



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

SECRETARY

September 18, 2007

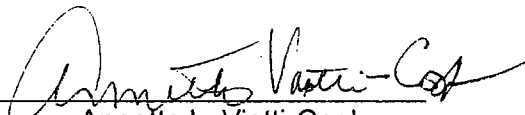
COMMISSION VOTING RECORD

DECISION ITEM: SECY-07-0147

TITLE: SECY-07-0147 – RESPONSE TO GAO  
RECOMMENDATIONS AND OTHER RECOMMENDATIONS  
TO ADDRESS SECURITY ISSUES IN THE NRC  
MATERIALS PROGRAM

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of September 18, 2007.

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

  
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-07-0147

### RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. KLEIN	X				X	9/7/07
COMR. JACZKO	X				X	9/5/07
COMR. LYONS	X				X	9/7/07

### 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 September 18, 2007.

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: CHAIRMAN KLEIN

SUBJECT: SECY-07-0147 - RESPONSE TO GAO  
RECOMMENDATIONS AND OTHER  
RECOMMENDATIONS TO ADDRESS SECURITY  
ISSUES IN THE NRC MATERIALS PROGRAM

Approved xx Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_

Not Participating \_\_\_\_\_

COMMENTS: Below \_\_\_\_\_ Attached xx None \_\_\_\_\_



SIGNATURE

9/7/07

DATE

Entered on "STARS" Yes ☒ No \_\_\_\_\_

**Chairman Klein's Comments on SECY-07-0147**

I approve the staff recommendations in SECY-07-0147 concerning recommendations for addressing security issues associated with the NRC materials program. Successful implementation of this action plan in a timely manner is essential for the NRC. The staff should complete actions as soon as practical and not wait for perfect solutions. The staff must identify interim actions which are tracked, completed, and documented. The Agreement States should be heavily involved in this activity to ensure practical solutions are implemented quickly. In order to provide more visibility to senior management, the independent external review panel should report directly to the Executive Director for Operations. Staff should keep the Commission appropriately informed of the progress of the external review panel, the pre-licensing working group, and the materials program working group.

  
9/7/07

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: COMMISSIONER JACZKO

SUBJECT: SECY-07-0147 - RESPONSE TO GAO  
RECOMMENDATIONS AND OTHER  
RECOMMENDATIONS TO ADDRESS SECURITY  
ISSUES IN THE NRC MATERIALS PROGRAM

Approved X Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_

Not Participating \_\_\_\_\_

COMMENTS: Below \_\_\_\_\_ Attached X None \_\_\_\_\_

  
\_\_\_\_\_  
SIGNATURE

9/5/07  
\_\_\_\_\_  
DATE

Entered on "STARS" Yes X No \_\_\_\_\_

**Commissioner Jaczko's Comments on SECY-07-0147**  
**Response to the U.S. Government Accountability Office Recommendations and other**  
**Recommendations to Address Security Issues in the U.S. Nuclear Regulatory Commission**  
**Materials Program**

I approve the staff recommendations in this paper subject to the modifications below. In general, I applaud the staff for quickly addressing this important issue. Further securing nuclear materials in this country is an important security priority. The agency has achieved significant success in this area, but the results of a recent Government Accountability Office investigation identified several weaknesses in our regulatory infrastructure.

I believe the most pressing issues involve trustworthiness of applicants for new licenses and authenticity of transactions involving licensees. Addressing the issues of trustworthiness of applicants and authenticity of transactions may be as simple as requiring site visits to potential applicants businesses and phone calls between the appropriate regulatory agency and one or both licensees involved in a transaction to verify the validity of the parties' licenses. As the staff notes in this paper, the National Source Tracking System and Web Based Licensing system will permit the latter verification to happen efficiently and effectively. I encourage the staff in all their discussions to work quickly to developing effective, easy solutions to the weaknesses identified by the GAO report and to report early and often to the Commission with suggested improvements.

In my view, many of the weaknesses identified by the GAO result from the agency's assumption of good faith behavior on the part of applicants and licensees. The NRC has assumed a posture of enabling the use of nuclear materials which may no longer be acceptable given the current potential for malevolent actions. I applaud the staff for placing significant emphasize on reviewing the "good faith" presumption in all their recommendations. Changing this culture may be the most formidable task in front of the agency, but once this is achieved I believe many of these other activities will be easily addressed. After all, the agency has a strong program based heavily around the International Atomic Energy Agency's code of conduct for sources that imposes regulatory requirements commensurate with the risks posed by different types of sources.

One other area that I continue to believe will help in addressing the weaknesses identified by the GAO and other reports is an improved understanding of the role of the agreement states and NRC in regulating security. In my view, there continues to be a significant amount of effort expended in attempting to make what are ultimately common defense and security issues appear as public health and safety issues, resulting in needless delays in implementation. The agreement states play an important role in regulating nuclear materials in their respective states, but many of the issues dealing with security cross state boundaries and require a consistent national implementation program, something that may not be possible by continuing to classify the regulatory actions as public health and safety.

