

**NATIONAL SCIENCE FOUNDATION****National Science Board Task Force on Cost Sharing; Committee on Strategy and Budget; Sunshine Act Meetings; Notice**

The National Science Board's Task Force on Cost Sharing of the Committee on Strategy and Budget pursuant to NSF regulations (45 CFR Part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n-5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of meetings for the transaction of National Science Board business and other matters specified, as follows:

**DATE AND TIME:** December 3, 2008 from 4 p.m. to 5 p.m.

**SUBJECT MATTER:** Discussion of Draft Report.

**STATUS:** Open.

**PLACE:** This meeting will be held by teleconference originating at the National Science Board Office, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Room 130 will be available to the public to listen to this teleconference meeting.

Please refer to the National Science Board Web site (<http://www.nsf.gov/nsb>) for information or schedule updates, or contact: Jennifer Richards, National Science Board Office, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 292-7000.

**Ann Ferrante,**

*Writer-Editor.*

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**BILLING CODE 7555-01-P**

**NUCLEAR REGULATORY COMMISSION**

[NRC-2008-0557]

**Revision of the NRC Enforcement Policy**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Policy statement: Revision.

**SUMMARY:** The Nuclear Regulatory Commission (NRC or Commission) is publishing a revision to its Enforcement Policy (Enforcement Policy or Policy) to address the requirements of the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 (Act). The Act requires Federal agencies to adjust civil monetary penalties to reflect inflation.

**DATES:** This action was effective on October 23, 2008. Comments on this

revision should be submitted on or before December 29, 2008, and will be considered by the NRC before the next Enforcement Policy revision in early calendar year 2009. The Commission will apply the modified Policy to violations that occur after the effective date.

**ADDRESSES:** Comments will be made available to the public in their entirety; personal information, such as your name, address, telephone number, e-mail address, etc., will not be removed from your submission. You may submit comments by any one of the following methods:

*Federal e-Rulemaking Portal:* Go to <http://www.regulations.gov>; search on docket ID: NRC-2008-0557. Address questions about NRC dockets to Carol Gallagher 301-415-5905; e-mail [carol.gallagher@nrc.gov](mailto:carol.gallagher@nrc.gov).

*Mail comments to:* Michael T. Lesar, Chief, Rulemaking, Directives, and Editing Branch, Office of Administration, Mail Stop: T-6D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

*Hand-deliver comments to:* 11555 Rockville Pike, Rockville, MD 20852, between the hours of 7:45 a.m. and 4:15 p.m., Federal workdays.

You can access publicly available documents related to this notice using the following methods:

*Federal e-Rulemaking Portal:* Documents related to this notice, including public comments, are accessible at <http://www.regulations.gov>, by searching on docket ID: NRC-2008-0557.

*NRC's Public Document Room (PDR):* The public may examine and have copied for a fee, publicly available documents at the NRC's PDR, Public File Area O-1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

*NRC's Agencywide Document Access and Management System (ADAMS):* The Enforcement Policy is available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, the public can gain entry into ADAMS, which provides text and image files of the NRC's public documents. In addition, the Enforcement Policy is available at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. If you do not have Internet access or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1-800-397-4209, 301-415-4737 or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

**FOR FURTHER INFORMATION CONTACT:** Doug Starkey, Senior Enforcement

Specialist, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, 301-415-3456, e-mail [doug.starkey@nrc.gov](mailto:doug.starkey@nrc.gov).

**SUPPLEMENTARY INFORMATION:** Section 234 of the Atomic Energy Act of 1954, as amended (AEA), limits the maximum civil penalty amount that the NRC may issue for violations of the AEA at \$100,000 per violation, per day. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 (Act), requires that the head of each agency adjust by regulation the civil monetary penalties (CMPs) provided by law within the jurisdiction of the agency for inflation at least once every four years. The last adjustment made by the NRC to the maximum civil penalty amount was on November 26, 2004 to \$130,000. (See 69 FR 62485; October 26, 2004.) Thus, the NRC is required to adjust this civil penalty by November 26, 2008. On September 23, 2008 (73 FR 54671), the NRC published a final rule in the **Federal Register** to amend 10 CFR 2.205 to reflect the new maximum CMP mandated by the Act.

The inflation adjustment mandated by the Act results in a 9.8 percent increase to the maximum CMPs.<sup>1</sup> Increases are to be rounded to the nearest multiple of \$10,000 in the case of penalties greater than \$100,000, but less than or equal to \$200,000.

After this mandatory adjustment for inflation and the rounding mandated by statute, the new maximum civil penalty amount will be \$140,000 per violation, per day. The new maximum civil penalty applies only to violations that occur after the date that the increase takes effect (i.e., October 23, 2008).

The changes mandated by the Act apply to the maximum CMP. This is also the amount that, under the Enforcement Policy approved by the Commission, is assigned as the base civil penalty for power reactors and gaseous diffusion plants for a Severity Level I violation (considered the most significant severity level). Also as a matter of policy, the Commission has approved use of lesser amounts for other types of licensees, primarily materials licensees, and for violations that are assessed at lower severity levels. This approach is set out in Tables 1A and 1B of the Enforcement Policy. Although the 1996 Act does not mandate changes to these lesser civil penalty amounts, the NRC is modifying Table 1A of the Enforcement Policy by increasing each amount to maintain the same proportional relationships between the

<sup>1</sup> Adjustment for inflation = Consumer Price Index (CPI) for June 2007 - CPI for June 2004.

penalties. These changes apply to violations occurring after the effective date of this Policy Statement.

