

October 3, 2001

MEMORANDUM TO: William D. Travers
Executive Director for Operations

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

SUBJECT: STAFF REQUIREMENTS - SECY-01-0134 - FINAL RULE
AMENDING THE FITNESS-FOR-DUTY RULE

The Commission has approved Option 3 as discussed in the paper – withdraw the OMB clearance request, request additional public comment on all the rule's provisions, and conduct several stakeholder meetings concerning a combined access authorization and the fitness-for-duty guidance document. The Commission has approved the staff's plans to prepare an interim enforcement policy authorizing the exercise of enforcement discretion with respect to practices regarding "suitable inquiry" and "pre-access testing," as described in SECY-01-0134.

In the new fitness-for-duty rulemaking, the Commission will conduct an aggregate backfit analysis of the entire rulemaking. If there is a reasonable indication that a proposed change imposes costs disproportionate to the safety benefit attributable to that change, as part of the final rule package the Commission will perform an analysis of that proposed change in addition to the aggregate analysis of the entire rulemaking to determine whether this proposed change should be aggregated with the other proposed change for the purposes of the backfit analysis. That analysis will need to show that the individual change is integral to achieving the purpose of the rule, has costs that are justified in view of the benefits that would be provided or qualifies for one of the exceptions in 10 CFR § 50.109(a)(4).

The staff should actively engage stakeholders on not only the rulemaking package, but also on the important details (guidance) surrounding the actual implementation of that rulemaking. The staff should keep the Commission fully and currently informed, through periodic updates, of the status of the rulemaking effort.

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