

October 4, 2002

MEMORANDUM TO: William D. Travers  
Executive Director for Operations

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

SUBJECT: STAFF REQUIREMENTS - SECY-02-0023 and SECY-02-0023A -  
PROPOSED REVISION TO THE ENFORCEMENT POLICY TO  
INCLUDE AN INTERIM POLICY REGARDING ENFORCEMENT  
DISCRETION FOR FITNESS-FOR-DUTY ISSUES.

The Commission has approved the staff's plan to publish a *Federal Register* notice announcing the revision to the enforcement policy and implement the proposed fitness-for-duty enforcement discretion subject to the comments and changes noted below and in the attachment.

(EDO)

(SECY Suspense:

10/25/02)

The staff should ensure that programmatic violations of the requirements of Part 26 by one licensee are communicated to other licensees so that any necessary follow-up action may be taken by licensees who have taken credit for the Part 26 program of the licensee in violation.

The staff should keep the Commission informed on significant FFD matters including those associated with the FFD rulemaking effort.

Attachment: Changes to the *Federal Register* notice in SECY-02-0023A

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

Changes to the *Federal Register* notice in SECY-02-0023A

1. On page 2, last paragraph, delete the 2<sup>nd</sup> sentence (After consideration of ... December 4, 2000.) Revise line 4 to read ' ... (OMB) to publish a ~~the affirmed~~ final rule, **stakeholders expressed a number of concerns about the rule and its implementation.**' Delete lines 5 through 7 and up to the period in line 8 (stakeholders objected and expressed ... their concerns.) Revise lines 8 through 10 to read ' ... concerns, the NRC ~~considered several options and concluded on in the Commission's Staff Requirements Memorandum, dated October 3, 2001, that it ....~~' In line 11, delete "several".
2. On page 4, 1<sup>st</sup> full paragraph, revise line 3 to read ' ... Plant Personnel." **NRC** Regulatory Guide ....'
3. On page 4, last paragraph, revise line 11 to read ' ... tested again pursuant to ~~§26.24(a)(1)~~ before authorization ....'
4. On page 5, revise line 2 from the top to read ' ... FFD regulations **have the potential to** ~~may~~ be interpreted as ....' Revise line 4 from the top to read ' ... and reinstatements **similar to those** ~~that are~~ found in the ....'
5. On page 5, last paragraph, revise line 4 from the bottom to read ' ... **particularly** ~~especially~~ burdensome ~~regarding~~ to contractor/vendor (C/V) personnel ....' Revise line 2 from the bottom to read ' ... employees (see **NRC** Information Notice ....'
6. On page 6, paragraph 1, revise line 2 to read ' ... business practices to ~~more efficiently~~ use its workforce **more efficiently.**'
7. On page 6, paragraph 2, revise line 7 to read ' ... **documented in** ~~known to~~ the FFD program, if that ....'
8. On page 6, last paragraph, revise line 4 to read ' ... expertise and to staff up for outages, the ....' Revise line 5 to read ' ... who work **solely** ~~only~~ in the nuclear ....'
9. On page 7, 1<sup>st</sup> full paragraph, revise line 2 to read ' ... site-specific FFD programs ; **and** would share ....'
10. On page 8, revise line 8 from the top to read ' ... differ, licensees **believed** ~~maintained~~ that it was ....'
11. On page 8, last paragraph, revise lines 3 and 4 to read ' ... 30-day period. **Specifically,** ~~That is,~~ until a final rule that would address this issue became effective, ~~under this interim enforcement policy,~~ the following approach would be taken **under an interim enforcement policy:** The NRC ....'
12. On page 10, 1<sup>st</sup> full paragraph, revise line 1 to read '~~For these reasons, in~~ **In** SECY-01-0134, the staff proposed, **the following interim enforcement policy:** ~~that the~~ **The** NRC

normally would ....’

13. On page 11, item (1), revise line 1 to read ‘ ... proposed **approach** enforcement discretion policy does not adequately ....’ In item (2), line 1, remove the quotation marks.
14. On page 11, last paragraph, revise lines 5 through 7 to read ‘ ... substance abuse problems ~~and persons with substance abuse problems are potentially more vulnerable to influence attempts than persons without such problems.~~ Therefore, in order to ....’
15. On page 12, revise line 1 from the top to read ‘ ... necessary (with ~~the~~ one exception noted ....’
16. On page 12, 1<sup>st</sup> full paragraph, delete the sentence in lines 6 and 7 (This is a very different ... previously discussed.)
17. On page 12, last paragraph, revise the last line to read ‘ ... years is redundant **and unnecessary.**’
18. On page 17, paragraph 1, line 2, insert a comma after “less”. Revise lines 6 and 7 read ‘ ... consistency with the ~~§ 26.24(a)(1)~~ requirement that licensees ....’ In line 11, provide the ADAMS accession number for the document. Delete the last sentence (The NRC’s goal is to have ... closely aligned.)
19. On page 17, revise line 1 to read ‘This **revised** enforcement discretion ....’ Revise line 2 to read ‘ ... proposed in SECY-01-0134. **Specifically, this** This policy: ‘ Revise item (2) to read ‘Provides **greater alignment** ~~the maximum match~~ between the interim ....’
20. On page 18, item (4), remove the quotation marks. Revise item (6) to read ‘**Minimizes the unnecessary burden of** ~~Eliminates~~ redundant regulatory ....’ In item (7), revise line 2 to read ‘ ... has been interrupted **for up** ~~from 1 day~~ to 60 ....’
21. On page 19, 1<sup>st</sup> full paragraph (after the numbered items), revise lines 1 through 3 to read ‘ ... conclusion, ~~based on the judgment that these practices provide adequate safety,~~ the NRC **believes that the practices included in this** considers the risk associated with issuing an interim enforcement policy **will ensure adequate protection of public health and safety and nuclear security** ~~to authorize the use in suitable cases of enforcement discretion pending rulemaking to be insignificant.~~’
22. On page 23, paragraph 2, item (1), revise line 2 to read ‘ ... disqualifying information; **unless the individual was subject to a licensee-approved behavioral observation and arrest-reporting program throughout the period of interruption;** and’