The agreement states have much insight to offer the NRC as we move forward on resolving these issues and I fully encourage the staff to work with the agreement states to provide the Commission with further recommendations. In fact, many of the common sense solutions that the Commission is or will consider may have been accomplished or have been implemented by the agreement states. I do believe, however, that in those circumstances in which the states lack authority to implement solutions – as in the recent challenges with implementing the fingerprinting requirements for unescorted access to nuclear materials – the NRC must act, since the NRC is ultimately responsible for the common defense and security aspects of the regulation of nuclear materials.

In addition, to these general comments, I also have several specific comments regarding the recommendations in the staff paper.

First, I fully support expeditiously implementing recommendations G-1, G-2 and G-3, especially the quick implementation of the fingerprinting requirements for category 1 and 2 sources. I do not believe that any of these programs should be difficult to accomplish. In all cases, I believe the staff should be able to develop interim measures that involve known technical solutions. I encourage the staff to utilize common sense approaches and provide the Commission with specific solutions as soon as they are available.

Second, as discussed above, I believe the analysis of the good faith assumption described in S-1 is a crucial piece of this review and look forward to the staff conclusions.

Third, I fully support the recommendation S-2a.

Fourth, I have long advocated including category three sources in the National Source Tracking System and encourage the staff to expeditiously complete the technical basis for the modifications of our regulations to accomplish this as described in recommendations S-2b. I believe this effort along with the review of the General License program described in recommendation A-2 will bring greater accountability to the nuclear materials regulatory program.

Fifth, I fully support the efforts to expedite the Web Based Licensing system, but I continue to believe that the same accountability and authentication improvements can be achieved with minimal difficulty on an interim basis. I encourage the staff to put these interim measures in place quickly.

Finally, I fully support the creation of an independent panel of experts to review the nation's nuclear materials regulatory infrastructure. This panel must have an appropriate mixture of experts who have some knowledge of our and the agreement states' programs, but enough isolation from those programs to be able to identify potential weaknesses and vulnerabilities. Given the importance of resolving any identified weaknesses efficiently, I believe this panel should report directly to the Commission offices with their interim and final findings.

The Nuclear Regulatory Commission continues to provide a solid program for regulating nuclear materials in this country. Ultimately, I believe the weaknesses identified by the GAO will be thoroughly addressed by the staff's recommendations. In fact, I believe these recommendations when fully implemented will make the NRC's regulatory programs even more rigorous, effective and efficient than the GAO or other stakeholders could anticipate.

  
Gregory B. Jaczko  
9/5/07  
Date

NOTATION VOTE  
RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

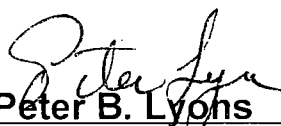
FROM: COMMISSIONER LYONS

SUBJECT: SECY-07-0147 - RESPONSE TO GAO  
RECOMMENDATIONS AND OTHER  
RECOMMENDATIONS TO ADDRESS SECURITY  
ISSUES IN THE NRC MATERIALS PROGRAM

Approved   X   Disapproved        Abstain       

Not Participating       

COMMENTS: Below        Attached   X   None       

  
Peter B. Lyons  
\_\_\_\_\_  
SIGNATURE

  9/  7  /07    
DATE

Entered on "STARS" Yes   X   No



**Commissioner Lyons' Comments on SECY-07-0147**

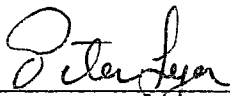
I approve the staff's Action Plan to respond to the recommendations from the Government Accountability Office, the Senate Committee on Homeland Security and Governmental Affairs, Permanent Subcommittee on Investigations staff and the Nuclear Regulatory Commission Office of the Inspector General. I voted to support the resources to fund the Action Plan in response to the Chairman's proposal on the budget (COMDEK-07-0005). Furthermore, I would like to express my appreciation for staff's herculean efforts to provide the Action Plan to the Commission within the very short time frame requested.

During the September 4, 2007, Commission meeting on this Action Plan, I expressed my concern about the length of time to address the various recommendations and strongly encouraged the development and implementation of partial short term solutions that could be augmented with medium and long term corrective actions to address the recommendations. Implementation of actions, agreed upon by the NRC staff, the Agreement States, and the Organization of Agreement States, could be phased in to afford maximum implementation flexibility to NRC or the Agreement States that may need more time for legislative or other regulatory changes while others can implement the corrective actions much sooner.

The proposed plan is for the Independent Review Panel to provide its recommendations to FSME and the Materials Program Working Group by January 2008 for evaluation. I'm very supportive of the use of an Independent Review Panel and believe the Commission should be provided with periodic updates on the status and findings of this panel and receive a copy of Panel's draft and final reports.

I strongly support the Agreement States' involvement in this Action Plan, and I am also concerned about the resource implications that this program may have on Agreement States. The staff should continue its efforts to fund Agreement States activities, to the maximum extent allowed under current law and explore the possibility of other federal programs providing support to implement security actions, including the possibility of requesting specific legislation.

Because of the keen Commission interest in this program, staff should provide periodic status reports on the progress of the Plan. These reports could be either through formal communications or informally by Commission Technical Assistance Briefing.

 9/7/07  
Peter B. Lyons                      Date