

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



SECRETARY

December 18, 2007

COMMISSION VOTING RECORD

DECISION ITEM: SECY-07-0148

TITLE: INDEPENDENT SPENT FUEL STORAGE INSTALLATION
SECURITY REQUIREMENTS FOR RADIOLOGICAL
SABOTAGE

The Commission (with Commissioners Jaczko and Lyons agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of December 18, 2007. Chairman Klein approved in part and disapproved in part.

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 cursive script, 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 Klein
Commissioner Jaczko
Commissioner Lyons
OGC
EDO

VOTING SUMMARY - SECY-07-0148

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. KLEIN	X	X			X	11/13/07
COMR. JACZKO	X				X	11/20/07
COMR. LYONS	X				X	11/14/07 11/30/07

COMMENT RESOLUTION

In their vote sheets, Commissioners Jaczko and Lyons approved the staff's recommendation and provided some additional comments. Chairman Klein approved in part and disapproved in part. Subsequently, the comments of the Commission were incorporated into the guidance to staff as reflected in the SRM issued on December 18, 2007.

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: CHAIRMAN KLEIN

SUBJECT: **SECY-07-0148 - INDEPENDENT SPENT FUEL
STORAGE INSTALLATION SECURITY
REQUIREMENTS FOR RADIOLOGICAL
SABOTAGE**

Approved XX ^{in part} Disapproved XX ^{in part} Abstain _____

Not Participating _____

COMMENTS: Below _____ Attached XX None _____



SIGNATURE

11/13 /2007

DATE

Entered on "STARS" Yes No _____

Chairman Klein's Comments on SECY-07-0148, Independent Spent Fuel Storage Installation Security Requirements for Radiological Sabotage

The staff has done a commendable job of presenting clear proposals to serve as a framework to enable the development of a risk-informed and performance-based rule to codify the current disparate security requirements for Independent Spent Fuel Storage Installations (ISFSIs). When this rulemaking is completed, there will exist a coherent and consistent set of requirements that will provide for the maintenance of adequate protection of the public from potential security events at ISFSIs. As amplified below, I approve in part, and disapprove in part, the staff's recommendations on the six policy issues associated with the development of the upcoming proposed rulemaking on ISFSI security requirements.

Issue 1 I approve the application of a radiological dose limit to all ISFSIs for security events.

Issue 2 I approve the establishment a dose limit of 5 rem at the controlled area boundary. I disapprove the establishment of a 1 rem dose limit at the site area boundary because there is no compelling justification to convert what is now a guideline into a requirement. As the staff discusses in this paper, future analyses or license amendments may cause changes in the analyzed dose at site area boundaries. Licensees should have the flexibility to address any necessary changes through licensing, emergency preparedness, or security plans. In developing the proposed rule, the staff should engage stakeholders on appropriate approaches to address potential licensing, emergency preparedness, and security plan impacts stemming from this rulemaking.

Issue 3 I approve the development of new risk-informed and performance-based security requirements applicable to all ISFSI licensees to enhance existing security requirements, and the development of guidance to support the implementation of the new regulations. I note that ISFSI licensees would not be required to protect the ISFSI against the design basis threat for radiological sabotage.

Issue 4 Consistent with Commission direction in the staff requirements memorandum for SECY-05-0218, I approve the development of regulatory guidance that would be bounded by the adversary characteristics supporting the design basis threat for radiological sabotage. As it prepares this proposed rule, the staff should assess additional threat and vulnerability information in order to develop a technical basis to support inclusion of this approach or, if indicated by the staff's assessment, an appropriate alternate approach in the proposed rule.

Issue 5 I approve the application of the proposed security requirements to all existing and future ISFSIs.

Issue 6 I approve of the redaction of this paper, its enclosures, the resulting staff requirements memorandum and voting record to permit public release in support of developing the proposed rule. In addition to reviewing these documents for obvious security-related information, the staff should consider the degree to which public release of certain information could impede or inhibit its ability to candidly communicate with the Commission and to perform a thorough and objective review of the issues relevant to this rulemaking.


Dale E. Klein 11/17/2007

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER JACZKO
SUBJECT: **SECY-07-0148 - INDEPENDENT SPENT FUEL
STORAGE INSTALLATION SECURITY
REQUIREMENTS FOR RADIOLOGICAL
SABOTAGE**

Approved Disapproved Abstain

Not Participating

COMMENTS: Below Attached None



SIGNATURE

11/20/07

DATE

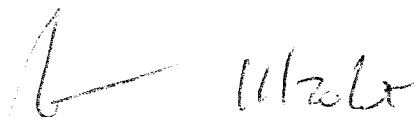
Entered on "STARS" Yes No

**Commissioner Jaczko's Comments on SECY-07-0148
Independent Spent Fuel Storage Installation Security Requirements for
Radiological Sabotage**

I approve of the staff's recommended policy options concerning the development of the forthcoming proposed rulemaking on independent spent fuel storage installation (ISFSI) security requirements. Because of the inherent safety and security characteristics of spent nuclear fuel stored in dry casks, I believe that the ISFSI security requirements, to the extent practical, can rely on passive features including the establishment of sufficient boundary areas. Thus, I agree with the staff approach that takes advantage of the unique characteristics of stored fuel in the protection scheme. In addition, if passive features are not sufficient to protect the public at a specific site, active security measures would be required.

