

September 18, 2001

COMMISSION VOTING RECORD

DECISION ITEM: SECY-01-0099

TITLE: RULEMAKING PLAN AND ADVANCE NOTICE
 OF PROPOSED RULEMAKING: ENTOMBMENT
 FOR POWER REACTORS

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of September 18, 2001.

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

Annette L. Vietti-Cook
Secretary of the Commission

Attachments:

1. Voting Summary
2. Commissioner Vote Sheets

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

VOTING SUMMARY - SECY-01-0099

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. MESERVE	X				X	6/25/01
COMR. DICUS	X				X	7/31/01
COMR. McGAFFIGAN	X				X	9/10/01
COMR. MERRIFIELD	X				X	8/27/01

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 September 18, 2001.

Commissioner Comments on SECY-01-0099

Chairman Meserve

I approve the staff's rulemaking plan to develop a rule to allow entombment as a decommissioning option for power reactors. I also approve the staff's request to publish an Advance Notice of Proposed Rulemaking (ANPR) in the Federal Register.

In SECY-01-0099, the staff proposes three options for rulemaking to enable entombment as a decommissioning option for power reactors. The three options address the requirements of timely decommissioning required by §50.82(a)(3) and demonstration of compliance with the dose requirements of 10 CFR Part 20, Subpart E. The staff plans to use the feedback received from the ANPR in formulating a recommendation on which of the three options should be pursued.

The pursuit of either option 2 or 3 of SECY-01-0099 will require the commitment of significant agency resources. Before the agency commits to this level of effort, an assessment of the number of licensees likely to pursue entombment as a decommissioning option needs to be conducted. Staff should assess the number of licensees that are likely to pursue entombment as a decommissioning option as part of the ANPR. This information should be considered by staff in formulating a recommendation on which option to pursue.

Commissioner Dicus

I support Chairman's comments.

Commissioner McGaffigan

I approve the staff's rulemaking plan for potential development of a rule to allow entombment as a decommissioning option for power reactors. I also approve the staff's request to publish an Advance Notice of Proposed Rulemaking (ANPR) in the Federal Register.

For over thirteen years, we have alluded to entombment as a viable decommissioning option in our ongoing dialog regarding reactor decommissioning. The Department of Energy has actually entombed small reactors in Ohio, Nebraska, and Puerto Rico under its regulatory authority. While I understand that there is little enthusiasm among the States for entombment, and little interest at this time among licensees, almost all of whom are planning to pursue license renewal, I believe that we do have an obligation to our stakeholders to formally vet this option at some point through the rulemaking process. At this time an ANPR seems an appropriate step to gather stakeholder input.

I agree with the Chairman's edits to the Federal Register Notice.

Commissioner Merrifield

I do not object to the staff's recommendation to publish the advance notice of proposed rulemaking (ANPR) soliciting public comment on the entombment option for power reactors. My support for publishing the ANPR in no way represents support for the entombment option. In fact, I have some concerns with the entombment approach and the potential impact that entombment could have on the communities surrounding facilities that choose that option. I am approving the publication of the ANPR in order to solicit input and comments from the members of the public that live in those communities so that the Commission can make an informed decision on this issue in the future. However, to truly solicit comments from members of the public on this issue there should be a much clearer discussion of the pros and cons of entombment and the options presented. While the Federal Register notice highlights the options, it does not provide enough information for a member of the public who has not previously been involved in this issue to understand the pros and cons of entombment and make informed comments. This is a complex issue and we should afford the public the opportunity to fully understand the issue and to provide comments to the Commission. Therefore, the staff should either revise the Federal Register notice to include a more substantial plain language discussion of the issue and options or include in the Federal Register notice a reference to another paper that provides a more in-depth plain language discussion. If the additional paper option is chosen, the paper should be easily retrievable by a member of the public (i.e. on the web) and should be available in a time frame which allows for public review and comment during the comment period allowed for the notice.