



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
101 MARIETTA STREET, N.W.
ATLANTA, GEORGIA 30323

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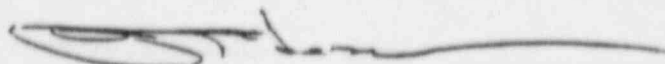
MEMORANDUM FOR: James P. O'Reilly, Regional Administrator
FROM: F. J. Long, Technical Assistant to the Regional Administrator
SUBJECT: ENFORCEMENT POLICY

The following are my comments on the ten limited issues identified in the letter from the Chairman of the Enforcement Policy Review Committee to Mr. Dircks, dated December 19, 1984, enclosed with SECY-84-479 dated December 21, 1984.

1. The Commission should be primarily concerned with safety and accordingly, any and all incentives of a positive nature should be heavily emphasized in Commission policy. The attitude prevailing in the Commission seems to be that compliance continues to be a serious problem. The fact is that the compliance record of the nuclear industry has greatly improved and continues to be far better than any other industry in the United States. At the same time, that positive incentives are being emphasized, comparable attention must be given to elimination of negative incentives.
2. The table of civil penalties is not appropriate. The practice has been to impose the maximum civil penalty that can be arrived at without regard to severity levels and base penalties in the table. Since the same severity levels are not of the same safety significance in different functional areas, there is no uniformity or logic to the dollar values. A low severity violation at a power reactor may be a higher severity violation under materials or transportation. Civil Penalties for Severity Level III violations e.g., often exceed the civil penalties for Severity Level I and II violations.
3. Prompt reporting of violations identified by the licensee and promptly corrected, should seldom if ever result in escalated enforcement (civil penalties). While criteria need not be the same for all severity levels, the concept of automatic civil penalties should be abolished.
4. Minor violations should be resolved at the lowest level possible within the Commission. Minor violations have often been the basis for poor SALP ratings which makes the term "minor" a misnomer. We should eliminate minor violations from all SALP evaluations and all escalated enforcement. Minor violations should generally be resolved at the inspector level, being reported routinely along with descriptions of adequate corrective actions, in the inspection reports.

5. For licensed individuals, willful violations should be punished by suspension of licenses either permanently or for some set period of time. Civil penalties should never be used against individuals, whether or not they are licensed.
6. Regionalization has had little effect on enforcement since this function has not actually been decentralized. Nationwide consistency (uniformity) of enforcement is certainly both necessary and desirable to the extent that the enforcement policy must be applied uniformly by all. However, there has been a noticeable lack of uniformity between the Regions and Headquarters in applying the policy. Flexibility in use of the policy has been promoted by Headquarters offices which has been little more than a scheme to abandon the policy and treat each case separately.
7. The stated root causes are seldom validated. Within documentation packages on single escalated enforcement cases, the stated root causes are often conflicting and meaningless. Too often the root cause as stated, is no more than a cliché. Licensees sometimes wonder just what we mean. Lessons learned in enforcement cases, if any, are seldom generalized to the industry.
8. The NRC-MFS policy is totally ineffective and has been unnecessarily abusive. Merely limiting the use of the term to Severity I violations will not eliminate the abuse. Civil penalties should seldom, if ever, be imposed for unintentional errors or omissions whether written or oral.
9. Licensee self-identification has never been a problem. Essentially all serious violations are in fact identified, corrected, and reported by the licensees. Most escalated enforcement results from licensee identified and reported violations. Greatly increased reliance can and should be placed on licensee initiatives in this area, however, with assurances that NRC will not stifle enthusiasm by prompt escalation of enforcement. The more violations that are identified and corrected, the safer the plant will be.
10. I do not know what system, if any, we are using. If we are using such a system, then it has not worked and changes are certainly required.

In summary, in my opinion the enforcement policy has not worked well. It is, in fact, time for a complete change in policy.



F. J. Long