

NOTATION VOTE

4/26/91
date

[Handwritten initials]
initials

RESPONSE SHEET

TO: SAMUEL J. CHILK, SECRETARY OF THE COMMISSION

FROM: COMMISSIONER ROGERS

SUBJECT: SECY-91-061 - SEPARATION OF NON-REACTOR AND
NON-POWER REACTOR LICENSING ACTIVITIES FROM
POWER REACTOR LICENSING ACTIVITIES IN 10 CFR
PART 50

APPROVED _____ DISAPPROVED with ABSTAIN _____
COMMENTS

NOT PARTICIPATING _____ REQUEST DISCUSSION _____
ICL

COMMENTS: SEE ATTACHMENT
ICL

[Handwritten Signature: Kenneth C. Rogers]

SIGNATURE

[Handwritten Date: March 28, 1991]

DATE

RELEASE VOTE

WITHHOLD VOTE

ENTERED ON "AS" Yes No _____

Comments of Commissioner Rogers on SECY-91-061, Separation of Non-Power Reactor Regulations

I concur with Commissioner Remick's vote and comments and add the following comments of my own:

Although I believe that a major revision of our rules to clearly identify those applicable to non-power reactors would be advisable, given sufficient resources, I concur with Commissioner Remick that a major revision of our rules is not absolutely necessary to provide adequate protection and may require resources that are urgently needed for matters that test.

However, I believe we need to offer the non-power reactor community, and our own staff, better guidance on the applicability of NRC regulations for non-power reactors, and I concur with Commissioner Remick that a NUREG indexing the applicable regulations would be an appropriate and cost effective means of providing that guidance.

Last fall Commissioner Remick and I initiated a pilot effort in our offices to explore the feasibility of producing such an index or data base. That pilot effort produced a data base that classifies the applicability of rules by a variety of key words representing different subject areas. This draft product, covering 10 CFR Part 50, may be useful for staff to review in developing the proposed NUREG.

Such a NUREG product should not preclude NRC from undertaking selective revisions to regulations, as necessary, to correct specific problems, such as errors or inconsistencies in statements of applicability to non-power reactors, as they are identified. In fact, the index may be useful in assisting staff in the identification of such inconsistencies. Furthermore, as regulations are revised for any reason, this opportunity should be taken to state the revisions applicability to different reactor types. For example, as the changes are made to update Parts 50 and 100, staff should assure that changes in the regulations incorporate clarification regarding applicability to non-power reactors wherever possible.

The legal status of a NUREG is not the same as that of a rule, and that fact should be clearly stated in the NUREG. Never the less, such a document can provide very useful guidance even if it does not have the legal standing of a rule.

Finally, once an index is produced, it must be updated periodically as the regulations change. The staff plans for this activity should include an appropriate schedule for updating the index. To this end, staff may want to explore the feasibility of eventually providing the index in electronic form, so that it can be kept readily available to all interested parties.

KCR 3/2/91

NOTATION VOTE
RESPONSE SHEET

RELEASSED TO THE PDR
4/26/91 *df*
date initials

TO: SAMUEL J. CHILK, SECRETARY OF THE COMMISSION
FROM: COMMISSIONER CURTISS
SUBJECT: SECY-91-061 - SEPARATION OF NON-REACTOR AND
NON-POWER REACTOR LICENSING ACTIVITIES FROM
POWER REACTOR LICENSING ACTIVITIES IN 10 CFR
PART 50

APPROVED _____ DISAPPROVED X/with
comments ABSTAIN _____
NOT PARTICIPATING _____ REQUEST DISCUSSION _____

COMMENTS:

I agree with Commissioner Remick's recommendation that we direct the staff to prepare a guidance document identifying the regulations that apply to non-power reactors. In fact, I think it would be useful for the document to provide general guidance on all aspects of the licensing and regulation of non-power reactors, including such things as the process for license amendments and license renewals.

