any other decommissioning violations.
 - (c) A failure to submit a decommissioning plan to the NRC within 12 months of making the ~~required~~ notifications in 10 CFR 30.36, 10 CFR 40.42, 10 CFR 70.38, or 10 CFR 72.54 without having requested an alternative schedule for submission of the plan in accordance with NRC regulations.

- (d) A failure to complete decommissioning as required if (1) the licensee only possessed sealed sources with no external contamination, and (2) upon identification of the violation (by either the licensee or the NRC), the licensee disposed of its material and requested termination of its NRC license.
- 10. An isolated failure occurs to maintain control and constant surveillance over a portable gauge, provided that all of the following apply:
 - (a) The portable gauge was being actively used (e.g., the user was preparing for or taking measurements, or the failure occurred immediately after measurements were taken).
 - (b) The noncompliance was of short duration.
 - (c) The failure could not reasonably have resulted in unauthorized access (e.g., no unauthorized individual had direct contact with the gauge).
 - (d) There was no or relatively inappreciable unintended exposure to any individual (e.g., the portable gauge may have been physically damaged, but there was no contamination or source leakage, and the licensee was able to retract the source into a shielded position).
- 11. A licensee fails to seek required NRC approval before implementing an increase in the quantity of regulated material that has little to no adverse radiological or programmatic impact.
- 12. A licensee fails to secure a well logging source to prevent tampering with or removal of licensed material by unauthorized personnel, in accordance with 10 CFR 39.31, where the source was continuously within a restricted area.

6.4 Licensed Operators

Error, as used in this section, is defined as a licensed operator's omission or commission in relation to a degraded or nonconforming structure, system, or component; or to a licensed operator's noncompliance with a regulatory requirement or a self-imposed facility standard.

a. *SL I violations involve, for example, the following:*

- 1. An individual licensed under 10 CFR Part 55 (licensed operator) and actively performing the functions covered by that position is involved in an error that resulted in, or exacerbated the consequences of, an alert or higher level emergency, and at the time the error occurred, was determined to be any of the following:

7. A licensee (1) loses and subsequently recovers regulated material (i.e., loss of control), or (2) loses, abandons, or improperly transfers or disposes of regulated material. To the extent that the activity, form, half-life, and circumstances of loss and recovery are known, ~~the~~ the action results in actual public or occupational exposures in excess of the applicable limits in 10 CFR Part 20, or a likely potential for such exposures to occur, ~~based on the extent to which the activity, form, half-life, and circumstances of loss and recovery are known.~~

c. *SL III violations involve, for example, the following:*

1. An adult worker receives a radiation exposure during any year in excess of 5 rem (0.05 Sv) TEDE; 15 rem (0.15 Sv) to the lens of the eye; or 50 rem (0.5 Sv) to the skin of the whole body or to the feet, ankles, hands, or forearms, or to any other organ or tissue.
2. A declared pregnant woman receives a radiation exposure over the gestation period of the embryo/fetus in excess of 0.5 rem (5 mSv) TEDE (except when doses are in accordance with the provisions of 10 CFR 20.1208(d)).
3. A minor worker receives a radiation exposure during any year in excess of 0.5 rem (5 mSv) TEDE; 1.5 rem (0.015 Sv) to the lens of the eye; or 5 rem (0.05 Sv) to the skin of the whole body, or to the feet, ankles, hands or forearms, or to any other organ or tissue.
4. A member of the public receives an annual exposure in excess of 0.1 rem (1 mSv) TEDE (except when operation up to 0.5 rem (5 mSv) per year under 10 CFR 20.1301(c)).
5. Release of radioactive material occurs to an unrestricted area in annual average concentrations in excess of 2 times the effluent concentration limits stated in 10 CFR 20.1302(b)(2)(i) (except when the Commission has approved operation up to 0.5 rem (5 mSv) per year under 10 CFR 20.1301(c)).
6. A substantial potential exists for exposures or releases in excess of the applicable limits in 10 CFR 20.1001–20.2401, whether or not an exposure or release occurs.
7. Disposal of licensed material occurs in quantities or concentrations in excess of the regulatory limits of 10 CFR 20.2003.
8. A licensee releases, for unrestricted use, contaminated or radioactive material or equipment that poses a realistic potential for exposure of the public exceeding the annual dose limits for members of the public.
9. A technically unqualified person conducts licensee activities.
10. A licensee fails to secure, or maintain surveillance over, licensed material in any of the following situations:

