

October 28, 1999

COMMISSION VOTING RECORD

DECISION ITEM:           SECY-99-191  
TITLE:                    MODIFICATIONS TO THE SAFETY GOAL POLICY STATEMENT

Commissioners Diaz and Merrifield disapproved the subject paper and Commissioner McGaffigan disapproved in part and approved in part. Chairman Dicus approved the paper. The results are recorded in the Staff Requirements Memorandum (SRM) of October 28, 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 October 28, 1999.

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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

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VOTING SUMMARY - SECY-99-191

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
COMR. DICUS	X				X	8/7/99
COMR. DIAZ		X			X	9/9/99
COMR. McGAFFIGAN	X	X			X	10/13/99
COMR. MERRIFIELD		X			X	9/30/99

COMMENT RESOLUTION

In their vote sheets, Commissioners Diaz and Merrifield disapproved the subject paper and Commissioner McGaffigan disapproved in part and approved in part. Chairman Dicus approved the paper. The Commission disapproved the staff's recommendation to proceed with a study of the feasibility of developing overarching safety principles. The Commission did agree to receive the staff's recommendation on whether to modify the current Safety Goal Policy Statement. Subsequently, the comments of the Commission were incorporated into the guidance to staff as reflected in the SRM issued on October 28, 1999.

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Commissioner Comments on SECY-99-191

Chairman Dicus

I approve the staff's actions outlined in SECY-99-191, "Modifications to the Safety Goal Policy Statement," to modify the Safety Goal Policy Statement and to begin the feasibility study of the development of overarching safety principles for the NRC. I am pleased to hear that the Agency will develop

overarching safety principles for application to the spectrum of NRC-regulated entities. Also, I look forward to the definition of long-standing terms. I believe that the conceptual outline offers a significant start in the development of the overarching safety principles. In light of this approval, I offer the following comments:

The staff should ensure that the proposed action in SECY-99-191 aligns with other staff activities (such as SECY-99-100 regarding risk informing materials regulatory activities).

It is more appropriate to explore the issue of providing a definition of "adequate protection" and "defense-in-depth" in terms of the overarching safety principles rather than the Safety Goal Policy Statement. The staff should continue to study the legal and technical implications of defining these terms. The staff should not consider defining "zone of presumptive adequate protection."

A safety goal(s) for non-power reactors and materials users should be developed. In developing the overarching safety principles, the staff should consider what "safety" means for the materials program and ensure it is incorporated. (As similarly noted in the SRM dated June 28, 1999, the staff was directed to define what "safety" means for the materials program and develop appropriate materials safety goals).

The general principles outlined in Regulatory Guide 1.174 should be included in the proposed modification to the Safety Goal Policy Statement.

Temporary changes in risk should be considered in regard to defense-in-depth, and in particular, configuration control. However, care must be taken to assure that the flexibility of the Maintenance Rule and its attendant amendments is not hampered or reinterpreted by a modification of the Safety Goal Policy Statement or development of overarching safety principles.

The staff should notify the Commission promptly if it appears that resource impacts go beyond those anticipated.

To the extent practicable, the staff should seek stakeholder involvement in the modification of the Safety Goal Policy Statement. To the degree that stakeholder involvement for this coincides with stakeholder involvement in the development of the overarching safety principles, staff may credit this involvement. As appropriate, input from the Agreement States should be sought in the development of the overarching safety principles.

#### Commissioner Diaz

I commend the staff for its thoughtful effort in addressing this matter, and for its responsiveness to the Commission's direction in this regard.

The Commission has been well-served over the years by its current philosophical approach to "reasonable assurance" of adequate protection of public health, safety, and the environment. This approach presumes that compliance with the Commission's regulations provides adequate protection, but normally permits continued operation in the case of noncompliance unless the noncompliance creates undue risk to public health and safety. Nonetheless, the Commission should strive, as many voices urge, for greater definition and clarity in its approach. However, precise definition -- particularly quantitative precision -- is beyond present capabilities. What the Commission can do now is to bolster and clarify how it makes its findings of reasonable assurance. The Commission should enhance and verify the bases and premises for its determinations as new methodologies and technology permit. This process not only improves the Commission's specific findings but leads to more refined description of the meaning of "reasonable assurance" of adequate protection.

Currently, we have underway many activities that are strengthening the framework to enable us to clarify our determinations of reasonable assurance of adequate protection of public health and safety. These efforts include the continued development and implementation of the new oversight process for nuclear power plants, the revised 50.59, the revised Maintenance Rule, making 10 CFR Part 50 risk-informed, and revising Part 35 and 70. Moreover, the expanded implementation of risk-informed methods in nuclear power plants (e.g., IST, ISI, TS, etc.) and materials applications (e.g., ISAs) should provide us with additional experience. As they mature, these risk-informed activities, supported by both our robust defense-in-depth approaches and deterministic processes, will better equip us to define the overarching principles.

