



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

December 6, 2012

SECRETARY

COMMISSION VOTING RECORD

DECISION ITEM: SECY-12-0063

TITLE: FINAL RULE: REVISIONS TO ENVIRONMENTAL REVIEW  
FOR RENEWAL OF NUCLEAR POWER PLANT  
OPERATING LICENSES (10 CFR PART 51; RIN 3150-AI42)

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of December 6, 2012.

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

A handwritten signature in black ink, appearing to read "Annette Vietti-Cook", written over a horizontal line.

Annette L. Vietti-Cook  
Secretary of the Commission

Attachments:

1. Voting Summary
2. Commissioner Vote Sheets

cc: Chairman Macfarlane  
Commissioner Svinicki  
Commissioner Apostolakis  
Commissioner Magwood  
Commissioner Ostendorff  
OGC  
EDO  
PDR

VOTING SUMMARY - SECY-12-0063

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	PARTICIP	NOT COMMENTS	DATE
CHRM. MACFARLANE	X				X	10/12/12
COMR. SVINICKI	X				X	11/15/12
COMR. APOSTOLAKIS	X				X	10/31/12
COMR. MAGWOOD	X				X	9/18/12
COMR. OSTENDORFF	X				X	10/24/12

**AFFIRMATION ITEM**

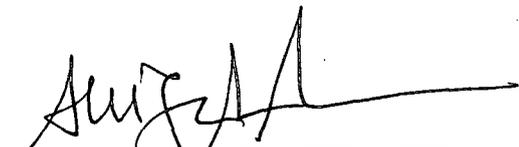
**RESPONSE SHEET**

TO: Annette Vietti-Cook, Secretary  
FROM: Chairman Allison M. Macfarlane  
SUBJECT: SECY-12-0063 – FINAL RULE: REVISIONS TO ENVIRONMENTAL REVIEW FOR RENEWAL OF NUCLEAR POWER PLANT OPERATING LICENSES (10 CFR PART 51; RIN 3150-AI42)

Approved  Disapproved  Abstain

Not Participating

COMMENTS: Below  Attached  None

  
\_\_\_\_\_  
SIGNATURE

10/12/12  
\_\_\_\_\_  
DATE

Entered on "STARS" Yes  No

**Chairman Macfarlane's Comments on SECY-12-0063,  
"Final Rule: Revisions to Environmental Review for Renewal of Nuclear Power Plant  
Operating Licenses (10 CFR Part 51; RIN 3150-A142)"**

I approve the staff's proposal to publish the final rule for revisions to the environmental review for renewal of nuclear power plant operating licenses (10 CFR Part 51).

It is the Commission's responsibility under the National Environmental Policy Act of 1969 (NEPA) to disclose the staff's assessment of environmental impacts associated with our actions. The environmental review process under NEPA provides an important opportunity for the public to be involved in our decision making process. Ideally, this helps the public to understand what the NRC is proposing, provides several opportunities for knowledgeable individuals to offer thoughts on alternative ways for the NRC to accomplish what we are proposing, and allows members of the public to offer comments on the NRC's analysis of the environmental effects of the proposed action and mitigation of potential harmful effects of such actions. For nuclear power plant license renewals, the staff assesses the environmental impacts of many issues generically. This process leads to efficient and effective reviews, but if taken too far it is an approach that may be confusing or could unnecessarily limit public engagement.

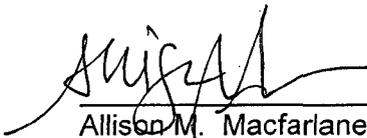
With a NEPA process that is forward-looking, it is a challenge to have perfect knowledge of the future, which leads to dealing with probabilities. Probability is a key consideration in determining this significance for severe accidents. The NRC has determined that environmental consequences of severe accidents in this context are appropriate for generic treatment – a finding the staff applies to every plant – and there is a common significance level for all plants. This finding is largely due to the fact that the occurrence of a severe accident probability is so small that the environmental impact is correspondingly low. (10 CFR Part 51, Table B-1).

