

July 11, 2000

COMMISSION VOTING RECORD

DECISION SECY-00-0093

ITEM:

TITLE: RULEMAKING TO MODIFY THE EVENT REPORTING REQUIREMENTS FOR POWER REACTORS IN 10 CFR 50.72 AND 50.73 AND FOR INDEPENDENT SPENT FUEL STORAGE INSTALLATIONS (ISFSI) IN 10 CFR 72.216

The Commission (with Chairman Meserve and Commissioners Dicus, McGaffigan, and Merrifield agreeing and Commissioner Diaz agreeing in part and disagreeing in part) approved the subject paper as noted in an Affirmation Session and recorded in the Affirmation Session Staff Requirements Memorandum (SRM) of July 11, 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-00-0093

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. MESERVE	X				X	6/12/00
COMR. DICUS	X				X	6/18/00
COMR. DIAZ	X	X			X	6/15/00
COMR. McGAFFIGAN	X				X	6/5/00
COMR. MERRIFIELD	X				X	6/12/00

COMMENT RESOLUTION

In their vote sheets, Chairman Meserve and Commissioners Dicus, McGaffigan, and Merrifield approved the staff's recommendation and provided some additional comments. Commissioner Diaz approved in part and disapproved in part the staff's recommendation and provided some additional comments. Commissioner Diaz disapproved the provisions regarding four-hour telephone reporting because for non-emergencies, he felt there is a great deal of value in providing a licensee an entire shift's worth of time to more completely evaluate the circumstances surrounding an event and to make a timely, accurate report. Subsequently, the comments of the Commission were noted in an Affirmation Session, as reflected in the Affirmation Session SRM issued on July 11, 2000.

Commissioner Comments on SECY-00-0093

Chairman Meserve

I approve the staff's recommendation to publish the final rule in the *Federal Register*, subject to the editorial corrections attached. I concur with Commissioner McGaffigan's suggestions for the *Federal Register* notice. I also approve certification as required by the Regulatory Flexibility Act.

I agree with the maintenance of the 4-hour reporting criterion for certain events. This criterion represents a change from the proposed rule, which contained only 1-hour, 8-hour and 60-day reporting criteria. The 4-hour reporting criterion was reinstated for events where there may be a need for the NRC to take a reasonably prompt action or respond to heightened public concern. The rule specifies four types of events requiring 4-hour reports: two were previously classified as 1-hour reports and the remaining two were previously classified as 4-hour reports. While this change represents an additional level of reporting requirements from the proposal, it continues to result in an overall burden reduction from the current rule.

I also note some minor modifications of the Regulatory Analysis.

Commissioner Dicus

I approve the publication of the *Federal Register* notice that promulgates the final rule. I also concur with Commissioner McGaffigan's proposed text for the *Federal Register Notice*.

Commissioner Diaz

I approve this final rule, except for the provisions regarding four-hour telephone reporting. Most aspects of this rule will, indeed, simplify reporting requirements and enhance this agency's ability to respond in a time frame commensurate with the risk significance of events. However, I believe that the inclusion of the four hour telephonic event reporting requirement will add unnecessary confusion and complexity. The four hour report category should be deleted, and this portion of the rule should be restructured to be similar to the proposed rule. In addressing this issue, the following considerations should be kept in mind:

- ours is a national regulatory program;
- rapid event notification requirements, particularly one hour notifications, are necessary for the fulfillment of the NRC's emergency response function;
- individual States can, and do, enter into a variety of coordination arrangements with NRC licensees, and these reporting requirements do not prohibit such arrangements; and,
- for non-emergencies, there is a great deal of value in providing a licensee an entire shift's worth of time to more completely evaluate the circumstances surrounding an event and to make a timely, accurate report.

Concerning the inclusion of a list of systems in the rule language, I believe the staff's approach is appropriate for the time being. From the generic standpoint, this list is risk informed, and its use will add consistency across the industry. However, the structure and content of this list should be revisited as we progress with risk informing [10 CFR Part 50](#).

Commissioner McGaffigan

I approve subject to the following edit:

Substitute the following two paragraphs for the third and fourth full paragraphs on page 57 of the Federal Register notice. This substitute text explains the removal of §§ 72.216(a) and (b), which was not explained in the existing text:

Spent fuel storage cask problems [former sections 50.72(b)(2)(vii) and 72.216(a)(1), (a)(2), and (b)]. The provisions of section [50.72\(b\)\(2\)\(vii\)](#) are deleted because these reporting criteria are redundant to the reporting criteria contained in sections [72.216\(a\)\(1\)](#) and [\(a\)\(2\)](#). Repetition of the same reporting criteria in different sections of the rules added unnecessary complexity and was inconsistent with the current practice in other areas, such as reporting of safeguards events as required by section [73.71](#).

Sections [72.216\(a\)\(1\)](#) and [\(a\)\(2\)](#) place upon general licensees the same reporting criteria as are placed on specific licensees under sections [72.75\(b\)\(2\)](#) and [\(b\)\(3\)](#). To avoid duplication in Part 72, sections [72.216\(a\)\(1\)](#) and [\(a\)\(2\)](#) are deleted and section [72.216\(c\)](#) is abridged to simply require that the general licensee shall make initial and written reports in accordance with sections [72.74](#) and [72.75](#). These changes eliminate a reference in section [72.216\(a\)](#) to section [50.72\(b\)\(2\)\(vii\)](#), now deleted, which had established the time limit for initial notification by general licensees. The same time limit is placed on general licensees by including them within the scope of section [72.75\(b\)](#). Section [72.216\(b\)](#) is also deleted because its requirements for a written report are encompassed by section [72.75\(d\)\(2\)](#).

Commissioner Merrifield

The staff should revise the fourth paragraph of the press release to clarify that under the revised regulations, there are three

types of reporting requirements: within one hour, within four hours, and within eight hours. As written, it is not clear whether we have any four hour requirements.