

NOTATION VOTE

RESPONSE SHEET

TO: John C. Hoyle
Secretary of the Commission

FROM: COMMISSIONER DICUS

SUBJECT: SECY-97-036, MILLSTONE LESSONS LEARNED REPORT,
PART 2: POLICY ISSUES

Approved X with comments Disapproved _____ Abstain _____

Not Participating _____ Request Discussion _____

COMMENTS:

Please see attached comments.


SIGNATURE

Release Vote / X /

March 31, 1997
DATE

Withhold Vote / /

Entered on "AS" Yes ✓ No _____

Commissioner Dicus's Comments on SECY-97-036

Unfortunately, and for reasons that remain unclear to me, the agency failed to implement 10 CFR 50.71(e) as promulgated by the Commission. In my view, had this regulation been implemented as intended; the discussion, energy, and resources expended today to address Final Safety Analysis Report (FSAR) updating issues could have been precluded. Nevertheless, the onus is upon this Commission to address this failure and the host of issues that accompany this nonperformance.

I would greatly prefer to find some equitable means of only forward fitting the decisions on these issues; however, I have come to the conclusion that it is essential for the agency and its licensees to understand the license and design basis of a licensed facility. The agency, its licensees, and the public must be able to rely upon the FSAR as the fundamental safety document from which changes to the facility, its procedures, the conduct of tests and experiments which have not previously been evaluated, and new safety issues are measured. To this end, I support the implementation and enforcement of 10 CFR 50.71(e) as discussed in said regulation and accompanying Statement of Considerations. However, requiring licensees to comply immediately with the provisions of 10 CFR 50.71(e) may result in some unnecessary expenditures of resources for both licensees and the NRC. Additionally, attention could be diverted from activities more critical to safety for an overall detriment to safety. Therefore, I believe that the NRC should exercise enforcement discretion for a period of two FSAR update cycles to permit licensees to come into full compliance with 10 CFR 50.71(e). After this period of enforcement discretion, the licensees should be subjected to the enforcement policy, up to and including escalated enforcement actions, for past failures to comply with 10 CFR 50.71(e).

In conjunction the foregoing discussion, I support implementation of Actions 3, 4, 9, 10, 11, 12, 13, and 16. While the remaining proposed actions have merit, I believe consideration of these actions should be delayed until experience has been gained with the implementation of 10 CFR 50.71(e). Therefore, I do not support Actions 1, 2, 5, 6, 7, 8, 14, 15, 17, and 18, at this time.

After experience has been gained with the implementation of 10 CFR 50.71(e), the staff should provide a paper for Commission consideration that discusses license and design basis issues that remain after 10 CFR 50.71(e) has been implemented, as promulgated. At that time, the staff should also provide recommendations to the Commission for a definition of current license basis for 10 CFR Part 50 and its benefit.