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

OFFICE OF THE SECRETARY

November 14, 2000

COMMISSION VOTING RECORD

DECISION ITEM: SECY-00-0203

TITLE: FINAL REGULATORY GUIDE ON IMPLEMENTATION OF 10 CFR 50.59 (CHANGES, TESTS, AND EXPERIMENTS)

The Commission (with Chairman Meserve and Commissioner Dicus agreeing and Commissioners Diaz, McGaffigan, and Merrifield agreeing in part and disagreeing in part) approved in part the subject paper as recorded in the Staff Requirements Memorandum (SRM) of November 14, 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-00-0203

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. MESERVE	X				X	11/1/00
COMR. DICUS	X				X	11/7/00
COMR. DIAZ	X	X			X	10/25/00
COMR. McGAFFIGAN	X	X			X	10/10/00
COMR. MERRIFIELD	X	X			X	10/30/00

COMMENT RESOLUTION

In their vote sheets, Chairman Meserve and Commissioner Dicus approved the staff's recommendation and provided some additional comments. Commissioners Diaz, McGaffigan, and Merrifield approved in part and disapproved in part the staff's recommendation and provided some additional comments. They disapproved any additional revisions to the final regulatory guide as a result of resolution of the referenced DPV. Chairman Meserve and Commissioner Dicus also stated in their comments that RG 1.187 should be issued without further revision because the DPV discussed in SECY-00-0203 had been resolved by the time they voted on SECY-00-0203. Subsequently, the comments of the Commission were incorporated into the guidance to staff as reflected in the SRM issued on November 14, 2000.

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook
Secretary of the Commission

FROM: CHAIRMAN MESERVE

SUBJECT: SECY-00-0203 - FINAL REGULATORY GUIDE ON IMPLEMENTATION OF 10 CFR 50.59 (CHANGES, TESTS, AND EXPERIMENTS)

Approved X/w comments ___ Disapproved _____ Abstain _____

Not Participating _____ Request Discussion _____

COMMENTS:

See attached sheet.

SIGNATURE

Nov. 1, 2000
DATE

Entered on "STARS" Yes ✓ No ____

COMMENTS OF CHAIRMAN MESERVE ON SECY-00-0203

I approve the publication of Regulatory Guide (RG) 1.187, as requested by the staff. I commend the staff for its success in working with NEI and other stakeholders to bring this process to a mutually acceptable conclusion.

Since the Differing Professional View (DPV) discussed in SECY-00-0203 has been resolved, per the Executive Director for Operations' October 17, 2000, memorandum to the Commission, the RG should be issued without further revision with regard to the issue of fire protection.

NOTATION VOTE

RESPONSE SHEET

2000 OCT -3 AM 11: 19

TO: Annette Vietti-Cook, Secretary

FROM: COMMISSIONER DICUS

SUBJECT: **SECY-00-0203 - FINAL REGULATORY GUIDE ON IMPLEMENTATION OF 10 CFR 50.59 (CHANGES, TESTS, AND EXPERIMENTS)**

Approved X Disapproved _____ Abstain _____

Not Participating _____

COMMENTS:

"See attached"

Greta Joy Dicus
SIGNATURE

November 7, 2000
DATE

Entered on "STARS" Yes X No ____

COMMENTS OF COMMISSIONER DICUS ON SECY-00-0203

I approve publication of the regulatory guide (RG) 1.187 and publication of the notice in the Federal Register that announces its availability (which establishes the 90-day implementation period for the rule).

I commend the staff on its efforts to work with stakeholders to create this additional regulatory guidance which should lend to increased efficiencies for both the regulator and the regulated.

Since the differing professional view regarding fire protection has been resolved, RG 1.187 should be issued without further revision.

gjd
11-7-00

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: COMMISSIONER DIAZ

SUBJECT: **SECY-00-0203 - FINAL REGULATORY GUIDE ON IMPLEMENTATION OF 10 CFR 50.59 (CHANGES, TESTS, AND EXPERIMENTS)**

Approved XX Disapproved XX Abstain _____

Not Participating _____

COMMENTS:

See attached comments.

