

April 6, 1999

MEMORANDUM TO: William D. Travers
Executive Director for Operations

FROM: Annette Vietti-Cook, Secretary /s/

SUBJECT: STAFF REQUIREMENTS IN RESPONSE TO EDO
MEMORANDUM DATED JANUARY 27, 1999 REGARDING OIG
INQUIRY, CASE NO. 99-01S AND REMAINING ISSUES FROM
SECY-98-292

The Commission has approved the corrective actions described in your memorandum to the Commission dated January 27, 1999. As noted in the SRM on the Millstone Independent Review Team report, notwithstanding a DOJ request not to transmit an OI summary and conclusion for a case sent for prosecutorial review, the OI summary and conclusion should be prepared at the time the OI case report is assembled and, once the case is returned from DOJ, made a part of the OI report so as to be available as an aid in determining whether agency enforcement action is appropriate. Further, any future recommendations based on a cost-benefit argument need to be supported by explicit consideration of the estimated costs and benefits. Age alone should not be used as a reason not to pursue further action in such cases.¹ However, the staff is not prohibited from recommending in a given case that the case should not be pursued because the information necessary to prosecution of the case and defense against the prosecution is not available (e.g., witnesses are not available or cannot be located).

As part of the broader, consultant-assisted assessments of the enforcement and investigation programs, discussed in your January 27, 1999, memorandum, the staff should consider what additional actions are needed, if any, to bring about more timely conclusions in the enforcement process. In particular, the staff should consider whether there is a need to make any changes in the current MOU with the Department of Justice.

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¹Even in cases for which the statute of limitations has expired, staff should remain mindful of the fact that only the ability to impose a civil penalty is affected. Other regulatory tools (e.g, Orders, Notices of Violation) may be appropriate and called for in cases for which the time has expired under statute of limitations.

cc: Chairman Jackson
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield
OGC
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Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
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