

PROPOSED REVISED ENFORCEMENT POLICY SUPPLEMENTS

6.0 Supplements – Examples of Violations

The violation examples in this Policy are intentionally broad in scope so as to serve as a set of guiding examples that are neither exhaustive nor controlling for severity level determinations. Specifically, the examples in the Supplements are not intended to address every possible circumstance. Further, when an enforcement case scenario very nearly achieves all or some of the criteria set forth in a Supplement example, the case will normally be considered to be at the severity level for that example. For example, when using the Health Physics Supplement, if the circumstances of a case are such that one or more of the levels in an example were very nearly reached and it was only fortuitous that the limit was not actually met and/or exceeded, then the severity level for the subject example would be applicable. Additionally, if the circumstances for a case of a specific license/certificate category are comparable to an example that is written for a scenario with a different type of license/certificate category and in the same applicable Supplement, the severity level for the subject example will normally be considered applicable to the case (e.g., the case for an industrial licensee presents a comparable set of circumstances/considerations as the medical example provided in the Materials Supplement; hence the severity level for the medical example can be applied).

6.1 Reactor Operations

a. *Severity Level I* Violations involve, for example:

1. A system designed to prevent or mitigate a serious safety event unable to perform its intended safety function when actually called upon to work;
2. An accidental criticality; or
3. A Safety Limit, as defined in 10 CFR 50.36 and the Technical Specifications, being exceeded.

b. *Severity Level II* Violations involve, for example:

1. A system designed to prevent or mitigate serious safety events unable to perform its intended safety function.

c. *Severity Level III* Violations involve, for example:

1. A failure to comply with a Technical Specification Action requirement when a Limiting Condition for Operation is not met;
2. A system designed to prevent or mitigate a serious safety event not being able to perform its function under certain conditions (e.g., a safety system not operable unless offsite power is available or materials or components not environmentally qualified);
3. Changes in reactor parameters that cause unanticipated reductions in margins to safety;
4. A licensee's failure to conduct adequate oversight of contractors resulting in the

use of products or services that are defective or of indeterminate quality and that has safety significance;

5. Equipment failures caused by inadequate or improper maintenance that substantially complicates recovery from a plant transient;
 6. Failure to obtain prior Commission approval required by 10 CFR 50.59 for a change in which the consequence of the change is evaluated as having low to moderate or greater safety significance (i.e., White, Yellow, or Red) by the Significance Determination Process (SDP);
 7. The failure to update the Final Safety Analysis Report (FSAR) as required by 10 CFR 50.71(e) where the un-updated FSAR was used to perform a 10 CFR 50.59 evaluation for a change to the facility or procedures, implemented without Commission approval, that results in a condition evaluated as having low to moderate or greater safety significance (i.e., White, Yellow, or Red) by the SDP; or
 8. The failure to make a report required by 10 CFR 50.72 or 50.73 associated with any Severity Level III violation.
- d. *Severity Level IV* Violations involve, for example:
1. A less significant failure to comply with a Technical Specification Action requirement when a Limiting Condition for Operation is not met;
 2. A failure to meet regulatory requirements that have more than minor safety significance;
 3. A failure to make a required Licensee Event Report;
 4. Violations of 10 CFR 50.59 that results in conditions evaluated as having very low safety significance (i.e., Green) by the SDP;
 5. A failure to update the FSAR as required by 10 CFR 50.71(e) in cases where the erroneous information is not used to make an unacceptable change to the facility or procedures; or
 6. A failure to adequately assess the risk of plant operations when a risk informed Technical Specification allowance is implemented.

6.2 Fuel Cycle Operations

Note: This supplement provides examples in the area of fuel cycle operations for licensees with an Integrated Safety Analysis (ISA) under 10 CFR Part 70, Subpart H, and fuel cycle licensees without an ISA. NRC will determine the appropriate severity level for a specific violation by using licensee ISAs and other applicable risk information.

- a. *Severity Level I* Violations involve, for example:

1. Under 10 CFR Part 70, Subpart H, a high consequence event occurs; or
 2. For licensees not under 10 CFR Part 70, Subpart H, an event with a consequence commensurate with a 10 CFR Part 70 high consequence occurs from licensed materials or hazardous chemicals produced from licensed materials.
- b. *Severity Level II* Violations involve, for example:
1. Under 10 CFR Part 70, Subpart H, a high consequence event is now “not unlikely” based on a licensee ISA;
 2. Under 10 CFR Part 70, Subpart H, an intermediate consequence event occurs;
 3. For licensees not under 10 CFR Part 70, Subpart H, a very substantial increase in the likelihood of a consequence commensurate with a Part 70 high consequence occurs; or
 4. For licensees not under 10 CFR Part 70, Subpart H, an event with a consequence commensurate with a Part 70 intermediate consequence occurs from licensed materials or hazardous chemicals produced from licensed materials.
- c. *Severity Level III* Violations involve, for example:
1. Under 10 CFR Part 70, Subpart H, a high consequence event is now “unlikely” based on a licensee ISA;
 2. Under 10 CFR Part 70, Subpart H, an intermediate consequence event is now “not unlikely” based on a licensee ISA;
 3. For licensees not under 10 CFR Part 70, Subpart H, a substantial increase in the likelihood of a consequence commensurate with a Part 70 high consequence occurs;
 4. For licensees not under 10 CFR Part 70, Subpart H, a significant increase in the likelihood of a consequence commensurate with a Part 70 intermediate consequence occurs;
 5. A failure to comply with the action statement for a Technical Safety Requirement Limiting Condition for Operation where the appropriate action was not taken within the required time;
 6. Under 10 CFR 70.72 or 10 CFR 76.68, a failure to adequately evaluate a change to the facility with at least a low safety significance resulting in implementation of the change without a required license or certificate amendment;
 7. Under 10 CFR 70.24 or 10 CFR 76.89, a criticality accident alarm system fails to provide either detection or annunciation coverage for a substantial time period during which operations involving handling or using fissile material occurred;

