

January 18, 2001

COMMISSION VOTING RECORD

DECISION SECY-00-0236

ITEM:

TITLE: DRAFT RULEMAKING PLAN: EVENT REPORTING FOR UNINTENDED EXPOSURES TO AN EMBRYO/FETUS OR TO A NURSING CHILD UNDER NON-MEDICAL, NON-OCCUPATIONAL CIRCUMSTANCES

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum ([SRM](#)) of January 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 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-00-0236

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. MESERVE	X				X	1/16/01
COMR. DICUS	X				X	12/26/00
COMR. DIAZ	X				X	1/17/01
COMR. McGAFFIGAN	X				X	1/18/01
COMR. MERRIFIELD	X				X	1/9/01

COMMENT RESOLUTION

In their vote sheets, all Commissioners approved the staff's recommendation and provided some additional comments. Subsequently, the guidance to staff was reflected in the SRM issued on January 18, 2001.

Commissioner Comments on SECY-00-0236

Chairman Meserve

I approve the staff's recommendation that the Commission not promulgate a rule to require the reporting of unintended exposures to an embryo/fetus or to a nursing child under non-medical, non-occupational circumstances. A nursing child clearly is a "member of the public" under [10 C.F.R. § 20.1003](#) and thus an exposure to such a child should be reported under the existing regulation. And, although an exposure of an embryo/fetus may not be encompassed by our existing reporting requirements, the exposure of an embryo/fetus is the consequence of an exposure of the mother, which would be reported. In this instance, I do not believe that we should go beyond seeking voluntary reporting of pregnancy status in light of the privacy interests of the mother. I note the staff experience that exposed mothers do volunteer pregnancy-related information, which

suggests that intrusive mandatory reporting requirements are unnecessary.

Commissioner Dicus

I agree with the staff's recommendation that it is not necessary to add specific reporting requirements in [10 CFR Part 20](#) (or elsewhere in 10 CFR) that would require licensees to report to NRC any unintended radiation exposures to a nursing child or an embryo/fetus, under non-medical, non-occupational circumstances.

I commend the staff, and the Working Group that was formed for evaluating this issue, for developing a well-written paper and for highlighting the fact that: (1) there are already regulations currently in place that would capture any reports of over exposures to members of the public (including potential exposures to children); and (2) our own inspection experience and review of past events from the Nuclear Materials Event Database could not provide any supporting data to justify development of this proposed rule. Accordingly, I recommend that the staff terminate any further action on this proposed rulemaking.

Commissioner Merrifield

I approve the staff recommendation in SECY-00-0236 that no rulemaking action is needed to revise reporting requirements to capture unintended exposures to a nursing child or an embryo/fetus under non-medical circumstances. This SECY paper was developed in direct response to a Commission staff requirement memorandum dated February 16, 2000.

The staff has presented reasonable arguments that the most likely circumstances where unintended, non-occupational exposures occur to an embryo/fetus or a nursing child is under medical administrations to the mother. The recent revisions to [10 CFR Part 35](#) address reporting requirements under these medical situations. The staff has also presented a reasonable argument that existing regulations in 10 CFR Part 20 adequately address reporting requirements for unintended exposures to a nursing child as a member of the general public and females who are either a member of the general public or occupational workers. The only remaining question is whether the Commission should establish a policy that specifically requires reporting of unintended exposures above a certain level to either an embryo or fetus. For a female occupational worker, the Commission has already established in the regulations that it is a voluntary action on the part of the female worker to report to her supervisor if she is pregnant. Once she voluntarily reports that she is pregnant, there are reporting requirements concerning the embryo/fetus unintended exposures. I believe the same policy should apply to a non-occupational female who is notified that she has received an unintended exposure above the Commission's regulatory limits. There are reporting requirements to address her unintended exposure above certain limits and if she voluntarily reports that she is pregnant that that information will be reported in the information sent to the NRC. In addition, I note that the ACMUI does not recommend modifying the NRC regulations to add these reporting requirements as well. Therefore, I do not believe there is a need to modify our regulations to specifically mention unintended, non-occupational exposures to a nursing child or fetus/embryo.