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Policy and Procedure for Enforcement Actions; Policy Statement

OFFICE
DOCKET

AGENCY: Nuclear Regulatory Commission.

ACTION: Policy statement: Corrections

SUMMARY: This document presents corrections to the revision of the policy statement that was published December 10, 1996 (61 FR 65088). This action is necessary to correct the inadvertent failure to change two paragraphs of the Enforcement Policy concerning matters on which the NRC staff must notify the Commission. These additional changes are consistent with the other changes that were made in the revision as published.

EFFECTIVE DATE: The revision became effective on December 10, 1996.

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

SUPPLEMENTARY INFORMATION:

On December 10, 1996 (61 FR 65088), the NRC published a revision to its "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy or Policy) to address issues regarding consultation with the Commission and other subjects. Sections III of the Policy was revised to

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reflect the new list of circumstances in which the Commission would be consulted or notified. However, two paragraphs in Section VII, Exercise of Discretion, were not amended to reflect the changes adopted by the Commission. This document modifies those two paragraphs to reflect the appropriate policy as to notification to the Commission when the staff exercises discretion in enforcement matters. These two paragraphs were inadvertently omitted in the revision prepared for publication in the Federal Register.

Accordingly, the NRC Enforcement Policy is corrected by revising the first paragraphs in Sections VII.A.1. and VII.B. to read as follows:

GENERAL STATEMENT OF POLICY AND PROCEDURE FOR NRC ENFORCEMENT ACTIONS

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VII. EXERCISE OF DISCRETION

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A. Escalation of Enforcement Sanctions

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1. *Civil penalties.* Notwithstanding the outcome of the normal civil penalty assessment process addressed in Section VI.B, the NRC may exercise discretion by either proposing a civil penalty where application of the factors would otherwise result in zero penalty or by escalating the amount of

the resulting civil penalty (i.e., base or twice the base civil penalty) to ensure that the proposed civil penalty reflects the significance of the circumstances and conveys the appropriate regulatory message to the licensee. The Commission will be notified if the deviation in the amount of the civil penalty proposed under this discretion from the amount of the civil penalty assessed under the normal process is more than two times the base civil penalty shown in Tables 1A and 1B. Examples when this discretion should be considered include, but are not limited to the following:

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B. Mitigation of Enforcement Sanctions

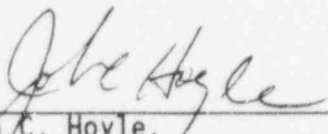
The NRC may exercise discretion and refrain from issuing a civil penalty and/or a Notice of Violation, if the outcome of the normal process described in Section VI.B does not result in a sanction consistent with an appropriate regulatory message. In addition, even if the NRC exercises this discretion, when the licensee failed to make a required report to the NRC, a separate enforcement action will normally be issued for the licensee's failure to make a required report. The approval of the Director, Office of Enforcement, with consultation with the appropriate Deputy Executive Director as warranted, is required for exercising discretion of the type described in Section VII.B.1.b where a willful violation is involved, and of the types described in Sections VII.B.2 through VII.B.6. Commission notification is required for exercising discretion of the type described in: (1) Section VII.B.2 the first time discretion is exercised during that plant shutdown, and (2) Section VII.B.6 where appropriate based on the uniqueness or significance of the issue. Examples when discretion should be considered for departing from the

normal approach in Section VI.B include but are not limited to the following:

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Dated at Rockville, MD, this 18th day of December, 1996.

For the Nuclear Regulatory Commission.



John C. Hoyle,
Secretary of the Commission