SIGNATURE

Oct. 25, 2000

DATE

Entered on "STARS" Yes x No _____

-- REC'D BY NJD -

2 OCT 00 12: 18

COMMISSIONER DIAZ' COMMENTS ON SECY-00-0203

I commend the staff for their persistence in resolving these multiple and complex issues. I approve the staff's recommendation to publish Regulatory Guide 1.187, "Guidance for Implementation of 10 CFR 50.59, Changes, Tests, and Experiments," which endorses Revision 1 to NEI 96-07. Based on the October 17, 2000, memorandum from the EDO to the Commission, "Disposition of Differing Professional View Concerning Guidance for Changes to Fire Protection Programs," I support the staff's decision to maintain the position in Regulatory Guide 1.187. This is consistent with NEI's agreement to revise NEI 96-07 to clarify the scope of the assessment to be performed in accordance with the fire protection license condition.

I agree with Commissioner McGaffigan that "The Commission clearly did not intend to amend its approach to the standard fire protection license condition when we amended 10 CFR 50.59." Therefore, I do not support any revision to the final regulatory guide unless the staff determines, based on differing professional views and differing professional opinions, that new relevant information should be added to the regulatory guide.

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: COMMISSIONER MCGAFFIGAN

SUBJECT: **SECY-00-0203 - FINAL REGULATORY GUIDE ON IMPLEMENTATION OF 10 CFR 50.59 (CHANGES, TESTS, AND EXPERIMENTS)**

Approved ___X___ in part Disapproved ___X___ in part (with comments) Abstain _____

Not Participating _____

COMMENTS:

See attached comments.

Edward McGaffigan Jr.
SIGNATURE

October 10, 2000
DATE

Entered on "STARS" Yes ___X___ No ____

Cmr. McGaffigan's Comments on SECY-00-0203

I approve the issuance of Regulatory Guide 1.187 which endorses NEI 96-07, Revision 1, dated September 22, 2000, as providing "methods that are acceptable to the NRC staff for complying with the provisions of 10 CFR 50.59." I commend the staff who have worked with their NEI counterparts to finally bring clarity to this regulation and its implementation.

I do not approve any revision to the final regulatory guide as a result of DPV resolution. The Commission clearly did not intend to amend its approach to the standard fire protection license condition when we amended 10 CFR 50.59. The "savings clause" at 10 CFR 50.59(c)(4) was clearly intended to encompass this license condition. We said as much in the Statements of Consideration on the final rule.

Our goal for resolving DPVs is 49 days, according to Management Directive 10.159. By the time this paper was submitted to the Commission (on September 29, 2000), this DPV was 105 days old. It could, and should, have been resolved very promptly after a brief discussion with the Office of General Counsel. The Inspector General has recently criticized the agency's DPO/DPV process, in part for not achieving timeliness goals. This is one case where, in my view, there was no excuse for not achieving the goal.

EMcG

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: COMMISSIONER MERRIFIELD

SUBJECT: **SECY-00-0203 - FINAL REGULATORY GUIDE ON IMPLEMENTATION OF 10 CFR 50.59 (CHANGES, TESTS, AND EXPERIMENTS)**

Approved X in part Disapproved X in part Abstain _____

Not Participating _____

COMMENTS:

See attached comments

SIGNATURE

10/20/00
DATE

Entered on "STARS" Yes ✓ No ____

COMMISSIONER MERRIFIELD'S COMMENTS ON SECY-00-0203

I commend the staff for their efforts associated with the final regulatory guide on implementation of 10 CFR 50.59. I approve the staff's recommendation to publish Regulatory Guide 1.187, which endorses the industry guidance document developed by the Nuclear Energy Institute, NEI 96-07, Revision 1.

I have carefully reviewed the October 17, 2000 memorandum from the EDO to the Commission, "Disposition of Differing Professional View (DPV) Concerning Guidance for Changes to Fire Protection Programs", and support the staff's decision to maintain the position contained in the final regulatory guide that endorses Revision 1 to NEI 96-07. I agree with Commissioner McGaffigan and the EDO that no changes to the regulatory guide are necessary as a result of the DPV. I also acknowledge NEI's agreement to revise NEI 96-07, as outlined in the EDO's October 17, 2000 memorandum.

I appreciate and respect the differing professional view presented by the NRR fire protection engineer.