

STATE OF FLORIDA
BUREAU OF RADIATION CONTROL
**PROCEDURES FOR RADIOACTIVE
MATERIALS ENFORCEMENT ACTIONS**

May 2000

Procedures For Radioactive Materials Enforcement Actions

Overview:

The department uses notices of violation, civil penalties such as administrative fines, and final orders to assure compliance with program requirements for the safe use of radioactive material. A Notice of Violation identifies a requirement and how it was violated and formalizes a violation. A civil penalty is a monetary fine issued as specified in Chapter 404, Florida Statutes, and may be assessed in an amount up to \$1,000 per violation per day. The department issues Notices of Violation and penalties based on violations or because of a threat to public health and safety.

These procedures apply to radioactive materials licensees, their employees, and contractors who supply licensees with products that relate to licensed activities. Neither licensees, their employees, nor their contractors may engage in deliberate misconduct that causes a licensee to be in violation of the requirements of 64E-5 or knowingly submit to the department or to a licensee information that is incomplete or inaccurate and that relates to licensed activities.

Criminal Penalties:

Section 404.161, F.S., states that any person who violates the provisions of Chapter 404, F.S., or Rule 64E-5, F.A.C.; fails to comply with a lawful order issued within the time frame fixed by the department, or as provided by Chapter 404, F.S.; or interferes with, hinders, or opposes any agent, officer, or member of the department in the discharge of his or her duties under Chapter 404, F.S.; is guilty of a felony of the third degree.

Administrative Fines

The department imposes different amounts of administrative fines for violations of different severities. The department considers the gravity of the violation; the licensee's efforts to promptly identify, report, and correct violations; management involvement in the licensee's operations; past performance; the degree to which the violation is repeated during a particular time interval; and the number and type of similar violations.

In general, the department imposes administrative fines for Severity Level I or II violations unless there are mitigating circumstances. Fines are considered for Severity Levels III, IV, and V violations, for violations that are similar to previous violations, for numerous violations, or for previous violations that the licensee did not correct. The department will consider administrative fines any willful violation of any departmental requirement at any severity level.

The department imposes administrative fines based on Table 1, below.

**TABLE 1
ADMINISTRATIVE FINES**

SEVERITY LEVEL	MAXIMUM ADMINISTRATIVE FINE*
I	\$1,000.00
II	\$900.00
III	\$750.00
IV	\$500.00
V	\$250.00

*The department has statutory authority to assess fines on a per-violation per-day basis.

Procedures For Radioactive Materials Enforcement Actions

Severity Level I - Examples

- Single radiation exposure to a worker in excess of 25 rem of total effective dose equivalent (TEDE), 150 rem to the skin, or 375 rem to the feet, ankles, hands, or forearms
- Annual TEDE exposure of a member of the general public in excess of 1.0 rem
- Release of radioactive material to an unrestricted area in excess of 10 times the limits specified in Table II of "ALIs, DACs, and Effluent Concentrations"
- Disposal of licensed material in quantities or concentrations in excess of 10 times the limits specified in Table I of "ALIs, DACs, and Effluent Concentrations"
- Breach of transportation package integrity resulting in surface contamination or external radiation levels in excess of 10 times the limits specified in 49 CFR
- The making of a false statement that results in a violation at this severity level
- Possession or use of radioactive materials without a license
- Falsification of records deliberately by or with the knowledge of management

Severity Level II - Examples

- Single TEDE exposure to a worker in excess of 5 rem, 30 rem to the skin of the whole body, or 75 rem to the feet, ankles, hands, or forearms
- Annual TEDE exposure of a member of the general public in excess of 0.5 rem
- Release of radioactive material to an unrestricted area in excess of 5 times the limits specified in Table II of "ALIs, DACs, and Effluent Concentrations"
- Failure to make an immediate notification as required by 64E-5.343 and 64E-5.344, F.A.C.
- Failure to make a written report to the department as required by 64E-5.345, F.A.C.
- Disposal of licensed material in quantities or concentrations in excess of 5 times the limits specified in 64E-5.330, F.A.C. and Table III of "ALIs, DACs, and Effluent Concentrations"
- Use of licensed material by an individual not listed on the license
- Possession or use of radioactive materials without a license
- Exposure of a worker in restricted areas to airborne radioactive material in excess of 5 times the limits specified in Table I of "ALIs, DACs, and Effluent Concentrations"
- Failure to notify the department of a shipment of low-level radioactive waste destined for a commercial treatment, storage, or disposal facility, as required by 404.20, F.S.
- Breach of transportation package integrity resulting in surface contamination or radiation levels in excess of the limits specified in 49 CFR
- Transportation package surface contamination or radiation levels in excess of 5 times the limits specified in 49 CFR that did not result from a breach of package integrity
- A false statement or a failure to report information that, if available to the department and accurate, would have resulted in the department's seeking further information
- Release of radioactive material or contaminated equipment for unrestricted use that poses a realistic potential to cause significant exposure of members of the general public or that reflects a programmatic rather than an isolated weakness in the licensee's radiation control program
- Cumulative worker exposure above regulatory limits when such cumulative exposure reflects a programmatic rather than an isolated weakness in the licensee's radiation protection program
- Use of licensed material by an individual not listed on the license
- The making of a false statement where the action results in a violation of this severity level
- Deliberate falsification of records involving significant information