The consideration of consequence probability is a rational approach, but it could be explained more clearly. Elsewhere in this table, for other environmental impact issues for which a generic approach is taken, "small" is defined as: "environmental impacts that are not detectable or are so minor that they will neither destabilize nor noticeably alter any important attribute of the resource." I believe, and as members of the public commented on the proposed rule as well as at the January Commission meeting, that having multiple definitions for "small" works against important goals of NEPA. We are not communicating effectively by having multiple definitions for the same term in different sections of the same document. When we redefine "small" our language may be simple, but it is not plain and it can create barriers to clear communication. By applying a modified definition of "small" just for this issue, it appears to the laity that the NRC believes that the environmental consequence of a severe accident is minor or not even noticeable across-the-board.

Therefore, the staff should include instructions in the Environmental Standard Review Plan<sup>1</sup> to explicitly include the entire phrase "the probability-weighted consequences of severe accidents are small" when reiterating the conclusion of the GEIS in site-specific reviews. We already state our conclusions this way for COLs<sup>2</sup> and for some (but not all) license renewals<sup>3</sup> and I believe doing it this way consistently will improve clarity and more accurately reflect the findings in the GEIS.

I agree with Commissioner Magwood that the staff should modify the discussion related to the 2010 waste confidence update. These changes should be made in the GEIS, the *Federal Register* notice, the other guidance documents, and in the response to comments. These modifications should reflect the June court decision to vacate both the waste confidence decision update and the temporary storage rule, and the September direction from the Commission. The staff should allow for up to an additional 60 days to make these corrections before forwarding the rule to the *Federal Register* for publication.

With respect to the effective date of this rule, I recognize the industry's interest in allowing for an adequate period of time to transition to the new regulatory framework presented in the GEIS and rule. The suggested period of time is 18 months. I also note that this rule was proposed in 2009, and there are no new Category 2 issues in the final rule that were not in the proposed rule. New Category 2 issues would have the greatest impact on applicants, whereas an analysis of new Category 1 issues do not have to be submitted as part of the environmental report or the application<sup>4</sup>. Furthermore, the final rule has been public since January of this year. Therefore, I support an implementation date of 18 months since the final rule was made public (i.e., June 2013).

  
Allison M. Macfarlane

  
Date

---

<sup>1</sup> Edits should be made to chapter 5.1, section IV of NUREG 1555, supplement 1, revision 1 to explicitly direct the staff to include this entire phrase.

<sup>2</sup> For example, see section 5.11.3 of "Final Environmental Impact Statement for Combined Licenses for Virgil C. Summer Nuclear Station Units 2 and 3," NUREG-1939.

<sup>3</sup> For example, the language I prefer can be found in section 5.2.6 of "Generic Environmental Impact Statement for License Renewal of Nuclear Plants: Supplement 38 Regarding Indian Point Nuclear Generating Unit Nos. 2 and 3," NUREG 1437, Supplement 38.

<sup>4</sup> 10 CFR 51.53(c)(3)(i)

**AFFIRMATION ITEM**

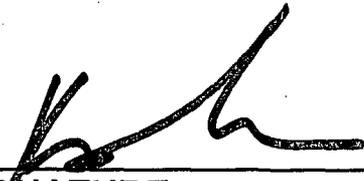
**RESPONSE SHEET**

TO: Annette Vietti-Cook, Secretary  
FROM: COMMISSIONER SVINICKI  
SUBJECT: SECY-12-0063 – FINAL RULE: REVISIONS TO ENVIRONMENTAL REVIEW FOR RENEWAL OF NUCLEAR POWER PLANT OPERATING LICENSES (10 CFR PART 51; RIN 3150-AI42)

Approved XX Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_

Not Participating \_\_\_\_\_

COMMENTS: Below \_\_\_\_\_ Attached XX None \_\_\_\_\_

  
\_\_\_\_\_  
SIGNATURE

11/15/12  
\_\_\_\_\_  
DATE

Entered on "STARS" Yes  No \_\_\_\_\_

**Commissioner Svinicki's Comments on SECY-12-0063**  
**Final Rule: Revisions to Environmental Review for**  
**Renewal of Nuclear Power Plant Operating Licenses (10 CFR Part 51; RIN 3150-A142)**

I approve for publication in the *Federal Register* the draft final rule for Revisions to Environmental Review for Renewal of Nuclear Power Plant Operating Licenses (Enclosure 1 to SECY-12-0063), subject to the following modifications. The Generic Environmental Impact Statement (GEIS) and rulemaking package should be modified in light of the D.C. Circuit Court's decision in *New York v. NRC*. The staff should remove those sections of the GEIS and rulemaking package that refer to and rely upon the 2010 Waste Confidence update and should include any necessary explanations for the changes. Given the novel policy aspects of addressing the Court's remand, the rulemaking package, when so modified, should be provided to the Commission for its review a minimum of 15 business days prior to its transmittal to the Office of the Federal Register for publication, so that the Commission may thoroughly review the staff's approach.

