

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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AFFIRMATION SESSION

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PUBLIC MEETING

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Nuclear Regulatory Commission  
Commission Hearing Room  
11555 Rockville Pike  
Rockville, Maryland  
May 12, 2005

The Commission met in open session, pursuant to notice, at 10:45am,  
Nils J. Diaz, Chairman, presiding.

COMMISSIONERS PRESENT:

NILS J. DIAZ, Chairman of the Commission

EDWARD MCGAFFIGAN, JR., Member of the Commission

JEFFREY S. MERRIFIELD, Member of the Commission

GREGORY B. JACZKO, Member of the Commission

STAFF AND PRESENTERS SEATED AT THE COMMISSION TABLE:

ANNETTE L. VIETTI-COOK, Secretary of the Commission

KAREN CYR, General Counsel

DISCLAIMER

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The transcript is intended solely for general information purposes. As provided by 10 CFR 9.103, it is not part of the formal or informal record of decision of the matters discussed. Expressions of opinion in this transcript do not necessarily reflect final determination or beliefs. No pleading or other paper may be filed with the Commission in any proceeding as the result of, or addressed to, any statement or argument contained herein, except as the Commission may authorize.

[10:45am]

P R O C E E D I N G S

CHAIRMAN DIAZ: Madam Secretary.

MS. VIETTI-COOK: This is the final rule to amend 10 CFR Part 110, "Export and Import of Nuclear Equipment and Materials Security Policies". The Commission is being asked to act on a final rule amending 10 CFR Part 110 to update the export/import regulations to implement the provisions of the International Atomic Energy Agency (IAEA) Code of Conduct on the Safety and Security of Radioactive Sources (Code of Conduct), and also the Code Guidance on the Import and Export of Radioactive Sources (Guidance). The final rule also goes beyond the Code of Conduct and its Guidance in the area of bulk material to reflect the post- September 11, 2001, security policies of the Commission and the Executive Branch.

The Commission has voted to approve the publication and implementation of this final rule, subject to the changes noted in the attachment. The Commission is also providing additional direction to the staff on separate but related issues in a forthcoming Staff Requirements Memorandum. Would you please affirm your votes?

CHAIRMAN DIAZ: Aye

COMMISSIONER MCGAFFIGAN: Aye.

COMMISSIONER MERRIFIELD: Aye.

COMMISSIONER JACZKO: Aye.

ANNETTE VIETTI-COOK: Commissioner Lyons had previously voted to approve this rule and had he been present he would have affirmed his prior vote.

COMMISSIONER MCGAFFIGAN: Mr. Chairman, I just want to commend the staff that did this, commend all the people that worked on this, going back to 2003, including the Chairman himself, at some of the IAEA interactions, I remember a day in July 2003 when the three of us were on the phone to Ed Baker in Vienna finding a final compromise that was acceptable to the US Government but the staff has done an extraordinary job. This is the first nation to adopt, that I'm aware of, to adopt the code of conduct export/import rules and we're the first nation - we're showing real leadership in the G-8 which at the Sea Island Summit our President and heads of state of other nations endorsed this approach so it's a very fast rulemaking and it's because there was a heck of a lot of work by staff to interact with stakeholders and this is the start not the end. You now have to work with our international partners and with our domestic licensees to carry this out but it's a singular achievement and I commend the staff for their efforts.

CHAIRMAN DIAZ: Thank you. I concur and I also commend the Commission for having worked closely together to get this thing done.

COMMISSIONER MERRIFIELD: Mr. Chairman, I'd like to add my concurrence to that as well. I think there's a significant amount of work that went on behind the scenes among our staff in an interdisciplinary way that require a lot of work some cat herding but a lot of work to come together on this - I think it's an extraordinary effort and I concur with the sentiments expressed by Commissioner McGaffigan and yourself.

CHAIRMAN DIAZ: Thank you.

ANNETTE VIETTI-COOK: The second item was on the U.S. Enrichment Corporation, American Centrifuge Plant. The Commission is being asked to act on a Memorandum and Order responding to petitions to intervene filed by Portsmouth/Piketon Residents for Environmental Safety and Security (PRESS) and Mr. Geoffrey Sea.

The Commission has voted to approve a Memorandum and Order which finds that the Portsmouth/Piketon Residents for Environmental Safety and Security and Mr. Sea have standing to intervene, refers their petitions and contentions to the Atomic Safety and Licensing Board for further appropriate action, and resolves or refers to the Board certain procedural questions raised in a number of pending motions. Would you please affirm your votes?

CHAIRMAN DIAZ: Aye

COMMISSIONER MCGAFFIGAN: Aye.

COMMISSIONER MERRIFIELD: Aye.

COMMISSIONER JACZKO: Aye.

ANNETTE VIETTI-COOK: Commissioner Lyons again had previously voted to approve this memorandum and order and had he been present he would have affirmed his prior vote. That's all I have.

CHAIRMAN DIAZ: All right. Thank you. Any comments? If not, thank you, we are adjourned.

CERTIFICATE

This is to certify that the attached description of a meeting of the U.S. Nuclear Regulatory Commission entitled:

TITLE OF MEETING: Affirmation Session  
(PUBLIC MEETING)

PLACE OF MEETING: Rockville, Maryland

DATE OF MEETING: May 12, 2005

was held as herein appears, is a true and accurate record of the meeting, and that this is the original transcript thereof taken stenographically by me, thereafter reduced to typewriting by me or under the direction of the court reporting company.

Transcriber: NANCY GREATHEAD

Reporter: (TAPE RECORDING)