



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

May 1, 2000

SECRETARY

COMMISSION VOTING RECORD

DECISION ITEM: SECY-00-0074

TITLE: REGULATORY GUIDE FOR ASSESSING AND
MANAGING RISK BEFORE MAINTENANCE
ACTIVITIES AT NUCLEAR POWER PLANTS

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of May 1, 2000.

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

Annette L. Vietti-Cook
Secretary of the Commission

Attachments:

1. Voting Summary
2. Commissioner Vote Sheets

cc: Chairman Meserve
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield
OGC
EDO
PDR

VOTING SUMMARY - SECY-00-0074

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. MESERVE	X				X	4/13/00
COMR. DICUS	X				X	4/17/00
COMR. DIAZ	X				X	4/5/00
COMR. McGAFFIGAN	X				X	4/13/00
COMR. MERRIFIELD	X				X	4/4/00

COMMENT RESOLUTION

In their vote sheets, all Commissioners approved the staff's recommendation and provided some additional comments. Chairman Meserve and Commissioners Dicus and Merrifield approved extending the implementation period for the revised 10 CFR 50.65 to 180 days after issuance of the final regulatory guide. Commissioners Diaz and McGaffigan preferred the original plan of 120 days after the issuance of the guidance and did not find industry's arguments for the extension to be persuasive. Subsequently, the comments of the Commission were incorporated into the guidance to staff as reflected in the SRM issued on May 1, 2000.

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook
Secretary of the Commission

FROM: CHAIRMAN MESERVE

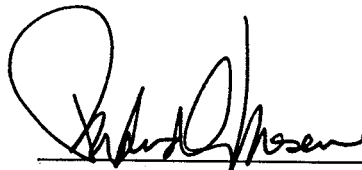
SUBJECT: SECY-00-0074 - REGULATORY GUIDE FOR ASSESSING
AND MANAGING RISK BEFORE MAINTENANCE
ACTIVITIES AT NUCLEAR POWER PLANTS

Approved X w/comments Disapproved Abstain

Not Participating Request Discussion

COMMENTS:

See attached comments



SIGNATURE

April 13, 2002

DATE

Entered on "STARS" Yes No

Comments of Chairman Richard Meserve on SECY-00-0074

I approve publishing Regulatory Guide (RG) 1.XXX, "Assessing and Managing Risk Before Maintenance Activities at Nuclear Power Plants," which endorses Section 11 of NUMARC-93-01, "Assessment of Risk Resulting from Performance of Maintenance Activities" as one acceptable means of complying with 10 CFR 50.65(a)(4).

The rulemaking promulgating 10 CFR 50.65(a)(4) provided that the rule would become effective 120 days after issuance of Revision 3 to Regulatory Guide 1.160, "Monitoring the Effectiveness of Nuclear Power Plants." 64 Fed. Reg. 38511 (1999). The staff should clarify in the subsequent Federal Register notice that it has decided to issue RG 1.XXX, "Assessing and Managing Risk Before Maintenance Activities at Nuclear Power Plants," rather than a revision to RG 1.160, and that this action triggers the clock for the effectiveness of the rule.

The Nuclear Energy Institute has requested that the effective date be postponed to 180 days after the issuance of the guidance in order to assure proper implementation. The staff has indicated that it does not object to such an extension. I approve the extension in order to provide licensees with adequate opportunity to implement the new guidance.

2003 MAR 29 AM 9:26 NOTATION VOTE

RESPONSE SHEET

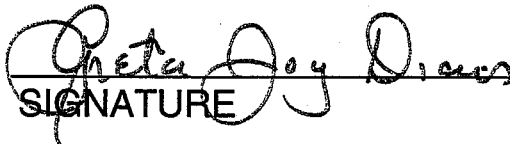
TO: Annette Vietti-Cook, Secretary
FROM: Commissioner Dicus
SUBJECT: **SECY-00-0074 - REGULATORY GUIDE FOR ASSESSING AND MANAGING RISK BEFORE MAINTENANCE ACTIVITIES AT NUCLEAR POWER PLANTS**

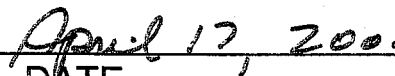
Approved Disapproved _____ Abstain _____

Not Participating _____

COMMENTS:

I approve publication of the Regulatory Guide for assessing and managing risk before maintenance activities at nuclear power plants. The effective date of the revised 10-CFR 50.65 should be 180 days after issuance of the regulatory guide.


