

Collins, NRR



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

June 18, 1998

*DSC -*  
*JR*  
*cm*  
↓

SECRETARY

COMMISSION VOTING RECORD

DECISION ITEM:      SECY-98-077

TITLE:                      PROPOSED RULE: "RESPIRATORY  
PROTECTION AND CONTROLS TO RESTRICT  
INTERNAL EXPOSURES, 10 CFR PART 20"

*Jim W.*  
*you*  
*retain*  
*z*

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of June 18, 1998.

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 June 18, 1998.

John C. Hoyle  
Secretary of the Commission

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

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

VOTING SUMMARY - SECY-98-077

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. JACKSON	X					5/5/98
COMR. DICUS	X				X	5/13/98
COMR. DIAZ	X					5/17/98
COMR. McGAFFIGAN	X				X	5/28/98

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 June 18, 1998.

NOTATION VOTE

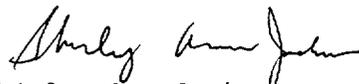
RESPONSE SHEET

TO: John C. Hoyle, Secretary  
FROM: CHAIRMAN JACKSON  
SUBJECT: **SECY-98-077 - PROPOSED RULE: "RESPIRATORY PROTECTION AND CONTROLS TO RESTRICT INTERNAL EXPOSURES, 10 CFR PART 20"**

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

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

COMMENTS:



Shirley Ann Jackson

\_\_\_\_\_  
SIGNATURE

Release Vote / x /

May 5, 1998

\_\_\_\_\_  
DATE

Withhold Vote / /

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

NOTATION VOTE

RESPONSE SHEET

TO: John C. Hoyle, Secretary  
FROM: COMMISSIONER DIAZ  
SUBJECT: **SECY-98-077 - PROPOSED RULE: "RESPIRATORY PROTECTION AND CONTROLS TO RESTRICT INTERNAL EXPOSURES, 10 CFR PART 20"**

Approved  *(D)* Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_  
Not Participating \_\_\_\_\_ Request Discussion \_\_\_\_\_

COMMENTS:

*John C. Hoyle*  
\_\_\_\_\_  
SIGNATURE

5-17-98  
\_\_\_\_\_  
DATE

Release Vote  /  /

Withhold Vote  /  /

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

NOTATION VOTE

RESPONSE SHEET

TO: John C. Hoyle, Secretary  
FROM: COMMISSIONER DICUS  
SUBJECT: **SECY-98-077 - PROPOSED RULE: "RESPIRATORY PROTECTION AND CONTROLS TO RESTRICT INTERNAL EXPOSURES, 10 CFR PART 20"**

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

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

COMMENTS:  
Approved w/Comment

Meta Joy Dicus  
SIGNATURE

Release Vote XX

May 13, 1998  
DATE

Withhold Vote   

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

Commissioner Dicus' comments on SECY-98-077:

1. The Federal register Notice should specifically ask for public comment on whether the technical aspects of the rule should be addressed in a regulatory guide to permit a more rapid regulatory response by NRC to technical developments and changes in industry consensus standards (subject to legal constraints).

2. Staff should re-review its conclusions with respect to compatibility categories for this rule, in particular for consistency. First, it does not seem reasonable to require APFs to be category B but allow the definition of APF to be Category C. Secondly, given that the definition and values of APFs are required for compatibility (i.e., must be incorporated in Agreement State rules) it does not make sense to not require inclusion in Agreement State rules the definitions of Disposable respirator, Fit check, Fit factor and Fit test. Defining these terms in a consistent manner would seem essential to assure consistent application of the rule itself by Agreement States and their licensees. Notwithstanding staff's use of the recently approved adequacy and compatibility policy and implementing procedure to determine the compatibility categories for this proposed rule, if its use results in internal inconsistencies within a proposed rule as it has in this case, then staff should exercise its discretion and propose compatibility categories that assure internal consistency and provide appropriate justification for departing from the policy and procedure.

