



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Chapter I

[NRC-2016-0185]

Processing Fitness-for-Duty Drug and Alcohol Cases

AGENCY: Nuclear Regulatory Commission.

ACTION: Policy revision; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing a revision to its Enforcement Policy (the Policy). The NRC is revising Section 4.1, “Considerations in Determining Enforcement Actions Involving Individuals,” of the Policy to indicate that the NRC typically will not consider Fitness-for-Duty (FFD) Drug and Alcohol (D&A) related violations for enforcement unless the licensee’s FFD program has apparent deficiencies.

DATES: The policy revision is effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Please refer to Docket ID NRC-2016-0185 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <https://www.regulations.gov> and search for Docket ID NRC-2016-0185. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: Carol.Gallagher@nrc.gov. For

technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- **NRC's Agencywide Documents Access and Management System**

(ADAMS): You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "[Begin Web-based ADAMS Search](#)." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the SUPPLEMENTARY INFORMATION section.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: David Furst, Office of Enforcement; telephone: 301-287-9087; e-mail: David.Furst@nrc.gov; U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

I. Background

On January 31, 2016, the NRC staff submitted to the Commission SECY-16-0009, "Recommendations Resulting from the Integrated Prioritization and Re-Baselining

of Agency Activities,” (ADAMS Package Accession No. ML16028A189). Item 101 in Enclosure 1 of SECY-16-0009 included the NRC staff’s recommendations for creating efficiencies in the Enforcement Process, in part by reducing FFD case processing.

In developing potential efficiencies in the enforcement program, the NRC staff concluded that not processing routine cases involving D&A issues would reduce NRC staff resources without impacting safety and security because 10 CFR part 26 already requires licensees to disposition individual violations of their FFD D&A procedures.

The Commission approved the NRC staff’s recommendation to reduce FFD case processing in the Staff Requirements Memorandum for SECY-16-0009, dated April 13, 2016 (ADAMS Accession No. ML16104A158).

On October 5, 2016, the NRC published a document in the *Federal Register* (81 FR 69010) soliciting public comments on the proposed change to the Policy. Twelve stakeholders provided comments on the proposed revision. While the Nuclear Energy Institute commented on behalf of the nuclear energy industry that they supported the NRC staff’s proposed revision to the Policy, not all stakeholders agreed with the proposed revision to the Policy. The public comments and staff’s responses to those comments are available in ADAMS under Accession No. ML16355A045.

On May 8, 2017, the staff submitted SECY-17-0059 (ADAMS Accession No. ML16355A048) requesting Commission approval to issue a revised Policy, establishing that the NRC will not typically consider FFD D&A related violations involving non-licensed individuals for enforcement action unless there is an apparent deficiency in the licensee’s FFD program. On April 18, 2019, the Commission issued Staff Requirements Memorandum for SECY-17-0059, “Proposed Enforcement Policy Revision for Processing Fitness-For-Duty Cases Resulting from Site Fitness-For-Duty Drug and Alcohol Violations by

Individuals” (ADAMS Accession No. ML19108A476), approving the staff's proposed revision to the Policy. The Commission also approved the staff's specific, proposed implementation of this change, through the addition of a new paragraph to Section 4.1 of the NRC's Policy.

II. Revision to the NRC Enforcement Policy

This policy revision is being implemented by adding the following paragraph at the end of Section 4.1, “Considerations in Determining Enforcement Actions Involving Individuals:”

For FFD violations involving non-licensed individuals who violate drug and alcohol provisions of site FFD programs, which are explicitly described in § 26.75, “Sanctions,” the NRC will not typically consider FFD drug and alcohol-related violations for enforcement action unless there is an apparent deficiency in the licensee’s FFD program to take the required sanctions against the individual(s) or deficiencies in implementation of the licensee FFD program.

The revision to the Policy is available in ADAMS under Accession No. ML19123A129.

III. Paperwork Reduction Act

This revision to the Policy does not contain any new or amended collections of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Existing collections of information were approved by the Office of Management (OMB) and Budget, approval number 3150-0136.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the document displays a currently valid OMB control number.

IV. Congressional Review Act

This policy is a rule as defined in the Congressional Review Act (5 U.S.C. 801-808). However, OMB has not found it to be a major rule as defined in the Congressional Review Act.

Dated at Rockville, Maryland, this 21st day of May 2019.

For the Nuclear Regulatory Commission.

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

[FR Doc. 2019-11009 Filed: 5/24/2019 8:45 am; Publication Date: 5/28/2019]