



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

July 11, 2000

OFFICE OF THE  
SECRETARY

COMMISSION VOTING RECORD

DECISION ITEM:       SECY-00-0093

TITLE:                   RULEMAKING TO MODIFY THE EVENT  
REPORTING REQUIREMENTS FOR POWER  
REACTORS IN 10 CFR 50.72 AND 50.73 AND FOR  
INDEPENDENT SPENT FUEL STORAGE  
INSTALLATIONS (ISFSI) IN 10 CFR 72.216

The Commission (with Chairman Meserve and Commissioners Dicus, McGaffigan, and Merrifield agreeing and Commissioner Diaz agreeing in part and disagreeing in part) approved the subject paper as noted in an Affirmation Session and recorded in the Affirmation Session Staff Requirements Memorandum (SRM) of July 11, 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-00-0093

### RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. MESERVE	X				X	6/12/00
COMR. DICUS	X				X	6/18/00
COMR. DIAZ	X	X			X	6/15/00
COMR. McGAFFIGAN	X				X	6/5/00
COMR. MERRIFIELD	X				X	6/12/00

### COMMENT RESOLUTION

In their vote sheets, Chairman Meserve and Commissioners Dicus, McGaffigan, and Merrifield approved the staff's recommendation and provided some additional comments. Commissioner Diaz approved in part and disapproved in part the staff's recommendation and provided some additional comments. Commissioner Diaz disapproved the provisions regarding four-hour telephone reporting because for non-emergencies, he felt there is a great deal of value in providing a licensee an entire shift's worth of time to more completely evaluate the circumstances surrounding an event and to make a timely, accurate report. Subsequently, the comments of the Commission were noted in an Affirmation Session, as reflected in the Affirmation Session SRM issued on July 11, 2000.

AFFIRMATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook  
Secretary of the Commission

FROM: CHAIRMAN MESERVE

SUBJECT: SECY-00-0093 - RULEMAKING TO MODIFY THE EVENT  
REPORTING REQUIREMENTS FOR POWER REACTORS IN  
10 CFR 50.72 AND 50.73 AND FOR INDEPENDENT SPENT  
FUEL STORAGE INSTALLATIONS (ISFSI) IN 10 CFR 72.216

Approved X/with comments Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_

Not Participating \_\_\_\_\_ Request Discussion \_\_\_\_\_

COMMENTS:

See attached comments.

  
\_\_\_\_\_  
SIGNATURE

June 12, 2000  
\_\_\_\_\_  
DATE

Entered on "AS" Yes  No \_\_\_\_\_

## CHAIRMAN MESERVE'S COMMENTS ON SECY-00-0093

I approve the staff's recommendation to publish the final rule in the *Federal Register*, subject to the editorial corrections attached. I concur with Commissioner McGaffigan's suggestions for the *Federal Register* notice. I also approve certification as required by the Regulatory Flexibility Act.

I agree with the maintenance of the 4-hour reporting criterion for certain events. This criterion represents a change from the proposed rule, which contained only 1-hour, 8-hour and 60-day reporting criteria. The 4-hour reporting criterion was reinstated for events where there may be a need for the NRC to take a reasonably prompt action or respond to heightened public concern. The rule specifies four types of events requiring 4-hour reports: two were previously classified as 1-hour reports and the remaining two were previously classified as 4-hour reports. While this change represents an additional level of reporting requirements from the proposal, it continues to result in an overall burden reduction from the current rule.

I also note some minor modifications of the Regulatory Analysis.

*Federal Register Notice*

and the event is reportable within 4 hours, if not reported within 1 hour. This provides the information at the time it may be needed to respond to heightened public concern.

The requirement to report a natural phenomenon or other external event that poses an actual threat to plant safety or significantly hampers site personnel in the performance of duties necessary for safe operation in section 50.72(b)(1)(iii) is deleted. Events of this type are captured by declaration of an Emergency Class, which is reportable within 1 hour.

The requirement to report an internal event that poses an actual threat to plant safety, or significantly hampers site personnel in the performance of duties necessary for safe operation, including fires, toxic gas releases, or radioactive releases in section 50.72(b)(1)(vi) is deleted. Events of this type are captured by declaration of an Emergency Class, which is reportable within 1 hour.

The requirement to report an airborne radioactive release or liquid effluent release that exceeds specific limits in section 50.72 (b)(2)(iv) is deleted. Releases that are large enough to warrant prompt notification are captured by declaration of an Emergency Class, which is reportable within 1 hour after the declaration. Releases that involve a news release or notification to other government agencies are reportable within <sup>4 hours</sup> ~~1 hour~~ after the release or notification.