- (a) The aggregate quantity of licensed material is greater than 1,000 times the quantity specified in Appendix C, "Quantities of Licensed Material Requiring Labeling," to 10 CFR Part 20.
 - (b) The aggregate quantity of licensed material is greater than 10 times the quantity specified in Appendix C to 10 CFR Part 20, and the failure is accompanied by the absence of a functional program to detect and deter security violations that includes training, staff awareness, detection (including auditing), and corrective action (including disciplinary action).
 - (c) The violation results in a substantial potential for exposures or releases in excess of the applicable limits in 10 CFR Part 20.
11. A licensee (1) loses and subsequently recovers regulated material (i.e., loss of control), or (2) loses, abandons, or improperly transfers or disposes of regulated material. To the extent that the activity, form, half-life, and circumstances of loss and recovery are known, the action results in ~~Such violations involve~~ neither an actual public or occupational exposure in excess of the applicable limits in 10 CFR Part 20, nor a likely potential for such exposures to occur, ~~based on the extent to which the activity, form, half-life, and circumstances of loss and recovery are known.~~
- d. *SL IV violations involve, for example, the following:*
- 1. Intakes exceed those specified in 10 CFR 20.1201(e) or the equivalent for 10 CFR 20.1207, "Occupational dose limits for minors."
 - 2. A release of radioactive material occurs to an unrestricted area in annual average concentrations in excess of the limits for members of the public as referenced in 10 CFR 20.1302(b)(2)(i) (except when the Commission has approved operation up to 0.5 rem (5 mSv) per year under 10 CFR 20.1301(c)).
 - 3. A radiation dose rate in an unrestricted or controlled area exceeds 0.002 rem (0.02 mSv) in any 1 hour (2 mrem/hour) or 50 mrem (0.5 mSv) in a year.
 - 4. A licensee fails to conduct required leakage or contamination tests or to use properly calibrated equipment, although the failure does not contribute to an event.
 - 5. Doses to a member of the public exceed any of the U.S. Environmental Protection Agency's generally applicable environmental radiation standards in 40 CFR Part 190, "Environmental Radiation Protection Standards for Nuclear Power Operations," as required by 10 CFR 20.1301(e).
 - 6. An isolated failure occurs to secure, or maintain surveillance over, licensed material in any aggregate quantity greater than 10 times the quantity specified in Appendix C to 10 CFR Part 20, provided that both of the following apply:

- (a) The material is labeled as radioactive or located in an area posted as containing radioactive materials.
 - (b) The failure occurs despite the existence of a functional program to detect and deter security violations that includes training, staff awareness, detection (including auditing), and corrective action (including disciplinary action).
7. A licensee (1) loses and subsequently recovers regulated material (i.e., loss of control), or (2) loses, abandons, or improperly transfers or disposes of regulated material. To the extent that the activity, form, half-life, and circumstances of loss and recovery are known, the ~~action~~violation involves no or relatively inappreciable risk because there is low potential for public or occupational exposure. ~~Violations~~Actions that involve no or relatively inappreciable risk include, but are not limited to, the following situations:
- (a) The loss of regulated material is associated with a generally licensed device not requiring registration under 10 CFR 31.5(c)(13)(i).
 - (b) The loss of regulated material is associated with limited quantities of low-activity sealed sources that can reasonably be presumed to be intact and have a half-life of less than 120 days (e.g., one or two seeds of iodine-125).

