



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

October 10, 2006

SECRETARY

COMMISSION VOTING RECORD

DECISION ITEM: SECY-06-0195

TITLE: TRANSITION PLAN FOR THE REGULATION OF CERTAIN  
BYPRODUCT MATERIALS MANDATED BY THE ENERGY  
POLICY ACT OF 2005

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of October 10, 2006.

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 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 McGaffigan  
Commissioner Merrifield  
Commissioner Jaczko  
Commissioner Lyons  
OGC  
EDO  
PDR

VOTING SUMMARY - SECY-06-0195

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. KLEIN	X				X	9/29/06
COMR. McGAFFIGAN	X					9/19/06
COMR. MERRIFIELD	X					9/22/06
COMR. JACZKO	X				X	10/4/06
COMR. LYONS	X				X	9/29/06

COMMENT RESOLUTION

In their vote sheets, all Commissioners approved the staff's recommendation and some provided additional comments. Subsequently, the comments of the Commission were incorporated into the guidance to staff as reflected in the SRM issued on October 10, 2006.

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary  
FROM: CHAIRMAN KLEIN  
SUBJECT: SECY-06-0195 - TRANSITION PLAN FOR THE  
REGULATION OF CERTAIN BYPRODUCT MATERIALS  
MANDATED BY THE ENERGY POLICY ACT OF 2005

Approved XX Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_

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

COMMENTS: Below \_\_\_\_\_ Attached XX None \_\_\_\_\_



\_\_\_\_\_  
SIGNATURE

9 / 29 / 2006

\_\_\_\_\_  
DATE

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

**Chairman Klein's comments on SECY-06-0195, Transition Plan for the Regulation of  
Certain Byproduct Material Mandated by the Energy Policy Act of 2005**

I commend the staff for developing a comprehensive draft byproduct material transition plan, and I approve the proposed approach for developing and publishing the final plan. I also approve seeking early State review and comment on the draft transition plan, as well as the use of the criteria in the Integrated Materials Performance Evaluation Program (IMPEP) as a basis to determine the adequacy of Agreement State programs to license the materials covered under the expanded definition of byproduct material. Rather than performing special evaluations in cases where a new Agreement State has not yet had an IMPEP review, or an Agreement State program was found to need improvement, the staff should accept the Governor's certification that the State has a program for licensing byproduct material as adequate assurance that the program meets the requirements set forth in the Energy Policy Act of 2005. The staff should subsequently verify the adequacy of the implementation at the next scheduled IMPEP.

*JK*  
9/29/06

NOTATION VOTE

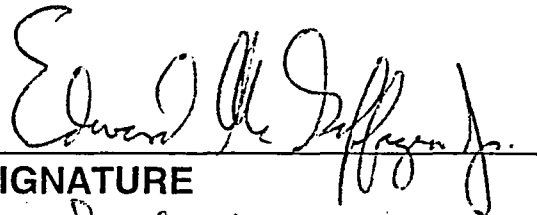
RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary  
FROM: COMMISSIONER MCGAFFIGAN  
SUBJECT: SECY-06-0195 - TRANSITION PLAN FOR THE  
REGULATION OF CERTAIN BYPRODUCT MATERIALS  
MANDATED BY THE ENERGY POLICY ACT OF 2005

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

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

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

  
\_\_\_\_\_  
SIGNATURE

September 19, 2006  
\_\_\_\_\_  
DATE

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

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary  
FROM: COMMISSIONER MERRIFIELD  
SUBJECT: SECY-06-0195 - TRANSITION PLAN FOR THE  
REGULATION OF CERTAIN BYPRODUCT MATERIALS  
MANDATED BY THE ENERGY POLICY ACT OF 2005

Approved  Disapproved  Abstain

Not Participating

COMMENTS: Below  Attached  None

  
\_\_\_\_\_  
SIGNATURE

  
\_\_\_\_\_  
DATE

Entered on "STARS" Yes  No

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary  
FROM: COMMISSIONER JACZKO  
SUBJECT: SECY-06-0195 - TRANSITION PLAN FOR THE  
REGULATION OF CERTAIN BYPRODUCT MATERIALS  
MANDATED BY THE ENERGY POLICY ACT OF 2005

Approved  X  Disapproved   Abstain

Not Participating

COMMENTS: Below   Attached  X  None

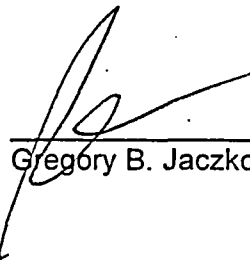
  
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6/4/06   
\_\_\_\_\_  
DATE

Entered on "STARS" Yes  X  No

**Commissioner Jaczko's Comments on SECY-06-0195  
Transition Plan for the Regulation of Certain Byproduct Materials Mandated by the  
Energy Policy Act of 2005**

I approve the staff's recommended approach for the Nuclear Regulatory Commission (NRC) to transition its authority to regulate certain byproduct materials required by the Energy Policy Act (EPA) of 2005 to the states. Consistent with the EPA, I support discontinuing the NRC's authority for these materials in agreement state programs where the Governor certifies that the state has a regulatory program to cover the new class of materials. In order to fulfill the EPA's requirements that the NRC determine the adequacy of such programs to protect public health and safety, I strongly support the staff's recommendation to make an adequacy determination using the IMPEP criteria for states that have less than adequate IMPEP findings or have not had an IMPEP review.



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Gregory B. Jaczko

1/19/06

Date



NOTATION VOTE  
RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary  
FROM: COMMISSIONER LYONS  
SUBJECT: SECY-06-0195 - TRANSITION PLAN FOR THE  
REGULATION OF CERTAIN BYPRODUCT MATERIALS  
MANDATED BY THE ENERGY POLICY ACT OF 2005

Approved  Disapproved  Abstain

Not Participating

COMMENTS: Below  Attached  None

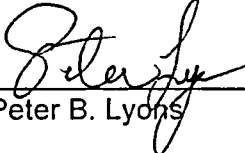
  
Peter B. Lyons  
SIGNATURE

9/ 29 /06  
DATE

Entered on "STARS" Yes  No

**Commissioner Lyons' Comments on SECY-06-0195**

I join the Chairman in the view that the Governor's certification also provides adequate assurance that a program meets applicable requirements in the case of a new Agreement State that has not yet had an IMPEP review, or an Agreement State found to need improvement.

  
Peter B. Lyons      9/29/06  
Date