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THE ENFORCEMENT PROGRAM OF THE
NUCLEAR REGULATORY COMMISSION IN THE
UNITED STATES

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The enforcement program of the United States Nuclear Regulatory Commission consists of a clearly spelled out, evenly applied program of deterrents which escalate according to the nature of the offense and the past history of the licensee's noncompliances. Ninety-eight percent of all enforcement actions are normally handled by the five Regional offices. Only one percent of noncompliances have been classed as violations where significant safety consequences occurred. A strong and timely enforcement program is essential to insure that licensees fulfill their obligations to protect the public and the environment.

The NRC enforcement effort consists of a clearly spelled out, evenly applied program of deterrents which escalate according to the nature of the offense and the past history of noncompliance. A comprehensive statement of this enforcement policy was distributed to all NRC licensees on December 31, 1974 and to all new licensees since then.

From an enforcement standpoint, each item examined during an inspection or an investigation falls into one of four categories (Figure 1): (1) it is acceptable; (2) it does not comply with Commission rules and regulations or specific license conditions; (3) it deviates from a licensee commitment which is not a regulatory requirement; or (4) more information is needed to determine that the finding lies in one of the other three categories. Furthermore, each item of noncompliance is categorized to express its relative significance.

Since the NRC places great emphasis on the licensee's program to identify items which need to be corrected, enforcement action is usually not taken for noncompliance items which are identified by a licensee's internal audit program -- providing the licensee adequately corrects the problem.

NRC attaches considerable significance to noncompliance items which we directly identify. In view of the requirements for multiple levels of inspection and audit under a licensee's quality assurance program, NRC identification of a noncompliance item carries with it broader implications regarding the effectiveness of the licensee's quality assurance program. For this reason, we require the licensee not only to correct the particular problem identified, but also to correct the deficiencies in the quality assurance program which allowed this situation to exist.

The U.S. NRC enforcement program can be illustrated by briefly following the sequence of events that usually take place within the inspection-enforcement process. First, an inspection is made by the inspector. The results of the inspection are discussed with licensee representatives at an exit interview on the last day of the inspection. The results of the inspection are also documented through a formal report that is sent to the licensee within twenty days after the inspection. The findings of the inspection fall into one of the four categories shown on Figure 1. Any unresolved items must eventually fall into either the acceptable or nonacceptable categories upon receipt of additional information.

If a noncompliance is found, it must be classified into one of the three levels of severity illustrated on Figure 2. Briefly, these classifications are:

- . Violations - Items where significant safety consequences occurred or could have occurred because of the noncompliance.
- . Infractions - Items where significant safety consequences could have occurred but where safety margins (of protective systems) still existed.
- . Deficiencies - Items that do not have direct safety significance.

A Notice of Violation in the form of a letter is sent to the licensee with the inspection report. The licensee must respond within a given time frame,

usually twenty days. The response, which is sent to the five NRC Regional Offices, must indicate (1) how the licensee intends to correct that item of noncompliance; (2) when corrective action will be taken; and (3) how the licensee intends to prevent similar occurrences in the future. The Regional Office reviews this response and either approves or disapproves the proposed licensee actions. (Disapproval requires that the licensee respond to the Region's objectives). In addition, the licensee's plans and actions for correction are reviewed at subsequent inspections to insure that corrective action has, in fact, taken place.

For serious items of noncompliance (usually violations or a combination of infractions over a period of time), the enforcement sanctions are escalated. These escalations are usually preceded by additional inspections or investigations that probe more deeply into the licensee's management processes. An Enforcement Conference or management meeting may be the next step. This is a meeting of the senior staff of the Region usually including the Regional Director and the senior management of the utility. The President of the utility often attends this meeting. At the meeting the particular problems are discussed but the overall management of the facility is also examined. The licensee usually proposes actions to correct the problems. These actions are then summarized in an Immediate Action Letter from the NRC Region to the licensee. These actions become commitments that are subject to future inspection review.

Commitments can also result from other situations, such as a new Regulatory Guide or a Bulletin. In such cases if the licensee fails to comply with his commitments he can be cited during an inspection for a Deviation. The licensee must respond to a Deviation citation in a fashion similar to a citation for noncompliance.

The steps discussed above usually are taken by a Regional Office. In most cases these enforcement measures are sufficient to bring about corrective action by the licensee. Continued failure to fulfill commitments or correct items of noncompliance can lead to escalated sanctions such as Civil Penalties or Orders. These higher sanctions require the involvement of the Headquarters of the Office of Inspection and Enforcement, as well as other NRC offices.

As shown on Figure 3, Orders cover a number of categories: Show Cause; Cease and Desist; license suspension; license modification; revocation of a license; denial of license renewal, and rescinding of previous orders. Orders are the most serious sanction available to NRC and obviously can affect the licensee's operation significantly.

