



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

SECRETARY

March 26, 2008

COMMISSION VOTING RECORD

DECISION ITEM: SECY-07-0167

TITLE: REVISIONS OF POLICY STATEMENT ON REGULATION OF
ADVANCED REACTORS

The Commission (with all Commissioners agreeing) disapproved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of March 26, 2008.

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, reading "Andrew L. Bates", written over a horizontal line.

Andrew L. Bates
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-07-0167

RECORDED VOTES

| | APRVD | DISAPRVD | ABSTAIN | NOT PARTICIP | COMMENTS | DATE |
|--------------|-------|----------|---------|-----------------|----------|----------|
| CHRM. KLEIN | | X | | | X | 11/28/07 |
| COMR. JACZKO | | X | | | X | 12/19/07 |
| COMR. LYONS | | X | | | X | 11/20/07 |

COMMENT RESOLUTION

In their vote sheets, all Commissioners disapproved 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 March 26, 2008.

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: Chairman Klein
SUBJECT: SECY-07-0167 – REVISION OF POLICY
STATEMENT ON REGULATION OF ADVANCED
REACTORS

Approved _____ Disapproved x Abstain _____

Not Participating _____

COMMENTS: Below ___ Attached x None ___



SIGNATURE

11/28/07

DATE

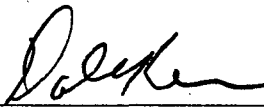
Entered on "STARS" Yes No _____

Chairman Klein's Comments on SECY-07-0167

I disapprove the staff's recommendation to publish the proposed revision to the 1994 Advanced Reactor Policy Statement without soliciting comments from the public.

Although normal Commission practice is to solicit public comment on proposed policy statements, I can understand why the staff believes this step is unnecessary in this case. This proposed change is an update to incorporate the Commission's expectations for consideration of security and emergency preparedness into the existing policy on advanced reactor designs, rather than a completely new policy statement. In addition, the proposed rulemaking on aircraft impact assessments has been issued for public comment, and the comments received on this rulemaking could look similar to those that may be submitted on the proposed policy statement.

Nonetheless, given its importance and its scope beyond the aircraft impact assessment, I believe the updated policy statement that incorporates security and preparedness considerations merits a separate opportunity for public comment. Therefore, the staff should solicit and consider public comments on this revised policy statement prior to its publication in the *Federal Register*. Unless the staff's consideration of the public comments results in substantive changes to the proposed revision, the staff should publish the revised policy statement in the *Federal Register* without further approval from the Commission.

 11/28/07
Dale E. Klein Date

NOTATION VOTE

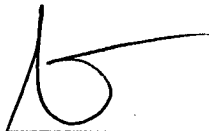
RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER JACZKO
SUBJECT: SECY-07-0167 – REVISION OF POLICY
STATEMENT ON REGULATION OF ADVANCED
REACTORS

Approved _____ Disapproved X Abstain _____

Not Participating _____

COMMENTS: Below _____ Attached X None _____



SIGNATURE

12/19/07

DATE

Entered on "STARS" Yes X No _____

Commissioner Jaczko's Comments on SECY-07-0167
Revision of Policy Statement on Regulation of Advanced Reactors

I agree with Commissioner Lyons' recent vote to defer publication in the Federal Register the revision to the 1994 advanced reactor policy statement until the staff solicits comments from the public. Although the public has had the opportunity to comment on rulemakings involving security, society, technology, and national concerns have changed since 1994, and the Commission would benefit from public participation in shaping an advanced reactor policy statement, since an advanced reactor is still several years into the future, and there is sufficient time to thoroughly engage the public. I also think the agency's New Reactor Organization would benefit from the resulting public interaction and communication while it begins to review applications for new reactors.

I have explained my position regarding the need for the NRC to establish strong regulatory design requirements for new nuclear power plants in my recent correspondence to my fellow Commissioners, "Proposal to Include Aircraft Impact Design Requirements for New Reactors (COMGBJ-07-0001)," and in my recent vote on SECY-06-0204, "Proposed Rulemaking - Security Assessment Requirements for New Nuclear Power Reactor Designs (RIN3150-AH92)." New, advanced reactors should demonstrate through design that they would withstand an aircraft impact such that there would be no release of significant quantities of radioactive materials to the environment, defined as releases requiring measures to limit the exposure of the general public. I view mitigative measures only as an insurance policy in support of robust design attributes. Therefore, in second paragraph, I would delete the words, "or mitigate to the extent practicable." Research analysis suggests that there are new designs capable of providing additional inherent protection to avoid the effects of a large, commercial aircraft impact, and the Commission should make that a regulatory requirement.

I believe this is a good opportunity to recognize the importance of fire protection as one of the attributes in establishing the acceptability or suitability for licensing a proposed advanced reactor design.

With regard to advanced reactor design attributes, the fourth paragraph under "Commission Policy" the second and third sentences should be changed to state, "Incorporating the above attributes would promote more efficient and effective design reviews." The first sentence in the fifth paragraph should be changed to state, "The Commission expects that in addition to the safety features of advanced reactor designs, a reasonable assurance of public safety will be provided by the operational program for Emergency Planning (EP)." The first sentence in the eighth paragraph should include the phrase, "at the appropriate time in the future," with respect to developing the capability for timely assessment that might be presented for NRC review.

The last paragraph should be changed to reflect the agency's focus on public safety to state, "Finally, the NRC believes that it is in the public's best interest for both designers and applicants to address safety and security issues early in the design stage to achieve a more robust, effective safety and security posture for future nuclear power reactors."

In keeping with my goals for openness and transparency, I look forward to broad stakeholder comment from vendors, applicants, licensees, Members of Congress and

NOTATION VOTE


RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER LYONS
SUBJECT: SECY-07-0167 – REVISION OF POLICY
STATEMENT ON REGULATION OF ADVANCED
REACTORS

Approved _____ Disapproved X Abstain _____

Not Participating _____

COMMENTS: Below ___ Attached X None ___


Peter B. Lyons
SIGNATURE

11/20/07
DATE

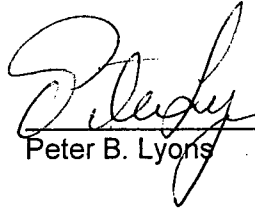
Entered on "STARS" Yes X No _____

Commissioner Lyons' Comments on SECY-07-0167

I disapprove the staff's recommendation to publish the proposed revision to the 1994 Advanced Reactor Policy Statement without soliciting comments from the public. Although I acknowledge that the staff's basis for proceeding without public comment is reasonable, this policy statement revision will guide staff and industry applicants as we move forward in meeting the challenge of defining the details of its implementation. Therefore, I believe it should benefit from a healthy round of public comment.

The staff should make the following edit to ensure that the policy is not interpreted to mean that the Commission believes that new reactors must not require mitigative measures to achieve adequate protection: Second sentence of the second paragraph under "Commission Policy," delete the words "without the need for mitigative measures."

The staff should make the following edit to ensure that the policy is internally consistent by including security features to be within the scope of possible research activities: Fifth sentence of the seventh paragraph under "Commission Policy," insert the words "or security" so that the sentence now reads: "Research activities would include testing of new safety or security features that differ from existing designs for operating reactors, or that use simplified, inherent, passive means to accomplish their safety or security function."


Peter B. Lyons

11/20/07
Date