

NOTATION VOTE

RESPONSE SHEET

RELEASED TO THE PDR
2/24/94
date initials

TO: SAMUEL J. CHILK, SECRETARY OF THE COMMISSION

FROM: COMMISSIONER REMICK

SUBJECT: SECY-92-408 - PROPOSED AMENDMENTS, TO 10 CFR PART 60, ON DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTES IN GEOLOGIC REPOSITORIES--DESIGN BASIS EVENTS FOR THE GEOLOGIC REPOSITORY OPERATIONS AREA

APPROVED _____ DISAPPROVED ^{v/comment} _____ ABSTAIN _____

NOT PARTICIPATING _____ REQUEST DISCUSSION _____

COMMENTS:

Please see attached

200019

[Signature]

SIGNATURE

RELEASE VOTE

22 Dec 93

DATE

WITHHOLD VOTE

ENTERED ON "AS" YES No _____

DF02

Commissioner Remick's Comments on SECY-92-408

I recommend that SECY-92-408 be returned to the staff for additional work. SECY-92-408 addresses several difficult issues that need additional study. The principal underpinning to the entire proposed rule is the definition of "important to safety." Because I disagree with the definition, I recommend that the entire rulemaking package be reconsidered by the staff.

Some of my major concerns are the following. First, I am not persuaded by the staff's arguments in SECY-92-408 that the staff's proposed definition of "important to safety" clarifies Commission requirements on the protection of public health and safety from activities conducted at a geologic repository operations area. The qualitative definition of important to safety set forth on page 35 of the draft regulation does not, in and of itself, provide to the license applicant, the NRC staff, or other parties to the licensing proceeding a clear definition of the structures, systems, and components that would be important to safety. While I recognize that the staff was attempting to ensure that the appropriate structures, systems, and components were properly classified as important to safety, the qualitative definition contained in the proposed rule, by itself, does not provide a definitive basis for making that determination.

I also recognize that a qualitative definition of "important to safety" has apparently proven to be adequate for licensing ISFSIs under Part 72, but Part 60 and Part 72 set forth licensing requirements for different facilities designed for different purposes. I commend the staff for attempting to ensure regulatory consistency in the various parts of our regulations; however, in this instance, perhaps the NRC should reexamine the qualitative definition of important to safety in Part 72.

I would recommend that the staff analyze other methods for determining which systems, structures, and components are important to safety. Absent some compelling argument to the contrary, I think the proposed rule should incorporate some radiological dose level for both the public and the worker. Perhaps the staff could consider the appropriateness of utilizing public and occupational dose levels from other parts of our regulations including 10 CFR Parts 20 and 100, and the proposed 10 CFR Part 76 in developing a definition of "important to safety."

Second, to avoid any misunderstanding in the future about the meaning of the phrase "at all times" in 10 CFR 60.111, I would recommend that 10 CFR 60.111(a) be revised as follows:

"(a). . . The geologic repository operations area shall be designed so that until permanent closure has been completed and during any subsequent retrieval operation, radiation exposures and radiation levels, and releases of radioactive materials to unrestricted area will be maintained within the limits specified in Part 20 . . ."

Finally, some of the proposals in SECY-92-408, such as the proposed definition of "controlled-use area," appear to be reasonable and should be retained. However, the staff should reconsider its statement that it intends to deny the DOE petition. It appears that the staff is likely to grant substantial portions of the petition.

The staff should seek the views of the ACNW on any subsequent Commission paper reconsidering this rulemaking package. The views of the ACNW should be sought particularly on the definition of "important to safety."