Due to their significance, these higher sanctions require a thorough administrative/legal process. Figure 4 illustrates this process for the imposition of a Civil Penalty. The process starts when the Region recommends that a Civil Penalty be issued. The inspection or investigation findings are reviewed by IE Headquarters staff. If the Headquarters concurs in the Civil Penalty, a Notice of Violation is sent to the licensee with the proposed Civil Penalty before the letter is sent. The licensee is informed by telephone and the Commission is informed five days prior to the issuance. A public announcement is made two days after the letter is sent to the licensee. The licensee has 20 days to respond from the date of receipt.

Depending on the licensee response, the Civil Penalty can be dismissed. If the civil penalty is not dismissed, the process continues by the issuance of the Order to impose a Civil Penalty. The licensee may pay the penalty without the issuance of the Order. In this case the process terminates. Once the Order is issued, the licensee has 20 days to pay the penalty or request a hearing. The Commission is informed when the Order is issued. If the licensee does not respond to the Order, the matter is referred to the Department of Justice for collection. The Department of Justice has the authority to mitigate or remit the penalty depending on his interaction with the licensee.

Should the licensee request a hearing, a Notice of Hearing is drafted with the concurrence of the Executive Legal Director (ELD). The Hearing Notice is signed by the Commission. The Hearing can result in dismissal, mitigation, imposition, or remission of the penalties. The licensee can appeal the Hearing Board's decision. The case is then referred to the Appeal Board for a final Commission ruling. The licensee always has the right to seek redress in the Civil Courts.

No Orders imposed by the NRC has gone to hearing so far, although there are three cases pending that may require hearings. With regard to actual enforcement experience, NRC has about 11,000 licensees. Five percent of these are reactor licensees. During the past year 6,000 inspections were conducted with approximately fifty percent devoted to reactors. Forty percent of these inspections found items of noncompliance. Of the noncompliances, only one percent were Violations, sixty percent were Infractions and the balance were Deficiencies.

When noncompliances were found in the inspections, ninety-eight percent of the enforcement actions were completed by the Regional offices. The two percent referred to Headquarters, usually resulted in the higher sanctions discussed above. In 1977, actions taken by Headquarters included 27 Notices of Violation, 25 Civil Penalties, and Orders to five different licensees. Six different utilities received Civil Penalties for items ranging from exceeding release limits to an unplanned criticality. No Orders were issued to utilities during 1977.

In summary, our experience indicates that compliance by NRC licensees is generally good. In those cases where enforcement action is necessary, our system has assured that the situation was corrected.

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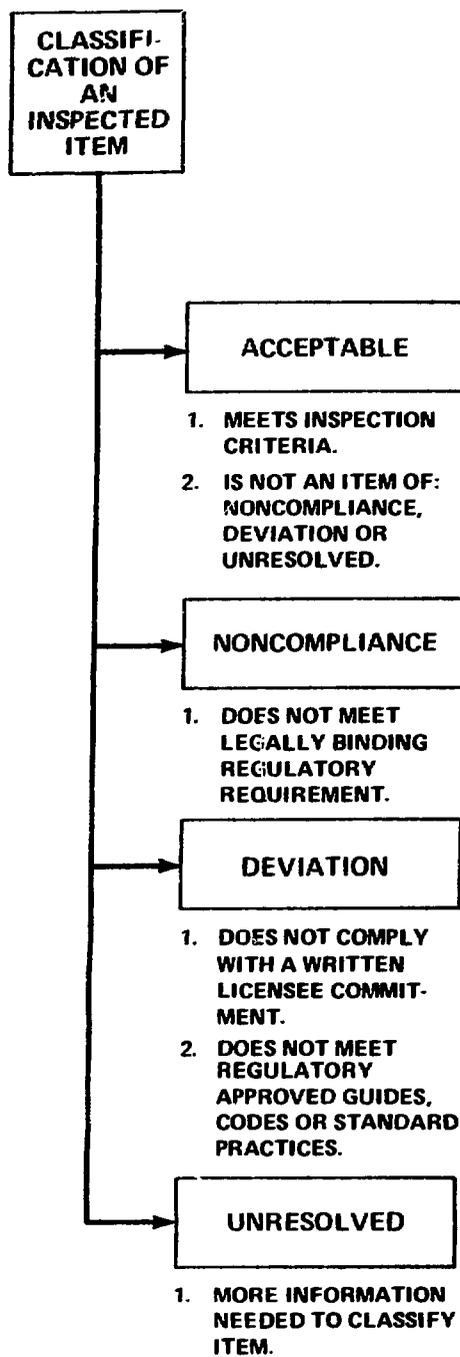