8. During an actual Site Area Emergency, licensee failure to promptly and correctly
 - (a) Classify the event,
 - (b) Make required notifications to responsible Federal, State, and local agencies, or
 - (c) Respond to the event (e.g., assess actual or potential offsite consequences, activate emergency response facilities, and augment shift staff) during a site area emergency; or
 9. A failure to meet or implement more than one emergency planning standard.
- d. *Severity Level IV* Violations involve, for example:
1. Under 10 CFR Part 70, Subpart H, a failure to meet the requirements of 10 CFR 70.61, or Appendix A to 10 CFR Part 70, that does not result in a Severity Level I, II, or III violation;
 2. A failure of safety systems or controls such that an acceptable safety margin has not been maintained that does not result in a Severity Level I, II, or III violation;
 3. A less significant failure to comply with the Action Statement for a Technical Safety Requirement Limiting Condition for Operation when the appropriate action was not taken within the required time;
 4. Under 10 CFR 70.72 or 10 CFR 76.68, a failure to adequately evaluate a change to the facility with at least a very low safety significance results in implementation of the change without a required license or certificate amendment, and that does not result in a Severity Level I, II, or III violation;
 5. A failure to make a required written event report, as required by 10 CFR 70.50(c)(1), Appendix A to 10 CFR Part 70, or 10 CFR 76.120(d)(2);
 6. Under 10 CFR 70.24 or 10 CFR 76.89, a criticality accident alarm system failed to provide either detection or annunciation coverage of fissile material operations during a time period when fissile material was handled, used or stored;
 7. During an actual Alert emergency, a failure to promptly and correctly
 - (a) Classify the event,
 - (b) Make required notifications to responsible Federal, State, and local agencies, or
 - (c) Respond to the event (e.g., assess actual or potential onsite consequences, activate emergency response facilities, and if necessary augment shift staff) during an alert emergency;

8. A failure to meet or implement more than one emergency planning standard involving assessment or notification during an alert emergency; or
9. A failure to meet or implement any emergency planning standard or requirement not directly related to assessment and notification (e.g., emergency response training, emergency equipment maintenance.)

6.3 Materials Operations

a. *Severity Level I* Violations involve, for example:

1. The loss of control over licensed or certified activities, including chemical processes that are integral to the licensed or certified activity, which results in serious injury or loss of life, whether or not radioactive material is released;
2. A system designed to prevent or mitigate a serious safety event being inoperable when actually required to perform its design function that results in a death or serious injury (e.g., substantial organ impairment) or in a loss of control over licensed material that has serious consequences;
3. Failure to use a properly prepared written directive as required by 10 CFR 35.40, or failure to develop, implement, or maintain procedures for administrations requiring a written directive as required by 10 CFR 35.41; that results in a death or serious injury (e.g., substantial organ impairment); or
4. Failure to have and/or to follow written operating procedures as required by 10 CFR 36.53 that results in a serious injury or death.

b. *Severity Level II* Violations involve, for example:

1. A system designed to prevent or mitigate a serious safety event being inoperable when actually required to perform its design function;
2. A substantial programmatic failure to implement written directives or procedures for administrations requiring a written directive, such as a failure of the licensee's procedures to address one or more of the elements in 10 CFR 35.40 or 35.41, or a failure to train personnel in those procedures, that results in a medical event;
3. Failure to have and/or to follow written operating procedures as required by 10 CFR 36.53 that results in an substantial potential for a serious injury or death; or
4. The loss of control over licensed or certified activities, including chemical processes that are integral to the licensed or certified activity, which results in the substantial potential for a significant injury or loss of life, whether or not radioactive material is released;

c. *Severity Level III* Violations involve, for example:

1. A system designed to prevent or mitigate a serious safety event;

- (a) Not being able to perform its intended function under certain conditions (e.g., a safety system not operable unless the required backup power is available), or
 - (b) Being degraded to the extent that a detailed evaluation would be required to determine its operability;
- 2. Failure to secure a portable gauge with at least two independent physical controls whenever the gauge is not under the control and constant surveillance of the licensee as required by 10 CFR 30.34(i);
- 3. A significant failure to implement the requirements of 10 CFR 34 during radiographic operations including but not limited to:
 - (a) A failure, during radiographic operations at a location other than a permanent radiographic installation, to have present a radiographer and at least one additional radiographer or qualified individual,
 - (b) A failure, during radiographic operations, to use radiographic equipment, radiation survey instruments, and/or personnel monitoring devices as required by 10 CFR Part 34, or
 - (c) A failure, during radiographic operations, to stop work after a pocket dosimeter is found to have gone off-scale, or after an electronic dosimeter reads greater than 200 mrem, and before a determination is made of the individual's actual radiation exposure;
- 4. Conduct of licensed activities by a technically unqualified or uncertified person;
- 5. A programmatic failure to implement written directives or procedures for administrations requiring a written directive, such as:
 - (a) A failure of the licensee's procedures to address one or more of the elements in 10 CFR 35.40 or 35.41,
 - (b) A failure to train personnel in procedures for administrations requiring a written directive, or
 - (c) A programmatic weakness in the implementation of written directives or procedures for administrations requiring a written directive, where there was either an actual medical event or a substantial potential for a medical event;
- 6. Use of licensed material on humans where such use is not authorized;
- 7. Authorization of a release of any individual from licensee's control who does not meet the release criteria in 10 CFR 35.75;
- 8. Operation of an irradiator by an individual without supervision, where the individual has not been trained as required by 10 CFR 36.51;

9. Failure to have and to follow written operating procedures as required by 10 CFR 36.53 that does not result in a substantial potential for a serious injury or death, provided that the failures:
 - (a) Are not isolated,
 - (b) Demonstrate programmatic weaknesses in implementation, and
 - (c) Do not have limited consequences if a medical event is involved;
 10. Programmatic failure to perform inspection and maintenance checks as required by 10 CFR 36.61;
 11. A failure to submit an NRC Form 241, as required by 10 CFR 150.20;
 12. A failure to seek required NRC approval prior to the implementation of a change in licensed activities that has radiological or programmatic significance, such as:
 - (a) A change in ownership,
 - (b) A change in the location where licensed activities are being conducted, or where licensed material is being stored, or
 - (c) An increase in the quantity or type of radioactive material being processed or used that has radiological significance.
 13. Failure to notify the NRC of a change in Radiation Safety Officer (RSO), but only in those cases in which the NRC subsequently determines that the replacement RSO was unqualified for the position;
 14. Failures involving decommissioning requirements, such as:
 - (a) A significant failure to meet decommissioning as required by regulation or license condition, or
 - (b) Failure to meet required schedules without adequate justification; or
 15. Failure to make an immediate or 24 hour report or notification when required.
- d. *Severity Level IV* Violations involve, for example:
1. Failure to use a properly prepared written directive as required by 10 CFR 35.40; or failure to develop, implement, or maintain procedures for administrations requiring a written directive as required by 10 CFR 35.41, whether or not a medical event occurs, provided that the failures:
 - (a) Are isolated,
 - (b) Do not demonstrate programmatic weaknesses in implementation, and
 - (c) Have limited consequences if a medical event is involved;

2. A failure to keep the records required by 10 CFR 35.2040 and 35.2041;
3. Failure to provide or make a report or notification, other than an immediate or 24 hour report or notification, to the NRC, including 15 or 30 day written reports, or failure to include all information required by regulation or license condition in a 15-day or 30-day report;
4. Failure to implement procedures including, but not limited to, record keeping, surveys, and inventories; or
5. Failure to comply with the Department of Transportation requirement to provide hazardous material (HAZMAT) employee training as required by 10 CFR 71.5(a).

