



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

July 2, 2010

SECRETARY

COMMISSION VOTING RECORD

DECISION ITEM: SECY-09-0140

TITLE: RULEMAKING RELATED TO DECOUPLING AN ASSUMED LOSS OF OFFSITE POWER FROM A LOSS-OF-COOLANT ACCIDENT, 10 CFR PART 50, APPENDIX A, GENERAL DESIGN CRITERION 35 (RIN 3150-AH43)

The Commission (with Commissioners Svinicki, Apostolakis, Magwood and Ostendorff agreeing) approved Option 3 of the subject paper as recorded in the Staff Requirements Memorandum (SRM) of July 2, 2010. Chairman Jaczko voted to approve the staff's recommended Option 1.

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 L. 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 Jaczko
Commissioner Svinicki
Commissioner Apostolakis
Commissioner Magwood
Commissioner Ostendorff
OGC
EDO
PDR

VOTING SUMMARY - SECY-09-0140

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. JACZKO	X				X	5/27/10
COMR. SVINICKI	X				X	1/26/10
COMR. APOSTOLAKIS	X				X	6/24/10
COMR. MAGWOOD	X				X	6/9/10
COMR. OSTENDORFF	X				X	6/28/10

COMMENT RESOLUTION

In their vote sheets, Commissioners Svinicki, Apostolakis, Magwood and Ostendorff approved Option 3 of the subject paper, and provided some additional comments. Chairman Jaczko voted to approve the staff's recommended Option 1 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 July 2, 2010.

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: Chairman Gregory Jaczko

SUBJECT: SECY-09-0140 – RULEMAKING RELATED TO DECOUPLING AN ASSUMED LOSS OF OFFSITE POWER FROM A LOSS-OF-COOLANT ACCIDENT, 10 CFR PART 50, APPENDIX A, GENERAL DESIGN CRITERION 35 (RIN 3150-AH43)

Approved X Disapproved Abstain

Not Participating

COMMENTS: Below Attached X None

Approved with attached comments.



SIGNATURE

5/27/10

DATE

Entered on "STARS" Yes X No

**Chairman Jaczko's Comments on SECY-09-140
Rulemaking Related to Decoupling an Assumed LOOP from LOCA**

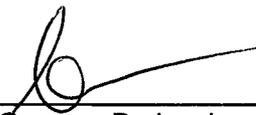
I approve the staff's recommendation to discontinue the rulemaking effort (i.e., Option 1) to decouple the analysis assumption that a loss of offsite power (LOOP) occurs coincident with a large-break loss-of-coolant accident (LOCA) because of the reason cited by the staff, and I believe an additional deferral should not be granted. In considering the staff request, I reviewed the earlier deferrals on this rulemaking that were granted by the Commission.

As the staff indicated in SECY-09-140 and COMSECY-07-0041, there is little value in pursuing this rulemaking if either the Boiling Water Reactor Owners Group (BWROG) topical report or the 10 CFR 50.46a rulemaking are not approved. The BWROG has withdrawn its topical report, therefore it cannot be approved. Also, the staff has clearly stated that no quantifiable safety improvement would result from the decoupling of the LOOP from LOCA in analyses.

I am supportive of the agency's policy on the use of probabilistic risk assessment in regulatory activities. The use of risk information has resulted in significant and visible improvements in the Reactor Oversight Program. The NRC has expended significant resources in an attempt to use risk information in its rules. But these efforts have not resulted in similar significant, visible improvements, in part because of the lack of adoption of these voluntary risk-informed rules by licensees. To date the Commission has approved voluntary risk-informed rules such as special treatment requirements (i.e., 50.69) and fire protection (i.e., 50.48). The industry has worked closely on the generic activities needed to create voluntary risk-informed rules, but the plant-specific adoption of voluntary rules has not been commensurate with the effort expended by the NRC on the development of voluntary risk-informed rules.

I believe this rulemaking should be discontinued as I have stated in my votes on COMSECY-07-0041, SECY-07-0082, and SECY-05-0052. The staff's recommendation to discontinue this rulemaking should be approved because of the (1) clear and documented lack of industry support for the development of an adequate technical basis for this voluntary rule that would relax deterministic requirements, (2) lack of any quantifiable safety improvement from issuance and adoption of this rule to decouple assumed LOOP from LOCA, and (3) lack of licensee adoption of voluntary risk-informed rules.

Considering the number of long standing safety issues that need to be resolved and the need to update the regulatory infrastructure to prepare for review of advanced and modular reactors, it does not seem appropriate to continue to expend limited technical and rulemaking resources on a rule that relaxes deterministic requirements without an improvement to safety and which would most likely not be adopted by the limited number of licensees to which the rule would apply.



Gregory B. Jaczko

8/18/10

Date

NOTATION VOTE

RESPONSE SHEET

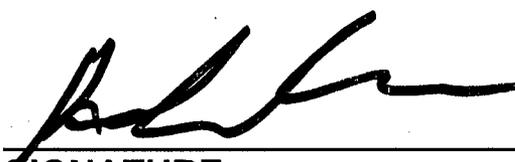
TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER SVINICKI
SUBJECT: SECY-09-0140 – RULEMAKING RELATED TO
DECOUPLING AN ASSUMED LOSS OF OFFSITE
POWER FROM A LOSS-OF-COOLANT ACCIDENT, 10
CFR PART 50, APPENDIX A, GENERAL DESIGN
CRITERION 35 (RIN 3150-AH43)

Approved XX Disapproved _____ Abstain _____

Not Participating _____

COMMENTS: Below XX Attached _____ None _____

I approve Option 3. An assessment of whether this initiative could generate incremental benefit will best be informed after the rulemaking for 10 CFR 50.46a is complete and the rule implemented. Termination now is premature.



SIGNATURE

01/26/10

DATE

Entered on "STARS" Yes No _____

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: COMMISSIONER APOSTOLAKIS

SUBJECT: SECY-09-0140 – RULEMAKING RELATED TO
DECOUPLING AN ASSUMED LOSS OF OFFSITE
POWER FROM A LOSS-OF-COOLANT ACCIDENT, 10
CFR PART 50, APPENDIX A, GENERAL DESIGN
CRITERION 35 (RIN 3150-AH43)

Approved XX Disapproved _____ Abstain _____

Not Participating _____

COMMENTS: Below XX Attached ___ None ___

I approve Option 3 to defer the decision until the 10 CFR 50.46a rule is implemented.



SIGNATURE

6/24/10

DATE

Entered on "STARS" Yes ___ No ___

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER MAGWOOD
SUBJECT: SECY-09-0140 – RULEMAKING RELATED TO
DECOUPLING AN ASSUMED LOSS OF OFFSITE
POWER FROM A LOSS-OF-COOLANT ACCIDENT, 10
CFR PART 50, APPENDIX A, GENERAL DESIGN
CRITERION 35 (RIN 3150-AH43)

Approved X Disapproved _____ Abstain _____

Not Participating _____

COMMENTS: Below X Attached _____ None _____

I approve Option 3: Defer the decision until the 10 CFR 50.46a rule is implemented. Terminating this rulemaking now would further complicate its completion in the future, a decision that could best be made with the insights gained from the implementation of 50.46a.



SIGNATURE

6-9-10

DATE

Entered on "STARS" Yes X No _____

