

**SECRETARY** 

# UNITED STATES NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

January 19, 2007

#### **COMMISSION VOTING RECORD**

DECISION ITEM: SECY-06-0228

TITLE:

DENIAL OF A PETITION FOR RULEMAKING TO CODIFY FEDERAL EMERGENCY MANAGEMENT AGENCY GM EV-2, "PROTECTIVE ACTIONS FOR SCHOOL CHILDREN," INTO THE EMERGENCY PLANNING REGULATIONS IN 10

CFR PART 50 (PRM-50-81)

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of January 19, 2007.

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

Annétte L. Vietti-Cook Secretary of the Commission

#### Attachments:

1. Voting Summary

2. Commissioner Vote Sheets

cc:

Chairman Klein

Commissioner McGaffigan Commissioner Merrifield Commissioner Jaczko Commissioner Lyons

OGC EDO PDR

SECY NOTE:

This SRM, SECY-06-0228, and the related Commission Voting Record will be released to the public 5 working days after dispatch of the letter to

the petitioner.

#### VOTING SUMMARY - SECY-06-0228

#### RECORDED VOTES

	NOT		
	APRVD DISAPRVD ABSTAIN PARTIC	CIP COMMENTS	DATE
CHRM. KLEIN	X	X	12/20/06
COMR. McGAFFIGAN	X	X	12/1/06
COMR. MERRIFIELD	X	X	11/29/06
COMR. JACZKO	X	X	1/12/07
COMR. LYONS	X	Χ	12/26/06

#### **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 January 19, 2007.

10:	Annette Vietti-Cook, Secretary
FROM:	CHAIRMAN KLEIN
SUBJECT:	SECY-06-0228 - DENIAL OF A PETITION FOR RULEMAKING TO CODIFY FEDERAL EMERGENCY MANAGEMENT AGENCY GM EV-2, "PROTECTIVE ACTIONS FOR SCHOOL CHILDREN," INTO THE EMERGENCY PLANNING REGULATIONS IN 10 CFR PART 50 (PRM-50-81)
Approved XX	Disapproved Abstain
Not Participatin	g
COMMENTS:	Below Attached_xx None
	SIGNATURE  De 20, 2006  DATE
Entered on "ST	ARS" Yes _/_No

#### Chairman Klein's Comments on SECY-06-0228

I am confident that the Commission as a whole recognizes the importance of State and local emergency planning for evacuation of school children in the unlikely event of a radiological emergency. As explained in the proposed response to the petition for rulemaking, PRM-50-81, this has been the subject of much recent Commission attention and action.

The petitioner requests that the NRC amend its emergency planning regulations to incorporate GM-EV2, a guidance document developed by FEMA and utilized by the Department of Homeland Security (DHS) which has the primary responsibility for developing the acceptance criteria for, and performance of, assessments of offsite emergency preparedness. Among other things, the petition raises concerns about evacuation capabilities for schoolchildren in the Commonwealth of Pennsylvania.

I approve the staff's request to deny the petition for rulemaking. In its analysis of this petition, the NRC staff did not find significant new information or arguments not previously considered by the Commission. Thus, I join Commissioners McGaffigan and Merrifield in concluding that it is not necessary to revisit this issue at this time. It is noteworthy that, as directed by the Commission in 2005, the staff has gathered information, through interchanges with the DHS and the Commonwealth of Pennsylvania, and reviewed questions relating to local implementation of relevant requirements and guidance. In particular, the staff has observed that the Commonwealth of Pennsylvania has undertaken significant recent efforts to ensure that day care facilities have arrangements to implement adequate protective measures, providing additional assurance on this matter. Further, I note that initiatives to enhance the NRC's emergency planning program are ongoing.

