

NOTATION VOTE

RESPONSE SHEET

TO: John C. Hoyle, Secretary

FROM: COMMISSIONER DIAZ

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

Approved XX <sup>with comments</sup> Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_

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

COMMENTS:

See attached comments. *wd*

*William Diaz*  
\_\_\_\_\_  
SIGNATURE

11.15.98  
\_\_\_\_\_  
DATE

Entered on "AS" Yes ✓ No \_\_\_\_\_

9901280249 990122  
PDR COMMS NRCC  
CORRESPONDENCE PDR

9901280749

## COMMISSIONER DIAZ'S COMMENTS ON SECY-98-256

I approve SECY-98-256 subject to certain additional direction as discussed below. I believe that these proposed revisions are a good step toward a more risk-informed approach to non-risk significant noncompliance with NRC requirements. It is particularly important that the NRC remove the disincentives to consistent licensee prioritization of corrective actions commensurate with the risk significance of the violations. Thus, I strongly support the major thrust of the proposed treatment of Severity Level IV violations, which reverses the normal disposition of these kinds of noncompliance.

I also recommend the following four actions:

First, 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.

Second, I believe that the staff needs to address NEI's concern with the proposed fourth exception that would permit issuance a 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, will a failure to follow procedure in a different functional area be considered a violation with the same "root cause" and thus be a "repetitive violation." I do not believe that it should, although some aspects of the current Enforcement Policy would suggest or permit that result.

Third, six months after 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 reviews these revisions in relationship to the new assessment process.

Fourth, the staff should also address, in its status report, whether a significant reduction in the description of 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.

Finally, I note the importance of the staff's ongoing activities relating to use of the term "regulatory significance" and further clarifying the threshold between Severity Level IV and "minor" violations.

