June 30, 2005

MEMORANDUM TO: Luis A. Reyes
Executive Director for Operations

FROM: Annette L. Vietti-Cook, Secretary **/RA/**

SUBJECT: STAFF REQUIREMENTS - SECY-05-0074 - PROPOSED RULE TO AMEND THE FITNESS-FOR-DUTY REQUIREMENTS IN 10 CFR PART 26

The Commission has approved publication of the proposed rule to amend the fitness-for-duty requirements in 10 CFR Part 26, subject to the changes and comments noted below.
(EDO) (SECY Suspense: 8/5/05)

The staff should revise the performance objectives in proposed rule section 26.23(a) to reflect a "reasonable assurance" standard for trustworthiness and reliability and make conforming changes to the rulemaking package prior to publishing the proposed rule in the *Federal Register*.

The staff should seek public comments on the administrative reporting burden that this rulemaking will cause, and whether this rule would be clear enough to be easily inspectable.

The staff should specifically solicit public comment on the alternative of defining the attributes (e.g., time-critical nature of decisions needed to ensure public health and safety, operational control of risk-important equipment) of the job functions that should fall within the scope of the fatigue requirements to allow each licensee to identify the specific job functions that fit these attributes.

The staff should solicit public comment on work-scheduling examples that meet the provisions of the proposed rule and whether such schedules afford a reasonable degree of flexibility.

The staff should solicit public comment on how the exclusions to certain fatigue requirements during maintenance or refueling outages. Specifically, comments should be solicited on whether a more precisely defined rule scope with more limited outage exclusions would better meet the stated objectives of the rule.

The staff should specifically solicit public comment on alternative approaches that might equally address the issue of cumulative fatigue, such as individual work hour limits based on a longer term (e.g., monthly or quarterly).

The staff should seek public comment on the proposed permanent denial of authorization in relation to the 5-year ban available through the agency's enforcement policy for other acts of deliberate misconduct.

cc: Chairman Diaz
Commissioner McGaffigan
Commissioner Merrifield
Commissioner Jaczko
Commissioner Lyons
DOC
OGC
CFO
OCA
OPA
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
PDR