

May 27, 1999

MEMORANDUM William D. Travers
TO: Executive Director for Operations
FROM: Annette Vietti-Cook, Secretary /s/
SUBJECT: STAFF REQUIREMENTS - SECY-99-063 - THE USE BY INDUSTRY OF VOLUNTARY INITIATIVES IN THE REGULATORY PROCESS

The Commission has approved the staff's recommendation that voluntary industry initiatives will not be used in lieu of regulatory action where a question of adequate protection of public health and safety exists. Voluntary industry initiatives are approved as an appropriate substitute for NRC regulatory action where the action to be taken is needed to meet existing requirements or for cases where substantial increase in overall protection can be achieved with costs of implementation justifying the increased protection. The Commission has agreed that the current regulatory framework does not preclude voluntary industry initiatives and existing regulatory processes can be used to support implementation of voluntary initiatives. The staff should move forward, working with industry and other stakeholders, in the development of the process and guidelines for use of industry initiatives in the regulatory process. The guidelines should be provided to the Commission for review prior to their implementation.

(EDO)

(SECY Suspense: 5/31/2000)

The staff should ensure that the guidance developed accounts for the tracking of commitments consistent with existing regulatory processes, as well as the inspection and enforcement of voluntary industry initiatives that are implemented in lieu of regulatory requirements. Based on [SECY-98-224](#), [SECY-99-007A](#), and [SECY-99-063](#), it is not clear how the staff plans to address enforcement in response to a licensee's failure to meet commitments associated with a voluntary initiative. In SECY-98-224, the staff discusses a licensee's failure to satisfy a commitment in the context of issuing Notices of Deviation. In SECY-99-063, the staff discusses a licensee's failure to satisfy a commitment in the context of [10 CFR Part 50 Appendix B](#), [10 CFR 50.59](#), and process controls such as Section 182 of the Atomic Energy Act. SECY-99-007A does not address Notices of Deviation in the context of the new oversight process. The staff has indicated that it will assess the enforceability of commitments in the development of the voluntary industry initiative process. As the staff proceeds with this initiative, it should ensure the guidelines that are developed regarding enforcement are consistent with the proposed reactor oversight process improvements and clearly communicated to our stakeholders.

The guidance should address how plants that do not fully commit to a particular voluntary industry initiative, and are therefore not subject to related enforcement, will be handled. It should also include the agency's decision-making process in pursuing and endorsing a particular voluntary initiative (e.g., whether this is a staff action or Commission decision).

As the staff develops guidelines, it should not underestimate the importance of public confidence. It must be clear to the public that substituting voluntary industry initiatives for NRC regulatory action can provide effective and efficient resolution of issues, will be controlled and monitored so as to ensure plant safety is not compromised, and does not represent a reduction in NRC's commitment to safety and sound regulation.

The staff should determine to what extent the process will apply to non-power reactors, decommissioning reactors, and materials and other licensees.

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