6.8 Transportation

Some transportation requirements apply to more than one licensee involved in the same activity (e.g., a shipper and a carrier). When such requirements are violated, the NRC will direct enforcement action against the responsible licensee or licensees.

a. *SL I violations involve, for example, the following:*

- 1. A failure to meet transportation requirements results in loss of control of radioactive material with a breach in package integrity such that the material causes a radiation exposure to a member of the public in excess of the regulatory limits.
- 2. Surface contamination exceeds 50 times the NRC limit.
- 3. External radiation levels exceed 10 times the NRC limit.

b. *SL II violations involve, for example, the following:*

- 1. A failure to meet transportation requirements results in loss of control of radioactive material with a breach in package integrity such that there is a clear potential for a member of the public to receive a radiation exposure in excess of the regulatory limits.

Fuel Cycle is the series of steps involved in supplying fuel for nuclear power reactors. It can include mining, milling, isotopic enrichment, fabrication of fuel elements, use in a reactor, chemical reprocessing to recover the fissionable material remaining in the spent fuel, reenrichment of the fuel material, refabrication into new fuel elements, waste disposal, storage, and transportation.

Impacts the NRC's Ability to Perform Its Regulatory Function refers to a situation that prevents the NRC from using appropriate regulatory tools to address a noncompliance because the agency is unaware that the noncompliance exists (e.g., provision of inaccurate and incomplete information or failure to submit a required report).

Inspection Finding is defined by the ROP and cROP. ~~As used in this Policy~~In sum, an inspection finding is a more-than-minor licensee failure to satisfy one or more ~~regulatory requirements or self-imposed standards~~, where such failure was reasonably foreseeable and preventable.

Interim Enforcement Policies (IEPs) are policies developed by the NRC staff and approved by the Commission for specific topics, typically for a finite period. Generally, IEPs grant the staff permission to refrain from taking enforcement action for generic issues that are not currently addressed in the Policy. IEPs are typically effective until formal guidance is developed and implemented, or the generic issue is otherwise resolved. IEPs can be found in section 9.0 of the Policy.

Isolated refers to a violation ~~or failure~~ that was an anomaly relative to otherwise adequate licensee implementation, and where there is evidence that the licensee typically implements the regulated program correctly.

License Applicant, as used in this statement of policy, means any person who submits an application for review.

Licensee is any person or entity authorized to conduct activities under a license issued by the NRC. Licensees include, but are not limited to, facilities licensed under 10 CFR Parts 30–36, 39, 40, 50, 52, 60, 61, 63, 70, or 72. However, in most cases in the Policy the term is applied broadly to refer to any or all of the entities listed in section 1.2, "Applicability."

Licensee Official, as used in this statement of policy, in general, means a first-line supervisor or above, a licensed individual, a radiation safety officer, or an authorized user of licensed material whether or not listed on a license. Notwithstanding an individual's job title, the NRC will consider the individual's responsibilities relative to the oversight of licensed activities and the use of licensed material.

Licensed Operator, as used in this Policy, includes NRC-licensed reactor operators and NRC-licensed senior reactor operators.

Lost Source Policy is the NRC's policy that a civil penalty may be issued for violations involving regulated material that was out of the licensee's control, regardless of the use, license type, quantity, or type of regulated material (e.g., loss, abandonment, improper transfer, or improper disposal of regulated material).

Minor Violation is a violation that is less significant than an SL IV violation. Minor violations do not warrant enforcement action and are not normally documented in inspection reports. However, they must be corrected.

Noncited Violation is a nonrecurring, typically nonwillful, SL IV violation or a violation associated with a green ROP or cROP finding that is not subject to formal enforcement action if one of the following applies: (1) for a reactor licensee, the licensee places the violation in a corrective action program to prevent recurrence and restores compliance within a reasonable period of time, and (2) for any other type of licensee, the licensee corrects or commits to correcting the violation within a reasonable period of time.

Nonescalated Enforcement Actions include NOVs that are dispositioned by the NRC as SL IV or minor violations.

Nonlicensee includes, but is not limited to, applicants, contractors, subcontractors, and vendors.

Notice of Deviation is a written notice describing a licensee's failure to satisfy a commitment that has not been made a legally binding requirement. A notice of deviation requests that a licensee provide a written explanation or statement describing corrective steps taken (or planned), the results achieved, and the date when corrective action will be completed.