6.4 Licensed Operators

a. *Severity Level I* Violations involve, for example:

1. A licensed operator or a senior operator, actively performing the functions covered by that position, involved in procedural errors that result in, or exacerbate the consequences of, an Alert or higher level emergency, and who, at the time the procedural errors occurred, was:
 - (a) Determined to be unfit for duty as a result of a confirmed positive test for drugs or alcohol at cut-off levels established by the licensee, or
 - (b) Determined to be under the influence of any prescription or over-the-counter drug as described in 10 CFR 55.53(j).

b. *Severity Level II* Violations involve, for example:

1. A licensed operator or a senior operator actively performing the functions covered by that position, involved in procedural errors, who at the time the procedural error occurred, was:
 - (a) Determined to be unfit for duty as a result of a confirmed positive test for drugs or alcohol at cut-off levels established by the licensee, or
 - (b) Determined to be under the influence of any prescription or over-the-counter drug as described in 10 CFR 55.53(j);
2. A deliberate compromise of an application, test, or examination required by 10 CFR Part 55, or inaccurate or incomplete information deliberately provided to the NRC that:
 - (a) In the case of initial operator licensing, contributes to an individual being granted an operator or senior operator license,
 - (b) In the case of requalification, contributes to an individual being permitted to continue to perform the functions of an operator or senior operator, or

- (c) Contributes to an incorrect restriction being placed on an individual's license;
 - 3. A licensed operator or senior operator who, while within the protected area, is involved in the use, sale, or possession of illegal drugs or the consumption of alcoholic beverages.
- c. *Severity Level III* Violations involve, for example:
- 1. A licensed operator or senior operator actively performing the functions covered by that position, who:
 - (a) Was determined to be unfit for duty as a result of a confirmed positive test for drugs or alcohol at cut-off levels established by the licensee, or
 - (b) Determined to be under the influence of any prescription or over-the-counter drug as described in 10 CFR 55.53(j);
 - 2. Inattention to duty on the part of a licensed operator or a senior operator actively performing the functions covered by that position;
 - 3. A licensed operator or senior operator involved in the use, sale, or possession of illegal drugs;
 - 4. A non-willful compromise of an application, test or examination required by 10 CFR Part 55, or inaccurate or incomplete information inadvertently provided to the NRC that subsequently contributes to the NRC making an incorrect regulatory decision, for example:
 - (a) In the case of initial operator licensing, contributes to an individual being granted an operator or senior operator license,
 - (b) In the case of operator requalification, contributes to an individual being permitted to continue to perform the functions of an operator or senior operator, or
 - (c) Contributes to an incorrect restriction being placed on an individual's license.
- d. *Severity Level IV* Violations involve, for example:
- 1. Failure to disclose information required for application or reapplication of a 10 CFR Part 55 license that had more than minor significance; or
 - 2. A licensed operator's confirmed positive test for drugs or alcohol after arriving on-site to perform scheduled work or to attend required requalification training that does not result in a Severity Level I, II, or III violation.

6.5 Facility Construction (Part 50 and 52 Licensees, and Fuel Cycle Facilities)

- a. *Severity Level I* Violations involve, for example:

1. A violation involving multiple structures, systems, or components that are completed¹ in a manner such that they would not have satisfied their intended safety purpose.
- b. *Severity Level II* Violations involve, for example:
1. A significant breakdown in the Quality Assurance (QA) program as exemplified by multiple deficiencies in construction QA related to more than one work activity (e.g., structural, piping, electrical, foundations). These deficiencies involve the licensee's failure to provide adequate oversight or take prompt corrective action and involve multiple examples of deficient construction or construction of unknown quality due to inadequate program implementation;
 2. A structure, system, or component that is completed in such a manner that it would have an adverse impact on the safety of operations; or
 3. Widespread significant failures of the QA program, involving ineffective oversight, failures of multiple barriers in the licensee's programs, and corrective action measures, affecting multiple structures, systems, or components.
- c. *Severity Level III* Violations involve, for example:
1. A breakdown in a licensee's QA program for construction related to a single work activity (e.g., structural, piping, electrical, foundations). This significant deficiency involves the licensee's failure to consistently provide adequate oversight or take prompt corrective action, and involves multiple examples of deficient construction or construction of unknown quality due to inadequate program implementation;
 2. A failure to confirm the design safety requirements of a structure, system, or component as a result of inadequate pre-operational test program implementation; or
 3. Ineffective corrective actions, resulting in multiple examples of recurring significant deficiencies associated with a single construction activity.
- d. *Severity Level IV* Violations involve, for example:
1. Failure to meet regulatory requirements including one or more QA Criterion that have more than minor safety or environmental significance;
 2. Failure to establish, maintain, and implement adequate controls over quality-related procurement, construction, examination, or testing processes;
 3. An isolated example of a failure to adequately implement QA processes or procedures;
 4. Failure to maintain QA records to demonstrate the adequacy of construction; or

¹ The term "completed" as used in this supplement means completion of construction, including review and acceptance by the construction Quality Assurance organization.

5. Failure to provide adequate guidance for determining the classification of structures, systems, and components due to deficiencies in the licensee's design control process.