The development of a license renewal application is a complex undertaking with a duration, in most cases, of multiple years. In the interest of regulatory fairness, I do not believe that those licensees that have been developing their renewal applications with a reliance on the existing GEIS and rule should have a change imposed on them when they have already substantially developed their application and conducted the underlying analyses. Although draft documents have been made available by the staff, licensees should not be expected to prepare licensing submittals which reflect proposed rules, not yet affirmed by the Commission. Also, this rule was developed without consideration of the cumulative effects of regulation (CER) and implementation issues arising there from, as the initiation of this rulemaking predated the Commission's policy direction regarding CER. Consequently, I support an implementation period of 18 months, rather than the 12 months proposed by the staff.

I certify that this rule, if promulgated, will not have a significant impact on a substantial number of small entities.

  
\_\_\_\_\_  
Kristine L. Svinicki

11/15/12

AFFIRMATION ITEM

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary  
FROM: COMMISSIONER APOSTOLAKIS  
SUBJECT: SECY-12-0063 – FINAL RULE: REVISIONS TO ENVIRONMENTAL REVIEW FOR RENEWAL OF NUCLEAR POWER PLANT OPERATING LICENSES (10 CFR PART 51; RIN 3150-AI42)

Approved  Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_

Not Participating \_\_\_\_\_

COMMENTS: Below  Attached \_\_\_\_\_ None \_\_\_\_\_

I approve publication of the final rule for Revisions to Environmental Review for Renewal of Nuclear Power Plant Operating Licenses in the *Federal Register* with the revisions noted below. I also approve the staff's recommendation to set a compliance date of one year from publication in the *Federal Register*.

I agree with Chairman Macfarlane that we could do a better job of communicating our conclusions with regard to the environmental impact of severe accidents. I support her recommendation that the staff include instructions in the Environmental Standard Review Plan to explicitly include the entire phrase "the probability-weighted consequences of severe accidents are small" when reiterating the conclusion of the GEIS in site-specific reviews. As the Chairman stated, this will improve clarity and more accurately reflect the findings in the GEIS.

I agree with Commissioners Magwood and Ostendorff, as well as Chairman Macfarlane, that the Generic Environmental Impact Statement (GEIS) and rulemaking package should be modified in light of the D.C. Circuit Court's decision in *New York v. NRC*. The staff should remove those sections of the GEIS and rulemaking package that refer to the 2010 Waste Confidence update and include any necessary explanations for the changes. I agree with Commissioner Ostendorff that the staff should provide the modified rulemaking package to the Commission for review prior to transmittal to the Office of the Federal Register (OFR) for publication. I suggest that the modified package be provided for Commission review at least 5 working days before transmittal to OFR.



SIGNATURE

10/31/12

DATE

Entered on "STARS" Yes  No \_\_\_\_\_

**AFFIRMATION ITEM**

**RESPONSE SHEET**

TO: Annette Vietti-Cook, Secretary  
FROM: COMMISSIONER MAGWOOD  
SUBJECT: SECY-12-0063 – FINAL RULE: REVISIONS TO ENVIRONMENTAL REVIEW FOR RENEWAL OF NUCLEAR POWER PLANT OPERATING LICENSES (10 CFR PART 51; RIN 3150-AI42)

Approved  Disapproved  Abstain

Not Participating

COMMENTS: Below  Attached  None



\_\_\_\_\_  
SIGNATURE

18 September 2012

\_\_\_\_\_  
DATE

Entered on "STARS" Yes  No

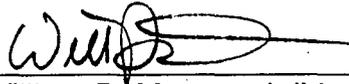
**Commissioner Magwood's Comments on  
SECY-12-0063, "Final Rule: Revisions to Environmental Review for  
Renewal of Nuclear Power Plant Operating Licenses (10 CFR Part 51)"**

I commend the staff for its thorough review of the regulations regarding environmental reviews for renewal of nuclear power plant operating licenses and the associated Generic Environmental Impact Statement (GEIS). Both the proposed final rule and the GEIS reflect the staff's careful review, the lessons learned, and knowledge gained from license renewal environmental reviews conducted since the initial rule in 1996, as well as the extensive public comments on the proposed rule. In particular, the many public meetings held by the staff to solicit comments on the rule and to discuss final rule implementation contributed to ensuring that all relevant issues were fully vetted with all stakeholders.

