



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

December 20, 2013

SECRETARY

COMMISSION VOTING RECORD

DECISION ITEM: SECY-13-0108

TITLE: STAFF RECOMMENDATIONS FOR ADDRESSING
REMEDICATION OF RESIDUAL RADIOACTIVITY DURING
OPERATIONS

The Commission acted on the subject paper as recorded in the Staff Requirements Memorandum (SRM) of December 20, 2013.

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

A handwritten signature in black ink that reads "Kenneth R. Hart".

Kenneth R. Hart
Acting Secretary of the Commission

Attachments:

1. Voting Summary
2. Commissioner Vote Sheets

cc: Chairman Macfarlane
Commissioner Svinicki
Commissioner Apostolakis
Commissioner Magwood
Commissioner Ostendorff
OGC
EDO
PDR

VOTING SUMMARY - SECY-13-0108

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. MACFARLANE	X				X	11/14/13
COMR. SVINICKI	X	X			X	12/9/13
COMR. APOSTOLAKIS	X				X	11/18/13
COMR. MAGWOOD	X				X	11/29/13
COMR. OSTENDORFF	X				X	11/27/13

NOTATION VOTE

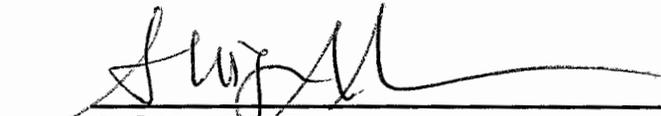
RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: Chairman Allison M. Macfarlane
SUBJECT: SECY-13-0108 – STAFF RECOMMENDATIONS FOR ADDRESSING REMEDIATION OF RESIDUAL RADIOACTIVITY DURING OPERATIONS

Approved X Disapproved Abstain

Not Participating

COMMENTS: Below Attached X None



SIGNATURE

01/14/13

DATE

Entered on "STARS" Yes X No

Chairman Macfarlane's Comments on SECY-13-0108
STAFF RECOMMENDATIONS FOR ADDRESSING REMEDIATION OF RESIDUAL
RADIOACTIVITY DURING OPERATIONS

I approve the staff's recommendation to collect two years of additional data from the implementation of the Decommissioning Planning Rule. After collection and evaluation of the data and engaging stakeholders in a public meeting focused on operational experience from implementation of the Decommissioning Planning Rule, the staff should provide to the Commission a paper with the staff's recommendation for addressing remediation of residual radioactivity at licensed facilities during the operational phase of the facility.

I appreciate the staff's efforts to address this complex and controversial issue. Licensees are required to perform surveys to evaluate subsurface contamination and residual radioactivity and to appropriately account for decommissioning costs associated with such material in their decommissioning funding plans. However, I am concerned that the regulations do not explicitly require licensees when in operation to conduct prompt remediation if significant amounts of subsurface contamination are identified. Part 20 defines dose limits to members of the public and workers from nuclear facilities. Licensees could limit exposure to members of the public and workers by imposing distance or time limits to the contaminated areas. Under the current regulations, licensees can leave contamination in place until they seek termination of their license and then remediate the site in accordance with the criteria set forth in the License Termination rule. Sites with significant subsurface contamination from long term leaks will likely have larger volumes of material requiring remediation at the time of license termination. My concern is that remediating these larger volumes of contaminated material may exceed the available decommissioning funds and this situation could create a legacy site. To me, it is best to promptly remediate while the volume of material is smaller and while the facility has an incoming revenue stream to fund this activity.

The recently implemented Decommissioning Planning Rule is intended to reduce the possibility that an operating facility will become a legacy site. This rule requires licensee to minimize the generation of contamination during operations, to perform subsurface surveys for contamination, and, if significant amounts of contamination are found, then license must augment their decommissioning funding plans to include the costs associated with removal of this residual radioactivity. Gathering operational data and holding public meetings to discuss operational experience after implementation of the Decommissioning Planning Rule will provide the Commission with a better understanding of what data is being collected in these subsurface surveys and how the licensed community responds when significant subsurface contamination is identified.


Allison M. Macfarlane

11/14/13

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER SVINICKI
SUBJECT: SECY-13-0108 – STAFF RECOMMENDATIONS FOR ADDRESSING REMEDIATION OF RESIDUAL RADIOACTIVITY DURING OPERATIONS

Approved XX Disapproved XX Abstain _____

Not Participating _____

COMMENTS: Below XX Attached ___ None ___

In the evaluation of options presented in this paper and in response to the public comment received, the NRC staff acknowledges the following: 1) Existing exposure limits codified in NRC regulations currently provide adequate protection for public health and safety during operations. 2) NRC's current decommissioning planning rule requires early identification of existing "significant residual radioactivity" and timely adjustments to decommissioning funding to remediate it at license termination. 3) Current regulations are sufficient to ensure adequate site characterization and resources, including funding, to complete decommissioning at the time of license termination. 4) Current financial assurance regulations are sufficient to ensure adequate resources to complete decommissioning. 5) No new legacy sites have been identified since the 1987 financial assurance regulations were promulgated. 6) Mandated remediation during operations could adversely impact operational safety. The facts put before the Commission by the staff in this paper are sufficient to support the conclusion that there is no basis to proceed with rulemaking. These facts do not appear to support the proposal to continue more years of effort to develop a rulemaking basis. For these reasons, I approve Option 2.