6.6 Emergency Preparedness

Note: These examples are appropriate for violations at operating power reactor facilities for those violations which are dispositioned under traditional enforcement rather than the Reactor Oversight Process (ROP). For operating power reactors, participant performance deficiencies identified in emergency exercises are treated under the ROP. This supplement also provides examples of violations in the area of emergency preparedness at non-power reactor facilities.

a. *Severity Level I* Violations involve, for example:

1. During an actual General Emergency, licensee failure to promptly:
 - (a) Correctly classify the event,
 - (b) Make required notifications to responsible Federal, State, and local agencies, or
 - (c) Respond to the event (e.g., assess actual or potential offsite consequences, activate emergency response facilities, and augment shift staff).

b. *Severity Level II* Violations involve, for example:

1. During an actual Site Area Emergency, licensee failure to promptly:
 - (a) Correctly classify the event,
 - (b) Make required notifications to responsible Federal, State, and local agencies, or
 - (c) Respond to the event (e.g., assess actual or potential offsite consequences, activate emergency response facilities, and augment shift staff); or
2. Licensee's ability to meet or implement any regulatory requirement related to assessment or notification² is lost such that the function of the requirement would not be implemented during the response to an actual emergency, if one were to occur.

c. *Severity Level III* Violations involve, for example:

1. During an actual Alert emergency, licensee failure to promptly:

² As used in this supplement, "Assessment" includes classification, assessment of the impact of a release of radioactivity, and the making of protective action recommendations; "notification" includes initial and follow-up notifications to offsite response organizations. For power reactors, this includes the risk-significant planning standards 10 CFR 50.47(b)(4), (b)(5), (b)(9), and (b)(10).

- (a) Correctly classify the event,
 - (b) Make required notifications to responsible Federal, State, and local agencies, or
 - (c) Respond to the event (e.g., assess actual or potential offsite consequences, activate emergency response facilities, and augment shift staff);
- 2. Licensee's ability to meet or implement any regulatory requirement related to assessment or notification is degraded such that the effectiveness of the emergency plan has been decreased. Although the regulatory requirement could be implemented during the response to an actual emergency, if one were to occur, the implementation would be degraded (e.g., not fully effective, inappropriately delayed, etc.); or
 - 3. Licensee's ability to meet or implement any regulatory requirement NOT related to assessment or notification is lost such that the function of the regulatory requirement would not be implemented during the response to an actual emergency, if one were to occur.
- d. *Severity Level IV* Violations involve, for example:
- 1. Licensee's ability to meet or implement any regulatory requirement NOT related to assessment or notification is degraded such that the effectiveness of the emergency plan has been decreased. Although the regulatory requirement could be implemented during the response to an actual emergency, if one were to occur, the implementation would be degraded (e.g., not fully effective, inappropriately delayed, etc.).

6.7 Health Physics

Note: Personnel overexposures and associated violations incurred during a life-saving or other emergency response effort will be treated on a case-by-case basis.

- a. *Severity Level I* Violations involve, for example:
- 1. Radiation levels, contamination levels, or releases that exceed 10 times the limits specified in the license;
 - 2. A radiation exposure during any year of an adult worker in excess of 25 rem (0.25 Sv) total effective dose equivalent, 75 rem (0.75 Sv) to the lens of the eye, or 250 rem (2.5 Sv) to the skin of the whole body, or to the feet, ankles, hands or forearms, or to any other organ or tissue;
 - 3. A radiation exposure over the gestation period of the embryo/fetus of a declared pregnant woman in excess of 2.5 rem (0.025 Sv) total effective dose equivalent;
 - 4. A radiation exposure during any year of a minor worker in excess of 2.5 rem (0.025 Sv) total effective dose equivalent, 7.5 rem (0.075 Sv) to the lens of the

eye, or 25 rem to the skin of the whole body, or to the feet, ankles, hands or forearms, or to any other organ or tissue;

5. An annual exposure of a member of the public in excess of 1 rem (0.01 Sv) total effective dose equivalent;
6. Release of radioactive material to an unrestricted area at concentrations in excess of 50 times the limits for members of the public as stated in 10 CFR 20.1302(b)(2)(i); or
7. Disposal of licensed material in quantities or concentrations in excess of 10 times the limits of 10 CFR 20.2003.

b. *Severity Level II* Violations involve, for example:

1. Radiation levels, contamination levels, or releases that exceed 5 times the limits specified in the license;
2. A radiation exposure during any year of an adult worker in excess of 10 rem (0.1 Sv) total effective dose equivalent, 30 rem (0.3 Sv) to the lens of the eye, or 100 rem (1.0 Sv) to the skin of the whole body, or to the feet, ankles, hands or forearms, or to any other organ or tissue;
3. A radiation exposure over the gestation period of the embryo/fetus of a declared pregnant woman in excess of 1.0 rem (0.01Sv) total effective dose equivalent;
4. A radiation exposure during any year of a minor worker in excess of 1.0 rem (0.01Sv) total effective dose equivalent; 3.0 rem (0.03Sv) to the lens of the eye, or 10 rem (0.1Sv) to the skin of the whole body, or to the feet, ankles, hands or forearms, or to any other organ or tissue;
5. An annual exposure of a member of the public in excess of 0.5 rem (5 mSv) total effective dose equivalent;
6. Release of radioactive material to an unrestricted area at concentrations in excess of 10 times the limits stated in 10 CFR 20.1302(b)(2)(i) (except when operation up to 0.5 rem (5 mSv) a year has been approved by the Commission under 10 CFR 20.1301(c));
7. Disposal of licensed material in quantities or concentrations in excess of 5 times the limits of 10 CFR 20.2003; or
8. Failure to make an immediate notification as required by 10 CFR 20.2202(a)(1) or (a)(2).

c. *Severity Level III* Violations involve, for example:

1. A radiation exposure during any year of an adult worker in excess of 5 rem (0.05 Sv) total effective dose equivalent, 15 rem (0.15 Sv) to the lens of the eye, or 50 rem (0.5 Sv) to the skin of the whole body or to the feet, ankles, hands or forearms, or to any other organ or tissue;

2. A radiation exposure over the gestation period of the embryo/fetus of a declared pregnant woman in excess of 0.5 rem (5 mSv) total effective dose equivalent (except when doses are in accordance with the provisions of 10 CFR 20.1208(d));
 3. A radiation exposure during any year of a minor worker in excess of 0.5 rem (5 mSv) total effective dose equivalent; 1.5 rem (0.015 Sv) to the lens of the eye, or 5 rem (0.05 Sv) to the skin of the whole body, or to the feet, ankles, hands or forearms, or to any other organ or tissue;
 4. An annual exposure of a member of the public in excess of 0.1 rem (1 mSv) total effective dose equivalent (except when operation up to 0.5 rem (5 mSv) a year has been approved by the Commission under 10 CFR 20.1301(c));
 5. A release of radioactive material to an unrestricted area at concentrations in excess of two times the effluent concentration limits referenced in 10 CFR 20.1302(b)(2)(i) (except when operation up to 0.5 rem (5 mSv) a year has been approved by the Commission under 10 CFR 20.1301(c));
 6. A substantial potential for exposures or releases in excess of the applicable limits in 10 CFR 20.1001-20.2401 whether or not an exposure or release occurs;
 7. Disposal of licensed material not covered in Severity Levels I or II;
 8. A release for unrestricted use of contaminated or radioactive material or equipment that poses a realistic potential for exposure of the public exceeding the annual dose limits for members of the public;
 9. Conduct of licensee activities by a technically unqualified person;
 10. A violation involving failure to secure, or maintain surveillance over, licensed material that:
 - (a) Involves licensed material in any aggregate quantity greater than 1000 times the quantity specified in Appendix C to 10 CFR Part 20,
 - (b) Involves licensed material in any aggregate quantity greater than 10 times the quantity specified in Appendix C to 10 CFR Part 20, where such failure is accompanied by the absence of a functional program to detect and deter security violations that includes training, staff awareness, detection (including auditing), and corrective action (including disciplinary action), or
 - (c) Results in a substantial potential for exposures or releases in excess of the applicable limits in 10 CFR Part 20; or
 11. A failure to make a 24-hour notification required by 10 CFR 20.2202(b) or an immediate notification required by 10 CFR 20.2201(a)(1)(i);
- d. *Severity Level IV* Violations involve, for example:

1. Intakes in excess of 20.1201(e) or the equivalent for 20.1207;
2. A release of radioactive material to an unrestricted area at concentrations in excess of the limits for members of the public as referenced in 10 CFR 20.1302(b)(2)(i) (except when operation up to 0.5 rem (5 mSv) a year has been approved by the Commission under 10 CFR 20.1301(c));
3. A radiation dose rate in an unrestricted or controlled area in excess of 0.002 rem (0.02 μ Sv) in any 1 hour (2 millirem/hour) or 50 millirem (0.5 mSv) in a year;
4. A failure to conduct required leakage or contamination tests or to use properly calibrated equipment which does not contribute to an event;
5. Doses to a member of the public in excess of any EPA generally applicable environmental radiation standards, such as 40 CFR Part 190, as required by 10 CFR 20.1301(e);
6. A failure to make the 30-day notification required by 10 CFR 20.2201(a)(1)(ii) or 10 CFR 20.2203(a);
7. Any other matter that has more than a minor safety, health, or environmental significance;
8. A violation involving an isolated failure to secure, or maintain surveillance over, licensed material that involves licensed material in any aggregate quantity greater than 10 times the quantity specified in Appendix C to 10 CFR Part 20, provided that:
 - (a) The material is labeled as radioactive or located in an area posted as containing radioactive materials, and
 - (b) Such failure occurs despite a functional program to detect and deter security violations that includes training, staff awareness, detection (including auditing), and corrective action (including disciplinary action);
9. 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).

6.8 Transportation

Note: Some transportation requirements apply to more than one licensee involved in the same activity (e.g., a shipper and a carrier). When such a violation occurs, enforcement action will be directed against the responsible licensee which, under the circumstances of the case, may be one or more of the licensees involved.

- a. *Severity Level I* Violations involve, for example:
1. Failure to meet transportation requirements that resulted in loss of control of radioactive material with a breach in package integrity such that the material caused a radiation exposure to a member of the public and there was clear potential for the public to receive more than 0.1 rem to the whole body;
 2. Surface contamination in excess of 100 times the NRC limit; or
 3. External radiation levels in excess of 25 times the NRC limit.
- b. *Severity Level II* Violations involve, for example:
1. Failure to meet transportation requirements that resulted in loss of control of radioactive material with a breach in package integrity such that there was a clear potential for the member of the public to receive more than 0.1 rem to the whole body;
 2. A package breach that results in an exposure of a member of the public in excess of 100 millirem;
 3. Surface contamination in excess of 50 times the NRC limit;
 4. External radiation levels in excess of 5 times the NRC limit; or
 5. A failure to make required initial notifications associated with Severity Level I or II violations.
- c. *Severity Level III* Violations involve, for example:
1. Surface contamination in excess of 5 times the NRC limit;
 2. External radiation in excess of the NRC limit;
 3. Any violation involving labeling, placarding, shipping paper, packaging, loading, or other requirements that could reasonably result in the following:
 - (a) A significant failure to identify the type, quantity, or form of material,
 - (b) A failure of the carrier or recipient to exercise adequate controls, or
 - (c) A substantial potential for either personnel exposure or contamination above regulatory limits or improper transfer of material;
 4. A failure to make required initial notification associated with Severity Level III violations.
- d. *Severity Level IV* Violations involve, for example:
1. A breach of package integrity without external radiation levels exceeding the NRC limit or without contamination levels exceeding the NRC limits;

2. Surface contamination in excess of the NRC limit;
3. A failure to register as an authorized user of an NRC-Certified Transport package;
4. A noncompliance with shipping papers, marking, labeling, placarding, packaging or loading not amounting to a Severity Level I, II, or III violation;
5. A failure to demonstrate that packages for special form radioactive material meet applicable regulatory requirements;
6. A failure to demonstrate that DOT Specifications are met for 7A Type A packages as required by 10 CFR 71.5; or
7. Other violations involving the transportation of licensed materials that have more than minor safety or environmental significance.

6.9 Inaccurate and Incomplete Information And Reporting

a. *Severity Level I* Violations involve, for example:

1. Inaccurate or incomplete information deliberately provided to the NRC, maintained by a licensee or withheld by a licensee, with the knowledge of a licensee official that, had it been complete and accurate, or not withheld, would likely have resulted in regulatory action such as an immediate order required to protect the public health and safety or common defense and security;
2. Failure to make a required report which, had it been submitted, would have resulted in an extremely significant NRC action such as the issuance of an Immediately Effective Order;
3. A knowing and intentional failure to notify the Commission as required by 10 CFR Part 21; or
4. Inaccurate or incomplete information associated with an Inspections, Tests, Analyses, and Acceptance Criteria (ITAAC) Notification letter submitted in accordance with 10 CFR 52.99 that
 - (a) Is incomplete or inaccurate because of falsification by or with the knowledge of a licensee or applicant official, or
 - (b) Contains information that had it been accurate and complete, would have resulted in the NRC rejecting closure of an ITAAC and considering an order halting a significant portion of construction activities.

b. *Severity Level II* Violations involve, for example:

1. Inaccurate or incomplete information provided to the NRC, maintained by a licensee or withheld by a licensee with the knowledge of a licensee official,

which, had it been complete and accurate, or not withheld, would likely have resulted in regulatory action such as an Immediately Effective Order required to protect the public health and safety or common defense and security;

