



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

September 25, 2007

10/2

COMMISSIONER

COMGBJ-07-0004

Disapproved. See
attached comments.

MEMORANDUM TO: Chairman Klein
Commissioner Lyons

FROM: Gregory B. Jaczko

SUBJECT: MULTINATIONAL DESIGN EVALUATION PROGRAM (MDEP)
STAGE 2 CONCLUSIONS AND RECOMMENDATIONS

Dale E. Klein 9/28/07
Date

I believe it is appropriate for the Commission to provide policy guidance to the staff prior to their upcoming efforts to negotiate the details of any future steps to the Multinational Design Evaluation Program. The Commission previously approved direction to the staff to participate in a "Stage 2, Phase 1, pilot project and assessment," to pursue international convergence on licensing, safety reviews and safety goals for new reactor designs.

I continue to have significant concerns about this program. First and foremost, I believe that the regulations developed by the NRC through a public rulemaking process to implement the laws passed by the U.S. Congress are an inherently sovereign responsibility that should not be predicated upon the practices of other countries. The effort to develop a set of international codes for licensing and regulating nuclear power plants will be extremely difficult to accomplish, will consume time and resources that could be better used, will be fraught with liability, information protection, and intellectual property rights concerns, and if ultimately successful, will add little if anything to the safety of any new nuclear power plants. In fact, I am concerned it will actually undermine the efforts of those nations newer to nuclear power to develop comprehensive safety agencies. All governments have to determine how to allocate limited resources and there would be a natural temptation to short-circuit the hard work necessary to build strong safety agencies from the ground up if there is a MDEP approved design certification and safety review process available for easy adoption.

Although, I do understand the thinking that 'multinational designs' and 'code convergence' might make it easier and less expensive for vendors to sell reactors and therefore promote the use of more nuclear power around the world, this is not the right goal for the Nuclear Regulatory Commission to be pursuing. The Department of Energy and non-governmental organizations may have incentives to pursue such a program but the NRC's mission is to ensure public health and safety, promote the common defense and security, and protect the environment.

Therefore, I request that my colleagues disapprove of the August 15, 2007, "Overall Conclusions and Recommendations" document provided to the Commission offices in a September 11, 2007, memo from Vonna L. Ordaz, Assistant for Operations, Office of the Executive Director for Operations. This document is intended to be the U.S. negotiating position at an October MDEP meeting. Because this document makes recommendations for pursuing MDEP activities beyond those previously approved by

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Chairman Klein's Comments
on
COMGBJ-07-0004, "Recommendations Multinational Design Evaluation Program (MDEP)
Stage 2 Conclusions and Recommendations"


I disapprove Commissioner Jaczko's proposal in COMGBJ-07-0004.

The Multinational Design Evaluation Program (MDEP) is a safety program in which the regulators of 11 countries are participating. I find it astonishing that Commissioner Jaczko would imply that the NRC's goal in MDEP activities is to make it easier and less expensive for vendors to sell reactors. Indeed, from its inception, the primary objective of MDEP was to enhance the protection of public health and safety. Furthermore, the majority of the Commission has long recognized that the fundamental benefits of MDEP for the NRC are the contributions to safety reviews in this and other countries.

I do not support the proposed disapproval of the August 15, 2007, "Draft Overall Conclusions and Recommendations" document provided to the Commission offices in a September 11, 2007 memorandum. The staff has a sound and reasonable plan to conduct a working group meeting with counterparts from other countries in early October 2007 and to advance the preparation of a draft report, including conclusions and recommendations, before the draft report is presented to the participating countries for approval in November 2007. The overall process and approach described in the staff's memorandum are entirely consistent with Commission direction in the Staff Requirements Memorandum (SRM) to SECY 06-0192.

I do not support requiring the staff development of a voting paper that outlines the goals, expectations, and resource requirements of the recommendations at this time. To do so would be premature in as much as the staff plans to do just that in November 2007, after the working group develops a draft report in early October 2007.

I believe that by working together with our international partners through efforts like MDEP, we have an unprecedented opportunity to improve the safety and security of new and innovative reactors here and abroad. I believe that it is clearly in the interest of the United States and the international community to share information so that we can all learn from each other's collective experience.


Dale E. Klein

9/28/07
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REQUEST REPLY BY 10/2
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Disapproved.