I believe that it is premature to develop a set of overarching safety principles, and therefore, disapprove the staff's recommendation to conduct the proposed feasibility study. In making this decision, I have also considered that, during the September 7, 1999, Commission briefing on the PRA Implementation Plan, the staff indicated that the overarching safety principles would now have little effect on the reactor aspects of risk-informed regulation and that it appears early for using it in the materials area. I recommend that we wait until experience is gained from the current changes to our regulatory structure so that we can build on a robust foundation. This approach should build on our experience with operational safety, deterministic analysis, and risk-informed methods. Instead of using a top-down approach to develop the overarching safety principles and define adequate protection, we should use a bottom-up approach. The staff should still provide a recommendation to the Commission, by March 30, 2000, on whether to modify the current Safety Goal Policy Statement.

#### Commissioner McGaffigan

I approve in part and disapprove in part the staff's recommendations in SECY-99-191.

First, I associate myself with Commissioner Diaz' comments to the effect that it is premature to develop a set of overarching safety principles for all of our reactor and materials programs and join him in disapproving the staff's recommendation to conduct the proposed feasibility study. I would add that the "Conceptual Outline for Proposed High Level Safety Principles" at Attachment 1 is so general that it hardly could satisfy the expressed stakeholder desire for a clear, concise definition of adequate protection of public health and safety, which could be applied consistently across our regulatory programs. As Commissioner Diaz points out, we have many initiatives underway, most notably the new oversight process and the multi-year effort to risk-inform Part 50, which will provide a better, clearer foundation on which to build at some point in the future.

I also join Commissioner Diaz in not opposing the proposal that the staff provide the Commission a recommendation by March 30, 2000 on whether to

modify the Safety Goal Policy Statement. However, I note that I have significant reservations about this undertaking. The author of this paper has been quoted (perhaps misquoted) to the effect that revision of the Safety Goal Policy Statement will be "controversial, resource-intensive and perhaps unnecessary." To that list of adjectives, I would add "premature" for many of the same reasons that Commissioner Diaz has articulated for delaying the development of the overarching safety principles.

As Dr. Ahearne pointed out at the Commission briefing last month on the recently released CSIS report, the report did call for a clear, concise definition of adequate protection. However, the report also noted that this may be impossible in the prescriptive, deterministic framework which is the basis for the vast majority of our reactor regulations today. The report encouraged us on the path to risk-informed reactor regulation and saw an opportunity in a risk-informed framework to provide clearer, more concise articulation of our safety philosophy. But the CSIS report also pointed out the hard issues to be tackled on the path to risk-informed reactor regulations and saw this as a multi-year undertaking. The report never really reconciled its expressed desire to have as soon as possible a clear, concise definition of adequate protection, perhaps only possible in a risk-informed framework, with its recognition that such a framework is still some years away from being in place. I am fearful that by responding prematurely to a desire on the part of stakeholders to have a clearer, more concise statement of safety philosophy laid out in a revised Safety Goal Policy Statement, we will divert our limited resources from the vital initiatives on the oversight process and a risk-informed Part 50. Our focus needs to remain on those initiatives.

#### Commissioner Merrifield

I commend the staff for their efforts associated with SECY-99-191; however, I do not support the staff's recommendations presented in the paper.

As the staff has pointed out, the concept of adequate protection has multiple attributes and both legal and technical considerations. I agree with Commissioner Diaz that developing a precise definition of adequate protection is beyond our present capabilities and endorse his "bottom-up" approach to eventually defining it. That should not preclude us from striving to further enhance the clarity and discipline associated with how findings of "reasonable assurance of adequate protection" are made. The agency has many initiatives underway, including initiatives to risk-inform our regulations, which should enhance the staff's ability to bring greater clarity and discipline to the process of making findings of reasonable assurance. Insights gained from these initiatives should be used to improve staff training associated with making such findings and more clearly and consistently communicating the bases for these findings to agency stakeholders.

Based on my review of SECY-99-191, the ACRS' April 19, 1999 letter on revising the safety goal policy statement, and statements made by the staff during the September 7, 1999 Commission meeting on the PRA Implementation Plan, I disapprove the staff's recommendation to proceed with a study of the feasibility of developing overarching safety principles. I believe that the staff's proposal to develop overarching safety principles would inappropriately divert NRC resources and focus away from more important activities, would be of little benefit to our ongoing efforts in the area of risk-informing reactor regulation, and would be premature for use in the materials area.

Finally, I note that part of the staff's basis for delaying its recommendation regarding the need to modify the current Safety Goal Policy Statement by 8 months was "the need to ensure coordination and consistency with the feasibility study on overarching safety principles". Should the Commission disapprove the staff's recommendation associated with pursuing the feasibility study, the staff should provide the Commission with a more aggressive schedule than that currently provided in SECY-99-191 (due date: March 30, 2000).