

May 3, 2000

COMMISSION VOTING RECORD

DECISION ITEM: SECY-00-0057
TITLE: FINAL RULE: REVISION OF PART 50, APPENDIX K, "ECCS EVALUATION MODELS"

The Commission (with all Commissioners agreeing) approved the subject paper as noted in an Affirmation Session and recorded in the Affirmation Session Staff Requirements Memorandum (SRM) of May 3, 2000.

This Record contains a summary of voting on this matter together with the individual vote sheets, views and comments of the Commission.

Annette Vietti-Cook
Secretary of the Commission

Attachments: 1. Voting Summary
2. Commissioner Vote Sheets

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

VOTING SUMMARY - SECY-00-0057

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. MESERVE	X				X	4/11/00
COMR. DICUS	X					4/10/00
COMR. DIAZ	X				X	3/20/00
COMR. MCGAFFIGAN	X				X	4/12/00
COMR. MERRIFIELD	X				X	3/22/00

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 noted in an Affirmation Session and incorporated into the guidance to staff as reflected in the Affirmation Session SRM issued on May 3, 2000.

Commissioner Comments on SECY-00-0057

Commissioner Diaz

I approve the staff's recommendation to publish the final rule to amend [10 CFR Part 50, Appendix K](#). The staff should review the standard review plan (NUREG-0800) to evaluate the impact of the revised rule on non-LOCA safety analyses. Furthermore, the staff should also develop guidance for licensees to utilize the latest technology in measuring flow and power and their applications in safety analyses.

Commissioner McGaffigan

I support issuing the proposed final rule. However, the staff should continue, as directed by the SRM for SECY-99-014, to treat this as a major rule, and the Federal Register notice should be appropriately modified. The staff included this rule, as that SRM directed, in the agency's annual letter to the Office of Information and Regulatory Affairs in OMB. The staff has estimated the per plant benefit of the power uprate essentially enabled by the rule at between one and 2.7 million dollars. While not all of the 103 operating power reactors may immediately avail themselves of the option this rule would create, I believe it is likely that enough licensees will seek the uprates over time to reach the 100 million dollars annual effect that defines a major rule, particularly since the staff has now approved two flowmeter technologies, both the Caldon Leading Edge Flowmeter and the ABB Crossflow. If we assume 55 plants rather than 50 make the change, the mid point annual benefit in the Decision Rationale Summary on page 14 of the Regulatory Analysis of Attachment 2 would move from \$92.5M to \$101.75M. If it's this close a call, we should maintain our previous characterization of this rule.

I also join with Chairman Meserve and Commissioner Merrifield in requesting that the press release and Congressional letters be redrafted, especially if the Commission concurs that this should continue to be treated as a major rule.

Finally, I would suggest that the Federal Register notice be updated on page 13 to reflect the staff's issuance of the safety evaluation on the ABB Crossflow measuring system since this SECY paper was submitted to the Commission on March 3.

Commissioner Merrifield

I commend the staff for their efforts associated with SECY-00-0057. It is clear that the staff's review of this matter was both timely and thorough. This final rule is a significant accomplishment as it is consistent with agency's reactor safety performance goals, it offers licensees the potential for significant financial benefits without compromising the margin of safety at the plant, and it again demonstrates that the NRC is receptive to upgraded and emerging technologies that are soundly supported.

I believe the staff has clearly articulated that the revised rule, by itself, does not allow increases in licensed power levels. When licensees elect to increase the licensed power level or to make other changes to ECCS-related technical specifications on the basis of the revised rule, they must submit a license amendment request for staff review and approval. I am confident that the staff's reviews will continue to be thorough and timely. I do encourage the staff to ensure that, in those cases in which an amendment request is based on applying upgraded flow measurement technology, the staff reviewers have a clear understanding of the associated measurement uncertainties.

I must convey some disappointment over the draft press release and the Congressional letters. The press release is somewhat disjointed and does not "tell the story" in a manner that facilitates public understanding. For example, I doubt that many members of the public would understand the message the staff is trying to convey by the second paragraph. I ask that the staff revise the press release so that it clearly and orderly lays out: 1) what our current requirements are, 2) the impetus for the change, 3) how the revised rule affects licensees, and 4) why, from a safety perspective, the NRC is comfortable with the revised rule. The significance of the action should also be clearly conveyed. Regarding the Congressional letters, I believe the benign letter proposed by the staff represents a missed opportunity to communicate with Congress about a significant NRC accomplishment. The NRC has touted this rule change as a significant agency accomplishment in such Congressional correspondence as the monthly status reports and the FY 1999 Annual Report. I believe it would be a disservice to the staff who worked on this final rule to shortchange their efforts by ineffectively communicating with Congress at this stage. I encourage the staff to revise the Congressional letters so that the significance of the final rule is clearly conveyed.