

August 10, 1999

COMMISSION VOTING RECORD

DECISION ITEM: SECY-99-173

TITLE: DENIAL OF PETITIONS FOR RULEMAKING SUBMITTED BY THE NUCLEAR INFORMATION AND RESOURCE SERVICE

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of August 10, 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 10, 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-99-173

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
COMR. DICUS	X					7/22/99
COMR. DIAZ	X				X	7/16/99
COMR. McGAFFIGAN	X				X	7/26/99
COMR. MERRIFIELD	X				X	7/22/99

COMMENT RESOLUTION

In their vote sheets, all Commissioners approved the staff's recommendation and some provided additional comments. Subsequently, the comments of the Commission were incorporated into the guidance to staff as reflected in the SRM issued on August 10, 1999.

Commissioner Comments on SECY-99-173

Commissioner McGaffigan

I approve the staff's recommendation to publish in the Federal Register notices of denial of the petitions for rulemaking (PRM-50-65, PRM-50-66, and PRM-50-67), subject to the comments below.

As I said in my vote on [SECY-99-162](#), the staff and the nuclear power industry have done an outstanding job over the past three years to resolve Y2K issues and get U.S. nuclear power plants Y2K ready. In [SECY-99-173](#), the staff arguments for denying the petitions are based primarily on processes the NRC and industry have established to address the Y2K issue. The staff completed its analysis and recommendation before the results of the licensee responses to [Generic Letter \(GL\) 98-01](#) and its [supplement](#) were compiled. The absence of the actual results of the GL responses and its supplement does not, in my view, diminish the staff's arguments. I find the staff arguments denying the petitions to be compelling and persuasive. However, in the interest of providing complete and accurate information to the public, I believe that the staff should update the three FRN notices to reflect the results of the licensee responses to GL 98-01 and its supplement. On this same point, the transmittal letters to the petitioner and Congress should also provide a copy of the recently released NRC Preliminary Report on Nuclear Power Plant Year 2000 Readiness, dated July 19, 1999.

I agree with Commissioner Merrifield that similar letters should be sent to Senators Bennett and Dodd and Congressmen Horn and Turner.

Other edits and corrections are attached.

COMMISSIONER MCGAFFIGAN'S EDITS ON SECY-99-173

Attachment 1A:

1. On page 1, insert "reasonable assurance of" between "provide" and "adequate protection" at the end of the summary paragraph.
2. On page 7, the time interval between July 1 and December 31 is characterized as a "5-month time period" between GL 98-01 response date and the date when most Y2K-induced problems are likely to occur. Obviously, it is six months. On page 16, the term "5-month period" refers to July 1 through December 1, which is characterized as the period for NRC review and evaluation of licensee responses. As discussed in [SECY-99-162](#), any licensee who is not Y2K ready by November 30 will be subject to additional NRC regulatory action which may include issuance of an order requiring specific actions. The text should be revised so that the time frames in question are appropriately characterized and accurately described.

Attachment 1C:

1. On page 12, the discussion about diesel generators in the second paragraph should be revised to read: "For pilot plants, diesel generators continue to be inspected and evaluated using..."
2. On page 22, the last sentence of the first paragraph is confusing and should be revised to read: "Thus, it is unclear how the requested requirements in the NIRS petition would provide assurance that Y2K problems will not prevent electrical power systems from performing their necessary safety function. The NRC concludes that a rule change is not necessary since licensees are already directly addressing spent fuel pool cooling as part of their Y2K programs."
3. On page 24, the first paragraph provides a discussion regarding the time interval (i.e., three years) that forced circulation cooling is needed to remove decay heat from spent fuel. I understand that, with the exception of Zion 2, it has been more than three years since any of these plants irradiated any fuel in the reactor vessel. Given that the staff is currently revisiting this issue -- specifically the time interval for which forced cooling is required as discussed in [SECY-99-168](#), the text should be revised to read: "After a period of decay in the spent fuel pool, the heat load from spent fuel is significantly reduced as short-lived fission products decay. Consequently, ... action is greater. With the exception of Zion, more than three years has elapsed since any fuel was irradiated in the reactor at any of the nuclear power plants currently undergoing decommissioning."

Commissioner Merrifield

I approve the staff's recommendation subject to the following comments.

I noted that in the attachments the staff refers to milestones associated with June 1999 and July 1999 as **future** milestones. For example, on page 10 of Attachment 1-B, the staff indicates that it is currently auditing the contingency planning effort of six licensee facilities and that these audits **will** be completed during June 1999. In other cases, the staff refers to the July 1, 1999 licensee Y2K reporting requirement, and the July 1999 regional reviews of plant-specific Y2K program implementation activities, as future activities. Given the time-line for review and approval of this paper, it is understandable that some of the scheduled milestones discussed in the attachments have passed. While the insights gained from the various activities conducted in June and July are important to the agency's oversight of related Y2K activities, I do not believe they are essential to support the staff's conclusions which form the basis for denying the petitions nor the staff's position that the actions taken by licensees to address Y2K issues and NRC's oversight of these activities provide reasonable assurance of adequate protection to public health and safety. Having said that, a strength of our Y2K efforts to date has been the outstanding job the staff has done in providing stakeholders with clear and timely information on the status of Y2K activities. Given that the Federal Register Notices (FRNs) will not likely be published before early/mid August, I believe the staff should revise them to the extent practicable to include information pertaining to the stated June and July milestones. Once updated, the FRNs should be provided to the Secretary of the Commission for issuance.

I agree with Commissioner Diaz that the letters to Congressman Barton and Senator Inhofe should be enhanced by providing information associated with insights gained from the July 1, 1999 status letters. I believe we should also enhance our discussion in the letters regarding the extent of Y2K oversight activities that have been and will be conducted by the NRC. Finally, I recommend that the staff send similar letters to Senator Bennett (cc: Senator Dodd) and Congressman Horn (cc: Congressman Turner) given their interest in Y2K issues.

The staff should **continue** to ensure that its communication with stakeholders regarding the status of Y2K activities at nuclear facilities and the NRC's oversight of these activities is timely and thorough. Failure to communicate in such a manner will most likely result in unnecessary stakeholder uncertainty, concern, and skepticism.

Please note the additional editorial changes attached.