2. Inaccurate or incomplete information associated with an ITAAC notification letter submitted in accordance with 10 CFR 52.99 that
 - (a) Is incomplete or inaccurate because of deliberate misconduct on the part of a licensee official or licensee personnel, or
 - (b) Contains information that, had it been accurate and complete, would have resulted in the NRC rejecting closure of an ITAAC;
 3. Failure to make a required report which, had it been submitted, would have resulted in a very significant NRC action such as the issuance of an Order or immediate dispatch of inspection or investigative resources;
 4. A failure to provide the notice required by 10 CFR Part 21; or
 5. A failure to make an immediate notification as required by 10 CFR 20.2202 (a)(1) or (a)(2).
- c. *Severity Level III* Violations involve, for example:
1. Inaccurate or incomplete information provided to the NRC or maintained by a licensee, or withheld by a licensee that, had it been complete and accurate, or not withheld, would likely have resulted in a reconsideration of a regulatory position or substantial further inquiry;
 2. Inaccurate or incomplete information associated with an ITAAC notification letter submitted in accordance with 10 CFR 52.99 that, had it been accurate and complete, would have resulted in reconsideration of a regulatory position or substantial further inquiry by the NRC;
 3. Failure to make a required report which, had it been submitted, would have resulted in the consideration of the issuance, for example, of an Order or Confirmatory Action Letter;
 4. An inadequate review by a licensee or a licensee contractor, or any failure to review, such that, if an appropriate review had been made as required, a 10 CFR Part 21 report would have been made;
 5. Failure to make required notifications and reports pursuant to 10 CFR 50.55(e) report;
 6. Failure to make a 24-hour notification required by 10 CFR 20.2202(b) or an immediate notification required by 10 CFR 20.2201(a)(1)(i); or
 7. Failure to make any report required by Part 73, Section 73.71 or Appendix G, or Part 26 except for 10 CFR 26.719(d).

d. *Severity Level IV* Violations involve, for example:

1. Inaccurate or incomplete information provided to the NRC maintained by a licensee or withheld by a licensee that was of more than minor significance;
2. Failure to make a required report which, had it been submitted, would have resulted in, for instance, increasing the inspection scope of the next regularly scheduled inspection;
3. Information associated with an ITAAC notification letter submitted in accordance with 10 CFR 52.99 that was correct at the time of submission but later deemed inaccurate due to (a) damage caused by subsequent inadequately controlled construction activities, or (b) subsequently developed new information. Additionally, the licensee did not make timely and effective notification to the NRC upon discovery;
4. An inadequate review or failure to review under 10 CFR Part 21 or other procedural violations associated with 10 CFR Part 21 with more than minor safety significance;
5. Failure to make a timely written report as required by 10 CFR 20.2201(b), 20.2204, or 20.2206;
6. 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);
7. Failure to report indicators of programmatic weaknesses as required in 10 CFR 26.719(d); or
8. Failure to make a required written event report, as required by 10 CFR 76.120(d)(2), Appendix A of 10 CFR Part 70, or 10 CFR 70.50(c)(1).

6.10 Discrimination

Note: In certain cases, the severity level of a violation may be escalated based on unique escalating factor(s) such as whether the adverse action was taken because the employee had contacted the NRC or whether the applicable NRC employee protection regulation (e.g., 10 CFR 50.7 or similar NRC employee protection regulations) was deliberately violated. Conversely, the severity level of a violation of an NRC employee protection regulation may be mitigated to a lower severity level based on factor(s) unique to the specific facts and circumstances of the case.

a. *Severity Level I* violations involve, for example:

1. An executive level corporate manager (or equivalent) (which for this definition includes a Site Vice President) is the decision-maker or plays a significant role in the adverse action decision-making process regardless of the severity of the adverse action but with at least one of the following escalating factors:

- (a) The adverse action against the employee had a wide spread site impact on other employees' willingness to raise concerns, or
 - (b) The employer failed to take meaningful action to investigate and address the allegation of discrimination, if such allegation was first raised internally within the employer's processes addressing employee concerns;
2. A mid or a senior level plant manager (or equivalent) or a corporate level line manager (or equivalent) is the decision-maker or plays a significant role in the adverse action decision-making process; the employment action is of the nature that is relatively more adverse to the employee's terms, conditions, compensation or privileges of employment such as suspension without pay, as an example; and either a.1 (a) or (b) above is cited or other unique factor(s).
- b. *Severity Level II* violations involve, for example:
1. An executive level corporate manager (or equivalent) (which for this definition includes a Site Vice President) is the decision-maker or plays a significant role in the adverse action decision-making process regardless of the severity of the adverse action but without an escalating factor present;
 2. A mid or senior level plant manager (or equivalent) or a corporate level line manager (or equivalent) is the decision-maker or plays a significant role in the adverse action decision-making process; the employment action is of the nature that is relatively more adverse to the employee's terms, conditions, compensation or privileges of employment such as suspension without pay, as an example; and there is no escalating factor present;
 3. A mid or senior level plant manager (or equivalent) or a corporate level line manager (or equivalent) is the decision-maker or plays a significant role in the adverse action decision-making process; the employment action is of the nature that is relatively less adverse to the employee's terms, conditions, compensation or privileges of employment such as a verbal counseling, as an example; and either a.1 (a) or (b) above is cited or other unique escalating factor(s) present; or
 4. A lower level plant manager (or equivalent) or supervisor (or equivalent) is the decision-maker or plays a significant role in the adverse action decision-making process; the employment action is of the nature that is relatively more adverse to the employee's terms, conditions, compensation or privileges of employment such as suspension without pay, as an example; and either a.1 (a) or (b) above is cited or other unique escalating factor(s) present.
- c. *Severity Level III* violations involve, for example:
1. A mid or senior level plant manager (or equivalent) or a corporate level line manager (or equivalent) is the decision-maker or plays a significant role in the adverse action decision-making process; the employment action is of the nature that is relatively less adverse to the employee's terms, conditions, compensation or privileges of employment such as a verbal counseling, as an example; and there is no escalating factor present;

2. A lower level plant manager (or equivalent) or supervisor (or equivalent) is the decision-maker or plays a significant role in the adverse action decision-making process; the employment action is of the nature that is relatively more adverse to the employee's terms, conditions, compensation or privileges of employment such as suspension without pay, as an example; and there is no escalating factor present; or
 3. A lower level plant manager (or equivalent) or supervisor (or equivalent) is the decision-maker or plays a significant role in the adverse action decision-making process; the employment action is of the nature that is relatively less adverse to the employee's terms, conditions, compensation or privileges of employment such as a verbal counseling, as an example; and either a.1 (a) or (b) above is cited or other unique escalating factor(s) present.
- d. *Severity Level IV* violations involve, for example:
1. A lower level plant manager (or equivalent) or supervisor (or equivalent) is the decision-maker or plays a significant role in the adverse action decision-making process; the employment action is of the nature that is relatively less adverse to the employee's terms, conditions, compensation or privileges of employment such as a verbal counseling, as an example; and there is no escalating factor present.

