

August 13, 1999

COMMISSION VOTING RECORD

DECISION ITEM: SECY-99-036
TITLE: PROPOSED RULEMAKING ACTIVITY PLAN

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of August 13, 1999.

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 August 13, 1999.

Annette Vietti-Cook
Secretary of the Commission

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

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

VOTING SUMMARY - SECY-99-036

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
COMR. DICUS	X				X	2/22/99
COMR. DIAZ	X				X	3/31/99
COMR. McGAFFIGAN	X				X	6/11/99
COMR. MERRIFIELD	X				X	2/10/99

COMMENT RESOLUTION

In their vote sheets, all Commissioners approved the staff's recommendation and provided some additional comments. Subsequently, the comments of the Commission were incorporated into the guidance to staff as reflected in the SRM issued on August 13, 1999.

Commissioner Comments on SECY-99-036

CHAIRMAN DICUS

I approve the proposed rulemaking activity plan with the following comments:

NRR-C1HP-52 (pg. CI-19): The target completion date should be changed, since the Commission has not yet approved the proposed rule.

- NMSS-C2HP-04 (pg. CII-1): The staff should provide target dates for the planned activities.
- NRR-C4B-24 (pg. CIVB-3): Based on the Commission's SRM for SECY-98-036, the staff should change this item to Category III (rules being planned), and the staff should proceed with development of a schedule and plan. In addition, the staff should rewrite this item to more completely describe the activity.
- NRR-C4B-26 (pg. CIVB-3): The staff should provide its bases for its recommendation to not proceed with rulemaking at this time.
- NRR-C5-46 (pg. CV-3): Under recommendation to proceed, it appears the "Yes" should be "No", since the rule is being dropped. The staff should make any necessary corrections.

COMMISSIONER DIAZ

NRR-C3MP-18 (Staffing and Training Requirements for Defueled Reactors) and NRR-C3MP-34 (Use of Simulators in Operator Licensing) are prime opportunities to eliminate unnecessary burden while increasing the efficient use of NRC resources. Therefore, they should be moved from Medium to Higher priority within Category III (Rules Being Planned).

NMSS-C5-38 (Storage of Greater Than Class C Waste, Part 72) should be moved from Category V (Drop) to Category I (Active Rules) to reflect the Commission's decision in the SRM for COMSECY-98-030.

COMMISSIONER MCGAFFIGAN

I approve the proposed rulemaking activity plan subject to the following comments. I apologize for my delay in voting.

Comments:

1. **NMSS-C3MP-26** (page CIII-6) - IAEA Transportation Standards -- The staff should routinely inform the Commission of its progress in working with the Department of Transportation and the International Atomic Energy Agency to revise current transportation standards, particularly standards for acceptable levels of removable contamination on packages containing spent nuclear fuel. I eagerly await the staff's proposed rulemaking plan.
2. **NMSS-C3LP-07** (page CIII-8) - Decommissioning Funding Certification -- It is unclear from the write-up whether the rulemaking is limited to "accounting for inflation" issues or whether technical issues are also involved. Perhaps the Office of the Chief Financial Officer could provide input to update the 1988 costs data.
3. **NMSS-C3LP-08** (page CIII-9) - Radiography Equipment -- This item was moved from a high priority to a low priority in this RAP. The write-up states that the current rule is very prescriptive and often requires exemptions. Since this rulemaking would be a burden reduction, I suggest that the staff look for efficiency gains in this project so as to move this item from "low priority" to at least a "medium priority" with minimal if any resource increase.
4. **NMSS-C4A-07** (page CIVA-1) - PRM-20-21 -- The write-up should include a status report or, at minimum, describe what information or action is needed to allow NRC to make a decision on this 1993 petition.
5. **NMSS-C4A-19** (page CIVA-2) - PRM-72-03 -- The write-up appears incomplete in that it states that the petition has been *partially* resolved but does not state whether the remaining portions of the petition were denied or not yet resolved.
6. **NMSS-C4B-19** (page CIVB-2) - Transfer of Part 40 material -- Given recent Commission decisions on related issues, sentences 6 and 7 under the "Objective" section should be deleted and replaced with the following: "The rule is currently silent on whether specific licensees may transfer unimportant quantities of source material to persons exempt from licensing for the purpose of disposal of such material. One purpose of this rulemaking would be to make explicit whether NRC prior approval of such transfers is needed to adequately ensure public health and safety."
7. **NMSS-C4B-29** (page CIVB-5) - Geological and Seismological Characteristics of Spent Fuel Storage Systems -- This item has been moved from the "medium priority" active rule category to the "on hold" category apparently because of the lack of available resources. I do not agree that the estimated impact on licensees of 240 hours per amendment and on NRC of 250 hours per action is "minimal." Rather, I believe that resource expenditures of this magnitude warrant a continued NRC effort to revise the rule, particularly since the safe storage of spent nuclear fuel will become increasingly important to nuclear power licensees. Perhaps, an overall resource savings could be realized by combining this rulemaking with the related rulemaking NMSS-C1MP-32-Clarification and Addition of Flexibility to Part 72 (page CI-30) which is due to the Commission within months of when the subject rule is described due under the approved rulemaking plan.
8. A new item should be added to the next rulemaking activity plan to document the staff's efforts to assist the Environmental Protection Agency in identifying efficient disposal alternatives for mixed waste containing low-level radioactive waste. I appreciate the update provided in the staff paper and recognize that the current RAP preceded the January 27, 1999 Commission direction to the staff on this issue.

COMMISSIONER MERRIFIELD

I approve the staff's recommendation to implement the Rulemaking Activity Plan (RAP). I commend the staff for effectively incorporating the changes to the plan that were directed by the Commission in its October 19, 1998 SRM. Overall, the rulemaking activities appear to be appropriately prioritized and the changes in priority proposed by the staff appear to be well-founded. I have already provided comments on specific rulemaking activities such as those outlined in SECY-98-266 (Operator Licensing Examinations), SECY-98-289 (Source Term), SECY-99-014 (Appendix K), and SECY-98-300 (Part 50, Maintenance Rule). I do not believe it is necessary to repeat my comments for the purpose of this SECY.

One concern I have pertains to the status of RM#313, Alternative Site Reviews. I am interested in receiving more information regarding the basis for why RM#313 is on hold. Clearly, codification of standards for alternative site analysis will result in greater regulatory efficiency in the review and adjudication of future applications. A more consistent approach for reviewing alternative sites will indeed stabilize the regulatory process. While I would understand this rulemaking being characterized as low priority given the lack of applications on the horizon, I do not understand why it is on hold with presumably no progress being made. I believe it is prudent for the agency to ensure its regulatory framework is sound in advance of such applications. Thus, I request that the staff provide the Commission with additional information pertaining to the status of this rulemaking.