Although the proposed final rule represents the best information available at this time, it is important to bear in mind that as the NRC gains additional experience reviewing license renewal applications and as we gain new insights and operating experience from the plants currently operating under renewed licenses, there may be additional areas of the regulation or the GEIS that warrant future revision. For example, as the staff notes, there is currently insufficient information to include the effects of global climate change in environmental reviews for new reactor and license renewal applications; this may change as more knowledge is gained on the subject, and the issue should be reconsidered in future revisions to 10 CFR 51.53 and the GEIS. Similarly, the staff should reconsider the appropriate scope of consideration of impacts of severe accidents in future revisions.

Since the staff submitted the proposed final rule to the Commission, the U.S. Court of Appeals for the District of Columbia Circuit vacated the 2010 Waste Confidence Decision and Temporary Storage Rule. The staff is currently proceeding with a generic response to this decision; in the meantime, all references to the 2010 Waste Confidence update should be removed from the GEIS and rulemaking package, as suggested by the staff in COMSECY-12-0016.

Finally, I note that many stakeholders remain uncertain as to the issues that can be evaluated during the license renewal process. For example, many have called for the re-evaluation of seismic hazards in this process; a clarification that issues such as new information regarding seismic hazards will be addressed for all plants, whether applying for renewed licenses or not, would aid public understanding of the overall license renewal process. Thus I suggest that, in order to provide the public with additional background regarding the license renewal process, the staff should also revise the draft *Federal Register* Notice to include an explanation of the scope of license renewal reviews—with respect to both safety and environmental reviews—and the interaction between safety and environmental reviews.

 9/12/12  
\_\_\_\_\_  
William D. Magwood, IV      Date

**AFFIRMATION ITEM**

**RESPONSE SHEET**

TO: Annette Vietti-Cook, Secretary  
FROM: COMMISSIONER OSTENDORFF  
SUBJECT: SECY-12-0063 – FINAL RULE: REVISIONS TO ENVIRONMENTAL REVIEW FOR RENEWAL OF NUCLEAR POWER PLANT OPERATING LICENSES (10 CFR PART 51; RIN 3150-AI42)

Approved  X  Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_

Not Participating \_\_\_\_\_

COMMENTS: Below  X  Attached \_\_\_\_\_ None \_\_\_\_\_

I approve for publication in the *Federal Register* the staff's final rule for Revisions to Environmental Review for Renewal of Nuclear Plant Operating Licenses (10 CFR Part 51; RIN 3150-A142), subject to one modification discussed below. I also approve the staff's recommended compliance date of one year from the date of publication in the *Federal Register*. The staff did an exemplary job of updating and re-evaluating the findings of the May 1996 *Generic Environmental Impact Statement for License Renewal of Nuclear Plants*. Their public outreach and engagement, along with their considered review of public comments, ensured a thoughtful and thorough final product.

I agree with Commissioner Magwood and Chairman Macfarlane that the Generic Environmental Impact Statement (GEIS) and rulemaking package should be modified in light of the D.C. Circuit Court's opinion in *New York v. NRC*. The staff should remove those portions of the GEIS and rulemaking package that are no longer valid and include any necessary explanations for the changes. The staff should provide the modified rulemaking package to the Commission for review prior to transmittal. Because the staff is currently working to update the 2010 Waste Confidence Decision (WCD) and Temporary Storage Rule (TSR), conforming changes would need to be made to the GEIS and associated rule. Staff should determine the appropriate time to make those conforming changes, with the expectation that whichever option the staff chooses—either making the changes concurrent with the WCD and TSR update or waiting until those actions are completed—should not adversely impact the WCD and TSR 24-month schedule.

  
\_\_\_\_\_  
SIGNATURE

10/24/12  
\_\_\_\_\_  
DATE

Entered on "STARS" Yes  X  No \_\_\_\_\_