NOTATION VOTE

RESPONSE SHEET

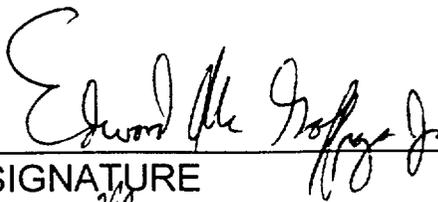
TO: John C. Hoyle, Secretary  
FROM: COMMISSIONER MCGAFFIGAN  
SUBJECT: **SECY-98-077 - PROPOSED RULE: "RESPIRATORY PROTECTION AND CONTROLS TO RESTRICT INTERNAL EXPOSURES, 10 CFR PART 20"**

Approved  Disapproved  Abstain

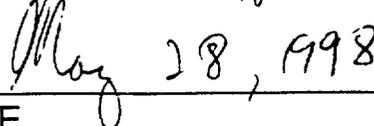
Not Participating  Request Discussion

COMMENTS:

See attached comments and edits.



SIGNATURE



DATE

Release Vote

Withhold Vote

Entered on "AS" Yes  No

## Commissioner McGaffigan's Comments on SECY-98-077

I support revising regulations, where appropriate, to endorse consensus standards; this position is one of the central concepts in DSI-13 and of the Technology Transfer Act of 1996 (Public Law 104-113). One concern I have with the current staff proposal involves timeliness, since the consensus standard in this instance (ANSI standard Z88.2-1992) was published in 1992. On a broader front, the current staff proposal highlights a policy issue associated with how the Commission defines "endorsing a consensus standard." The current staff proposal includes incorporation of portions of the consensus standard into the rule reportedly, in part, to assure enforceability. There are other methods to endorse a standard. For example, the ASME Code is not restated in 10 CFR 50.55a, although this example involves inclusion in the license/TS. A simple rule that required licensees to maintain adequate respiratory protection and a Regulatory Guide that provided a method acceptable to the staff might have been sufficient. Licensee mistakes, procedure discrepancies, and program weaknesses could perhaps have been judged against the licensee program as a whole as to whether adequate respiratory protection was provided. Similar judgments must sometimes be made when assessing a licensee's compliance with fire protection rules and, in any case, should be the defining aspect of any performance-based rule. The Commission will need to face this issue, including in the area of fire protection and consensus standards that might be developed in conjunction with the NFPA (SECY-98-058).

In the current case, the proposed rule generally updates and clarifies existing requirements and represents some reduction in burden (e.g., reporting and record keeping) and has already been delayed longer than perhaps it should have been. For these reasons, I support publishing the proposed rule. However, the FRN should be revised to specifically solicit public comment on the use of approaches other than the proposed rule, such as the simple rule plus Regulatory Guide approach mentioned above.

With regard to Agreement State compatibility, I agree with the comments of Commissioner Dicus that the staff should exercise discretion and propose compatibility categories that assure internal consistency in cases where implementation of the adequacy and compatibility policy statement results in inconsistencies within a proposed rule. For this reason, the FRN should be revised to specifically solicit public comment on the resulting inconsistencies so that this issue can be resolved prior to issuance of the final rule. In addition, any comments previously received from the Agreement States as a result of the proposed amendments being made available on the NRC rulemaking bulletin board should be briefly summarized in the FRN.

I also recommend that changes be made in the public announcement and Congressional letters to reference the Technology Transfer Act of 1996. Edits are attached for the staff's consideration.

*E McG*

## NRC ISSUES PROPOSED REVISIONS TO REGULATIONS ON RESPIRATORY PROTECTION

The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations governing the use of respiratory protection equipment and other controls to restrict internal exposure.

The revised rules would provide greater assurance that workers' radiation exposures will be maintained as low as is reasonably achievable and would approve for licensee use advances in respiratory protection equipment and procedures. The new rules would be more performance based, more flexible and easier to implement. The NRC believes the proposed rule would save licensees about \$2 million per year, with no reduction in worker health and safety.

When the Commission's overall radiation protection regulations were significantly revised in 1992, the rules for respiratory protection were not similarly revised because the American National Standards Institute (ANSI) was working on new consensus guidance in this area. The new ANSI guidance, "American National Standard Practice for Respiratory Protection," is now available and is essentially the technical basis for the proposed rule.

