

March 19, 1999

COMMISSION VOTING RECORD

DECISION ITEM: SECY-99-042

TITLE: DENIAL OF A PETITION FOR RULEMAKING: NUCLEAR ENERGY INSTITUTE (NEI) (PRM-30-61)

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of March 19, 1999.

This Record contains a summary of voting on this matter together with the individual vote sheets, views and comments of the Commissioners, and the SRM of March 19, 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-99-042

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. JACKSON	X				X	3/3/99
COMR. DICUS	X				X	2/28/99
COMR. DIAZ	X				X	2/23/99
COMR. McGAFFIGAN	X				X	2/23/99
COMR. MERRIFIELD	X				X	2/24/99

COMMENT RESOLUTION

In their vote sheets, all Commissioners approved the staff's recommendation to deny the petition for rulemaking 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 March 19, 1999.

[Commissioner Comments on SECY-99-042](#)

[Chairman Jackson's comments on SECY-99-042](#)

I approve the staff proposal to deny the Petition for Rulemaking by the Nuclear Energy Institute and the proposal to develop guidance documents to clarify the flexibility of the current regulations to grant licensees alternative time schedules for initiation of decommissioning. However, the staff should be cautious in the development of the guidance documents to only clarify the flexibility of the existing regulations and not to develop a set of generic exemptions that negate the current rule.

Commissioner Dicus' Comments on SECY-99-042

I approve the denial of the NEI petition for rulemaking regarding implementation of the Timeliness Rule. I also approve the development of guidance to address the concerns in the NEI petition. I support Commissioner McGaffigan's view that the staff should work closely with stakeholders when developing the guidance.

Commissioner Diaz' comments on SECY-99-042

I approve Option 2.

Commissioner McGaffigan's comments on SECY-99-042

I do not object to the denial of the petition for rulemaking. Obviously, NEI may resubmit its petition in its original or modified form if NEI is dissatisfied with the guidance NRC issues on the criteria for review and approval of alternate decommissioning schedules. The staff should work closely with stakeholders in open meetings (and via the Internet Home Page, if appropriate) to develop the review criteria. The review criteria may also want to address the case of federal facilities undergoing decommissioning, a subject which has come up in discussions of external regulation of DOE nuclear facilities. It is my understanding that alternate schedule requests would be granted for a federal facility if the licensee established, inter alia, that an alternate schedule involving some of the federal licensee's other facilities would better take into account the federal licensee's overall decommissioning needs. In other words, the NRC decommissioning timeliness rule would not disrupt the health, safety, and environmental priorities established for the massive overall clean-up of DOE's nuclear facilities.

Specific edits to the Federal Register notice, letter to NEI, and Congressional letters are attached.

Commissioner Merrifield's comments on SECY-99-042

I approve both the denial of the NEI petition regarding the implementation of the Timeliness Rule and the development of guidance to address the concerns in the NEI petition regarding implementation of the Timeliness Rule. The staff's guidance on approving extensions of the timeliness requirements for decommissioning sites and separate buildings or outdoor activities should include the consideration of some type of financial commitment, such as a bond or other instrument, to guarantee coverage of reasonably predicted decommissioning costs in case the company were to become financially insolvent prior to the commencement of decommissioning activities.