

April 12, 2000

COMMISSION VOTING RECORD

DECISION SECY-00-0063

ITEM:

TITLE: STAFF RE-EVALUATION OF POWER REACTOR PHYSICAL PROTECTION REGULATIONS AND POSITION ON A DEFINITION OF RADIOLOGICAL SABOTAGE

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum ([SRM](#)) of April 12, 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
DCS

VOTING SUMMARY - SECY-00-0063

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. MESERVE	X				X	3/29/00
COMR. DICUS	X				X	3/25/00
COMR. DIAZ	X					3/17/00
COMR. MCGAFFIGAN	X				X	4/6/00
COMR. MERRIFIELD	X				X	3/24/00

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 April 12, 2000.

Commissioner Comments on SECY-00-0063

Chairman Meserve

I approve the staff's approach in reevaluating the power reactor physical protection regulations and the definition of radiological sabotage by providing performance criteria as the basis for physical protection requirements.

The staff should continue its plans to test the concepts within the industry and should seek broad stakeholder comment. The

staff should keep the Commission informed of the status of this initiative, raising issues of significant concern expeditiously.

Commissioner Dicus

I approve the staff's revised approach to re-evaluate power reactor physical protection regulations and the definition of radiological sabotage by providing design criteria as the basis for physical protection regulations.

I encourage the staff to consider whether there are opportunities to further risk-inform and

make these regulations performance-based. During the piloting of a industry-proposed Self Assessment Program, the staff should consider oversight of the revised security requirements and opportunities to improve performance indicators in the security area.

Commissioner McGaffigan

I approve the staff's proposed approach to re-evaluate the power reactor physical protection regulations, and proposed definition of radiological sabotage by providing performance criteria as the basis for physical protection regulations.

The staff is to be commended for its work with interested stakeholders in attempting to achieve a workable definition of radiological sabotage, per se. The notion of a definition in terms of performance criteria appears to be promising because it readily lends itself to performance assessment. This approach should go a long way in addressing the general concern about the weakness in the physical protection performance indicator under the revised reactor oversight process. The staff is also to be commended for its intent to continue to interact with stakeholders as it proceeds with this rulemaking effort, and its intent to pilot performance criteria as part of the industry proposed Self-Assessment Program.

I am interested in how the proposed use of the phrase "appropriate margin of safety" is addressed in the proposed rule. I suspect that some stakeholders may be confused by the concept. My understanding is that margin of safety is normally a design consideration that accounts for various physical or process uncertainties. Its application in the physical protection arena may be unique. I also suspect that other stakeholders may view that phrase as imprecise and see in it the potential for "ratcheting" on the part of inspectors. In the Federal Register announcement on this proposal, I encourage the staff to consider seeking feedback on the application of "margin of safety" for protecting critical safety functions.

As a minor matter, I note that the staff uses the terms "design criteria" and "performance criteria" interchangeably in this paper. I believe performance criteria is preferable to design criteria, but whichever term is used, it should be used consistently.

Commissioner Merrifield

I approve the staff's recommendations as outlined in SECY-00-0063 to begin, with stakeholder involvement, the development of appropriate design criteria for physical protection regulations. The staff should keep the Commission informed, by informal or formal methods as appropriate, of the status of this program through relatively frequent communications. In addition, the staff's review of the proposed industry Self-Assessment Program should clearly articulate the relationship between this industry proposed voluntary program and NRC's enforcement capabilities in this very important area.