SIGNATURE



DATE

Entered on "STARS" Yes No _____

NOTATION VOTE

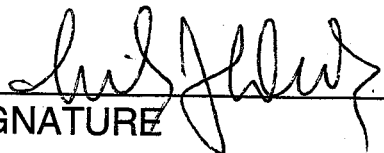
RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: Commissioner Diaz
SUBJECT: **SECY-00-0074 - REGULATORY GUIDE FOR ASSESSING
AND MANAGING RISK BEFORE MAINTENANCE
ACTIVITIES AT NUCLEAR POWER PLANTS**

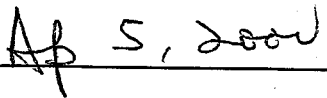
Approved XX  Disapproved _____ Abstain _____
Not Participating _____

COMMENTS:

See attached comments.



SIGNATURE



DATE

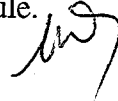
Entered on "STARS" Yes X No _____

--REC'D BY NJD--

COMMISSIONER DIAZ' COMMENTS ON SECY-00-0074

I approve the staff's recommendation to publish Regulatory Guide 1.XXX, "Assessing and Managing Risk Before Maintenance Activities at Nuclear Power Plants" endorsing Section 11 of NUMARC 93-01 as an acceptable method for complying with 10 CFR 50.65(a)(4).

It is important to start implementing 10 CFR 50.65(a)(4) so that the industry can gain experience using the regulatory guidance and NRC staff can gain experience using the new inspection procedures for the revised reactor oversight process. Therefore, I support the original plan to make the revised 10 CFR 50.65 effective 120 days after issuance of the final regulatory guide. It is now time to focus on risk-informing the scope of the Maintenance Rule.

A handwritten signature in black ink, appearing to be 'MD', is located to the right of the second paragraph.

NOTATION VOTE

RESPONSE SHEET

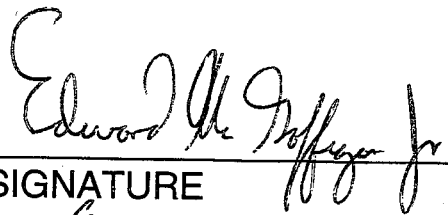
TO: Annette Vietti-Cook, Secretary
FROM: Commissioner McGaffigan
SUBJECT: **SECY-00-0074 - REGULATORY GUIDE FOR ASSESSING
AND MANAGING RISK BEFORE MAINTENANCE
ACTIVITIES AT NUCLEAR POWER PLANTS**

Approved Disapproved Abstain

Not Participating

COMMENTS:

See attached comments.



SIGNATURE

April 13, 2000

DATE

Entered on "STARS" Yes No

Commissioner McGaffigan's Comments on SECY-00-0074

I approve publishing Regulatory Guide 1.XXX as one acceptable method for complying with 10 CFR 50.65(a)(4), subject to the minor change discussed below. I also approve making the rule effective 120 days after issuance of the final regulatory guide.

I commend the staff for its continuing dedication and hard work on the (a)(4) assessment rulemaking effort. As we heard at the recent Commission briefing on the risk-informed regulation implementation plan, this rulemaking constitutes a real safety enhancement by virtue of its contribution to risk-informed configuration management.

I strongly support the modification to the regulatory guidance that addresses the overlapping applicability of 10 CFR 50.59 and the new 10 CFR 50.65(a)(4), as described in Section 11.3.8 of the final revision to NUMARC 93-01, as well as Section 1.2 of Draft Regulatory Guide DG-1095, "Guidance for Implementation of 10 CFR 50.59 Changes, Tests, and Experiments." It is a common sense change that reduces unnecessary burden. It appears that the authority for eliminating the overlapping requirement is derived from 10 CFR 50.59(c)(4). However, the effective date of the maintenance rule is likely to precede the effective date for the 10 CFR 50.59 rule by several months. Consequently, until the revised 50.59 rule becomes effective, I suspect that performing a 50.65(a)(4) assessment in lieu of a 50.59 review may give rise to a *de minimis* compliance issue. If my understanding is correct, I believe that the staff should continue its policy of exercising enforcement discretion for these *de minimis* non-compliance issues until 10 CFR 50.59 rule becomes effective. The staff should consult with OGC on this concern, and take whatever action is appropriate.