Procedures For Radioactive Materials Enforcement Actions

Severity Level III - Examples

- Single TEDE exposure to a worker in excess of 3 rem, 7.5 rem to the skin of the whole body, or 18.75 rem to the feet, ankles, hands, or forearms
- Annual TEDE exposure of a member of the general public in excess of 0.1 rem of radiation
- A radiation level in an unrestricted area such that an individual could receive greater than 2 millirem in a one-hour period
- Failure to make immediate or 24-hour notification as required by 64E-5.344(2), F.A.C.
- Substantial potential for an exposure or release in excess of Chapter 64E-5, Part III, F.A.C., whether or not the exposure or release occurs
- Release of radioactive material to an unrestricted area in excess of the limits specified in Table II of "ALIs, DACs, and Effluent Concentrations"
- Improper disposal of licensed material not addressed under Severity Levels I or II
- Exposure of worker in restricted areas to airborne radioactive material in excess of the limits specified in Table I of "ALIs, DACs, and Effluent Concentrations"
- Release of radioactive material or contaminated equipment for unrestricted use that poses a realistic potential for significant exposure to members of the general public
- Worker exposure above regulatory limits
- Conduct of licensee activities by a technically unqualified person
- Breach of transportation package integrity
- Transportation package surface contamination or radiation levels in excess of but less than 5 times the limits specified in 49 CFR
- Any violation of 49 CFR with respect to labeling, placarding, shipping paper requirements, packaging, loading, or other requirements that could reasonably result in the following:
 - Improper identification of the type, quantity, or form of material
 - Failure of the carrier or the recipient to exercise adequate controls
 - Substantial potential for personnel exposure, contamination, or improper transfer of material
- Chronic failure to perform a periodic quality control or assurance
- Use of licensed material by an individual not listed on the license or for whom documentation of experience and training is not available
- Possession or use of unauthorized radioactive material
- Failure to post areas or rooms as required by 64E-5.323, F.A.C.
- A false statement which is not a Severity Level I or II violation
- Worker exposure above regulatory limits
- Deliberate falsification or falsification by or with the knowledge of management of records that did not involve significant information

Severity Level IV - Examples

- Exposures in excess of the limits specified in 64E-5.304, 64E-5.308, 64E-5.310, 64E-5.311, F.A.C., and Table I of "ALIs, DACs, and Effluent Concentrations" that do not constitute a Severity Level I, II or III violation
- Failure to make a 30-day notification required by 64E-5.343, 64E-5.344, 64E-5.345, or 64E-5.346, F.A.C.
- Failure to make a follow-up written report required by 64E-5.347 and 64E-5.349, F.A.C.
- Failure to perform a periodic quality control or assurance
- Worker exposure above regulatory limits
- Failure to post documents described in 64E-5.901, F.A.C.

Procedures For Radioactive Materials Enforcement Actions

- Failure to provide personnel monitoring reports to workers as required by 64E-5.903, F.A.C.
- Violations of 49 CFR requirements that are of minor significance
- A false statement caused by an inadvertent clerical or similar error involving information which, had it been available to the department and accurate at the time the information should have been submitted, would probably not have resulted in regulatory action or the department seeking additional information

Severity Level V – Examples

- Failure to provide documentation of performance of a quality assurance function
- Violations that have minor safety or environmental significance
- Failure to maintain records

The department considers violations of Severity Levels I, II, and III to be serious. If the licensee does not correct serious violations, the department will issue orders in conjunction with administrative fines to achieve immediate corrective actions and to deter recurrence of serious violations. Examples of enforcement actions that could be taken for similar Severity Level violations are set forth in Table 2 below. The actual progression to be used in a particular case will depend on the circumstances. However, enforcement sanctions normally will escalate for recurring similar violations.

TABLE 2*
EXAMPLES OF PROGRESSION OF ESCALATED ENFORCEMENT ACTIONS
FOR SIMILAR VIOLATIONS

SEVERITY OF VIOLATION	NUMBER OF SIMILAR VIOLATIONS OR REPEAT OCCURRENCES		
	1ST	2ND	3RD
I	a, b, c	a, b, c	a, b, c
II	a, b	a, b, c, e	a, b, c, e
III	a	a, e	a, b, c, e
IV	---	d, e, f	a, e, f
V	---	d, e, f	a, e, f

a = Administrative Fine

b = Suspension or modification of license

c = Modification or revocation of license

d = Further Action

e = Severity Level may be upgraded

f = Consideration of escalated action

* These are examples only and fines may be assessed according to Table 1 at any time.

Related Enforcement Actions

In addition to the enforcement mechanisms of notices of violation, administrative penalties, and orders, it is possible for the department to use bulletins, information notices, generic letters, and confirmatory action letters or enforcement conferences, and any other legal means to supplement its enforcement program. The department expects licensees to adhere to any obligations and commitments resulting from these processes and will not hesitate to issue appropriate orders or take other legal means to assure that licensees meet such commitments.

Bulletins, information notices, and generic letters are written notices to groups of licensees identifying specific problems and recommending specific actions. Confirmatory action letters

Procedures For Radioactive Materials Enforcement Actions

are letters confirming a licensee's agreement to take certain actions to remove significant concerns regarding health and safety, safeguards, or the environment. Enforcement conferences are open meetings between the department and the licensee or other persons when the department has learned of apparent violations. The enforcement conference does not mean the department has concluded that a violation has occurred or that enforcement action will be taken. The purpose of the conference is to obtain information that will assist the department in determining the appropriate enforcement actions, such as:

- A common understanding of the facts, root causes, and missed opportunities to identify the violation sooner
- A common understanding of corrective actions
- A common understanding of the significance of the issues and the need for lasting and effective corrective action.

Enforcement conferences normally will be held at the bureau's headquarters and are not meetings to negotiate sanctions. The department is authorized to take immediate enforcement actions prior to the conference to protect public health, safety, or property. An enforcement conference normally will be held if the licensee requests it.