The remaining non-emergency events that are reportable by telephone under 10 CFR 50.72 are reportable as soon as practical and in all cases within 4 hours or 8 hours (instead of within 1 hour or 4 hours as was previously required). This reduces the unnecessary burden of rapid reporting, while:

(1) Capturing, within 4 hours, those events where there may be a need for the NRC to take a reasonably prompt action, such as partially activating its response plan to monitor the course of the event.

## 5. Enforcement

The NRC intends to modify its existing enforcement policy in connection with the final amendments to sections 50.72 and 50.73. The philosophy of the changes is to base the significance of the reporting violation on the impact on the NRC's ability to provide proper oversight of licensee activities. For example, a late report may impact the ability of the NRC to fulfill its obligations of fully understanding issues that are required to be reported in order to accomplish its public health and safety mission, which in many cases involves reacting to reportable issues or events. As such, the NRC intends to revise the Enforcement Policy, NUREG-1600<sup>3</sup> as follows:

(1) ~~Appendix B~~, Supplement I.C--Examples of Severity Level III violations.

(a) Example 11 will be revised to read as follows--A failure to provide the required 1-hour telephone notification of an emergency action taken pursuant to 10 CFR 50.54(x).

(b) An additional example will be added that will read as follows--A failure to provide a required 1-hour, 4-hour or 8-hour non-emergency telephone notification pursuant to 10 CFR 50.72, that substantially impacts agency response.

(c) An additional example will be added that will read as follows--A late 4-hour or 8-hour notification that substantially impacts agency response.

(2) ~~Appendix B~~, Supplement I.D--Examples of Severity Level IV violations.

(a) Example 4, will be revised to read as follows--A failure to provide a required 60-day written LER pursuant to 10 CFR 50.73.

These changes in the Enforcement Policy will be consistent with the overall objective of the rule change of better aligning the reporting requirements with the NRC's reporting needs.

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<sup>3</sup>The examples refer to those published in the ~~November 9, 1999 revision to NUREG-1600-~~ NUREG - 1600, "General Statement of Policy and Procedure for NRC Enforcement Actions," dated May 1, 2000.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). This rule has been reviewed and approved by the Office of Management and Budget, approval numbers 3150-0011 and 3150-0104.

The annual public reporting burden for the currently existing reporting requirements in 10 CFR 50.72 and 50.73 is estimated to average about <sup>700</sup>~~790~~ hours per nuclear power reactor, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information collection. It is estimated that the proposed amendments would impose a one-time implementation burden of <sup>132</sup>~~200~~ hours per reactor. The recurring annual information collection burden is estimated to be reduced by 200 hours per reactor.

Send comments on any aspect of this information collection, including suggestions for reducing this burden, to the Records Management Branch (T-6E6), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001 or by Internet electronic mail to BJS1@NRC.GOV; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-10202, (3150-0011 AND 3150-0104); Office of Management and Budget, Washington, DC 20503.

#### *Public Protection Notification*

If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, an information collection.

#### VIII. REGULATORY FLEXIBILITY ACT CERTIFICATION

In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Commission

*Regulatory Analysis*

## Alternatives

The only reasonable alternative that has been identified is to take no action.

## Consequences

### 1. Status Quo

This is the base case. The incremental values and impacts for the base case are zero. However, maintaining the status quo would result in continued submittal of the some reports which the NRC has now identified as unneeded.

### 2. Proposed Action

The one-time implementation costs to licensees are estimated to be about 70 hours per reactor for revising procedures and about 130 hours per reactor for training. This yields an estimated burden increase of about ~~21,000~~ hours, or about 200 hours per reactor for 104 operating reactors.   
20,800

A key benefit of the proposed amendments would be a reduction in the recurring annual reporting burden on licensees, as a result of reducing the efforts associated with reporting events of little or no risk or safety significance. Based on a review of past reports, the proposed amendments are expected to result in about 180 fewer telephone notifications per year and about 270 fewer written licensee event reports (LERs) per year under 10 CFR 50.72 and 50.73. It is estimated that licensees expend 1.5 hours per telephone notification and 50 hours per written LER for the events involved. This yields an estimated recurring annual burden reduction of about ~~14,300~~ hours per year industry-wide, or about ~~140~~ hours per reactor per year.   
13,770 132

The NRC's recurring annual review efforts for telephone notifications will not be significantly reduced because the operations officer and daily event screening systems would remain about the same. For similar reasons, the NRC's recurring annual review efforts for written LERs will not be significantly reduced.

