

June 29, 1999

COMMISSION VOTING RECORD

DECISION ITEM: SECY-99-008

TITLE: RULEMAKING PLAN, "PHYSICAL SECURITY/ SAFEGUARDS FOR PERMANENTLY SHUTDOWN POWER REACTORS," FOR AMENDMENTS TO 10 CFR PART 73

The Commission (with Chairman Jackson and Commissioners Dicus, Diaz, and Merrifield agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of June 29, 1999. Commissioner McGaffigan approved in part and disapproved in part.

This Record contains a summary of voting on this matter together with the individual vote sheets, views and comments of the Commission, and the SRM of June 29, 1999.

Annette Vietti-Cook
Secretary of the Commission

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

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

VOTING SUMMARY - SECY-99-008

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. JACKSON	X				X	3/30/99
COMR. DICUS	X					2/10/99
COMR. DIAZ	X				X	4/6/99
COMR. McGAFFIGAN	X	X			X	6/7/99
COMR. MERRIFIELD	X				X	2/22/99

COMMENT RESOLUTION

In their vote sheets, Chairman Jackson and Commissioners Dicus, Diaz, and Merrifield approved the staff's recommendation and some provided additional comments. Commissioner McGaffigan approved in part and disapproved in part. While approving the staff's recommendation to proceed with this rulemaking, he believed it should not be a stand-alone rulemaking initiative because of the need to integrate it with other decommissioning rulemaking efforts. Subsequently, the comments of the Commission were incorporated into the guidance to staff as reflected in the SRM issued on June 29, 1999.

Chairman Jackson

I approve the subject rulemaking plan for physical security/safeguards for permanently shutdown power reactors subject to the following comments. I note that the paper discusses the subject of security in a vacuum; that is, physical security is not treated as a single element of a multi-element plan to improve the regulation of decommissioning reactor plants. This fact was recognized by the staff in the March 17, 1999, Commission meeting. I encourage the staff to work toward the more complete vision of decommissioning regulation referred to in that meeting and to include the treatment of physical security with other issues, such as emergency planning, backfit, and insurance protection.

The staff, in considering the performance-based approach, should evaluate physical protection requirements (including for VBS) against the existing threat which should be periodically updated, or updated based on credible threat information.

Commissioner Diaz

I approve Option 3. In developing the proposed rule, the staff should maximize the use of risk insights to establish performance criteria that are commensurate with the need to protect public health and safety. The rule should be structured to permit decommissioning plants to make security modifications on the basis of technical and risk analyses, and to inform the NRC when such modifications have been implemented. The performance criteria should be linked with those of other rules under development, such as the rulemaking for emergency planning requirements for permanently shutdown nuclear power plants.

Commissioner McGaffigan

I approve, in part, and disapprove, in part, the staff's recommendation to proceed with this rulemaking plan. I approve the need for rulemaking to address relaxation of physical security requirements for decommissioned reactors and I support Option 3. However, I disapprove the proposed rulemaking as a stand-alone rulemaking initiative because it is premature to move forward with this or any other decommissioning rulemaking without the benefit of the concurrent staff efforts to develop integrated, risk-informed requirements for decommissioned reactors. To proceed now with this proposed security/safeguards rulemaking would also be counterproductive and contrary to the Commission's guidance in the staff requirements memorandum for the March 17, 1999, public briefing on Part 50 decommissioning issues ([M990317C](#)).

I am also concerned about the timely resolution of the zirconium cladding fire issue vis-a-vis the integrated review. While the use of "performance criteria" may account for some site-specific factors, the staff also needs to ensure that outstanding generic technical concerns (i.e., high burnup fuel, high density fuel storage configurations, etc.) are appropriately resolved and coordinated with the integrated review initiative.

The integrated rulemaking initiative must also consider application of the backfit rule for decommissioning rulemakings, as the Commission directed in the [SRM on SECY-98-253](#) and has emphasized again in the SRM on the March 17, 1999, public briefing on Part 50 decommissioning issues.

I agree with Chairman Jackson's comments regarding the need to evaluate physical protection requirements -- including vehicle barrier system-- against the existing threat, which should be periodically updated.

Commissioner Merrifield

I have no objections to the staff proceeding with rulemaking to codify and consolidate the [10 CFR 73.55](#) security regulations to a level commensurate with the reduced risks associated with protecting a permanently shutdown reactor site (Option 3). I believe that the staff can and should develop a rule which continues to protect public health and safety while reducing unnecessary regulatory burden. However, I caution the staff to remember that the agency has many stakeholders with diverse views on the matter of physical security requirements at nuclear plants. As such, the staff should actively seek and carefully consider input from these stakeholders so that appropriate insights can be incorporated into the final rulemaking package. I also encourage the staff to reassess its proposed rulemaking schedule to determine whether process efficiencies can be achieved.