

June 25, 2002

COMMISSION VOTING RECORD

DECISION ITEM:       SECY-02-0081

TITLE:                 STAFF ACTIVITIES RELATED TO THE NRC  
                          GOAL OF REDUCING UNNECESSARY  
                          REGULATORY BURDEN ON POWER REACTOR  
                          LICENSEES

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of June 25, 2002.

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

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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-02-0081

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	PARTICIP	NOT COMMENTS	DATE
CHRM. MESERVE	X				X	6/17/02
COMR. DICUS	X				X	6/19/02
COMR. DIAZ	X				X	5/28/02
COMR. McGAFFIGAN	X				X	6/19/02
COMR. MERRIFIELD	X				X	5/20/02

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 June 25, 2002.

## Commissioner Comments on SECY-02-0081

### Chairman Meserve

I heartily endorse the staff's efforts to commence a short-term, limited-scope initiative to undertake certain proposed rulemakings without the development of formal rulemaking plans. The staff's effort provides the opportunity to reduce regulatory burden without impacting the protection of public health and safety.

The staff has provided a list of possible subjects for this effort. SECY-02-0081, Attachment 2. Although this list seems on the whole to identify appropriate subjects, there are a few items that I believe should not be considered:

- o 10 C.F.R. 50.36(a)(2). This section requires the submission of radioactive effluent reports. The elimination of this report would have an adverse impact of public confidence. See SECY-02-0081, Attachment 1, at 2.
- o 10 C.F.R. 50.44(p)(2) and 72.44(e). These sections require the submission of reports relating to changes to security plans that are made without prior NRC approval. In light of the current elevated threat condition and the public concern about security, these reports should be retained.
- o 10 C.F.R. 50.54(q) and 10 C.F.R. 50, Appendix E, Section V. These provisions require the submission of changes to the emergency plan or implementing procedures that are made without prior NRC approval. In light of the elevated threat condition and the public concern with emergency plans, these reports should be retained.

### Commissioner Dicus

I approve the staff proposal of reducing unnecessary regulatory burden on power reactors licensees by initiating and developing proposed rulemakings arising from the short-term, limited scope initiatives without formal rulemaking plans. I also approve the performance plan milestones to complete the short-term, limited scope initiative by September 30, 2004.

However, I have reservations regarding proposed rulemaking on some of the items listed on Attachment 2. Due to the considerable staff efforts in the area of security and safeguards resulting from the events of September 11, 2001, I believe that two items should not be pursued at this time. These include 10 CFR 50.54(p)(2) and 10 CFR 72.44(e) which require the submission within 2 months any changes made to physical security plans without prior NRC approval, and 10 CFR 50.54(q) and 10 CFR 50, Appendix E, Section V which requires the submission within 30 days any changes made to the emergency plan or implementing procedures without prior NRC approval.

### Commissioner Diaz

I approve the staff's recommendation regarding the initiation, development, and submission of proposed rulemakings arising from the short-term, limited scope initiative to reduce regulatory burden while maintaining safety.

Attachment 2 of the SECY provided a partial list of suggested changes to delete unnecessary requirements. Of these items, I am opposed to considering deleting the following reporting requirements at this time:

Any reporting requirement associated with security or safeguards. It is not appropriate to reduce any reporting requirements in this area at this time because of our ongoing efforts in followup to the events of September 11, 2001.

Reporting requirements associated with 10 CFR 50.59, such as the item the staff listed as "**10 CFR 50.59(b)(2)** - Periodically submit a summary of 10 CFR 50.59 and 10 CFR 72.48 evaluations." In light of the recent changes to 10 CFR 50.59, these reporting requirements should be retained. Future changes could be considered once several years of experience are gained.

### Commissioner McGaffigan

I join with Chairman Meserve and Commissioners Merrifield and Diaz in approving, in general, the recommendations by the staff contained in SECY-02-0081. I support the three exceptions proposed by the Chairman. I also agree with Commissioner Diaz that the recent changes made to 10 CFR 50.59 and 10 CFR 72.48 make it appropriate to retain the reporting requirements of 10 CFR 50.59(b)(2) and 10 CFR 72.48(d)(2) until additional experience is gained. I also agree with Commissioner Merrifield not to eliminate the 10 CFR 26.71(d) requirement to submit fitness-for-duty performance data every six months.

Finally, I do not support amending 10 CFR 50.75(f)(1) to eliminate the two-year reporting requirement on the status of decommissioning funding. This requirement was put in place only recently and the staff has obtained only two rounds of reports. There has been Congressional and General Accounting Office interest in this topic. And there can be substantial changes in availability of decommissioning funds outside the context of a merger or acquisition, witness the events at Cooper.

In total, I am opposed to six of the twelve changes proposed in Attachment 2 of SECY-02-0081.

### Commissioner Merrifield

I approve the concept described as the short-term, limited scope initiatives including the recommendation to not submit formal rulemaking plans; however, the staff should provide the Commission with a list of the rulemakings that they will undertake with estimated dates for the proposed rulemakings.

The suggested change to eliminate the requirement to submit changes made to the physical security plan without prior NRC approval and to eliminate the submittal of the fitness-for-duty

program performance data should not be pursued at this time. This is based on the ongoing changes in the area of security as a result of the events of September 11, 2001, and the staff's focus on other higher priority changes in the security area.

Finally, the staff should provide information on how the longer term efforts to reduce unnecessary regulatory burden or efforts that are part of other rulemaking activities and handled under the normal processes will be tracked. The staff should establish a method for measuring the total results from these efforts to reduce unnecessary regulatory burden on power reactor licensees.