SIGNATURE

12/19/13

DATE

Entered on "STARS" Yes No _____

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: Commissioner Apostolakis
SUBJECT: SECY-13-0108 – STAFF RECOMMENDATIONS FOR ADDRESSING REMEDIATION OF RESIDUAL RADIOACTIVITY DURING OPERATIONS

Approved X Disapproved Abstain

Not Participating

COMMENTS: Below X Attached None

I approve Option 3, as recommended by the staff. I share the Chairman's concern that our regulations do not explicitly require licensees to conduct prompt remediation if risk significant amounts of subsurface contamination are identified. Therefore, I join her in asking the staff to provide to the Commission, after gathering operational data and holding public meetings, their recommendation for addressing remediation of residual radioactivity during the operational phase of the facility.



SIGNATURE

18 November 2013

DATE

Entered on "STARS" Yes No

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: Commissioner Magwood
SUBJECT: SECY-13-0108 – STAFF RECOMMENDATIONS FOR ADDRESSING REMEDIATION OF RESIDUAL RADIOACTIVITY DURING OPERATIONS

Approved X Disapproved _____ Abstain _____

Not Participating _____

COMMENTS: Below _____ Attached X None _____



SIGNATURE

29 November 2013

DATE

Entered on "STARS" Yes X No _____

**Commissioner Magwood's Comments on SECY-13-0108,
"Staff Recommendations for
Addressing Remediation of Residual Radioactivity During Operations"**

I appreciate staff's efforts to address this matter. The issue of prompt remediation, which is at the heart of SECY-13-0108, presents a difficult challenge. It is the first reflex of many stakeholders to expect that licensees would be required to remediate quickly spills and other releases that occur on their sites, rather than wait decades later to address the resulting contamination during the decommissioning process. However, there are no such requirements. Moreover, operational history and evidence available thus far suggests that public health and safety have not been impacted under the current regulatory approach. Without a public health nexus, it not clear that NRC should or even can proceed to establish a regulatory requirement.

That said, it is important to note that although licensees are not required to conduct prompt remediation, there are mitigating NRC requirements and voluntary licensee initiatives relevant to this consideration. For example the Financial Assurance Rule requires that the licensee must supplement their decommissioning funds to account for any additional remediation activities required after shutdown. Prompt remediation could preclude this necessity and prove more economic than adding money to decommissioning funds. Also, licensees implementing the NEI 07-07 voluntary groundwater protection initiative are already developing written plans, with cost estimates and scheduling, to address contamination concentrations that would require remediation to meet unrestricted release at the time of license termination.

Further, staff suggests that it is not yet clear what impact the recently-implemented Decommissioning Planning Rule might have on the *status quo*. Staff's recommendation to collect two years of operating experience under this new rule is a reasonable path in advance of a final decision regarding the need for an additional rulemaking. While I support this recommendation, I question the likelihood that staff will uncover new information that would support a rulemaking. I suggest that staff provide a commission assistants' briefing to discuss its consideration of the type of information that might be gleaned from implementation of the Decommissioning Planning Rule to affect its views on the need for a new rule. It would also be useful to have the Office of General Counsel provide its consideration of the legal boundaries that would enable a rulemaking to proceed. If, at any point in the interim two years, staff concludes that new rulemaking is not warranted, it should notify the Commission via an information paper.

 11/29/13

William D. Magwood, IV

Date

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: Commissioner Ostendorff
SUBJECT: SECY-13-0108 – STAFF RECOMMENDATIONS FOR ADDRESSING REMEDIATION OF RESIDUAL RADIOACTIVITY DURING OPERATIONS

Approved Disapproved Abstain

Not Participating

COMMENTS: Below Attached None

W. Ostendorff
SIGNATURE

11/27/13
DATE

Entered on "STARS" Yes No

Commissioner Ostendorff's Comments on SECY-13-0108
"Staff Recommendations for Addressing Remediation of Residual Radioactivity during Operations"

I approve staff's recommendation of Option 3 for addressing remediation of residual radioactivity during operations, subject to the comments below. I believe the Decommissioning Planning Rule (DPR) in conjunction with the 1987 Financial Assurance regulations may be sufficient to provide protection against any future legacy sites (there have been no new legacy sites identified since implementation of the 1987 Financial Assurance regulations). Staff, however, has identified the need for additional data in order to have a supportable recommendation on any rulemaking for residual radioactivity during operations. As I stated in my vote regarding prompt remediation in the SRM for SECY-12-0046, I reserved judgment on the need for additional requirements in this area pending full evaluation by the staff and stakeholders. That remains my intent. I applaud staff's effort to solicit internal, industry, and public comments on the draft Technical Basis and the level of consideration staff has given those stakeholder comments.

To ensure there is sufficient relevant data to bring this issue to closure, staff should extend the review period two additional years, through 2016. Because the first year of implementation was under enforcement discretion due to the complex nature of subsurface monitoring, the first year might not be representative of longer-term finding. Secondly, staff's proposal to collect data through 2014 may provide only limited data due to the small number of licensees and potentially few inspection findings. Lastly, there does not appear to be an urgent need to complete data collection from the DPR implementation, in part because there have been no new legacy sites since the 1987 Financial Assurance regulations.

During this data evaluation period, should a number of inspection results identify significant residual radioactivity that staff believes might require immediate remediation, staff should alert the Commission and seek further guidance.

Finally, consistent with the Chairman's vote, after collection and evaluation of the data and engaging stakeholders in a public meeting focused on operational experience from implementation of the Decommissioning Planning Rule, the staff should provide to the Commission a paper with the staff's recommendation for addressing remediation of residual radioactivity at licensed facilities during operations.