

October 19, 1999

COMMISSION VOTING RECORD

DECISION ITEM: SECY-99-234

TITLE: REQUEST FOR EXTENSION OF MILESTONE FOR FINAL RULEMAKING PACKAGE ON 10 CFR PART 63 (DISPOSAL OF HIGH-LEVEL WASTE AT YUCCA MOUNTAIN, NEVADA)

The Commission (with Chairman Dicus and Commissioners McGaffigan and Merrifield agreeing) approved the subject paper. Commissioner Diaz approved in part and disapproved in part. The final result is recorded in the Staff Requirements Memorandum (SRM) of October 19, 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 19, 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-99-234

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
COMR. DICUS	X				X	10/14/99
COMR. DIAZ	X	X			X	10/1/99
COMR. McGAFFIGAN	X				X	10/7/99
COMR. MERRIFIELD	X					10/6/99

COMMENT RESOLUTION

In their vote sheets, Chairman Dicus and Commissioners McGaffigan and Merrifield approved the paper. Commissioner Diaz approved in part and disapproved in part preferring to grant a two-month extension instead of the four months proposed by the staff. Subsequently, the comments of the Commission were incorporated into the guidance to staff as reflected in the SRM issued on October 19, 1999.

Commissioner Comments on SECY-99-234

Chairman Dicus

With respect to competing resources and complexities surrounding the incomplete status of several important 10 CFR Part 63 related activities, I

approve staff's request to extend the milestone for the final rulemaking package from November 30, 1999, to March 31, 2000. This extension will afford the necessary time that staff will need to:

- Meet with DOE and other stakeholders in December to address defense-in-depth issues;
- Complete responses to all Part 63 comments by 12/31;
- Have final rulemaking package into concurrence by 1/31; and
- Send the draft guidance document (i.e., Yucca Mountain Review Plan (YMRP) - Postclosure), defense-in-depth (D-in-D) clarifications, and final Part 63 rulemaking package to the Commission (3/31).

Providing staff with this extension will help ensure submittal of a quality final product.

Commissioner Diaz

I appreciate the staff's effort to keep the Commission informed of the progress of developing Part 63. However, I disapprove the four month extension proposed in SECY-99-234, and recommend that the Commission grant a two month extension, to January 31, 2000. I grant the two month extension to ensure that the ACNW has an opportunity to consider the final rule before it is sent to the Commission.

In approving the initiation of this rulemaking, the Commission placed a priority on ensuring that this agency fulfills its statutory responsibilities in the Nation's high level waste (HLW) program. A two month extension will allow the staff time to finalize the rule and to address the comments, yet still maintain the momentum of the Part 63 development effort. Completing the final rule in the near term will fulfill the Commission's original intent in approving Part 63's development, and will position the agency to better focus on its next steps in the HLW program.

Commissioner McGaffigan

I reluctantly approve the proposed milestone extension for submittal of the final 10 CFR Part 63 rulemaking package to the Commission from November 30, 1999 to March 31, 2000. I do not support any further extensions to the Part 63 rulemaking schedule since its completion is extremely important to the national high-level radioactive waste management program. I recognize that there are competing NRC resources for attending meetings, reviewing and commenting on the Department of Energy's (DOE) Draft Environmental Impact Statement for Yucca Mountain and DOE's Draft Yucca Mountain siting guidelines (10 CFR 963), and developing NRC's Yucca Mountain Review Plan. However, the staff's highest priorities over the next few months should be finalization of Part 63 and review of and comment on the Environmental Protection Agency's proposed rule for Yucca Mountain (40 CFR 197) including attending EPA-sponsored public meetings on its rule. I support the staff's plan to meet with the NRC's Advisory Committee on Nuclear Waste in November 1999, and DOE and other stakeholders to solicit input on these issues. These efforts should not however cause further delay in the Part 63 schedule since such delays could negatively impact DOE's schedule for preparing the Yucca Mountain license application.