Notice of Nonconformance is a written notice describing the failure of a licensee's contractor to meet commitments that have not been made legally binding requirements by the NRC (e.g., a commitment made in a procurement contract with a licensee or applicant as required by 10 CFR Part 50, Appendix B). If the contractor deliberately fails to meet the terms of a procurement contract, the NRC may issue a violation under the Deliberate Misconduct Rule in accordance with 10 CFR 50.5. Notices of nonconformance request that nonlicensees provide written explanations or statements describing corrective steps (taken or planned), the results achieved, the dates when corrective actions will be completed, and measures taken to preclude recurrence.

Notice of Violation is a written notice setting forth one or more violations of a legally binding requirement (see 10 CFR 2.201).

Order is used to modify, suspend, or revoke a license, or to take other action against a licensee or other person subject to the jurisdiction of the Commission (see 10 CFR 2.202).

Potential Safety or Security Consequences include potential outcomes based on realistic and credible scenarios (i.e., the staff considers the likelihood that safety or security could have been negatively affected in these scenarios).

- Substantial potential consequences—a realistic likelihood of exceeding a regulatory limit (including the dose limits in 10 CFR Part 20), typically demonstrated by cases exhibiting concrete, tangible outcomes that did not exceed a regulatory limit, but were definable, and in which it was only because of fortuitous circumstances that the limit was not exceeded (meaning typically all barriers, whether design or procedural, have failed). The

concern is not whether the relative limit was exceeded, but whether the licensee maintained adequate controls over the situation to avoid exceeding a limit.

- Potential consequences—a realistic likelihood of safety or security consequences, typically demonstrated in scenarios where most, or all barriers to a safety or security consequence were absent, but only a limited tangible outcome was possible.
- Low or relatively inappreciable consequences—credible scenarios where safety or security consequences could have occurred, but typically where at least one definable barrier, with a low likelihood of failure, remained to provide defense in depth.

Predecisional Enforcement Conference (PEC) is normally conducted with a licensee or individual before the NRC makes an enforcement decision when escalated enforcement action may warranted (i.e., for SL I, II, or III violations, civil penalties, or orders). The purpose of a PEC is to obtain information that will help the NRC determine the appropriate enforcement action, if any.

Programmatic refers to aspects of a program necessary to maintain safety and regulatory compliance. This includes the establishment of the necessary framework, procedures, and processes; verification that they framework, procedures, and processes are adequate to perform their functions; and the provision of appropriate training, supervision, and oversight to ensure the implementation of activities in accordance with all procedures and policies.

Regulatory Conference is conducted with a reactor licensee to discuss the significance of findings evaluated through the SDP, with or without associated violations. These meetings focus on the safety significance of the issues and not necessarily on the corrective actions associated with the issues. Because the SDP significance assessment determines whether escalated enforcement action will be taken, a subsequent PEC is not normally necessary.

Requirement, as used in this Policy, means a legally binding requirement such as a statute, regulation, license condition, technical specification, or order.

Repetitive Violation is one that could reasonably be expected to have been prevented by a licensee's corrective action for the same, or a similar, previous violation or a previous licensee finding that occurred within the past 2 years of the current violation, or that occurred within the period covered by the last 2 inspections, whichever period is longer.

Risk Information is used wherever possible to develop realistic and credible scenarios to use in assessing the safety significance of violations and assigning them severity levels.

Severity Levels are used (1) to indicate the significance of a violation assessed under traditional enforcement and (2) to determine the appropriate enforcement action to be taken.

Significance is a measure of actual or potential safety or security consequences and of impact on regulatory oversight; it may be escalated for willfulness. A noncompliance is assigned a severity level (I, II, III, or IV) using traditional enforcement in accordance with section 6.0 of this Policy, or is assessed using the SDP under the ROP or cROP and assigned a color (either green, white, yellow, or red, as described in section 2.2.3 of this Policy).