FIGURE 1

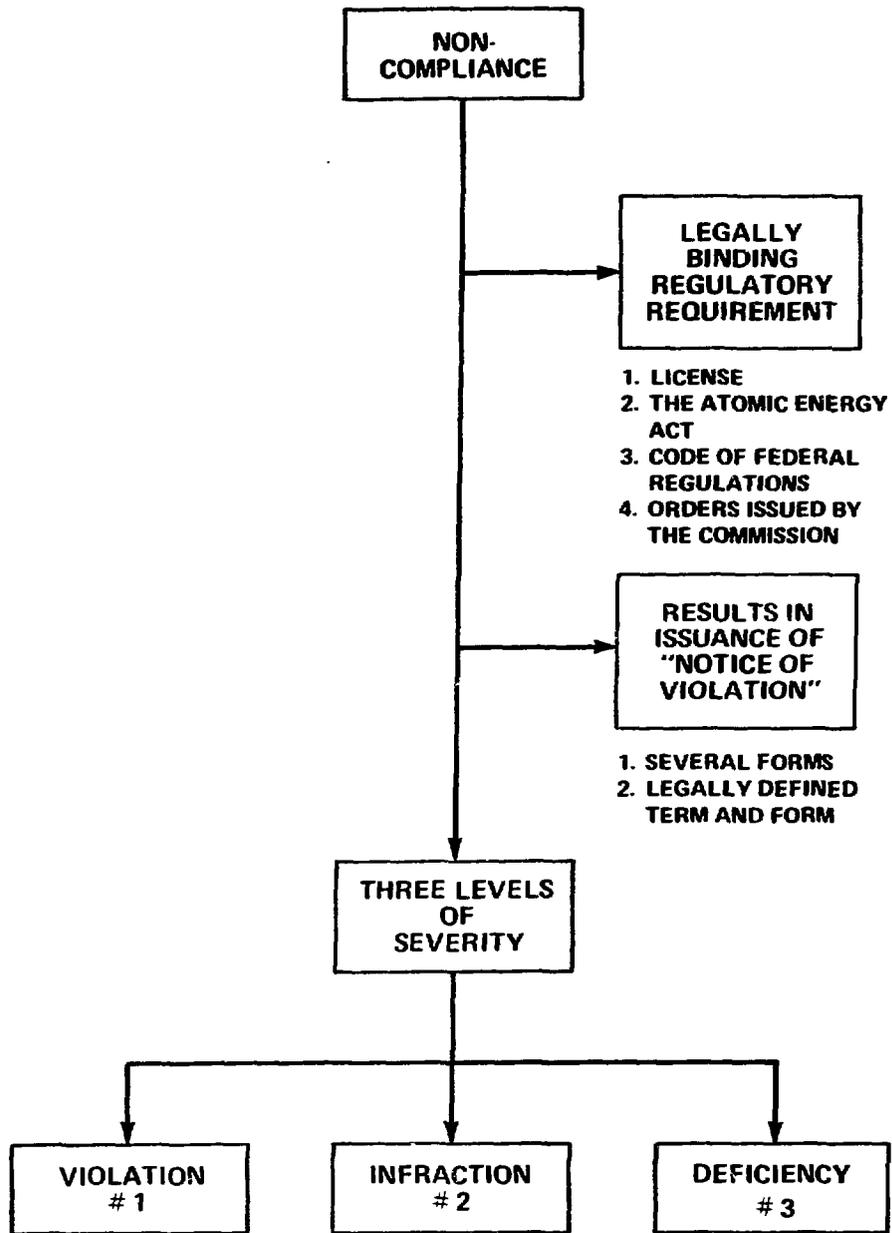


FIGURE 2

**CLASSES
OF
ORDER**

**ORDERS IMPOSING
CIVIL PENALTIES**

**ISSUED IF DURING THE NOTICE OF INTENT
PERIOD:**

1. THE PROPOSED PENALTY IS NOT PAID.
2. THE PROPOSED PENALTY IS NOT CHANGED OR ELIMINATED.
3. THE PROTEST DOES NOT DENY OR SHOW EXTENUATING CIRCUMSTANCES

**ORDERS TO
SHOW CAUSE**

1. USUALLY PRECEDES ONE OF THE IMPLEMENTATION ORDERS.

**ORDERS TO
CEASE AND DESIST**

1. ISSUED TO STOP UNAUTHORIZED ACTIVITIES.

**ORDERS TO
SUSPEND A LICENSE**

1. SUSPENSION MAY BE IN WHOLE OR PART.
2. USED FOR IMMEDIATE THREAT ITEMS.

**ORDERS TO
MODIFY A LICENSE**

1. USED TO CHANGE A LICENSE.
2. OFTEN CHANGED TO BRING AN ITEM TO THE LEVEL OF A REQUIREMENT.

**ORDERS TO
REVOKE A LICENSE**

1. PRECEDED BY A SHOW CAUSE ORDER EXCEPT WHERE DELIBERACY OR IMMEDIACY IS INVOLVED.
2. REQUIRE LICENSEE TO DIVEST HIMSELF OF ALL LICENSED MATERIAL.