The proposed changes emphasize the use of process or engineering controls, decontamination of work areas, access controls, and other procedures instead of the use of respiratory protection devices, which tend to increase external radiation doses and worker stress.

The proposed rule also recognizes the new respiratory protection devices that have been proven effective, discourages the use of other devices that are now considered less effective based on field tests, and revises requirements for respiratory protection procedures such as testing to evaluate the fit of a respirator on a particular individual.

The Commission's proposed rule is consistent with the general mandate in the Technology Transfer Act of 1996 (Public Law 104-113) to utilize consensus standards.



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

The Honorable Dan Schaefer, Chairman  
Subcommittee on Energy and Power  
Committee on Commerce  
United States House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

Enclosed for the information of the Subcommittee are copies of a Public Announcement and a proposed amendment to 10 CFR Part 20 dealing with respiratory protection and other controls to restrict internal exposure of workers. The proposed amendment will be published in the Federal Register for a 75-day public comment period.

These amendments are based on guidance developed by the American National Standards Institute. These amendments will provide greater assurances that recent technological advances in respiratory protection equipment and procedures are reflected in NRC regulations, and that worker's exposures will be maintained as low as is reasonably achievable.

The proposed rules redefine the level of adequate protection, establish a less prescriptive framework and are estimated to reduce licensee burden by about \$2 million per year with no reduction in worker health or safety. *The Commission's proposed rule is consistent with the mandate . . . .*  
*general*

Sincerely,

Dennis K. Rathbun, Director  
Office of Congressional Affairs

Enclosure:  
Federal Register Notice

cc: Representative Ralph Hall



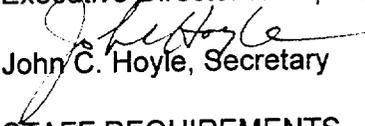
UNITED STATES  
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

June 18, 1998

SECRETARY

MEMORANDUM TO: L. Joseph Callan  
Executive Director for Operations

FROM:   
John C. Hoyle, Secretary

SUBJECT: STAFF REQUIREMENTS - SECY-98-077 - PROPOSED RULE:  
"RESPIRATORY PROTECTION AND CONTROLS TO  
RESTRICT INTERNAL EXPOSURES, 10 CFR PART 20"

The Commission has approved publication of the proposed rule for public comment subject to the comments and changes noted below.

(EDO)

(SECY Suspende:

7/10/98)

The Federal Register notice (FRN) should specifically ask for public comment on whether the technical aspects of the rule should be addressed through alternative approaches other than the proposed rule, such as a simple performance-based rule with a Regulatory Guide to permit a more rapid regulatory response by the NRC to technical developments and changes in industry consensus standards (subject to legal constraints).

The staff should re-review its conclusions with respect to compatibility categories for this rule, in particular for consistency. The staff should exercise discretion and propose compatibility categories that assure internal consistency and provide appropriate justification for departing from the policy and procedure in cases where implementation of the adequacy and compatibility policy statement results in inconsistencies within a proposed rule. The FRN should specifically solicit public comment on the resulting inconsistencies so that this issue can be resolved prior to issuance of the final rule. In addition, any comments previously received from the Agreement States as a result of the proposed amendments being made available on the NRC bulletin board should be briefly summarized in the FRN.

In paragraph 3 of the public announcement, lines 3 and 4, delete 'new.' At the end of paragraph 3, add a sentence: "The Commission's proposed rule is consistent with the general mandate of the Technology Transfer Act of 1996 (Public Law 104-113) to utilize consensus standards."

The Congressional letters should be modified to add the following sentence at the end of the letter: "The Commission's proposed rule is consistent with the general mandate of the

**SECY NOTE: THIS SRM, SECY-98-077, AND THE COMMISSION VOTING RECORD  
CONTAINING THE VOTE SHEETS OF ALL COMMISSIONERS WILL BE MADE  
PUBLICLY AVAILABLE 5 WORKING DAYS FROM THE DATE OF THIS SRM.**

Technology Transfer Act of 1996 (Public Law 104-113) to utilize consensus standards.”

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