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Commissioner Lyons

FROM: Gregory B. Jaczko

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Gregory B. Jaczko
Peter B. Lyons 9/28/07
Peter B. Lyons Date

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I continue to have significant concerns about this program. First and foremost, I believe that the regulations developed by the NRC through a public rulemaking process to implement the laws passed by the U.S. Congress are an inherently sovereign responsibility that should not be predicated upon the practices of other countries. The effort to develop a set of international codes for licensing and regulating nuclear power plants will be extremely difficult to accomplish, will consume time and resources that could be better used, will be fraught with liability, information protection, and intellectual property rights concerns, and if ultimately successful, will add little if anything to the safety of any new nuclear power plants. In fact, I am concerned it will actually undermine the efforts of those nations newer to nuclear power to develop comprehensive safety agencies. All governments have to determine how to allocate limited resources and there would be a natural temptation to short-circuit the hard work necessary to build strong safety agencies from the ground up if there is a MDEP approved design certification and safety review process available for easy adoption.

Although, I do understand the thinking that 'multinational designs' and 'code convergence' might make it easier and less expensive for vendors to sell reactors and therefore promote the use of more nuclear power around the world, this is not the right goal for the Nuclear Regulatory Commission to be pursuing. The Department of Energy and non-governmental organizations may have incentives to pursue such a program but the NRC's mission is to ensure public health and safety, promote the common defense and security, and protect the environment.

Therefore, I request that my colleagues disapprove of the August 15, 2007, "Overall Conclusions and Recommendations" document provided to the Commission offices in a September 11, 2007, memo from Vonna L. Ordaz, Assistant for Operations, Office of the Executive Director for Operations. This document is intended to be the U.S. negotiating position at an October MDEP meeting. Because this document makes recommendations for pursuing MDEP activities beyond those previously approved by

Commissioner Lyons' Comments on COMGBJ-07-0004

Multinational Design Evaluation Program (MDEP) Stage 2 Conclusions and Recommendations

I disapprove Commissioner Jazcko's recommendations discussed in COMGBJ-07-0004.

Specifically, I can not support the disapproval of the August 15, 2007, "Overall Conclusions and Recommendations" document provided to the Commission offices in a September 11, 2007 memorandum. Without addressing the merits of these individual recommendations, I fully support the overall process and approach and believe the staff's efforts are in concert with previous Commission direction in the Staff Requirements Memorandum (SRM) to SECY 06-0192. In this SRM, the Commission approved the staff's participation in Phase 1 of Stage 2 of this initiative. The final element of Phase 1, as described in the Terms of Reference for the initiative, is an Assessment Period. This includes development of Conclusions and Recommendations by a Technical Steering Committee and subsequent review by the Policy Group. Phase 2, for which the Commission has not currently given any approval, would be the actual implementation of the Recommendations developed in Phase 1. The staff is currently preparing to Chair the Technical Steering Committee in drafting the Conclusions and Recommendations as part of the assessment of Phase 1. As such, the staff's activities are completely consistent with direction given in the previous SRM.

I also do not support staff development of a voting paper that outlines the goals, expectations, and resource requirements of the recommendations at this time. I look forward to reviewing such a paper in November that will have the benefit of the Technical Steering Committee's discussions.

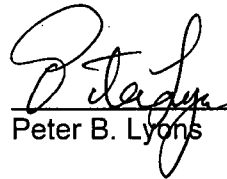
I continue to believe that the ongoing international dialogue framed by this initiative will provide substantive near-term benefits to all participants. I also believe that, despite the challenges, the potential for the long-term benefit to nuclear safety and security is worth this effort, and that ultimately a reactor design that references a set of international standards will be widely recognized as having exceptionally high quality in its safety and security design.

I agree with Commissioner Jazcko that the Nuclear Regulatory Commission should not pursue promoting the use of more nuclear power around the world. However, I do not believe that this is the purpose of the MDEP. From its inception, former Chairman Diaz was very clear in articulating that the primary objective of the program was to enhance the protection of public health and safety and the environment for the beneficial civilian use of nuclear energy. Specifically, a multinational safety-focused program will help ensure the effectiveness and efficiency of nuclear power design reviews and associated programs, and will provide a practical forum for multinational cooperation and ultimate convergence on safety standards and their implementation. Other benefits would include improved clarity and transparency of nuclear safety regulation across international borders, better communication, more standardization in reactor designs and in regulatory programs, and better safety, security, and emergency preparedness coordination among user countries. I further note that with the growing international nature of nuclear component manufacturing, MDEP presents an opportunity to strengthen the Quality Assurance programs of vendors in other countries yielding a significant safety benefit.

I am a firm believer in the importance of strong, technically competent, comprehensive safety agencies for nations seeking to deploy nuclear power plants. I do not believe that the MDEP

program undermines this objective. There is a long history of development of international standards, safety guides, and best practices. It is clearly in the interest of the United States and the international community to share information so that we can all learn from each other's collective experience and need not independently "invent the wheel." I envision MDEP as a natural extension of previous international cooperative efforts.

Finally, prior to authorizing any Stage 2 Phase 2 activities, the Commission would require greater development of the specific proposals, expected benefits, and anticipated resource commitments.

 9/28/07
Peter B. Lyons Date