

March 15, 2004

COMMISSION VOTING RECORD

DECISION ITEM: SECY-03-0227

TITLE: REVIEW STANDARD RS-002, "PROCESSING
APPLICATIONS FOR EARLY SITE PERMITS"

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of March 15, 2004.

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 Diaz
 Commissioner McGaffigan
 Commissioner Merrifield
 OGC
 EDO
 PDR

VOTING SUMMARY - SECY-03-0227

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. DIAZ	X				X	1/23/04
COMR. McGAFFIGAN	X				X	2/17/04
COMR. MERRIFIELD	X				X	2/2/04

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 March 15, 2004.

Commissioner Comments on SECY-03-0227

Chairman Diaz

I approve the recommendation to authorize the staff to issue Review Standard RS-002, "PROCESSING APPLICATIONS FOR EARLY SITE PERMITS." As the early site permit reviews for the three docketed applications progress, aspects of the review guidance will likely need to be enhanced. I encourage the staff to take full advantage of the interim staff guidance process described in the Commission Paper to address emergent issues and revise the review standard, as necessary.

The review standard should be updated to reflect the revisions to 10 CFR Part 2 which will become effective on February 13, 2004.

Commissioner McGaffigan

The Commission directed the staff, in the SRM for SECY-02-0199, to complete a Review Standard or Standard Review Plan in which the staff would "explain its review process, including specific criteria that the staff will use to make its determination as to whether new siting information or a program modification is necessary." The staff developed the review standard (RS-002) and then forwarded it to the Commission for approval in SECY-03-0277. I agree that RS-002 accomplishes its objective of summarizing for applicants and the public the staff's processes and acceptance criteria for site permit application reviews. I am very concerned, however, at what appears to be an obvious inconsistency between maximum tornado wind speeds assumed for the NRC certified, standardized reactor designs and the wind speeds in RS-002 that would be applied to sites that would likely be used for those designs.

The NRC used a maximum wind speed of 300 miles per hour when certifying the ALWR standardized designs, and the review currently in progress for the AP-1000 design also uses that same figure. The guidance in RS-002 directs the use of Regulatory Guide 1.76 (maximum wind speed of 360 miles per hour), a staff interim position (maximum wind speeds for much of the land east of the Rocky Mountains of 330 miles per hour), or a site-specific analysis that might or might not be able to justify a different wind speed. I do not believe that it was ever the Commission's intent to review and approve a reactor design as "standardized" one that could not be built "as certified" in so much of the United States.

The maximum tornado wind speeds in Regulatory Guide 1.76 stem from assumptions and mathematical models contained in WASH-1300, "Technical Basis for Interim Regional Tornado Criteria," by the NRC predecessor agency, the US Atomic Energy Commission, approximately 30 years ago, including an incidence rate chosen arbitrarily to be one in ten million. The later NRC staff interim guidance used the same basic assumptions and was itself based on meteorological data now about 20 years old (NUREG/CR-4661). Neither of those documents reflects the advances in understanding, balancing, and analyzing risk that the Commission has achieved in recent years.

The staff should revisit the design bases tornado wind speed for new reactor licensing, including the design certifications and early site permits. This effort should include, at a minimum, an evaluation of the appropriateness of the assumed design basis tornado incidence

probability, the probabilistic methods used to correlate the incidence figure with maximum wind speed, and the consideration of the most recent available tornado wind speed data readily available. This initiative should be completed, as far as practicable, on a schedule that supports ongoing licensing reviews.

This issue reaffirms the importance of maintaining a current and effective set of guidance documents, which was the subject of another recent Commission SRM that instructed the staff to:

provide the Commission the status, approach and plans for maintaining a current and effective set of guidance documents (Regulatory Guides, Standard Review Plans and Review Standards) for staff and applicant use. The staff should identify priority and resource considerations in this area. (M031002, item 2; October 31, 2003)

I note that this item is now due to the Commission in May 2004; I look forward to reviewing it.

Commissioner Merrifield

I approve the staff's request to issue Review Standard RS-002, "PROCESSING APPLICATIONS FOR EARLY SITE PERMITS." The NRC is beginning a first-of-a-kind approval process, and the proposed review standard provides a consistent approach to application review that ensures compliance with applicable regulatory requirements. The review standard also provides predictability for both the staff and applicants, and supports the Commission's policy of open, transparent regulatory processes. I agree with Chairman Diaz's comment that the staff should fully utilize the interim staff guidance process to examine any issues that result from the staff's review of the currently docketed applications. I also recommend the following revisions:

- 1) With the assistance of OGC, the staff should revise the review standard to reflect changes to the hearing process incorporated in the revision to 10 CFR Part 2 published in the Federal Register on January 14, 2004 (69 FR 2182), and effective on February 13, 2004. In particular, the staff should be aware of their new responsibility to provide notice on the NRC website of receipt of applications, letters of intent to file an application, and notices of docketing and opportunity to participate in mandatory hearings. Consequently, Section 4.2, "Public Hearings," Attachment 1, and any other relevant sections should be revised to provide guidance to the staff on implementation of these new requirements.
- 2) Any reference to correspondence in the paper and proposed review standard should include an ADAMS accession number so that interested stakeholders can review the NRC's position as stated in those letters.
- 3) The review standard should be revised to reflect the creation of the new "Emergency Preparedness Project Office," and responsibility for review of emergency preparedness information should be assigned to the new office.

Finally, I would like to commend the staff on the extensive interactions they have engaged in with members of the public and industry stakeholders in order to facilitate the early site permit application process and the timely assessment of these applications.