



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

September 13, 2000

OFFICE OF THE  
SECRETARY

COMMISSION VOTING RECORD

DECISION ITEM: SECY-00-0179

TITLE: FINAL RULE: "ADJUSTMENT OF CIVIL  
MONETARY PENALTIES"; PROPOSED  
REVISION TO THE ENFORCEMENT POLICY TO  
CONFORM TO THE FINAL RULE ADJUSTING  
CIVIL MONETARY PENALTIES AND MINOR  
ADMINISTRATIVE CHANGES TO PARTS 1 AND  
13

The Commission (with all Commissioners agreeing) approved the subject paper as noted in an Affirmation Session and recorded in the Affirmation Session Staff Requirements Memorandum (SRM) of September 13, 2000.

This Record contains a summary of voting on this matter together with the individual vote sheets, views and comments of the Commission.

Annette Vietti-Cook  
Secretary of the Commission

Attachments:

1. Voting Summary
2. Commissioner Vote Sheets

cc: Chairman Meserve  
Commissioner Dicus  
Commissioner Diaz  
Commissioner McGaffigan  
Commissioner Merrifield  
OGC  
EDO  
PDR

VOTING SUMMARY - SECY-00-0179

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. MESERVE	X				X	8/29/00
COMR. DICUS	X					8/30/00
COMR. DIAZ	X					8/29/00
COMR. McGAFFIGAN	X				X	9/6/00
COMR. MERRIFIELD	X					8/30/00

COMMENT RESOLUTION

In their vote sheets, all Commissioners approved the staff's recommendation and some provided additional comments. Subsequently, the Commission approved the final rule in an Affirmation Session as reflected in the SRM issued on September 13, 2000.

AFFIRMATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook  
Secretary of the Commission

FROM: CHAIRMAN MESERVE

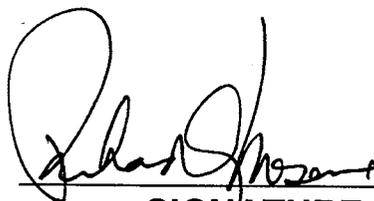
SUBJECT: SECY-00-0179 - FINAL RULE: "ADJUSTMENT OF CIVIL  
MONETARY PENALTIES"; PROPOSED REVISION TO THE  
ENFORCEMENT POLICY TO CONFORM TO THE FINAL  
RULE ADJUSTING CIVIL MOMENTARY PENALTIES AND  
MINOR ADMINISTRATIVE CHANGES TO PARTS 1 AND 13

Approved  X  Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_

Not Participating \_\_\_\_\_ Request Discussion \_\_\_\_\_

COMMENTS:

I approve the issuance of the Final Rule and publication of the revised  
Enforcement Policy in the *Federal Register*.



SIGNATURE

August 29, 2000

DATE

Entered on "AS" Yes \_\_\_\_\_ No \_\_\_\_\_

AFFIRMATION VOTE

RESPONSE SHEET

2000 AUG 24 PM 3:28

TO: Annette Vietti-Cook, Secretary

FROM: COMMISSIONER DICUS

SUBJECT: **SECY-00-0179 - FINAL RULE: "ADJUSTMENT OF CIVIL MONETARY PENALTIES"; PROPOSED REVISION TO THE ENFORCEMENT POLICY TO CONFORM TO THE FINAL RULE ADJUSTING CIVIL MONETARY PENALTIES AND MINOR ADMINISTRATIVE CHANGES TO PARTS 1 AND 13**

Approved  Disapproved  Abstain

Not Participating

COMMENTS:

None.

Aneta Joy Dicus  
SIGNATURE

August 30, 2000  
DATE

Entered on "STARS" Yes  No

AFFIRMATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: COMMISSIONER DIAZ

SUBJECT: **SECY-00-0179 - FINAL RULE: "ADJUSTMENT OF CIVIL MONETARY PENALTIES"; PROPOSED REVISION TO THE ENFORCEMENT POLICY TO CONFORM TO THE FINAL RULE ADJUSTING CIVIL MONETARY PENALTIES AND MINOR ADMINSTRATIVE CHANGES TO PARTS 1 AND 13**

Approved   <sup>XX</sup>   *[Signature]* Disapproved        Abstain       

Not Participating       

COMMENTS:

No comments. *[Signature]*

*[Signature]*  
\_\_\_\_\_  
SIGNATURE

8.29.00  
DATE

Entered on "STARS" Yes   X   No       

RECEIVED BY NRC--

AUG 00 2 35

AFFIRMATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: COMMISSIONER MCGAFFIGAN

SUBJECT: **SECY-00-0179 - FINAL RULE: "ADJUSTMENT OF CIVIL MONETARY PENALTIES"; PROPOSED REVISION TO THE ENFORCEMENT POLICY TO CONFORM TO THE FINAL RULE ADJUSTING CIVIL MONETARY PENALTIES AND MINOR ADMINISTRATIVE CHANGES TO PARTS 1 AND 13**

w/comment & attached edits

Approved X Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_

Not Participating \_\_\_\_\_

COMMENTS: *See minor edits to Federal Register Notice*

*Edward M. Jeffrey Jr.*  
\_\_\_\_\_  
SIGNATURE

*September 6, 2000*  
\_\_\_\_\_  
DATE

Entered on "STARS" Yes 5 No \_\_\_\_\_

penalties for inflation as required by statute and amends the definition of "reviewing official" for Program Fraud Civil Remedies Act matters to reflect a reorganization in the Office of the General Counsel and incorporates a minor modification to the language of 10 CFR 1.23(e) to reflect actual long-standing OGC practice in providing legal advice to NRC staff, upon request, on agency procurement matters.

