

January 29, 1992

MEMORANDUM FOR: The Chairman
FROM: Samuel J. Chilk, Secretary /S/
SUBJECT: COMIS-91-012 - OPEN ENFORCEMENT CONFERENCES

Commissioners Rogers, Curtiss, Remick, and de Planque have reviewed your proposal to generally open enforcement conferences and are in agreement that the staff should be instructed to undertake a two-year trial period at this time in which selected enforcement conferences in each region would be open for public observation. It is my understanding that, although you prefer generally open enforcement conferences, you have agreed to retain the current policy of closed enforcement conferences and direct the staff to embark on the two-year trial period of selectively opening a limited number of enforcement conferences.

Guidance to the staff to develop and submit a proposed two-year trial program to the Commission is incorporated in the attached SRM on SECY-91-380 - "Proposed Revision of the General Statement of Policy and Procedure for NRC Enforcement Actions, 10 CFR Part 2, Appendix C."

Attachment:
As stated

cc: Commissioner Rogers
Commissioner Curtiss
Commissioner Remick
Commissioner de Planque
EDO
OGC

January 29, 1992

MEMORANDUM FOR: James M. Taylor
Executive Director for Operations

FROM: Samuel J. Chilk, Secretary /S/

SUBJECT: **SECY-91-380 - PROPOSED REVISION OF THE
GENERAL STATEMENT OF POLICY AND PROCEDURE
FOR NRC ENFORCEMENT ACTIONS, 10 CFR PART 2,
APPENDIX C AND COMIS-91-012 - OPEN
ENFORCEMENT CONFERENCES**

The Commission (with all Commissioners agreeing) has approved the proposed Federal Register notice concerning changes to the policy and procedure for enforcement actions with the guidance listed below and the changes indicated in the attachment:

- a. The Commission (with all Commissioners agreeing) has considered the proposal to open enforcement conferences to the public and has decided that it would be best not to change the existing policy on closed conferences at this time. Instead, the Commission has agreed to a two-year trial period in which selected enforcement conferences in each region would be open for public observation.
- b. The Commission (with all Commissioners agreeing) has determined that the proposed revision to the Enforcement Policy addressing disagreements between the Office of Investigations (OI) and the staff on issues arising out of OI investigations should not be implemented. The March 1986 direction of the Commission and the policy by which it has been subsequently implemented should be continued.

SECY NOTE: THIS SRM, SECY-91-380, AND THE VOTE SHEETS OF ALL COMMISSIONERS WILL BE MADE PUBLICLY AVAILABLE 10 WORKING DAYS FROM THE DATE OF THIS SRM

The staff should develop a two-year trial program to select enforcement conferences in each region that would be open for public observation and submit the proposal to the Commission for consent prior to implementation. The staff should establish, and include in the proposal, criteria for selecting which conferences to open and for measuring the results of the program. The trial program should include a restriction which does not permit open enforcement conferences if the enforcement action being contemplated would be taken against an individual, or if the action, though not taken against an individual, turns on whether an individual has committed wrong-doing or has acted incompetently.

(EDO)

(SECY SUSPENSE: 5/22/92)

The staff should evaluate the advantages and disadvantages of open enforcement conferences and provide the Commission a recommendation on whether to establish a policy for the use of open enforcement conferences.

(EDO)

**(SECY SUSPENSE: 3 MONTHS AFTER THE
END OF THE TRIAL PROGRAM)**

The example in the proposed Federal Register notice used to show a situation in which the NRC might impose separate civil penalties for each day the condition continues to exist should be deleted. The Commission is still considering this matter and the example may give the appearance of prejudging that issue.

The staff should incorporate the changes to the Federal Register notice as indicated in the attachment and return it to the Commission for signature and publication.

(EDO)

(SECY SUSPENSE: 2/21/92)

Attachment:
As Stated

cc: The Chairman
Commissioner Rogers
Commissioner Curtiss
Commissioner Remick
Commissioner de Planque
OGC
OCAA
OIG

IF INTERESTED IN ATTACHMENT, PLEASE REFER TO THE SRM.