6.11 Reactor and Fuel Facility Security

- a. *Severity Level I* Violations involve, for example:
1. The theft, diversion, or act of sabotage involving a formula quantity of special nuclear material (SNM), or a very significant quantity of other radioactive material; or
 2. Any failure of the licensee's security program or Insider Mitigation Program resulting in an act of sabotage against one or more target sets or target set elements.
- b. *Severity Level II* Violations involve, for example:
1. An act of radiological sabotage that results in the loss or destruction of a quantity of radioactive material determined significant by the NRC;
 2. The theft or diversion of a quantity of SNM of moderate strategic significance or quantity of other radioactive material determined significant by the NRC, in which one or more attributes of the security program did not function as required;
 3. Failure to take reasonable action when observed behavior within the protected area or credible information concerning the activities of an individual indicates possible unfitness for duty based on drug or alcohol use;
 4. Failure of a licensee to involve the licensee's reviewing official in developing an

unescorted access authorization determination or determination of fitness, following a for-cause action by a licensee that results in an individual's voluntary or involuntary loss of employment; or

5. Failure to maintain high assurance that the licensee protective strategy and Insider Mitigation Program functions as required.

c. *Severity Level III* Violations involve, for example:

1. Any attempted act of radiological sabotage to any radiological material by an insider (e.g., licensee employee, licensee contractor or subcontractor);
2. A failure of the security or insider mitigation program, not amounting to a Severity Level I or II violation that challenges the high assurance standard of 10 CFR 73.20 or 10 CFR 73.55;
3. Failure to develop and maintain records concerning the denial of access, or respond to inquiries concerning denials of access so that, as a result of the failure, a person previously denied unescorted access or unescorted access authorization, was improperly granted such access;
5. Failure to assure that a licensee approved contractor or vendor access authorization program is operating in accordance with regulatory and licensee requirements;
6. Failure to complete more than one of the requirements of an access authorization program prior to granting an individual unescorted access, or unescorted access authorization;
7. Assigning an individual to a job task related to implementing the licensee's protective strategy without the person being qualified in accordance with regulatory requirements;
8. Any deliberate falsification of information relied upon by a reviewing official to make an unescorted access or unescorted access authorization determination;
9. A significant failure of the safeguards or security systems designed or used to prevent, detect, or assess the theft, loss, or diversion of strategic SNM, or significant quantities of other radioactive material; or
10. A failure to conduct a search or conducting an inadequate search at any protected area access control point that resulted in the introduction of firearms, explosives, or incendiary devices or reasonable facsimiles thereof that could assist in committing radiological sabotage or theft or diversion of strategic SNM.

d. *Severity Level IV* Violations involve, for example:

1. A failure of the licensee security or insider mitigation program resulting in an attempted act of radiological sabotage against one or more target set elements;
2. A loss of SNM of low strategic significance or less significant quantities of other

radioactive material, that was not detected within the time period specified in the security plan, other relevant document, or regulation; or

3. Violations of requirements contained in the licensee security plan and implementing procedures not amounting to a SEVERITY LEVEL I, II or III violation.

6.12 Materials Security

a. *Severity Level I* Violations involve, for example:

1. The theft, diversion, or sabotage of a Category 1 quantity of radioactive material resulting from the failure to establish or implement one or more requirements, such as:
 - (a) Failure to control access to a Category 1 quantity of radioactive material to only individuals deemed trustworthy and reliable and having job duties that require unescorted access to the radioactive material;
 - (b) Failure to immediately respond to an attempted theft, sabotage, or diversion of a Category 1 quantity of radioactive material, including requesting assistance from the local law enforcement agency;
 - (c) Failure to provide enhanced monitoring during periods of source delivery and shipment of a Category 1 quantity of radioactive material; or
 - (d) Failure to implement the Radioactive Material Quantities of Concern (RAM QC) requirements prior to shipping a consignment containing a Category 1 quantity of radioactive material.

b. *Severity Level II* Violations involve, for example:

1. The theft, diversion, or sabotage of a Category 2 quantity of radioactive material resulting from the failure to establish or implement one or more increased controls requirements, such as:
 - (a) Failure to control access to a Category 1 or Category 2 quantity of radioactive material to only individuals deemed trustworthy and reliable and having job duties that require unescorted access to the radioactive material;
 - (b) Failure to immediately respond to an attempted theft, sabotage, or diversion of a Category 1 or Category 2 quantity of radioactive material including requesting assistance from the local law enforcement agency;
 - (c) Shipping a consignment of a Category 2 quantity of radioactive material by a carrier, other than the licensee, without first verifying that the carrier uses a package tracking system, implements methods to assure trustworthiness and reliability of drivers, maintains constant control and/or surveillance during transit, and has the capability for immediate communication to summon appropriate response or assistance;

- (d) Failure to provide enhanced monitoring during periods of source delivery and shipment of a Category 1 quantity of radioactive material;
- (e) Failure to implement the RAM QC ASM prior to shipping a consignment containing a Category 1 quantity of radioactive material; or
- (f) Failure to utilize a method to disable a vehicle or trailer, in or on which a Category 1 or Category 2 quantity of radioactive material is stored, when not under direct control and constant surveillance by the licensee.

c. *Severity Level III* Violations involve, for example:

1. Failure to immediately respond to an attempted theft, sabotage, or diversion of a Category 1 or Category 2 quantity of radioactive material, including a failure to request assistance from the local law enforcement agency, that does not result in actual theft, sabotage, or diversion of radioactive material;
2. Failure to determine trustworthiness and reliability of individuals having unescorted access to radioactive material quantities of concern and devices;
3. Failure to limit access to physical protection information to only those persons with an established need-to-know, and who were determined to be trustworthy and reliable;
4. Failure to verify that a carrier uses package tracking systems, implements methods that assure trustworthiness and reliability of drivers, maintains constant control and/or surveillance during transit, and has the capability for immediate communication to summon appropriate response or assistance, prior to shipping a Category 2 quantity of radioactive material, per consignment, by the carrier;
5. Failure to provide enhanced monitoring during periods of source delivery and shipment of a Category 1 quantity of radioactive material;
6. Failure to initiate an investigation to determine the location of a shipment of licensed material containing a Category 2 quantity of radioactive material when the shipment does not arrive on or about the expected arrival time;
7. Failure to notify the NRC Operations Center promptly after initiating a response to any actual or attempted theft, diversion, or sabotage of sources or devices containing a Category 1 or Category 2 quantity of radioactive material;
8. Failure to implement the RAM QC prior to shipping a Category 1 quantity of radioactive material, per consignment;
9. Failure to utilize a method to disable a vehicle or trailer, in or on which a Category 1 or Category 2 quantity of radioactive material is stored, when not under direct control and constant surveillance by the licensee;
10. Failure to establish or programmatic failure to implement a pre-arranged response plan with the local law enforcement agency;

