

NUCLEAR REGULATORY COMMISSION

Revision of the NRC Enforcement Policy

AGENCY: Nuclear Regulatory Commission.

ACTION: Policy statement: Modification.

SUMMARY: The Nuclear Regulatory Commission (NRC) is publishing a modification to its Enforcement Policy to add examples for categorizing the significance of violations of 10 CFR Part 34, Licenses for Radiography and Radiation Safety Requirements for Radiographic Operations. By a separate action published today in the **Federal Register**, the Commission has issued a final rule amending 10 CFR Part 34. The modification to the Enforcement Policy reflects those amendments.

DATES: Consistent with the amendments to 10 CFR Part 34, this action is effective in 90 days or on the day the particular provision of 10 CFR Part 34 becomes effective. Comments submitted within 60 days of publication of this modification will be considered.

ADDRESSES: Send written comments to: The Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555. ATTN: Rulemakings and Adjudications Staff. Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:45 am and 4:15 pm, Federal workdays. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 415-2741.

SUPPLEMENTARY INFORMATION: The Commission's Enforcement Policy was first issued on September 4, 1980. Since that time, the Enforcement Policy has been revised on a number of occasions, most recently on June 30, 1995 (60 FR 34381). The Enforcement Policy was also published as NUREG-1600, General Statement of Policy and Procedure for NRC Enforcement Actions. As a result of amendments to 10 CFR Part 34 being published today as a final regulation, revisions are warranted to the Enforcement Policy to provide guidance on categorizing potential violations of the amended requirements. The revisions to the Enforcement Policy are being issued concurrently with the new rule.

The Policy recognizes that violations have differing degrees of safety

significance. As reflected in the severity levels, safety significance includes actual safety consequence, potential safety consequence, and regulatory significance. Changes are being made to Supplement VI, Fuel Cycle and Materials Operations, to provide additional or amended examples of violations that are of significant concern and therefore should be categorized at Severity Level III. The changes are:

1. Example C.4 is being amended to add a reference to uncertified persons. Conduct of licensed activities by an uncertified person is significant because the certification demonstrates that the person has received training in accordance with 10 CFR Part 34 or equivalent Agreement State regulation, has satisfactorily completed a minimum period of an on-the-job training, and has received verification by an Agreement State or an NRC licensee that the person has demonstrated the capability of independently working as a radiographer.

2. Example C.8 is being amended to add a reference to have present at least two qualified individuals. A failure, during radiographic operations, to have present at least two qualified individuals as required by 10 CFR Part 34 is significant because the requirement provides assurance that operational safety measures and emergency procedures will be effectively implemented.

3. Example C.12 is being added to address a failure, during radiographic operation, to stop work after a pocket dosimeter is found to be off-scale, or after an electronic dosimeter reads greater than 200 mrem, and before a determination of the individual's actual radiation exposure has been made. This example is significant because of the need to evaluate the potential to exceed regulatory limits and the need to take corrective action.

Conforming changes have been made in the sections affected by these revisions.

The existing examples for Severity Level III violations presently address other significant violations of the amendments to 10 CFR Part 34 such as a failure to perform surveys to determine that the sealed source has been returned to its shielded position, to properly monitoring site boundaries for access control, and to utilize qualified RSOs.

Therefore, the following revision is made to Supplement VI and will be reflected in the next publication of NUREG 1600:

SUPPLEMENT VI—FUEL CYCLE AND MATERIALS OPERATIONS

* * * * *

C. Severity Level III—Violations involving for example:

* * * * *

4. Conduct of licensed activities by a technically unqualified or uncertified person:

* * * * *

8. A failure, during radiographic operations, to have present at least two qualified individuals or to use radiographic equipment, radiation survey instruments, and/or personnel monitoring devices as required by 10 CFR Part 34:

* * * * *

10. A failure to receive required NRC approval prior to the implementation of a change in licensed activities that has radiological or programmatic significance, such as, a change in ownership; lack of an RSO or replacement of an RSO with an unqualified individual; a change in the location where licensed activities are being conducted, or where licensed material is being stored where the new facilities do not meet the safety guidelines; or a change in the quantity or type of radioactive material being processed or used that has radiological significance;

11. A significant failure to meet decommissioning requirements including a failure to notify the NRC as required by regulation or license condition, substantial failure to meet decommissioning standards, failure to conduct and/or complete decommissioning activities in accordance with regulation or license condition, or failure to meet required schedules without adequate justification; or

12. A failure, during radiographic operations, to stop work after a pocket dosimeter is found to have gone off-scale, or after an electronic dosimeter reads greater than 200 mrem, and before a determination is made of the individual's actual radiation exposure have been made.

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Dated at Rockville, Maryland, this 19th day of May, 1997.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

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