



13 August 2013

PNRI INFORMATION NOTICE 2013-02

PNRI ADMINISTRATIVE ORDER NO. 02, SERIES OF 2011, “REGULATORY CRITERIA IN DETERMINING SEVERITY OF VIOLATION(S)”

ADDRESSEES

All PNRI licensees and applicants for radioactive materials license.

PURPOSE

The enforcement jurisdiction of the Philippine Nuclear Research Institute (PNRI) is mandated by Republic Act No. 5207, as amended, otherwise known as “*The Atomic Energy Regulatory and Liability Act of 1968*”. It authorizes the PNRI, among others, to conduct inspections and investigations on all atomic energy facilities and to adopt measures in support of its safety goals to protect the workers, the public and the environment against the hazards of radiation.

This information notice is issued to inform the licensees and applicants of the issuance of Administrative Order No. 02, Series of 2011 which sets forth the procedures and criteria that the PNRI uses in exercising its enforcement authority. This enforcement program emphasizes the importance of compliance to regulatory requirements and license conditions. Recognizing that violations may occur in various regulatory activities and have varying significance, the Administrative Order provides an enforcement framework where sanctions are graded in terms of the severity of the violation(s).

DESCRIPTION OF CIRCUMSTANCES

Non-compliance with regulations and license conditions constitutes regulatory infractions levied against the licensee in accordance with Republic Act No. 5207, as amended. Over the past years, PNRI Inspection Reports have shown that a number of licensees have been cited for non-compliances due to serious or repeated failures to comply with the regulations. The Code of PNRI Regulations prescribes that PNRI-issued licenses may be revoked, suspended, amended or modified for failure to observe any terms or conditions of the license, regulation or order of the PNRI, or any conduct determined to be a hazard to safe operation of the licensed facility or activity. These would generally involve serious items of non-compliance where: (1) the individual’s action clearly demonstrates inattention to duties or blatant disregard for requirements including technical specifications and operating procedures; (2) the licensee fails to take the required action or takes an independent action that results in significant actual or potential consequences; or (3) there is a repetitive non-compliance with regulatory requirements.

Examples of situations which could result in violations, among others, include:

- (1) Noting a serious violation of procedural requirements (i.e., radiation overexposures) and not taking corrective action;
- (2) Conduct of licensed activities by technically unqualified staff or unauthorized person;
- (3) Defeating systems designed to prevent or mitigate a serious safety event;
- (4) Significant injury or loss of life due to a loss of control over licensed activities whether radioactive material is released or not;
- (5) An act of radiological sabotage where security system did not function as required resulting in a breach of the safety and security of radioactive sources; and
- (6) Disposal of radioactive waste in quantities or concentration exceeding the limits set forth by PNRI.

The examples listed above involve the failure of PNRI licensee to follow procedures and adhere to regulatory controls. In the past, the PNRI has issued Notices of Violation, and suspended, modified or revoked the license, as provided for in the Republic Act No. 5207, as amended. The filing of criminal charges, as provided for in Sections 64 and 65 of the Act, has not been previously used against a licensee but may be used if the circumstances warrant such action.

DISCUSSION

Violations or non-compliances are often identified during an inspection or investigation in a licensed facility. After a violation is identified, the PNRI then assesses the significance of each violation based on the following specific issues:

1. Actual Safety Consequences;
2. Potential Safety Consequences;
3. Actual and Potential Security Consequences;
4. Impact on the Regulatory Process; and
5. Willful Violations.

Each enforcement action, however, depends on the circumstances affecting the violation and provides flexibility through careful judgment and the ability to exercise discretion after considering applicable safety and security criteria and other regulatory policies established by the PNRI.

For purposes of determining the appropriate enforcement action, violations are normally categorized in terms of four levels of severity to show their relative importance or significance within areas described in the license. Severity Level I is assigned to violations that are the most significant while Severity Level IV is assigned to violations that are the least significant. Appendix A of the PNRI Administrative Order No. 02, Series of 2011 identifies violations on each severity level.

Subject to approval of the PNRI Director, the Nuclear Regulatory Division (NRD) determines the level of enforcement actions that will be taken and issued to the concerned person. These enforcement actions are issued in the form of:

1. Notice of Violation
2. Orders which are issued as appropriate for Severity Levels I, II, or III violations, as follows:
 - a. License Modification;
 - b. Suspension;
 - c. Cease and Desist;
 - d. Revocation of License; and
3. Administrative Sanctions such as Confirmatory Action Letters, Letters of Reprimand, and Demand for Information.

The Administrative Order was published in the Official Gazette Vol. 109, No. 19 on May 13, 2013. A copy of this A.O. is also available and can be downloaded in portable document format (pdf) from the PNRI website (www.pnri.dost.gov.ph).

REQUIRED LICENSEE RESPONSE

Licensees/applicants are required to review the Administrative Order for guidance and appropriate action, as necessary. No written response to this Information Notice is required.

CONTACT

If you have any questions about the information in this notice, please contact:

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Date: 16 August 2013