The estimated changes in cost or burden have been discounted to present value using a 7-percent real discount rate<sup>1</sup> and 20-year plant life, summed, and rounded to ~~2-significant digits~~. The results, in terms of hours, are presented in Table 1. The same results, converted to dollars at a value of about \$78 per hour<sup>2</sup> and rounded to ~~2-significant digits~~ are presented in Table 2.   
the nearest 1000 hours or \$100,000.   
the nearest \$100,000

<sup>1</sup> A real discount rate of 7 percent was used, as specified in OMB Circular A-94. Use of a more realistic 3-percent rate would not change the basic conclusion. It would make the proposed action appear more attractive because the benefits, which are in the future, would have a greater present value.

<sup>2</sup> NUREG/BR/1084, "Regulatory Analysis Technical Evaluation Handbook," January 1997, Page 5.55, provides a value of \$67.50 per hour in 1996 dollars for NRC technical personnel. (Those involved in rulemaking and reviewing LERs would be technical personnel.) This includes allowances for benefits, management and secretarial support. This translates into about \$78 per hour in current dollars. The same figure is appropriate for licensee technical personnel who will be involved in procedure writing, training and reporting.

Table 1

Estimated Changes in Cost or Burden in Terms of Hours

	One time implementation costs	Recurring annual costs (savings)	Present value of recurring annual costs (savings)	Net effect: Present value of all costs (savings)
Changes in industry costs	21,000	(14,000)	<del>(150,000)</del> 148,000	<del>(130,000)</del> 127,000
Changes in NRC costs	not applicable <sup>3</sup>	not significant	not significant	not significant

Table 2

Estimated Changes in Cost or Burden in Terms of Dollars

	One time implementation costs	Recurring annual costs (savings)	Present value of recurring annual costs (savings)	Net effect: Present value of all costs (savings)
Changes in industry costs	1.6 Million	(1.1 Million)	<del>(11 Million)</del> 11.5	<del>(9.8 Million)</del> 9.9
Changes in NRC costs	not applicable <sup>5</sup>	not significant	not significant	not significant

<sup>3</sup> The NRC's implementation costs consist of developing the rule. Thus, they have already been expended by the time the Commission decides on whether to approve the final rule.

~~<sup>4</sup> This number appears inconsistent with preceding numbers due to roundoff.~~

<sup>5</sup> See Footnote 3.

**AFFIRMATION VOTE**

**RESPONSE SHEET**

TO: Annette Vietti-Cook, Secretary

FROM: COMMISSIONER DICUS

SUBJECT: **SECY-00-0093 - RULEMAKING TO MODIFY THE EVENT REPORTING REQUIREMENTS FOR POWER REACTORS IN 10 CFR 50.72 AND 50.73 AND FOR INDEPENDENT SPENT FUEL STORAGE INSTALLATIONS (ISFSI) IN 10 CFR 72.216**

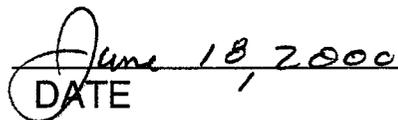
Approved  w/comments Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_

Not Participating \_\_\_\_\_

**COMMENTS:**

I approve the publication of the *Federal Register* notice that promulgates the final rule. I also concur with Commissioner McGaffigan's proposed text for the *Federal Register Notice*.

  
SIGNATURE

  
DATE

Entered on "STARS" Yes  No \_\_\_\_\_

AFFIRMATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary  
FROM: COMMISSIONER DIAZ  
SUBJECT: **SECY-00-0093 - RULEMAKING TO MODIFY THE EVENT REPORTING REQUIREMENTS FOR POWER REACTORS IN 10 CFR 50.72 AND 50.73 AND FOR INDEPENDENT SPENT FUEL STORAGE INSTALLATIONS (ISFSI) IN 10 CFR 72.216**

Approved X in part *[initials]* Disapproved X in part *[initials]* Abstain \_\_\_\_\_  
Not Participating \_\_\_\_\_

COMMENTS:

See attached comments.

*[Handwritten Signature]*  
\_\_\_\_\_  
SIGNATURE

*June 15, 2000*  
\_\_\_\_\_  
DATE

Entered on "STARS" Yes  No \_\_\_\_\_

--REC'D BY NJD--

25 APR 00 11:22

**COMMISSIONER DIAZ'S COMMENTS ON SECY-00-0093 -- RULEMAKING TO MODIFY THE EVENT REPORTING REQUIREMENTS FOR POWER REACTORS IN 10 CFR 50.72 AND 50.73 AND FOR INDEPENDENT SPENT FUEL STORAGE INSTALLATIONS (ISFSI) IN 10 CFR 72.216**

I approve this final rule, except for the provisions regarding four-hour telephone reporting. Most aspects of this rule will, indeed, simplify reporting requirements and enhance this agency's ability to respond in a time frame commensurate with the risk significance of events. However, I believe that the inclusion of the four hour telephonic event reporting requirement will add unnecessary confusion and complexity. The four hour report category should be deleted, and this portion of the rule should be restructured to be similar to the proposed rule. In addressing this issue, the following considerations should be kept in mind:

- o ours is a national regulatory program;
- o rapid event notification requirements, particularly one hour notifications, are necessary for the fulfillment of the NRC's emergency response function;
- o individual States can, and do, enter into a variety of coordination arrangements with NRC licensees, and these reporting requirements do not prohibit such arrangements; and,
- o for non-emergencies, there is a great deal of value in providing a licensee an entire shift's worth of time to more completely evaluate the circumstances surrounding an event and to make a timely, accurate report.