I have read NEI's letter of March 30, 2000, requesting Commission consideration of a 180 day implementation period, rather than a 120 day period, following issuance of the final regulatory guidance. I do not find the industry's arguments persuasive. The first objection NEI raises in its letter -- namely, that the additional time is needed because implementation of the new 10 CFR 50.65(a)(4) configuration risk management involves many disciplines within the licensee's organization -- is not persuasive because licensees should have been aware of the draft regulatory guidance since it was issued in November 1999. The draft regulatory guidance was the product of an open and public collaborative effort involving industry representatives and NRC staff. Viewed from that perspective, notice to licensees realistically began in November. The additional 120 day implementation period gives licensees a total of approximately ten months to prepare for the 50.65(a)(4) rule change. NEI's second objection -- the guidance to use the 50.65(a)(4) assessment in lieu of the 10 CFR 50.59 process under certain circumstances -- is moot because of the *de minimis* non-compliance issue discussed above. The only reason I would support a 180 day implementation period is to allow the staff adequate time for training inspectors. On that point, the staff has repeatedly said that it can successfully implement the rule within the 120 day period.

Finally, I note that the paragraph numbering in Attachment 2 to SECY-00-0074 is incorrect in several places. This should be corrected before publishing the final guidance.



NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: Commissioner Merrifield
SUBJECT: **SECY-00-0074 - REGULATORY GUIDE FOR ASSESSING
AND MANAGING RISK BEFORE MAINTENANCE
ACTIVITIES AT NUCLEAR POWER PLANTS**

Approved Disapproved Abstain

Not Participating

COMMENTS: *See attached comments.*



SIGNATURE

4/4/00

DATE

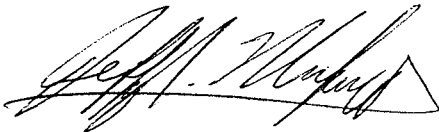
Entered on "STARS" Yes No

COMMISSIONER MERRIFIELD'S COMMENTS ON SECY-00-0074

I commend the staff for their efforts associated with the Regulatory Guide entitled "Assessing and Managing Risk Before Maintenance Activities at Nuclear Power Plants". This is an important achievement representing a great deal of hard work on the part of our staff, the nuclear industry, and our stakeholders.

I **approve** publishing the Regulatory Guide and also **approve** extending the implementation period for the revised 10 CFR 50.65 to 180 days. I believe that extending the implementation period is prudent to ensure that licensees have the time necessary to develop sound programs for implementing 10 CFR 50.65 (a)(4). I encourage NRR to utilize the extension to ensure that our staff and regulatory infrastructure are prepared to effectively implement the revised 10 CFR 50.65.

As part of its regulatory oversight activities, the staff intends to monitor licensee implementation of 10 CFR 50.65 (a)(4). On the basis of these activities, the staff will determine whether the guidance for assessing and managing risk before maintenance activities at nuclear power plants needs to be modified. I encourage the staff to keep the Commission informed of significant problems it identifies associated with licensee implementation of 10 CFR 50.65 (a)(4).



4/7/00



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

May 1, 2000

SECRETARY

MEMORANDUM TO: William D. Travers
Executive Director for Operations

FROM: *(Baker)* Annette L. Vietti-Cook, Secretary

SUBJECT: STAFF REQUIREMENTS - SECY-00-0074 - REGULATORY
GUIDE FOR ASSESSING AND MANAGING RISK BEFORE
MAINTENANCE ACTIVITIES AT NUCLEAR POWER PLANTS

The Commission has approved the staff's recommendation to publish Regulatory Guide (RG) 1.182, "Assessing and Managing Risk Before Maintenance Activities at Nuclear Power Plants," as described in SECY-00-0074. The Commission also approved extending the implementation period for the revised 10 CFR 50.65 to 180 days after issuance of the final regulatory guide.

The staff should clarify in the subsequent Federal Register notice that it has decided to issue RG 1.182 as a companion guide to RG 1.160 rather than a revision to RG 1.160, and that this action triggers the clock for the effectiveness of the rule.

Until the revised 50.59 rule becomes effective, performing a 50.65(a)(4) assessment in lieu of a 50.59 review may result in literal noncompliance with the existing 50.59 rule. Should this occur, the staff should continue its policy of exercising enforcement discretion for violations of the existing rule that would not be violations of the revised 50.59 rule. The existing 50.59 Enforcement Panel, consisting of representatives from NRR, OE, and OGC, should continue to review all 50.59 violations during this transition phase to ensure consistent disposition of findings.

The staff should promptly inform the Commission of significant problems associated with licensee implementation of 10 CFR 50.65 (a)(4).

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