#### V. Paperwork Reduction Act Statement

This final rule does not contain new or amended information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Inflation Adjustment

(Pub. L. No. 101-410, 104 Stat. 890)

#### VI. Regulatory Analysis

This final rule adjusts for inflation the maximum civil penalties under the Atomic Energy Act of 1954, as amended, and under the Program Fraud Civil Remedies Act of 1986. The adjustments and the formula for determining the amount of the adjustment are mandated by Congress in the Federal Civil Penalties Act of 1990, as amended by the Debt Collection Improvement Act of 1996, as amended (Pub. L. No. 104-134, 110 Stat. 1321-358, 373, codified at 28 U.S.C. 2461 note). Congress passed that legislation on the basis of its findings that the power to impose monetary civil penalties is important to deterring violations of Federal law and furthering the policy goals of Federal laws and regulations. Congress has also found that inflation has diminished the impact of these penalties and their effect. The principal purposes of this legislation are to provide for adjustment of civil monetary penalties for inflation, maintain the deterrent effect of civil monetary penalties, and promote compliance with the law. Thus, these are anticipated impacts of implementation of the mandatory provisions of the legislation. Direct monetary impacts fall only upon licensees or other persons subjected to NRC enforcement or those licensees or persons subjected to liability pursuant to the provisions of the

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.

#### IX. National Technology Transfer and Advancement Act

The National Technology Transfer and Advancement Act of 1995, Pub. L. 104-113, requires that Federal agencies use technical standards developed by or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. There are no consensus standards that apply to the inflation adjustment requirements in this final rule. Thus, the provisions of the Act do not apply to this rulemaking.

#### X. Backfit Analysis

The NRC has determined that these amendments do not involve any provisions which would impose backfits as defined in 10 CFR <sup>Chapter I</sup> ~~50.109(a)(1)~~; therefore, a backfit analysis need not be prepared. ✓

#### List of Subjects

##### 10 CFR Part 1

Organization and functions (Government Agencies).

##### 10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified Information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalties, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 13

Claims, Fraud, Organization and function (government agencies), Penalties.

For the reasons set out above and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, the <sup>Federal</sup> Civil Penalties <sup>Inflation</sup> Adjustment Act of 1990, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR Parts 1, 2 and 13. ✓

**PART 1-- STATEMENT OF ORGANIZATION AND GENERAL INFORMATION**

1. The authority citation for Part 1 continues to read as follows:

**AUTHORITY:** Secs. 23, 161, 68 Stat. 925, 948, as amended (42 U.S.C. 2033, 2201); sec. 29, Pub. L. 85-256, 71 Stat. 579, Pub. L. 95-209, 91 stat. 1483 (42 U.S.C. 2039); sec. 191, Pub. L. 87-615, 76 Stat. 409 (42 U.S.C. 2241); secs. 201, 203, 204, 205, 209, 88 Stat. 1242, 1244, 1245, 1246, 1248, as amended (42 U.S.C. 5841, 5843, 5844, 5845, 5849); 5 U.S.C. 552, 553; Reorganization Plan No. 1 of 1980, 45 FR 40561, June 16, 1980.

2. In section 1.23 paragraph (e) is revised to read as follows:

§ 1.23 Office of the General Counsel.

\* \* \* \* \*

(e) As requested, provides the agency with legal advice and opinions on acquisition matters, including agency procurement contracts; placement of work at Department of Energy national laboratories; interagency agreements to acquire supplies and services; and grants and cooperative agreements. Prepares or concurs in all other interagency agreements, delegations of authority, regulations; orders; licenses; and other legal documents and prepares legal interpretations thereof;

\* \* \* \* \*

AFFIRMATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: COMMISSIONER MERRIFIELD

SUBJECT: **SECY-00-0179 - FINAL RULE: "ADJUSTMENT OF CIVIL MONETARY PENALTIES"; PROPOSED REVISION TO THE ENFORCEMENT POLICY TO CONFORM TO THE FINAL RULE ADJUSTING CIVIL MONETARY PENALTIES AND MINOR ADMINISTRATIVE CHANGES TO PARTS 1 AND 13**

Approved  Disapproved  Abstain

Not Participating

COMMENTS:

*No additional comments*

SIGNATURE

DATE

Entered on "STARS" Yes  No