

**NUCLEAR REGULATORY COMMISSION****[NUREG-1600]****Policy and Procedure for Enforcement Actions; Radiation Protection Programs****AGENCY:** Nuclear Regulatory Commission.**ACTION:** Policy statement; amendment.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is amending its "General Statement of Policy and Procedure for NRC Enforcement Actions" to add an example for categorizing the significance of failure to report an exceedance of the dose constraint established in 10 CFR 20.1101(d), or failure to take corrective action for such an exceedance. By a separate action published in this issue of the Federal Register, the Commission has issued a final rule amending 10 CFR Part 20 to add § 20.1101(d), which establishes the requirements for reporting and taking corrective action. This modification to the Enforcement Policy reflects that amendment.

**DATES:** This action is effective on the day that the addition of § 20.1101(d) to 10 CFR Part 20 becomes effective. Comments are due on or before January 9, 1997.

**ADDRESSES:** *Send written comments to:* The Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555. **ATTN:** Docketing and Service Branch. 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 information on submitting comments electronically, see the discussion under Electronic Access in the Supplementary Information Section.

**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 "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy or Policy) was first issued on September 4, 1980. Since that time, the Enforcement Policy has been revised on a number of occasions. On June 30, 1995 (60 FR 34381), the Enforcement Policy was revised in its entirety and was also published as NUREG-1600. 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.

The rulemaking to add § 20.1101(d) establishes a dose constraint for radiation dose to members of the public from air emissions of radionuclides from NRC licensed facilities other than power reactors. As noted in the Statements of Consideration for that rulemaking, the dose constraint is not a dose limit, but is a limit in the sense that exceedance triggers requirements to make a report to NRC and promptly take corrective action to ensure against a recurrence. Consistent with this rulemaking, the Commission has determined that a failure to make the required report or promptly take corrective action as required should be categorized at Severity Level IV. As defined in the Enforcement Policy, Severity Level IV violations are of less than significant regulatory concern but more than minor concern; i.e., if left uncorrected, they could lead to a more serious concern.

Therefore, "Supplement IV—Health Physics (10 CFR Part 20)" of the Policy is being modified. Example D.8. is renumbered as Example D.9., and a new Example D.8. is added to provide an example of a violation categorized at Severity Level IV involving failure to report an exceedance of the dose constraint established in § 20.1101(d), or failure to take corrective action for an exceedance.

**Electronic Access**

Comments may be submitted electronically in either ASCII text or WordPerfect format (version 5.1 or later) by calling the NRC Electronic Bulletin Board (BBS) on FedWorld. The bulletin board may be accessed using a personal computer, a modem, and one of the commonly available communications software packages, or directly via Internet. Background documents on the related rulemaking also are available, as practical, for downloading and viewing on the bulletin board.

If using a personal computer and modem, the NRC rulemaking subsystem on FedWorld can be accessed directly by dialing the toll free number 800-303-9672. Communication software parameters should be set as follows: parity to none, data bits to 8, and stop bits to 1 (N,8,1). Using ANSI or VT-100 terminal emulation, the NRC rulemaking subsystem can then be accessed by selecting the "Rules Menu" option from the "NRC Main Menu." Users will find the "FedWorld Online

User's Guides" particularly helpful. Many NRC subsystems and data bases also have a "Help/Information Center" option that is tailored to the particular subsystem.

The NRC subsystem on FedWorld also can be accessed by a direct-dial telephone number for the main FedWorld BBS, 703-321-3339, or by using Telnet via Internet: fedworld.gov. If using 703-321-3339 to contact FedWorld, the NRC subsystem will be accessed from the main FedWorld menu by selecting the "Regulatory, Government Administration and State Systems," then selecting "Regulatory Information Mall." At that point, a menu will be displayed that has an option "U.S. Nuclear Regulatory Commission" that will take the user to the NRC online main menu. The NRC online area also can be accessed directly by typing "/go nrc" at a FedWorld command line. If NRC is accessed from FedWorld's main menu, the user may return to FedWorld by selecting the "Return to FedWorld" option from the NRC online main menu. However, if NRC is accessed at FedWorld by using NRC's toll-free number, the user will have full access to all NRC systems, but will not have access to the main FedWorld system.

If FedWorld is contacted using Telnet, the user will see the NRC area and menus, including the Rules Menu. Although the user will be able to download documents and leave messages, he or she will not be able to write comments or upload files (comments). If FedWorld is contacted using FTP, all files can be accessed and downloaded, but uploads are not allowed. Only a list of files will be shown without descriptions (normal Gopher look). An index file listing all files within a subdirectory, with descriptions, is available. There is a 15-minute time limit for FTP access.

Although FedWorld also can be accessed through the World Wide Web, like FTP, that mode only provides access for downloading files and does not display the NRC Rules Menu.

For more information on NRC bulletin boards, call Mr. Arthur Davis, Systems Integration and Development Branch, NRC, Washington, DC 20555-0001, telephone 301-415-5780; E-mail AXD3@nrc.gov.

**Paperwork Reduction Act Statement**

This policy statement does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget,

approval number 3150-0011. The approved information collection requirements contained in this policy statement appear in Section VII.C.

#### Public Protection Notification

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

#### Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this

determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

Accordingly, the NRC Enforcement Policy is amended as follows:

#### General Statement of Policy and Procedure for NRC Enforcement Actions

In Supplement IV, paragraph D(8) is renumbered as paragraph D(9) and a new paragraph D(8) is added to read as follows:

#### Supplement IV—Health Physics (10 CFR Part 20)

D. Severity Level IV—Violations involving for example:

\* \* \* \* \*

8. A failure to report an exceedance of the dose constraint established in 10 CFR 20.1101(d) or a failure to take corrective action for an exceedance, as required by 10 CFR 20.1101(d); or

9. Any other matter that has more than a minor safety, health, or environmental significance.

\* \* \* \* \*

Dated at Rockville, Maryland, this 3rd day of December 1996.

For the Nuclear Regulatory Commission.

John C. Hoyle,

*Secretary of the Commission.*

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