

June 18, 2002

COMMISSION VOTING RECORD

DECISION ITEM: SECY-02-0043

TITLE: PROPOSED RULE: GEOLOGICAL AND SEISMOLOGICAL CHARACTERISTICS FOR THE SITING AND DESIGN OF DRY CASK INDEPENDENT SPENT FUEL STORAGE INSTALLATIONS AND MONITORED RETRIEVABLE STORAGE INSTALLATIONS - 10 CFR PART 72

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of June 18, 2002.

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 Diaz
Commissioner McGaffigan
Commissioner Merrifield
OGC
EDO
PDR

VOTING SUMMARY - SECY-02-0043

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	PARTICIP	NOT COMMENTS	DATE
CHRM. MESERVE	X				X	5/21/02
COMR. DICUS	X				X	6/11/02
COMR. DIAZ	X				X	6/13/02
COMR. McGAFFIGAN	X				X	6/3/02
COMR. MERRIFIELD	X					6/5/02

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 June 18, 2002.

Commissioner Comments on SECY-02-0043

Chairman Meserve

The staff seeks Commission approval to publish proposed amendments to the seismic requirements in Part 72 to require that a new specific license applicant for a dry cask storage facility located in certain geographic areas address uncertainties in seismic hazard evaluations by using appropriate analyses, such as a probabilistic seismic hazard assessment or “other suitable sensitivity analyses.” The staff also seeks approval of proposed changes to Part 72 to specify that general licensees must evaluate dynamic loads, as well as static loads, in design of cask storage pads and areas. I approve the staff’s request to publish the proposed amendments to Part 72 subject to the following comment.

The *Federal Register* notice states that the proposed changes apply to the design basis of both a dry cask storage type of ISFSI and MRS because these facilities are similar in design, but do not apply to wet modes of storage because the risk is higher for these latter facilities. SECY-02-0043, Attachment 2 at 10. Because the stated purpose of the rulemaking is to address uncertainties in seismic hazard analysis by using appropriate analyses, the fact that wet modes of storage may constitute a higher risk seems to argue for, not against, the use of probabilistic methods to address uncertainties in the seismic hazard analysis. The proposed rule should be revised to exclude wet modes of storage on the basis that new applications for this type of facility are not expected and, consequently, it is not cost-effective to allocate resources to develop the technical basis for such an expansion of the rulemaking.

I attach several minor editorial changes to the *Federal Register* notice.

Commissioner Dicus

Concur with the Chairman’s comments.

Commissioner Diaz

I approve publication of the proposed amendments to the seismic requirements in Part 72 for dry cask independent spent fuel storage (ISFSI) and monitored retrievable storage (MRS) installations. I continue to support efforts to risk-inform our regulations, which this proposed rulemaking would accomplish, in part by allowing an ISFSI or MRS applicant to use a design earthquake ground motion that is commensurate with the lower risk associated with these facilities relative to a nuclear power plant.

Commissioner McGaffigan

I approve the staff’s recommendation in SECY-02-0043 to publish in the Federal Register the proposed amendments to the seismic requirements in 10 CFR Part 72. I also agree with the Chairman’s comments regarding the reason for excluding the wet modes of storage from these rulemaking changes. I would add that the changes recommended by the Chairman for the proposed rule also should be applied to similar discussions in the Environmental Assessment and the draft Regulatory Guide DG-3021.