Since this rulemaking addresses very different security regulations for general and specific licensees as well as the orders issued after 9/11, the staff should aggressively encourage public comments during the development of the proposed rule so that all relevant issues are identified and unintended consequences resolved if they exist. The staff should also conduct a formal workshop with stakeholders to work through the nuances of normalizing the security regulations for both general and specific ISFSI licensees.

I strongly support the staff's recommendation to publicly release this paper, including redacted portions of enclosures 1 through 5. The staff is to be commended for taking a proactive position as it regards release of this paper to the public to enhance its interactions with stakeholders in the development of the proposed rule.



Gregory B. Jaczko Date

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER LYONS
SUBJECT: **SECY-07-0148 - INDEPENDENT SPENT FUEL
STORAGE INSTALLATION SECURITY
REQUIREMENTS FOR RADIOLOGICAL
SABOTAGE**

Approved X Disapproved Abstain

Not Participating

COMMENTS: Below Attached X None


Peter B. Lyons
SIGNATURE

11/14/07
DATE

Entered on "STARS" Yes X No

Commissioner Lyons' Comments on SECY 07-0148

I approve the staff recommendations with the following comments. After 9-11, NRC augmented its regulations with increased controls to ensure that all independent spent fuel storage facilities (ISFSI) had the required level of security measures for the new security threat. I strongly concur with staff that spent fuel is currently safely and securely stored at ISFSI sites throughout the United States. I believe that the continued use of security orders is appropriate, and can be continued while the staff develops the technical basis, a proposed rule and supporting guidance documents. I appreciate the considerable staff time and effort it took to develop this set of very complex and intertwined regulatory issues.

Recommendation 1. I approve the staff's recommendation to apply the radiological dose criterion to all ISFSIs and to require ISFSI licensees to perform assessments to demonstrate that the ISFISI is in compliance with the dose limit.

Recommendation 2. I approve the staff's recommendation to keep the dose limit for radiological sabotage consistent with the dose limit for ISFSI design basis accident. For purposes of preparing this rulemaking, staff should continue to use the 5 rem dose limit currently specified in 10 CFR 73.51 (a)(3). Staff should also ensure consistency in emergency planning requirements for ISFSIs, independent of the type of 10 CFR Part 72 license.

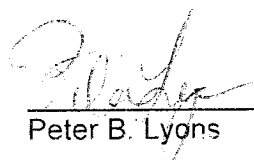
Recommendation 3. I approve the staff's recommendation to develop a new, risk-informed, performance-based security requirement (ISFSI licensees would not be required to protect the ISFSI against the Design Basis Threat for radiological sabotage) applicable to all ISFSI licensees. However, I am concerned that staff's approach to develop new risk-informed performance-based security requirements may be viewed as a new Design Basis Threat (DBT). I believe NRC should have only one DBT for radiological sabotage, therefore, staff should ensure that the proposed regulation and guidance documents make it clear that these requirements do not impose a new DBT.

Recommendation 4. I approve the staff's recommendation to develop ISFSI regulatory guidance that would be bounded by the adversary characteristics regulatory guidance supporting the Design Basis Threat for radiological sabotage associated with power reactors. Because of the complexity of the issues associated with this proposed rulemaking, staff should develop draft regulatory guidance and other draft licensing guidance for deployment during the proposed rule stage to ensure all parties understand the objective, implementation and scope of the proposed rule.

Recommendation 5. I approve the staff's recommendation to apply the proposed ISFSI security rulemaking to all existing and future ISFSIs.

Recommendation 6. I approve the staff's recommendation to publicly release the paper and redacted portions of Enclosures 1 through 5. In addition to public release as proposed by the staff, I strongly support sharing to the maximum extent possible, classified and unclassified security related information with stakeholders that would be affected by this rulemaking with appropriate controls and safeguards in place.

Additionally, staff should monitor other rulemaking activities, including the geologic repository operations area (GROA) security and material control and accounting requirements, the security rulemakings for reactors, and staff's enhancement for reactor emergency preparedness to ensure regulatory harmonization for similar activities.


Peter B. Lyons 11/14/07
Date

REVISED

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER LYONS
SUBJECT: **SECY-07-0148 - INDEPENDENT SPENT FUEL
STORAGE INSTALLATION SECURITY
REQUIREMENTS FOR RADIOLOGICAL
SABOTAGE**

Approved Disapproved Abstain

Not Participating

COMMENTS: Below Attached None



SIGNATURE

11/ 30 /07

DATE

Entered on "STARS" Yes No

Commissioner Lyons' Revised Comments on SECY-07-0148

I want to clarify my views on Recommendation # 2 to use only the 5 rem dose limit at the controlled area boundary. I do not support the establishment of a 1 rem dose limit at the site area boundary for the purposes of developing the basis for a proposed rulemaking. The remainder of my original vote of November 14, 2007, stands as written.


Peter B. Lyons

11/30/07
Date