

POLICY ISSUE (Notation Vote)

February 7, 2005

SECY-05-0029

FOR: The Commissioners

FROM: Luis A. Reyes
Executive Director for Operations /RA/

SUBJECT: USE OF THE NRC PUBLIC WEB SITE FOR DISSEMINATION
OF THE NRC ENFORCEMENT POLICY

PURPOSE:

To obtain Commission approval to publish a notice in the *Federal Register* announcing the NRC's intent to use the NRC Web site for dissemination of the NRC Enforcement Policy and discontinue publication of NUREG-1600, "General Statement of Policy and Procedure for NRC Enforcement Actions - Enforcement Policy," and to simplify the official title of the policy statement.

BACKGROUND:

The Commission first published its Enforcement Policy on October 7, 1980 (45 FR 66754). The Policy was initially codified as Appendix C to Part 2 of Title 10 of the Code of Federal Regulations (CFR) to provide widespread dissemination. However, the Enforcement Policy has always included a statement recognizing that it is a policy statement and not a regulation. An underlying basis of the Enforcement Policy reflected throughout it is that the determination of the appropriate sanction requires the exercise of discretion such that each action is tailored to the particular factual situation.

CONTACT: Renée Pedersen, OE
(301) 415-2742

As part of an enforcement program review conducted in 1995, to avoid any interpretation that the policy statement should be construed to be a regulation, the NRC announced that it was removing the Enforcement Policy from the CFR (60 FR 34380).

To continue to ensure widespread dissemination, the NRC published the Enforcement Policy in its NUREG-series publications as NUREG-1600 and continued to publish revisions to the Enforcement Policy in the *Federal Register*. NUREG-1600 was first published and mailed to all NRC licensees and Agreement States in July of 1995. The last complete revision that was issued as a NUREG-series publication (NUREG-1600) was dated May 1, 2000. However, the Enforcement Policy has been revised on multiple occasions (as published in the *Federal Register*) without being republished as a NUREG document.

The Office of Enforcement (OE) maintains the current Enforcement Policy on the NRC public Web site at <http://www.nrc.gov>, select **What We Do, Enforcement**, then **Enforcement Policy**. The **Enforcement** Web site also includes a history of the Enforcement Policy by including and/or referencing the *Federal Register* notice for each policy revision since it was first published in 1980.

DISCUSSION:

When NUREG-1600 was first published, publication in printed form was the most effective way to communicate with licensees as a group and to provide widespread circulation of the Commission's Enforcement Policy. Although no other Commission policy statements were (or are) published as a NUREG-series publication, this strategy was chosen as a way of making the Enforcement Policy easier to identify and locate. However, the current version of the Enforcement Policy is now readily available on the NRC public Web site and in ADAMS.

Preparation and publication of the NUREG is resource-intensive in terms of personnel, paper, and mailing costs. The staff believes that the purpose of NUREG-1600 can now be accomplished more effectively and far more efficiently by posting the Enforcement Policy on the NRC public Web site. Continuing to publish material in hard copy when the information is currently and promptly available electronically is not consistent with the Congressional mandate to maximize the value of information technology acquisitions and the direction the NRC has taken with its implementation of ADAMS.

In a Staff Requirements Memorandum dated June 7, 2000, the Commission approved the staff's recommendation in SECY-00-0105 to discontinue publishing NUREG-0940, "Enforcement Actions: Significant Actions Resolved." In a July 13, 2000, *Federal Register* notice, the NRC announced its intent to discontinue publishing NUREG-0940 and only received comments supporting this initiative.

The staff will continue to publish revisions of the Enforcement Policy in the *Federal Register* (as the NRC's official publication means). The staff will also continue its practice of sending printed copies of the most current Enforcement Policy to those licensees and individuals being considered for significant enforcement action who may not have easy access to the Web site. For the above reasons, the staff believes that publication of NUREG-1600 is no longer needed.

In addition, in keeping with plain English initiatives, the staff believes that it is appropriate to simplify the official title from, "General Statement of Policy and Procedure for NRC Enforcement Actions - Enforcement Policy," to "NRC Enforcement Policy."

RESOURCES:

Savings of approximately \$12.5K per NUREG edition would be realized by the Office of Information Services if publication of NUREG-1600, "General Statement of Policy and Procedure for NRC Enforcement Actions - Enforcement Policy," were discontinued. No additional resources would be required by OE since the Enforcement Policy is already posted in its most current form on the NRC Web site.

