

January 22, 1999

MEMORANDUM TO: William D. Travers
Executive Director for Operations

FROM: Annette Vietti-Cook, Secretary /s/

SUBJECT: STAFF REQUIREMENTS - SECY-98-256 - PROPOSED
REVISION TO THE ENFORCEMENT POLICY TO ADDRESS
SEVERITY LEVEL IV VIOLATIONS AT POWER REACTORS

The Commission has approved publication of Appendix C to the Enforcement policy in the Federal Register to become effective 30 days after publication subject to the comments provided below.

(EDO)

(SECY Suspense:

2/5/99)

The staff should view these Enforcement Policy changes from a broad perspective (i.e., in terms of our overall enforcement goals), and NRC management should ensure that all levels of management responsible for implementation of the enforcement policy (1) fully understand the intent of these changes, and (2) take the utmost care in how these changes are communicated to the NRC staff and to licensees.

The staff proposals describe viable methods of improving process efficiency while continuing to meet NRC objectives. Therefore, NRC management must be careful to manage the message of these changes. The NRC staff should consider that a basic objective of non-escalated enforcement – that is, to monitor Severity Level IV violations as one way of tracking and understanding licensee performance trends – remains unchanged. In fact, by reducing the administrative burden on NRC and licensee staff, and by increasing the emphasis on credible, healthy licensee corrective action programs, these changes should improve, rather than reduce, NRC capabilities in this area.

The staff should develop clear guidance on the meaning and application of the phrase, “within a reasonable time,” as it appears in the first of the four exceptions under which consideration will be given to issuance of an NOV for a Severity Level IV violation. This is important for fair and clear notice of the agency’s intent and for consistent application of the exception.

The staff should provide guidance for the use of the term “repetitive” that would permit issuance of a Severity Level IV violation for a repetitive violation identified by the NRC. Specifically, the Enforcement Policy’s definition of “repetitive violations” is not sufficient to provide clear understanding of its meaning or consistent application. For example, the failure to follow procedures in different functional areas should not be considered a violation with the same “root cause” and thus not be a “repetitive violation.”

After six months experience with implementation of the new policy, the staff should provide a status report that describes the relevant experience under the revised Policy (including application of the four exceptions) and review these revisions in relationship to the new assessment process.

(EDO)

(SECY Suspense:

9/1/99)

The staff should also address, in its status report, whether a significant reduction in the description of Severity Level IV violations in inspection reports is appropriate in light of the experience under the revised Policy and further improvements in the inspection and performance assessment programs. However, as currently understood, the inspection report descriptions of Severity Level IV violations (together with corresponding PIM entries) are of significant benefit in the NRC assessment process and help to ensure that the NRC is able to track and understand licensee performance trends.

(EDO)

(SECY Suspense:

9/1/99)

The Enforcement Policy currently defines Level IV violations as “violations of more than minor concern which, if left uncorrected, could lead to a more serious concern.” This definition may not be entirely consistent with the many references in the proposed Appendix to Level IV violations for which the associated risks are not significant. For example, one might ask how can a violation be “of more than minor concern” if the associated risks are not significant? Such questions will need to be addressed as the agency continues to reshape its assessment and enforcement processes. The Commission notes the importance of the staff’s ongoing activities relating to further clarifying the threshold between Severity Level IV and “minor” violations.

Editorial Changes to Federal Register Notice:

1. Add the following sentence to page 6, line 10, following the sentence ending “... effectiveness of the corrective action program.” “If such inspections identify significant violations or programmatic deficiencies in a licensee’s corrective action program, broader and more in depth inspections may be carried out to understand the extent of the problem. The NRC will monitor the licensee’s restoration of its corrective action program.” This and a similar change on page 9 are an attempt to deal with the question of what the NRC will do if a corrective action program is judged to be ineffective, given our reliance on it under this policy change.
2. Add the following sentences to the end of the full paragraph on page 7, section 2. “The NRC recognizes that there are violations that do not require substantial efforts to prevent recurrence. In such cases, a corrective action process that includes: 1) restoring compliance, 2) evaluating the need for additional corrective actions to prevent recurrence, and 3) maintaining records that may be inspected at a later time, would be adequate to avoid an NOV.” This comes from the discussion of NEI comments on page 7 of the SECY.

3. On page 9, add this sentence to the first full paragraph just before the last sentence. "As stated above, if such inspections identify significant violations or programmatic deficiencies in a licensee's corrective action program, broader and more in depth inspections may be carried out to understand the extent of the problem. The NRC will monitor the licensee's restoration of its corrective action program."

cc: Chairman Jackson
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield
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