**Paperwork Reduction Act**

This policy statement does not contain new or amended information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget (OMB), 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 requesting document displays a currently valid OMB control number.

**Congressional Review Act**

In accordance with the Congressional Review Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

Accordingly, the NRC Enforcement Policy is revised to read as follows: NRC Enforcement Policy

- \* \* \* \* \*
- VI. \* \* \*
- C. \* \* \*
- 1. \* \* \*

TABLE 1A—BASE CIVIL PENALTIES—  
Continued

	(\$)
2. Other sources or devices containing the materials and quantities listed in 10 CFR 31.5(c)(13)(i) .....	17,000
3. Sources and devices not otherwise described above	7,000

<sup>1</sup>Large firms engaged in manufacturing or distribution of byproduct, source, or special nuclear material.

<sup>2</sup>This applies to nonprofit institutions not otherwise categorized in this table, mobile nuclear services, nuclear pharmacies, and physician offices.

<sup>3</sup>These base civil penalty amounts have been determined to be approximately three times the average cost of disposal. For specific cases, NRC may adjust these amounts to correspond to three times the actual expected cost of authorized disposal.

\* \* \* \* \*

- 2. \* \* \*
- d. \* \* \*

As provided in Section VII, "Exercise of Discretion," discretion may be exercised by either escalating or mitigating the amount of the civil penalty determined after applying the civil penalty adjustment factors to ensure that the proposed civil penalty reflects all relevant circumstances of the particular case. However, in no instance will a civil penalty for any one violation exceed \$140,000 per day.

\* \* \* \* \*

- VII. \* \* \*
- A. \* \* \*

The NRC considers violations categorized at Severity Level I, II, or III to be of significant regulatory concern. The NRC also considers violations associated with findings that the Reactor Oversight Process's Significance Determination Process evaluates as having low to moderate, or greater safety significance (i.e., white, yellow, or red) to be of significant regulatory concern. If the application of the normal guidance in this policy does not result in an appropriate sanction, with the approval of the Deputy Executive Director and consultation with the EDO and Commission, as warranted, the NRC may apply its full enforcement authority where the action is warranted. NRC action may include: (1) Escalating civil penalties; (2) issuing appropriate orders; and (3) assessing civil penalties for continuing violations on a per day basis, up to the statutory limit of \$140,000 per violation, per day.

\* \* \* \* \*

- 3. \* \* \*

To recognize the added significance for those cases where a very strong message is warranted for a significant

violation that continues for more than one day, the NRC may exercise discretion and assess a separate violation and attendant civil penalty up to the statutory limit of \$140,000 for each day the violation continues. The NRC may exercise this discretion if a licensee was aware of or clearly should have been aware of a violation, or if the licensee had an opportunity to identify and correct the violation but failed to do so.

\* \* \* \* \*

Dated at Rockville, Maryland, this 13th day of November 2008.

For the Nuclear Regulatory Commission.

**R.W. Borchardt,**

*Executive Director for Operations.*

[FR Doc. E8-28262 Filed 11-26-08; 8:45 am]

BILLING CODE 7590-01-P

**PENSION BENEFIT GUARANTY CORPORATION**

**Proposed Submission of Information Collection for OMB Review; Comment Request; Survey of Nonparticipating Single Premium Group Annuity Rates**

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Notice of Intent To Request Extension of OMB Approval of Information Collection.

**SUMMARY:** The Pension Benefit Guaranty Corporation ("PBGC") intends to request that the Office of Management and Budget ("OMB") extend approval, under the Paperwork Reduction Act, of a collection of information that is not contained in a regulation (OMB control number 1212-0030; expires March 31, 2009). This voluntary collection of information is a quarterly survey of insurance company rates for pricing annuity contracts. The American Council of Life Insurers conducts this survey for PBGC. This notice informs the public of PBGC's intent and solicits public comment on the collection of information.

**DATES:** Comments should be submitted by January 27, 2009.

**ADDRESSES:** Comments may be submitted by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the Web site instructions for submitting comments.

E-mail: [paperwork.comments@pbgc.gov](mailto:paperwork.comments@pbgc.gov).

Fax: 202-326-4224.

Mail or Hand Delivery: Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K

TABLE 1A—BASE CIVIL PENALTIES

	(\$)
a. Power reactors and gaseous diffusion plants .....	140,000
b. Fuel fabricators authorized to possess Category I or II quantities of SNM .....	70,000
c. Fuel fabricators, industrial processors, <sup>1</sup> and independent spent fuel and monitored retrievable storage installations .....	35,000
d. Test reactors, mills and uranium conversion facilities, contractors, waste disposal licensees, industrial radiographers, and other large material users ..	14,000
e. Research reactors, academic, medical, or other small material users <sup>2</sup> .....	7,000
f. Loss, abandonment, or improper transfer or disposal of a sealed source or device, regardless of the use or type of licensee: <sup>3</sup> .	
1. Sources or devices with a total activity greater than 3.7 × 10 <sup>4</sup> MBq (1 Curie), excluding hydrogen-3 (tritium) .....	54,000