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RULEMAKING ISSUE

(NEGATIVE CONSENT)

*Approved, subject to
attached comment.*

Edie Goffigan Jr.

2/9/2000

January 13, 2000

FOR: The Commissioners
FROM: William D. Travers
Executive Director for Operations

SECY-00-0009

RELEASED TO THE PDR
2/24/00 DKW
date initials

SUBJECT: RULEMAKING PLAN, REACTOR FIRE PROTECTION RISK-INFORMED,
PERFORMANCE-BASED RULEMAKING (WITS ITEM 199900032)

PURPOSE:

To obtain Commission approval of the rulemaking plan for the reactor fire protection risk-informed, performance-based rulemaking. This rulemaking plan responds to the staff requirements memorandum (SRM) dated June 24, 1999, which directed the staff to provide its closure plan for the risk-informed, performance-based reactor fire protection rulemaking.

BACKGROUND:

On June 7, 1999, the staff submitted SECY-99-152, "Status of Reactor Fire Protection Projects," to inform the Commission about the status of National Fire Protection Association (NFPA) Standard 805, "Performance-Based Standard for Fire Protection for Light Water Reactor Electric Generating Plants." In SECY-98-058, "Development of a Risk-Informed, Performance-Based Regulation for Fire Protection at Nuclear Power Plants," dated March 26, 1998, the staff proposed that the fire protection rulemaking be deferred and that the staff work with the NFPA and the industry to develop a performance-based, risk-informed consensus standard for fire protection for nuclear power plants. This standard, if successfully developed, could be endorsed by the staff in a future rulemaking as an alternate method of meeting the NRC's fire protection requirements. In the SRM dated June 30, 1998, the Commission approved the staff's proposal.

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SECY NOTE: In the absence of instructions to the contrary, SECY will notify staff on Monday, January 31, 2000, that the Commission, by negative consent, assents to the action proposed in this paper.

DS14

Commissioner McGaffigan's Comments on SECY-00-0009

I approve the proposed rulemaking plan. I am interested in how selective implementation of the NFPA standard will be handled in the proposed rule. This was an important issue in the revised source term rulemaking. The allowance of selective implementation is implied by the last sentence in the section of the rulemaking plan on impact on licensees, which states: "The level of effort required by each plant will depend upon the degree (emphasis added) to which risk-informed and performance-based approaches are adopted over the plant's existing deterministic approaches." This is an apparent change from an earlier staff position that the NFPA standard would need to be universally applied, if adopted by a licensee. I suspect the selective implementation issue will be an important element of the rulemaking and should be discussed in the statements of consideration in the proposed rule.