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PDR COMMS NRCC
CORRESPONDENCE PDR

Sam R. Curtis

SIGNATURE

RELEASE VOTE X

March 28, 1991

WITHHOLD VOTE

DATE

ENTERED ON "AS" YES X No _____

NOTATION VOTE
RESPONSE SHEET

RELEASED TO THE PDR

4/26/91 g
date initials

TO: SAMUEL J. CHILK, SECRETARY OF THE COMMISSION

FROM: COMMISSIONER REMICK

SUBJECT: SECY-91-061 - SEPARATION OF NON-REACTOR AND
NON-POWER REACTOR LICENSING ACTIVITIES FROM
POWER REACTOR LICENSING ACTIVITIES IN 10 CFR
PART 50

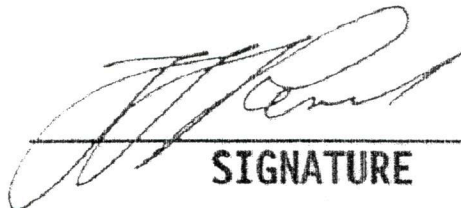
APPROVED _____ DISAPPROVED X ^{w/comment} ABSTAIN _____

NOT PARTICIPATING _____ REQUEST DISCUSSION _____

COMMENTS:

Please see attached comment

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PDR COMMS NRCC
CORRESPONDENCE PDR


SIGNATURE

RELEASE VOTE

27 MAR 91

DATE

WITHHOLD VOTE

ENTERED ON "AS" YES No _____

Commissioner Remick's Comments on SECY-91-061

I disapprove of the staff's recommendation in SECY-91-061 to take no action to separate non-reactor and non-power reactor licensing activities from power reactor licensing activities in 10 CFR Part 50. Although I agree with the staff that, in view of the staff resources and industry costs to create another section of the regulations, and without any indication that such separation would improve safety performance, it would be difficult to assign such action high priority, I believe there may be alternatives to creating a new section of the regulations that, could in effect, accomplish the same objective with less time and resource impact on the NRC and industry.

It is generally recognized that lifting the regulations that apply to non-power reactors and placing them in another section would inevitably require some reinterpretation of the regulations. The concept of simply rearranging the regulations is perhaps not very realistic. And, the resources that would be needed to complete the task of separation properly are not available. If, on the other hand, resources were abundant, I would encourage the staff to take this task one step further. Ideally, the staff should have an SRP for the non-power reactors. The network of non-power reactor operators and managers with substantial corporate memory of the licensing requirements for their facilities is growing increasingly more fragile, as is the number of knowledgeable people on the regulatory side. The best way to preserve the weakening corporate memory would be in an SRP where the basis for current regulatory actions are as thoroughly detailed as they are in NUREG 0800 for power reactors. Preparing an SRP would require even more resources than would separating the regulations, and neither of these are easily justified in view of the potential improvement in safety.

Therefore, I recommend that the staff consider preparing a NUREG document that lists the regulations that apply to non-power reactors and provides some general guidance on what information non-power reactor licensees must include in applications for licenses to operate non-power reactors. Based on discussions with experienced staff members, my impression is that preparation of a NUREG could be accomplished with about one FTE of contractor technical assistance, supported by staff on a part-time basis. A NUREG would avoid the difficulties normally encountered by both the NRC and the industry when changing the regulations, but would accomplish the objective of clarifying what regulations apply to non-power reactors while taking advantage of the ongoing work between the staff and the Test Research and Training Reactor (TRTR) community.

Preparation of a NUREG based in part on the information already available to the staff would be a sensible compromise. I also believe that such an attempt to clarify the regulations using currently available information is consistent with the

Commission's principles of good regulation where they state that agency positions should be readily understood and easily applied. I believe that most do not question the desirability of having a clear, concise set of regulations, nor the need for specific regulations in some areas such as non-power reactors.

The benefits of a system that clearly delineates specific regulations would also apply to enrichment and reprocessing facilities. I worry that we have not adequately documented the requirements that apply to these licensees, and are losing much of our corporate memory in these areas as well. I recognize, however, that it would be an even greater job to generate separate sections of the regulations, or even general guidance, applying to these facilities. I therefore consider this to be more appropriately a task for the long term, and will address it in another context.

For the reasons I have stated, I recommend that the staff prepare a NUREG document or other similar form of guidance that identifies the regulations that apply to the non-power reactors, and provides some general guidance to licensees on criteria that must be met in order to receive a license, and on procedures the staff will use when reviewing an application for a license. I leave it up to the staff to suggest an appropriate schedule.