

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



SECRETARY

November 27, 2007

COMMISSION VOTING RECORD

DECISION ITEM: SECY-07-0126

TITLE: PROPOSED RULE: GEOLOGIC REPOSITORY
OPERATIONS AREA SECURITY AND MATERIAL
CONTROL AND ACCOUNTING REQUIREMENTS (RIN
3150-A106)

The Commission (with Chairman Klein and Commissioner Lyons agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of November 27, 2007. Commissioner Jaczko 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 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 Klein
Commissioner Jaczko
Commissioner Lyons
OGC
EDO
PDR

VOTING SUMMARY - SECY-07-0126

RECORDED VOTES

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

COMMENT RESOLUTION

In their vote sheets, Chairman Klein and Commissioner Lyons approved the staff's recommendation. Commissioner Jaczko 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 November 27, 2007.

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: CHAIRMAN KLEIN
SUBJECT: SECY-07-0126 - PROPOSED RULE: GEOLOGIC
REPOSITORY OPERATIONS AREA SECURITY AND
MATERIAL CONTROL AND ACCOUNTING
REQUIREMENTS (RIN 3150-A106)

Approved XX Disapproved _____ Abstain _____

Not Participating _____

COMMENTS: Below _____ Attached _____ None XX



SIGNATURE

11/13/07

DATE


NOTATION VOTE
RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER JACZKO
SUBJECT: SECY-07-0126 - PROPOSED RULE: GEOLOGIC
REPOSITORY OPERATIONS AREA SECURITY AND
MATERIAL CONTROL AND ACCOUNTING
REQUIREMENTS (RIN 3150-A106)

Approved Disapproved Abstain _____

Not Participating _____

COMMENTS: Below ___ Attached None ___



SIGNATURE

11/20/09

DATE

Entered on "STARS" Yes No ___

Commissioner Jaczko's Comments on SECY-07-0126
Proposed Rule: Geologic Repository Operations Area Security And
Material Control and Accounting Requirements


I approve, in part, and disapprove, in part, the staff's recommendation to publish this proposed rule. I appreciate staff's efforts on this rulemaking and look forward to public comment on this proposal, but I have some concerns with a couple of the provisions contained in the proposed rule.

One of my concerns is with the provisions surrounding the requirements for physical protection of a geologic repository operations area (GROA). The proposed rule lays out in detail precisely what material falls under which provisions of our DBT or other increased controls by establishing five different levels of physical protection requirements. It is unclear to me why we need these five layers of regulatory protection levels. I am not convinced that this much complexity is necessary, given that the agency already has a well-established design basis threat (DBT) requirement in Part 73.

It appears to me that a more consistent and streamlined approach is available by simply requiring the GROA to meet our DBT requirements. I believe we should apply our existing DBT regimen to the GROA and allow the subsequent security plan to detail the implementation methods that will ensure compliance. Existing NRC regulated facilities have areas that require graded levels of protection, but those gradations are addressed through the security plan – not by requiring a new regulatory structure for DBT. I am especially concerned that this proposed structure appears to create a third DBT, aimed at addressing radioactive material that could result in a moderate radiological sabotage event (proposed §73.53(c)(3)(ii)). This is not only confusing, but unnecessary.

Therefore, I believe the statement of consideration for the proposed rule should include a specific question for stakeholders to aid us in resolving this issue, "Do we need a specific physical protection protocol for a GROA or should we apply the existing DBT and increased controls as appropriate?" I look forward to receiving comments in this area so that we can have the benefit of a thorough discussion of this issue prior to the Commission's decision on final rule language.

Additionally, I am concerned with the timing of the submittal of the material control and accounting plan (MC&A). The proposed rule would require the MC&A plan to be submitted for approval 180 days after the Commission issues the construction authorization. I believe the physical protection requirements established should aid the applicants in better designing the facility. Designs can achieve a lot of efficiency and minimize confusion in implementation of MC&A efforts. If the plans are not submitted until after the construction authorization has been approved, there will be no mechanism to encourage increased security through design. Perhaps this is not as much of an issue if the agency were relying upon our established DBT requirements, but especially with an entirely new physical protection structure as proposed, it seems to be inconsistent with the agency's efforts to ensure a sound safety and security interface. I look forward to receiving public comments on this issue, as well.



Gregory B. Jaczko

11/20/07


Date

NOTATION VOTE
RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER LYONS
SUBJECT: SECY-07-0126 - PROPOSED RULE: GEOLOGIC
REPOSITORY OPERATIONS AREA SECURITY AND
MATERIAL CONTROL AND ACCOUNTING
REQUIREMENTS (RIN 3150-A106)

Approved Disapproved _____ Abstain _____
Not Participating _____

COMMENTS: Below _____ Attached None _____


Peter B. Lyons

SIGNATURE

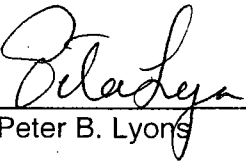
11/ 14 / 07

DATE

Entered on "STARS" Yes No _____

Commissioner Lyons' Comments on SECY-07-0126

I approve the staff's recommendation to publish the proposed rule in the *Federal Register*. I believe your approach of moving to the use of the Design Basis Threat for some of the geologic repository operations makes excellent sense. I appreciate the staff efforts to develop this comprehensive proposed rulemaking package.


Peter B. Lyons 11/14/07
Date