

February 3, 2000

COMMISSION VOTING RECORD

DECISION ITEM: SECY-99-264

TITLE: PROPOSED STAFF PLAN FOR RISK-INFORMING TECHNICAL REQUIREMENTS IN 10 CFR PART 50

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of February 3, 2000.

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 February 3, 2000.

Annette Vietti-Cook
Secretary of the Commission

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

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

VOTING SUMMARY - SECY-99-264

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. MESERVE	X				X	12/28/99
COMR. DICUS	X					12/20/99
COMR. DIAZ	X				X	1/6/00
COMR. McGAFFIGAN	X				X	12/17/99
COMR. MERRIFIELD	X				X	12/21/99

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 February 3, 2000.

Commissioner Comments on SECY-99-264

Chairman Meserve

I approve the staff's plan for the first (study) phase of risk-informing technical requirements in 10 CFR Part 50, subject to the following comments.

1. The staff should ensure that the criteria used to screen, prioritize, and determine the scope and feasibility of changes to technical requirements in 10 CFR Part 50, are consistent and compatible with other ongoing efforts related to risk-informed regulation, including:
 - Implementation of risk-informed processes as described in [SECY-99-246](#) and [SECY-99-256](#);
 - Implementation of the risk-informed plant oversight program; and
 - Modification of the Safety Goal Policy Statement, pursuant to [SECY-98-101](#).

To the extent possible, the process should also be consistent with the development of a framework for risk-informed regulation by the Office of Nuclear Materials Safety and Safeguards, as discussed in [SECY-99-100](#).

The ACRS should review the staff's progress to ensure consistency of approach and should inform the Commission of potential conflicts or impediments in this effort.

2. The staff should consider the issue of whether risk-informed requirements in Part 50 will be voluntary or mandatory for future plants and report to the Commission.
3. Policy issues connected with the development of a risk-informed regulatory system should be highlighted for resolution by the Commission as early as possible during this process. These include, but are not limited to, issues related to the concept of defense-in-depth, as discussed in the ACRS's letter of October 12, 1999.
4. The need for stakeholder involvement in this process is recognized by the staff. The plan to establish a website to facilitate communication with stakeholders is appropriate. However, the staff should consider Commission guidance in [SRM 991109A](#) (Nuclear Materials and Waste Activities Stakeholders Meeting), regarding accommodation of stakeholders with little or no Internet access or awareness.
5. In the context of risk informing technical requirements, the staff attention should also review safety issues noted in Part 50 as being "under consideration" or "under development," e.g., the issues of postulated breaks in the reactor coolant pressure boundary and failures of passive components in fluid systems, as discussed in footnotes 1 and 2 to the Definitions and Explanations of Appendix A, and consider their resolution.

Commissioner Diaz

I approve the staff proposed approach and schedule for conducting the study phase of its work to risk-inform the technical requirements in 10 CFR Part 50. I believe the staff's report on the study phase should contain technical bases for its recommendations. To establish a complete, coordinated plan for risk-informing Part 50, in addition to the Phase 1 study plan covered in this paper, the staff should develop a plan for Phase 2 (implementation phase). The plan for the implementation phase should be submitted to the Commission for approval. The staff also proposes to conduct a broad, systematic assessment of Part 50 requirements in the study described in this paper. I encourage the staff to make it a priority to consider risk-informing the scope of the maintenance rule, followed by risk-informing Appendices A and B to Part 50.

Commissioner McGaffigan

I approve the staff's plan for risk-informing the technical requirements in Part 50. The plan provides for an aggressive schedule of activities over the coming year, including extensive interactions with external stakeholders and frequent updates for the Commission.

My comments on [SECY-99-256](#) about the futility of detailed planning beyond the time horizon in that paper apply even more so to this paper. The staff and the Commission, together with stakeholders, are embarking on an effort that will require the invention and justification of new concepts. This will not be done on some pre-ordained detailed five-year schedule.

Commissioner Merrifield

I approve the staff's plan for performing the study phase of its work to risk-inform the technical requirements in 10 CFR Part 50.

As I stated in my vote on [SECY-99-256](#), the staff's success in this effort could be determined, in large part, by its ability to effectively communicate with stakeholders. An initiative of this magnitude and importance warrants a high degree of participation by the public, the nuclear industry, and other external stakeholders. As was discussed at the stakeholder meeting on December 16, 1999, there is a great deal of uncertainty associated with this initiative. This uncertainty is clearly manifesting itself in cost/benefit concerns on the part of our licensees and safety concerns on the part of some of our other stakeholders. I believe this uncertainty is understandable given where we, as an agency, are in the process. However, as this initiative proceeds, the staff should develop a communication plan which facilitates greater stakeholder involvement in, and understanding of, the goals of the initiative, the options we are considering, the course (roadmap) we ultimately set, and the milestones we intend to meet. The staff should actively seek stakeholder participation in each step of the Phase 1 work, especially the identification and prioritization of candidate changes to requirements and design basis

accidents. I strongly encourage the staff to consider the stakeholder feedback already received, especially the very important insight that there are greater problems with implementing documents than with the regulations.

Solicitation of input from our internal stakeholders (including OGC) on this matter is also essential. As the staff has indicated, the work to risk-inform the technical requirements of 10 CFR Part 50 is closely related to the work to make changes to the overall scope of SSCs covered by those sections of Part 50 requiring special treatment. Thus, there must be consistency between the work being carried out as part of Option 2 (SECY-99-256) and the work being carried out as part of Option 3 (SECY-99-264). This will require close coordination between RES and NRR as well as direct senior management oversight.

I was initially concerned about the staff's "disclaimer" that the completion of Task 3 may extend beyond December 2000. However, based on follow-up discussions with the staff and the comments made by stakeholders at the December 16th stakeholder meeting, I now have a better appreciation for the intent of this disclaimer. This is a very important initiative that warrants a deliberate and careful approach. It is better to do it right the first time than allow expediency to lead to misdirection or false starts. Such errors could undermine public confidence and industry interest in this initiative. Having said that, I believe stagnation would lead to similar results. Thus, the staff should proceed efficiently and effectively, and hold itself accountable for achieving prudent milestones.

I appreciate the staff's rationale for considering the impact on both current and future plants in its prioritization process. It is important that we proactively address the regulatory framework associated with future plants, and I commend the staff for doing that. However, I believe that initially the principal focus of this work should be on the current set of licensed reactors. The staff's plan to give potential regulatory changes that impact both current and future plants higher priority than those only affecting current reactors could result in less important matters of broader scope (current + future) being addressed ahead of more important matters of narrower scope (current only). Given our resource limitations and the near-term outlook for new plants in the U.S., I believe the potential regulatory changes that impact the current plants should receive the highest priority. Again, the staff is correct in pointing out that ultimately we must address potential regulatory changes that impact both current and future plants.

Consistent with my vote on SECY-99-256, given the magnitude of this initiative and the resources dedicated to it, the staff should periodically step back and assess the progress and direction of NRC efforts, the extent of licensee interest, the adequacy of communication with stakeholders, potential future obstacles to progress, the adequacy of inter-office coordination, and the accuracy of resource and schedule projections. The results of this assessment should be provided to the Commission every 6 months.

Finally, as has been said on many occasions, there should be no doubt in anyone's mind that risk-informing Part 50 is a double-edge sword in that it will likely involve relaxing requirements in some areas while increasing requirements in other areas.