

February 25, 1999

COMMISSION VOTING RECORD

DECISION ITEM: SECY-98-289

TITLE: PROPOSED AMENDMENTS TO 10 CFR PARTS 21, 50, AND 54 REGARDING USE OF ALTERNATIVE SOURCE TERMS AT OPERATING REACTORS

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of February 25, 1999.

This Record contains a summary of voting on this matter together with the individual vote sheets, views and comments of the Commissioners, and the SRM of February 25, 1999.

Annette Vietti-Cook
Secretary of the Commission

Attachments: 1. Voting Summary
2. Commissioner Vote Sheets
3. Final SRM

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

VOTING SUMMARY - SECY-98-289

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. JACKSON	X					1/29/99
COMR. DICUS	X				X	12/29/98
COMR. DIAZ	X				X	1/20/99
COMR. McGAFFIGAN	X				X	2/1/99
COMR. MERRIFIELD	X				X	1/7/99

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 February 25, 1999.

Commissioner Comments on SECY-99-289

Commissioner Dicus' Comments on SECY-98-289

I approve the notice of proposed rulemaking for publication and certify that the rule should not have a negative economic impact on a substantial number of small entities.

SECY-98-289 states that "No Agreement State implementation problems are expected..." because the rulemaking is specific to NRC licensed nuclear power plants. Staff should be aware, however, that should a licensee use the alternate source terms offsite emergency planning officials in both Agreement and Non-Agreement states may have questions regarding any impact of the alternative approach on their planning activities.

Commissioner Diaz' Comments on SECY-98-289

I approve the staff recommendation to publish the notice of proposed rulemaking for a 75-day public comment period.

I encourage the staff to continue working with industry and complete the pilot initiatives on an expedited basis. The experience gained from the pilots can then be used in developing the associated regulatory guide and standard review plan that should be part of the final rulemaking package to be submitted to the Commission by July 30, 1999.

Commissioner McGaffigan's Comments on SECY-98-289

I approve the notice of proposed rulemaking. I commend the staff for their work thus far on this rulemaking which has the potential to improve plant safety, reduce occupational exposure by plant workers, and reduce unnecessary burdens on licensees.

There is one issue, however, that needs to be clarified. Both Commissioner Dicus and Commissioner Merrifield have raised it. Commissioner Dicus has warned that the NRC staff should be prepared to address the concerns of planning officials in both Agreement and Non-Agreement States with respect to potential impacts of this rulemaking on emergency planning, and Commissioner Merrifield has cited the history leading to this proposed rule, namely that it is not intended for relief from emergency planning requirements under 10 CFR 50.47, and has stated that the staff should not take any action on requests to use revised source terms to change emergency planning requirements without first seeking approval from the Commission.

I agree with both Commissioner Dicus and Commissioner Merrifield, but I would go a step further and take care of both their concerns simply by adding a sentence (attached) to the proposed 10 CFR 50.67(a) that would bar use of revised source terms to seek relief from emergency planning requirements. The added sentence makes it possible to avoid dealing case-by-case with requests for such relief. I would also add to the statement of considerations language (attached) that would provide a basis for the bar but also leave the door open to its future removal by separate rulemaking devoted to that purpose. If the staff so chooses, it can, at a later date, make a recommendation to the Commission on whether, and how, to use revised source terms in emergency planning.

I am also proposing some additions to the draft press release, to provide more emphasis to our expectation that revised source terms could improve overall safety.

Insert for Page 19

The paragraph also bars, for the time being, the use of revised source terms to seek relief from emergency planning requirements. Given the numerous other external factors associated with emergency planning requirements, the decision on a request for such relief would necessarily need to be made on a host of other issues besides the issue of revised source terms. The Commission may, at a later date, consider how to use revised source terms in reexamining emergency planning requirements.

Insert for Page 35

The revised source term shall not be used to justify any reduction in emergency planning requirements under 50.47(b).

Commissioner Merrifield's Comments on SECY-98-289

In the regulatory analysis, the staff indicated that there is a high level of industry interest in the proposed rule. The staff also indicated that numerous related applications were anticipated for such things as changes in allowable containment and ECCS leak rates and changes in isolation valve actuation timing. In light of this potential increase in licensing activity, in its final rulemaking package, the staff should provide the Commission with additional information regarding the anticipated agency resource implications, the priority given to license amendments related to a revised source term, and the anticipated impact the additional licensing workload will have on NRR's licensing action backlog reduction efforts.

In its rulemaking plan for implementation of a revised source term at operating reactors dated June 30, 1998 (SECY-98-158) and in a paper to the Commission dated September 6, 1994, the staff stated that this rulemaking would not consider applications of the revised source term that seek relief from emergency planning requirements under 10 CFR 50.47. While some may wish to conclude from this decision that in the future the Commission would support changes in emergency planning requirements based on a revised source term, I do not believe that this decision is dispositive of how the

Commission would act on a request of that nature. Indeed, given the numerous other external factors associated with emergency planning requirements, such a decision would necessarily need to be made on a host of other issues besides the issue of a revised source term. Therefore, to repeat the obvious, the staff should not take any action on such future requests to change emergency planning requirements without first seeking approval of the Commission.