



Industry Perspectives

NRC Enforcement Policy, ADR and Allegations Program

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Enforcement Program

- Current scope and level of NRC enforcement is not a major policy issue for industry
- Reactor Oversight Process — as intended — offers a complimentary process focused on performance while retaining emphasis on traditional enforcement in certain circumstances

Revised Enforcement Policy

- NEI has actively participated in the process leading to the Staff's proposed revisions
- NEI commented extensively on proposed Supplement 6.0 (Severity Level Examples)
 - Reactor Operations, Facility Construction and Health Physics
- Effort to provide greater clarity of examples surfaced some issues meriting consideration
- Process was open and informative
 - Staff provided useful discussion in response to comments on discrimination and Inaccurate and Incomplete Information

Traditional Enforcement

- Traditional enforcement cases involve allegations of deliberate misconduct, discrimination and incomplete and inaccurate information
 - Complex facts; more subjective legal standards
 - Careful case-by-case evaluation required
- Individual actions are "significant actions that will be closely evaluated and judiciously applied"
 - Enforcement Policy, Section 4.0
- Implementation of traditional enforcement continues to require focused agency attention and ongoing senior management oversight

Traditional Enforcement Process Issues

- Issues of fundamental fairness were identified in the additional views Judge Farrar (Atomic Safety and Licensing Board) submitted in the pending Geisen matter
 - Docket No. IA-05-052, December 11, 2009
- The questions regarding fairness of process apply to many traditional enforcement cases
 - Is pre-enforcement process sufficient?
 - Is immediately effective review process sufficient?

Alternative Dispute Resolution

- NRC's ADR Program achieves public policy objectives
 - Results in overall increase in licensee credibility to workforce
 - Provides incentives for licensees to implement improvements beyond regulatory requirements
 - Enhances nuclear safety through more open communication
 - Generally more timely resolution

ADR (cont'd)

- Opportunities for improvement
 - Availability of more mediators
 - Timeliness of review of settlement agreements and Confirmatory Orders
 - Consistency of review of settlement agreements
 - Letter approving settlement to include statement re closure of matter

Allegations Program

- Allegations Guidance Memorandum
 - Overriding interest is protection of public health and safety
 - RFI process integral to addressing issues that are the subject of allegations
 - Importance of ensuring licensees understand NRC's expectations for RFI responses
 - Pre- and post-submission discussions; adequate time to conduct internal investigation; sufficient information is necessary to facilitate thorough review
 - Allegation statistics on NRC Website should be explained more fully
 - Closure letters should be clear if further regulatory action will not be taken