TO:	Annette Vietti-Cook, Secretary	
FROM:	COMMISSIONER MCGAFFIGAN	
SUBJECT:	SECY-06-0228 - DENIAL OF A PETITION FOR RULEMAKING TO CODIFY FEDERAL EMERGENCY MANAGEMENT AGENCY GM EV-2, "PROTECTIVE ACTIONS FOR SCHOOL CHILDREN," INTO THE EMERGENCY PLANNING REGULATIONS IN 10 CFR PART 50 (PRM-50-81)	
Approved X	Disapproved Abstain	
Not Participatin	g	
COMMENTS:	Below X Attached None	
I approve the staff's request to deny the petition for rulemaking, PRM-50-81. I agree with Commissioner Merrifield that in the absence of any significant new information, there is no reason for the Commission to revisit the issue at this time.		
•		
	SIGNATURE  DATE	
Entered on "ST	ARS" Yes <u>×</u> No	

10:	Annette vietti-Cook, Sec	retary
FROM:	COMMISSIONER MERRIFIELD	
SUBJECT:	SECY-06-0228 - DENIAL OF A PETITION FOR RULEMAKING TO CODIFY FEDERAL EMERGENCY MANAGEMENT AGENCY GM EV-2, "PROTECTIVE ACTIONS FOR SCHOOL CHILDREN," INTO THE EMERGENCY PLANNING REGULATIONS IN 10 CF PART 50 (PRM-50-81)	
Approved	Disapproved	Abstain
Not Participatir	ng	·
COMMENTS:	Below Attached	None
	SIGNA	TURE
·	DATE	- 472 3/10 <u>8</u>
Entered on "ST	ARS" Yes <u>√</u> No	

#### Commissioner Merrifield's Comments on SECY-06-0228

I approve the staff's request to deny the petition for rulemaking, PRM-50-81. I agree with the staff that the petition does not provide any new information that was not previously considered in denying an earlier petition, PRM-50-79, also requesting an amendment to our emergency planning regulations. I see no reason for the Commission to revisit this issue at this time.

10:	Annette vietti-Cook, Secretary	
FROM:	COMMISSIONER JACZKO	
SUBJECT:	SECY-06-0228 - DENIAL OF A PETITION FOR RULEMAKING TO CODIFY FEDERAL EMERGENCY MANAGEMENT AGENCY GM EV-2, "PROTECTIVE ACTIONS FOR SCHOOL CHILDREN," INTO THE EMERGENCY PLANNING REGULATIONS IN 10 CFR PART 50 (PRM-50-81)	
Approved X	Disapproved Abstain	
Not Participatin	g	
COMMENTS:	Below Attached X None	
	Signature & Orden	
	SIGNATURE	
	DATE	
Entered on "ST	ARS"Yes 🎾 No	

# Commissioner Jaczko's Comments on SECY-06-0228 Denial of a Petition for Rulemaking to Codify Federal Emergency Management Agency GM- EV-2, "Protective Actions for School Children," into the Emergency Planning Regulations in 10 CFR Part 50 (PRM-50-81)

While I fully agree with the petitioners that the agency should proceed with a rulemaking to clarify and strengthen emergency preparedness (EP) regulations, I approve of the staff's recommendation to deny this specific petition for rulemaking.

I believe the most comprehensive and efficient vehicle for accomplishing that goal is to proceed with the development of performance-based EP regulations and am pleased the Commission has now approved the initial effort to develop such a regime in its decision on SECY-06-0200, the "Top to Bottom Review of Emergency Preparedness." I look forward to hearing the views of stakeholders, such the petitioners in this matter, on how the concerns they have raised can be resolved through that larger effort.

Gregory B. Jaczko

Date

## **RESPONSE SHEET**

TO:	Annette Vietti-Cook, Secretary	
FROM:	COMMISSIONER LYONS	
SUBJECT:	SECY-06-0228 - DENIAL OF A PETITION FOR RULEMAKING TO CODIFY FEDERAL EMERGENCY MANAGEMENT AGENCY GM EV-2, "PROTECTIVE ACTIONS FOR SCHOOL CHILDREN," INTO THE EMERGENCY PLANNING REGULATIONS IN 10 CFI PART 50 (PRM-50-81)	
Approved $X$	Disapproved Abstain	
Not Participatin	ıg	
COMMENTS:	Below_X_ Attached None	
Ien	Below X Attached None	
	SIGNATURE  12/26/06 DATE	
Entered on "ST	ARS" Yes x No	