Concerning the inclusion of a list of systems in the rule language, I believe the staff's approach is appropriate for the time being. From the generic standpoint, this list is risk informed, and its use will add consistency across the industry. However, the structure and content of this list should be revisited as we progress with risk informing 10 CFR Part 50.

AFFIRMATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

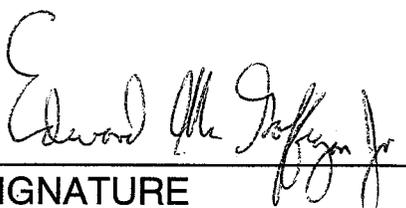
FROM: COMMISSIONER MCGAFFIGAN

SUBJECT: **SECY-00-0093 - RULEMAKING TO MODIFY THE EVENT REPORTING REQUIREMENTS FOR POWER REACTORS IN 10 CFR 50.72 AND 50.73 AND FOR INDEPENDENT SPENT FUEL STORAGE INSTALLATIONS (ISFSI) IN 10 CFR 72.216**

Approved  <sup>w/attached edit</sup> Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_

Not Participating \_\_\_\_\_

COMMENTS:

  
\_\_\_\_\_  
SIGNATURE

  
\_\_\_\_\_  
DATE

Entered on "STARS" Yes  No \_\_\_\_\_

**Commissioner McGaffigan's comments on SECY-00-0093**

I approve subject to the following edit:

Substitute the following two paragraphs for the third and fourth full paragraphs on page 57 of the *Federal Register* notice. This substitute text explains the removal of §§ 72.216(a) and (b), which was not explained in the existing text:

*Spent fuel storage cask problems [former sections 50.72(b)(2)(vii) and 72.216(a)(1), (a)(2), and (b)].* The provisions of section 50.72(b)(2)(vii) are deleted because these reporting criteria are redundant to the reporting criteria contained in sections 72.216(a)(1) and (a)(2). Repetition of the same reporting criteria in different sections of the rules added unnecessary complexity and was inconsistent with the current practice in other areas, such as reporting of safeguards events as required by section 73.71.

Sections 72.216(a)(1) and (a)(2) place upon general licensees the same reporting criteria as are placed on specific licensees under sections 72.75(b)(2) and (b)(3). To avoid duplication in Part 72, sections 72.216(a)(1) and (a)(2) are deleted and section 72.216(c) is abridged to simply require that the general licensee shall make initial and written reports in accordance with sections 72.74 and 72.75. These changes eliminate a reference in section 72.216(a) to section 50.72(b)(2)(vii), now deleted, which had established the time limit for initial notification by general licensees. The same time limit is placed on general licensees by including them within the scope of section 72.75(b). Section 72.216(b) is also deleted because its requirements for a written report are encompassed by section 72.75(d)(2).

*EMG*

AFFIRMATION VOTE

RESPONSE SHEET

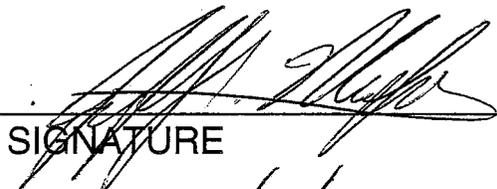
TO: Annette Vietti-Cook, Secretary  
FROM: COMMISSIONER MERRIFIELD  
SUBJECT: **SECY-00-0093 - RULEMAKING TO MODIFY THE EVENT REPORTING REQUIREMENTS FOR POWER REACTORS IN 10 CFR 50.72 AND 50.73 AND FOR INDEPENDENT SPENT FUEL STORAGE INSTALLATIONS (ISFSI) IN 10 CFR 72.216**

Approved  Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_

Not Participating \_\_\_\_\_

COMMENTS:

SEE ATTACHED

  
SIGNATURE

6/12/00  
DATE

Entered on "STARS" Yes  No \_\_\_\_\_

**Commissioner Merrifield's Comments on Press Release for SECY-00-0093**

The staff should revise the fourth paragraph of the press release to clarify that under the revised regulations, there are three types of reporting requirements: within one hour, within four hours, and within eight hours. As written, it is not clear whether we have any four hour requirements.