**ORDERS TO
DENY A LICENSE
RENEWAL**

1. USED IN LIEU OF AN ORDER TO REVOKE WHEN APPLICABLE.

**ORDERS TO
RESCIND PREVIOUS
ORDERS**

FIGURE 3

CIVIL PENALTY PROCESS

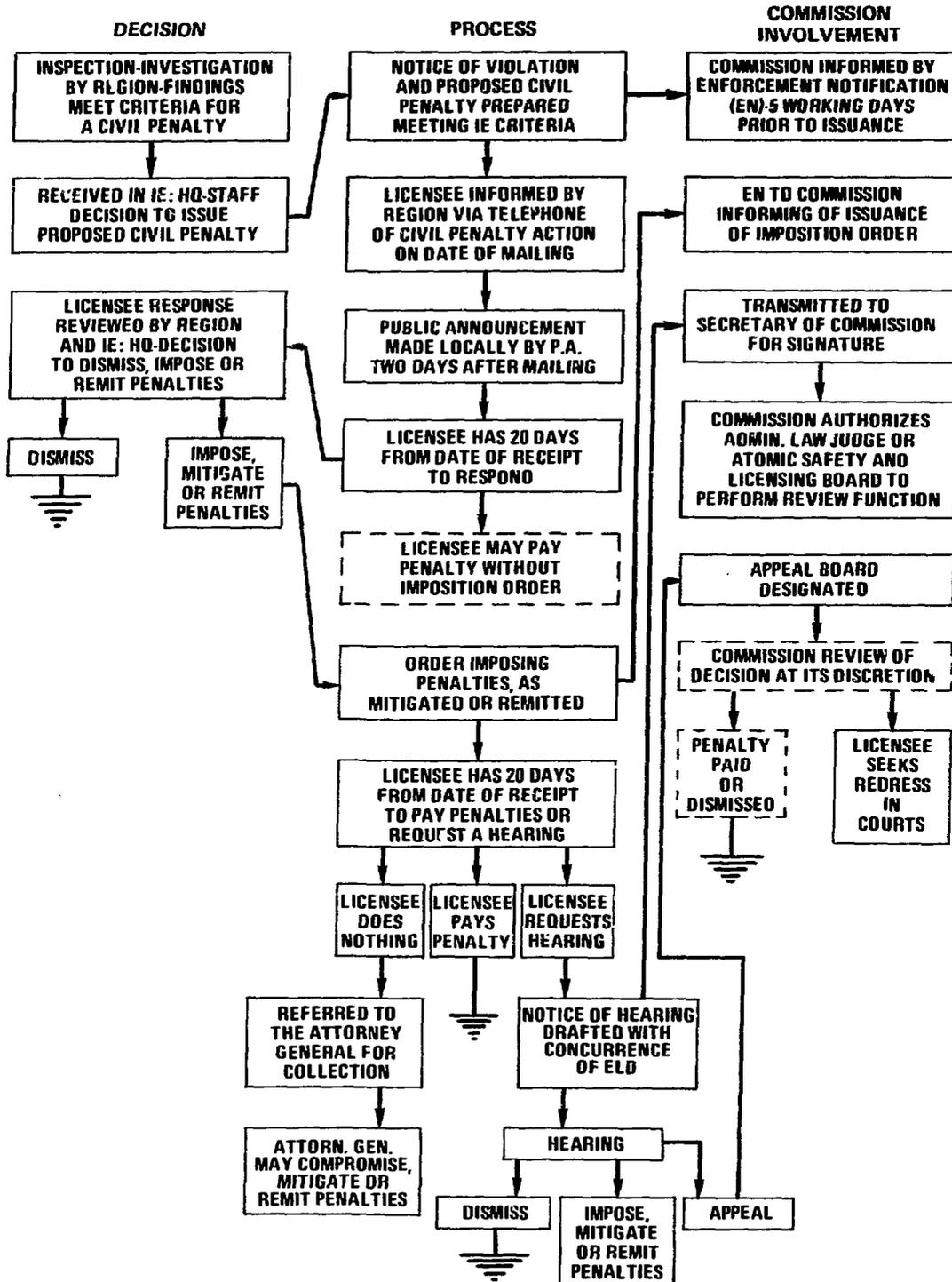


FIGURE 4