11. Failure to establish or programmatic failure to implement a program to monitor and immediately detect, assess, and respond to unauthorized access to a Category 1 or Category 2 quantity of radioactive material; or
 12. Failure to have a dependable means to transmit information between, and among, the various components of the intrusion detection system or to summon the appropriate responder.
- d. *Severity Level IV* Violations involve, for example:
1. Failure to document the basis for concluding that an individual was determined to be trustworthy and reliable for the purposes of granting unescorted access to a Category 1 or Category 2 quantity of radioactive material;
 2. Failure to perform a complete and adequate trustworthiness and reliability determination for an individual such that information relevant to access approval was not obtained or considered, but the individual would likely have been granted unescorted access if the required information had been obtained or considered;
 3. Failure to limit approval for unescorted access with respect to Category 1 or Category 2 quantity of radioactive material to individuals with job duties requiring unescorted access;
 4. Failure to maintain a list of persons approved for unescorted access;
 5. Failure to confirm receipt of transferred radioactive material;
 6. Failure to document the pre-arranged plan with the local law enforcement agency or update the pre-arranged plan when changes to the facility design or operation affect the potential vulnerability of sources;
 7. Isolated failure of the dependable means to transmit information between, and among, the various components of the intrusion detection system or to summon the appropriate responder, to operate as designed;
 8. Failure to contact the recipient or originator of a shipment to coordinate an expected arrival time for a shipment of a Category 2 quantity of radioactive material;
 9. Isolated failure to implement a portion of the licensee's program to monitor and immediately detect, assess, and respond to unauthorized access to a Category 1 or Category 2 quantity of licensed radioactive material, such that an opportunity exists that could allow unauthorized and undetected access to the material, but that was neither easily or likely to be exploitable;
 10. Isolated failure to limit access to physical protection information to only those persons with an established need-to-know and who are considered to be trustworthy and reliable, where with a high degree of confidence it is unlikely that

the information could be used by an unauthorized individual who represents a predictable threat to circumvent or defeat the licensee's physical protection program;

11. Failure to comply with an element of the licensee's procedure to provide enhanced monitoring during periods of source delivery and shipment of a Category 1 quantity of radioactive material that does not seriously degrade the enhanced monitoring capability; or
12. Other violations involving materials safety that have more than minor safety or security significance.

6.13 Information Security

a. *Severity Level I* Violations involve, for example:

1. Failure to control TOP SECRET or SECRET matter where the matter was removed from a controlled area by, or disclosed to, an unauthorized person.

b. *Severity Level II* Violations involve, for example:

1. Failure to control TOP SECRET or SECRET matter where the matter was removed from a controlled area and could have been disclosed to an unauthorized person; or
2. Failure to control classified matter not amounting to TOP SECRET or SECRET classified matter, or Safeguards Information where the matter or information was removed from a controlled area and was disclosed to an unauthorized person.

c. *Severity Level III* Violations involve, for example:

1. Failure to control classified matter or Safeguards Information where there was the substantial potential that the matter or information could have been removed by or disclosed to an unauthorized person; or
2. A failure to protect, control or mark classified matter or Safeguards Information while the matter or information is outside the protected area and accessible to those not authorized access to the protected area.

d. *Severity Level IV* Violations involve, for example:

1. A failure to properly secure, protect or mark classified matter or Safeguards Information inside the protected area that could assist an individual in an act of radiological sabotage or theft of strategic SNM where the matter or information was not removed from the protected area.

6.14 Fitness For Duty³

a. *Severity Level I* Violations involve, for example:

1. Failure to implement or maintain reasonable assurance of Fitness for Duty program performance in two or more Subparts of 10 CFR Part 26; or
2. Failure to substantially implement a licensee Employee Assistance Program (EAP).

b. *Severity Level II* Violations involve, for example:

1. Failure to remove an individual from unescorted access who has been involved in the sale, use, or possession of illegal drugs within the protected area, or take action for an on-duty misuse of alcohol, illegal drugs, prescription drugs, or over-the-counter medications;
2. Failure to take an action required by regulation or the licensee behavior observation program when observed behavior within the protected area or credible information concerning the activities of an individual indicates possible unfitness for duty based on drug or alcohol use;
3. A deliberate failure of the licensee's EAP staff to notify licensee management when the EAP staff is aware that an individual's condition may adversely affect the safety or security of the facility; or
4. Failure to effectively implement more than one of the requirements of 10 CFR 26, Subpart I.

c. *Severity Level III* Violations involve, for example:

1. Failure to take the required action for a person confirmed to have been tested positive for illegal drug use or take action for onsite alcohol use; not amounting to a Severity Level II violation;
2. Failure to assure that a licensee approved contractor or vendor approved Fitness for Duty program is operating in accordance with regulatory and licensee requirements;
3. Failure to complete or maintain more than one of the requirements of a Fitness for Duty program for individuals listed in 10 CFR 26.4;
4. Failure to develop and maintain records concerning the denial of access, or respond to inquiries concerning denials of access so that, as a result of the failure, a person previously denied Fitness for Duty authorization was improperly granted such access; or
5. Failure to effectively implement any single attribute (e.g., work hours, waivers, self-declarations or fatigue assessments) of the requirements of 10 CFR 26, Subpart I, not amounting to a severity level I or II violation.

³ See supplement 6.4 for fitness for duty violation examples specific to licensed operators.

- d. *Severity Level IV* Violations involve, for example:
1. Failure to have implementing procedures that are clear, concise and readily available;
 2. Failure to take an action required by the licensee behavior observation program not amounting to a severity level I, II or III violation; or
 3. A violation of the requirements of Part 26, unrelated to the behavior observation program and not amounting to a SEVERITY LEVEL I, II or III violation.