

**Department of Energy**  
Washington, DC 20585

November 9, 1995

MEMORANDUM FOR DOE PAAA COORDINATORS  
CONTRACTOR PAAA COORDINATORS

FROM: R. KEITH CHRISTOPHER  
DIRECTOR  
ENFORCEMENT AND INVESTIGATION STAFF

SUBJECT: ENFORCEMENT GUIDANCE SUPPLEMENT 95-01: Application of  
PriceAnderson Enforcement Policy to Programmatic Elements for  
Which Exemption Requests Have Been Submitted

In accordance with Section 1.3 (Interim Enforcement Guidance) of the DOE Enforcement Handbook (1087-95), this document responds to questions regarding the manner in which DOE's enforcement policy, as set forth in 10 CFR Part 820, Appendix A (Enforcement Policy), will be applied to identified violations of the provisions of 10 CFR Part 835 when the violation involves a regulatory provision for which the contractor has requested exemption. The DOE Office of Worker Protection Programs and Hazards Management (EH-52) and the Office of General Counsel (GC-52) have indicated that, although significant progress has been made in processing these exemption requests, some responses may still be pending at the required 10 CFR 835 compliance date of January 1, 1996.

With respect to the application of the enforcement policy, 10 CFR Part 820 provides the Director of the Office of Enforcement and Investigations Staff significant latitude in determining how and when DOE's enforcement authority should be exercised. Appendix A of 10 CFR 820 clearly indicates, "DOE's goal in applying its enforcement policy is to enhance and protect the radiological health and safety of the public and worker at DOE facilities...". In pursuing this goal, §820.24(a) states, "If the Director has reason to believe a person has violated or continues to violate a provision of the Act [Atomic Energy act] or a DOE Nuclear Safety Requirement, he may file a Preliminary Notice of Violation." This latitude is further explained in Appendix A of 10 CFR 820 which states, in part, "It [the Enforcement Policy] is not intended to establish a 'cookbook' approach to the initiation and resolution of situations involving noncompliance with DOE Nuclear Safety Requirements."

DOE acknowledges that its contractors have largely acted in good faith in pursuit of compliance with 10 CFR 835. In that pursuit, some contractors have submitted requests for exemptions from certain provisions in accordance with the requirements of 10 CFR 820, Subpart E. In support of these exemption requests, EH-52 has performed technical reviews of the submitted materials and is coordinating the Department's official response with the Office of General Counsel. Due to the intensive effort required to process and decide these exemption requests in accordance with the applicable regulatory requirements, some contractors may be awaiting final action by the Department regarding these requests and, thus, find themselves potentially in a

condition of noncompliance as of the required compliance date. To the extent that the identified contractors have taken good faith efforts and have implemented any necessary compensatory actions to provide for adequate radiological safety, application of the Department's enforcement authority would not advance the Department's goals as stated in Appendix A of 10 CFR 820. Therefore, in these narrow cases, this office does not intend to take enforcement action against these contractors for violation of those provisions for which exemptions have been requested but not yet acted upon by DOE.

This policy does not apply to those contractors who have not submitted exemption requests as of November 1, **1995**.

Enforcement Guidance Supplements will be, incorporated into an Appendix E of the DOE Enforcement Handbook. If you have any questions regarding this enforcement policy, please do not hesitate to contact me or a member of my staff.

cc:

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