

April 11, 2000

COMMISSION VOTING RECORD

DECISION ITEM: SECY-00-0061
TITLE: PROPOSED REVISION TO THE ENFORCEMENT POLICY TO ADDRESS THE REVISED REACTOR OVERSIGHT PROCESS

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum ([SRM](#)) of April 11, 2000.

This Record contains a summary of voting on this matter together with the individual vote sheets, views and comments of the Commission.

Annette Vietti-Cook
Secretary of the Commission

Attachments: 1. Voting Summary
2. Commissioner Vote Sheets

cc: Chairman Meserve
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield
OGC
EDO
PDR
DCS

VOTING SUMMARY - SECY-00-0061

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. MESERVE	X					4/3/00
COMR. DICUS	X					4/5/00
COMR. DIAZ	X				X	3/29/00
COMR. MCGAFFIGAN	X				X	3/30/00
COMR. MERRIFIELD	X				X	3/27/00

COMMENT RESOLUTION

In their vote sheets, all Commissioners approved the staff's recommendation and some provided additional comments. Subsequently, the comments of the Commission were incorporated into the guidance to staff as reflected in the SRM issued on April 11, 2000.

Commissioner Comments on SECY-00-0061

Commissioner Diaz

I approve publication of the revised enforcement Policy to support implementation of the Revised Reactor Oversight Process (RROP). I am pleased that the staff is continuing to keep the Enforcement Policy in step with implementation of the RROP. I support Commissioner Merrifield's recommendation of Commission consultation prior to the discretionary assessment of civil

penalties for "violations associated with findings that the reactor oversight program's significance determination process (SDP) evaluates as having low to moderate, or greater safety significance (i.e., white, yellow or red) that are particularly significant." The Commission may want to revisit the need for this consultation after a year of experience. Thus, I also recommend that the staff provide a recommendation on this issue as part of its report following the first year of implementation of the RROP.

Commissioner McGaffigan

I approve the staff's recommendation to publish the proposed revised Enforcement Policy.

I join with Commissioners Diaz and Merrifield in commending the staff for their timely action to keep the Enforcement Policy current with the reactor oversight program changes.

I also agree with the Commissioners' views that the staff should consult with the Commission prior to the exercise of discretion for "violations associated with findings that the reactor oversight program's significance determination process (SDP) evaluates as having low to moderate, or greater significance (i.e., white, yellow, or red) that are particularly significant." The staff should not, however, regard this (or any other) consultation requirement as discouraging such enforcement actions. This application of the SDP is a new one, and may well not fit all enforcement cases. I am mindful that the Enforcement Policy remains just that, a policy, and not a regulation. Thus, the use of the discretion tools within the Enforcement Policy is not unexpected.

Commissioner Merrifield

I approve the staff's recommendation to publish the revised Enforcement Policy, as presented in SECY-00-0061, to support initial implementation of the revised reactor oversight process.

I believe that the staff's proposed approach for addressing the accuracy and completeness of performance indicator (PI) data is sound. Clearly, licensees have an "ironclad" obligation to provide the NRC with performance data which is accurate and complete, and thus it is important that our approach emphasizes and reinforces this obligation. I believe it does. However, because the NRC and licensees are in a learning process related to the revised reactor oversight process and the submission and review of performance indicator data, some errors in the near term should be expected. Thus, I am pleased with the staff's proposed interim policy associated with exercising discretion for non-willful violations of [10 CFR 50.9](#) related to the submission of PI data that may be inaccurate or incomplete.

The staff notes that Section VII.A, Escalation of Enforcement Sanctions, of the revised Enforcement Policy, has been modified to recognize that the NRC may exercise discretion and assess civil penalties for "violations associated with findings that the reactor oversight program's significance determination process (SDP) evaluates as having low to moderate, or greater safety significance (i.e., white, yellow, or red) that are particularly significant." While I am not opposed to such discretion, I believe that the Commission should be consulted prior to taking such action. I am confident that this is consistent with Section III of the revised Enforcement Policy, specifically item (6) under the narrative associated with Commission consultation.