RECOMMENDATION:

That the Commission approve: (1) cessation of publication of NUREG-1600, "General Statement of Policy and Procedure for NRC Enforcement Actions - Enforcement Policy," in the manner described above, and require the staff to consult with the Commission again on this issue if significant public comments in opposition to the initiative are received; (2) simplifying the official policy statement title to "NRC Enforcement Policy;" and (3) publication of the attached *Federal Register* notice.

COORDINATION:

The Office of the General Counsel has reviewed this paper and has no legal objection. The Office of the Chief Financial Officer has reviewed the Commission Paper for resource implications and has no objection.

/RA/

Luis A. Reyes
Executive Director
for Operations

NUCLEAR REGULATORY COMMISSION

[NUREG - 1600]

NRC Enforcement Policy

AGENCY: Nuclear Regulatory Commission.

ACTION: Policy statement.

SUMMARY: The Nuclear Regulatory Commission (NRC) is announcing its intent to use the NRC public Web site to communicate its "General Statement of Policy and Procedure for NRC Enforcement Actions - Enforcement Policy," to discontinue publication of the paper document, NUREG-1600, and to simplify the official policy statement title. The NRC is taking these actions because the policy statement is available electronically on the NRC public Web site and is widely known as the "NRC Enforcement Policy."

DATES: Comments on this initiative may be submitted on or before (insert date 30 days after publication in the *Federal Register*).

ADDRESSES: Submit written comments to: Michael T. Lesar, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mail Stop: T6D59, U. S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m., Federal workdays.

Copies of comments received may be examined at the NRC Public Document Room, Room O1F21, 11555 Rockville Pike, Rockville, MD. You may also email comments to nrcprep@nrc.gov.

FOR FURTHER INFORMATION CONTACT: Renée Pedersen, Senior Enforcement Specialist, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, (301) 415-2742, e-mail rmp@nrc.gov.

SUPPLEMENTARY INFORMATION:

The Commission first published its "General Statement of Policy and Procedure for NRC Enforcement Actions - Enforcement Policy," (Enforcement Policy) on October 7, 1980 (45 FR 66754). The Policy was codified as Appendix C to Part 2 of Title 10 of the Code of Federal Regulations to provide widespread dissemination. However, the Enforcement Policy has always included a statement recognizing that it is a policy statement and not a regulation. An underlying basis of the Enforcement Policy reflected throughout it is that the determination of the appropriate sanction requires the exercise of discretion such that each action is tailored to the particular factual situation.

On June 30, 1995, the NRC announced that it was removing the Enforcement Policy from the Code of Federal Regulations (CFR) (60 FR 34380). This action was part of an enforcement program review, to avoid any interpretation that the policy should be construed as a regulation. To continue to ensure widespread dissemination, the NRC published the Enforcement Policy in its NUREG-series publications as NUREG-1600 and continued to publish revisions to the Enforcement Policy in the *Federal Register*. NUREG-1600 was first published in July of 1995. The last complete revision that was issued as a NUREG-series publication (NUREG-1600) was dated May 1, 2000. However, the Enforcement Policy has been revised on

multiple occasions (as published in the *Federal Register*) without being republished as a NUREG document.

The NRC maintains the current Enforcement Policy on its Web site at <http://www.nrc.gov>, select **What We Do, Enforcement**, then **Enforcement Policy**. The **Enforcement** Web site also includes a history of the Enforcement Policy by including and/or referencing the *Federal Register* notice for each policy revision since it was first published in 1980.

Preparation and publication of the NUREG is resource-intensive as to personnel, paper, and mailing costs. The Commission believes that the purpose of NUREG-1600 can now be accomplished more effectively and far more efficiently by posting the Enforcement Policy on the NRC public Web site. Continuing to publish material in hard copy when the information is currently and promptly available electronically is not consistent with the Congressional mandate to maximize the value of Information Technology acquisitions and the direction the NRC has taken with its implementation of ADAMS.

On July 13, 2000, the NRC made a similar announcement in the *Federal Register* proposing to discontinue publishing NUREG-0940, "Enforcement Actions: Significant Actions Resolved," (65 FR 43383). The NRC only received comments supporting this initiative.

For the above reasons, the Commission believes that publication of NUREG-1600 is no longer needed. In addition, in keeping with plain English initiatives, the staff believes that it is

appropriate to simplify the official title from, "General Statement of Policy and Procedure for NRC Enforcement Actions - Enforcement Policy," to "NRC Enforcement Policy."

Dated at Rockville, MD, this day of , 2005.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,
Secretary of the Commission.