10.0 Paperwork Reduction Act Statement and Public Protection Notification

Paperwork Reduction Act Statement

This policy statement contains information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Included in this policy statement are mandatory and voluntary information collections approved by OMB approval numbers 3150-0002, 3150-0007, 3150-0008, 3150-0009, 3150-0010, 3150-0011, 3150-0013, 3150-0014, 3150-0016, 3150-0017, 3150-0018, 3150-0032, 3150-0035, 3150-0036, 3150-0104, 3150-0136, 3150-0146, 3150-0151, 3150-0158, and 3150-0195.

Send comments regarding ~~this burden estimate or~~ any ~~other~~ aspect of these information collections, including suggestions for reducing the burden, to the FOIA, Library, and Information Collections Branch (T-6 A10M), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by email to Infocollects.Resource@nrc.gov; or to the OMB reviewer at: OMB Office of Information and Regulatory Affairs, Attn: Desk Officer for the Nuclear Regulatory Commission, 725 17th Street, NW, Washington, DC 20503; email: oir_submission@omb.eop.gov.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the document requesting or requiring the collection displays a currently valid OMB control number.

[7590-01-P]

BRC edits

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

[NRC-2023-0xxx]

Revision of the NRC Enforcement Policy

AGENCY: Nuclear Regulatory Commission.

ACTION: Revision to policy statement.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is publishing a revision to its Enforcement Policy (Policy) to incorporate multiple changes approved by the Commission.

DATES: This revision is effective on [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. The NRC is not soliciting comments on this revision to its Policy at this time.

ADDRESSES: Please refer to Docket ID [NRC-2023-0xxx] when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID NRC-2022-0205. Address questions about NRC dockets to Dawn Forder; telephone: 301-415-3407; email: Dawn.Forder@nrc.gov. For technical

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questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System**

(ADAMS): You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to PDR.Resource@nrc.gov.

- **NRC's PDR:** You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8:00 a.m. and 4:00 p.m. eastern time, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Gerry Gulla, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-287-9143, email: Gerald.Gulla@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Discussion

The mission of the NRC is to protect public health and safety and advance the nation's common defense and security by enabling the safe and secure use and deployment of civilian nuclear energy technologies and radioactive materials through efficient and reliable licensing, oversight, and regulation for the benefit of society and the

~~environment, license and regulate the Nation's civilian use of byproduct, source, and special nuclear material to ensure adequate protection of public health and safety, promote the common defense and security, and protect the environment.~~ The NRC supports this mission through its use of its Enforcement Policy (Policy). Adequate protection is presumptively assured by compliance with the NRC's regulations, and the Policy contains the basic procedures used to assess and disposition apparent violations of the NRC's requirements.

The NRC initially published the Policy in the *Federal Register* on October 7, 1980 (45 FR 66754). Since its initial publication, the Policy has been revised on a number of occasions to address changing requirements and lessons learned. The most recent Policy revision is dated January 13, 2023. That revision incorporated changes to the monetary amounts listed in Section 8.0, "Table of Base Civil Penalties." This revision meets the requirements of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Improvements Act), which requires Federal agencies to adjust their civil monetary penalties annually for inflation no later than January 15 of each year.

This current revision to the Policy is a staff initiative to incorporate lessons learned along with miscellaneous clarifications and additions. These revisions include clarifying and relocating the current Policy on lost or missing sources to a new separate section; removing the significance determination process qualitative color descriptions; revising guidance on miscellaneous actions involving individuals; adding a new section for independent spent fuel storage installations; revising several severity level violation examples, including examples for import/export activities, licensed reactor operators, materials operations, and fuel cycle operations; and sunseting Interim Enforcement Policy 9.2, "Enforcement Discretion for Permanent Implant Brachytherapy Medical Event Reporting (10 CFR 35.3045)," for permanent implant brachytherapy medical reporting

III. Congressional Review Act

This action is a rule as defined in the Congressional Review Act (5 U.S.C. 801-808). However, the Office of Management and Budget has determined that it is not a "major rule" as defined by the Congressional Review Act.

Dated: Month, day, year

For the Nuclear Regulatory Commission.

~~Daniel H. Dorman~~Michael F. King,
Acting Executive Director for Operations.