



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

SECRETARY

August 21, 2007

COMMISSION VOTING RECORD

DECISION ITEM: SECY-07-0109

TITLE: FINAL E-FILING RULE

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of August 21, 2007.

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 "Annette L. Vietti-Cook".

Annette L. Vietti-Cook
Secretary of the Commission

Attachments:

1. Voting Summary
2. Commissioner Vote Sheets

cc: Chairman Klein
Commissioner McGaffigan
Commissioner Jaczko
Commissioner Lyons
OGC
EDO
PDR

VOTING SUMMARY - SECY-07-0109

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. KLEIN	X					8/03/07
COMR. McGAFFIGAN	X					8/06/07
COMR. JACZKO	X				X	8/06/07
COMR. LYONS	X				X	8/06/07

COMMENT RESOLUTION

In their vote sheets, all Commissioners approved the staff's recommendation and Commissioner Jaczko and Commissioner Lyons provided some additional comments. Subsequently, the comments of the Commission were incorporated into the guidance to staff as reflected in the SRM issued on August 21, 2007.

NOTATION VOTE

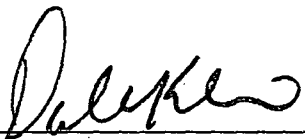
RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: CHAIRMAN KLEIN
SUBJECT: **SECY-07-0109 - FINAL E-FILING RULE**

Approved XX Disapproved _____ Abstain _____

Not Participating _____

COMMENTS: Below _____ Attached _____ None XX



SIGNATURE
8/3/07

DATE

Entered on "STARS" Yes No _____

NOTATION VOTE

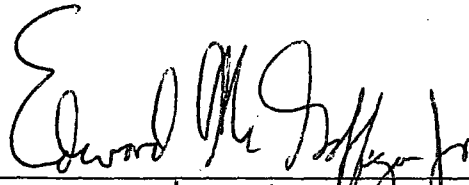
RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER MCGAFFIGAN
SUBJECT: **SECY-07-0109 - FINAL E-FILING RULE**

Approved Disapproved _____ Abstain _____

Not Participating _____

COMMENTS: Below _____ Attached _____ None



SIGNATURE

8/6/2007

DATE

Entered on "STARS" Yes No _____

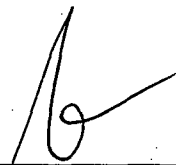
NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: **COMMISSIONER JACZKO**
SUBJECT: **SECY-07-0109 - FINAL E-FILING RULE**

Approved X Disapproved Abstain
Not Participating

COMMENTS: Below Attached X None



SIGNATURE

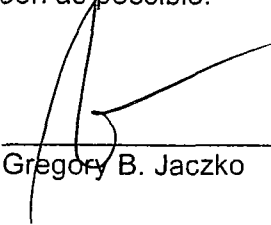
8/6/07

DATE

Entered on "STARS" Yes X No

**Commissioner Jaczko's Comments on SECY-07-0109
Final E-Filing Rule**

I approve of the final rule and appreciate staff's efforts to continue to find ways to improve the ease with which parties can participate in the agency's adjudicatory hearings. While there are some information technology (IT) issues regarding the use of the electronic information exchange (EIE) and the use of digital certificates that need to be resolved, those issues are more universal and certainly extend beyond the use of the EIE and digital certificates for adjudicatory hearings. I support the e-filing initiative but equally support ensuring the security of the agency's IT framework. Therefore, I would like the staff to keep the Commission currently informed on its progress in resolving these larger IT issues by March, 2008 and sooner if possible. If additional resources are required to meet or exceed the March deadline, the staff should inform the Commission as soon as possible.



Gregory B. Jaczko

8/6/07

Date

NOTATION VOTE

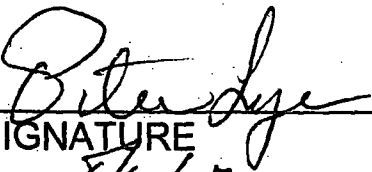
RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER LYONS
SUBJECT: **SECY-07-0109 - FINAL E-FILING RULE**

Approved Disapproved _____ Abstain _____

Not Participating _____

COMMENTS: Below _____ Attached None _____



SIGNATURE
8/6/07

DATE

Entered on "STARS" Yes No _____

correct to the best of that individual's knowledge and belief. The guidance document provides further explanation of signing documents under oath or affirmation.

I. Electronic Transmission

Under E-Filing, participants ^{should} will convert their documents into the appropriate electronic formats detailed by the Guidance and electronically transmit these documents to the presiding officer, the other participants, and the Secretary of the Commission. The Guidance sets technical standards for filing and service under the rule and defines the file sizes and formats for electronic transmissions. By putting the technical provisions in the Guidance, the Commission is able to update the electronic transmission standards to keep pace with technology and the changing needs of the NRC and the participants in its adjudication without additional rulemaking. Exemptions to the electronic transmission requirement are discussed below. (See section II.K. of this document).

J. Electronic Document Requirements

Because the E-Filing system can accept documents only in specified electronic formats, E-Filing has specific electronic document standards that are enumerated in the *Guidance for Electronic Submissions to the NRC* ("Guidance"), which is available on the NRC website, <http://www.nrc.gov>. This guidance document replaces all previous agency guidance on electronic submittals to the agency, including *Appendix A: Guidance for Electronic Submissions to the Commission* (which accompanied the E-Rule), *Guidance for Submission of Electronic Documents Under 10 CFR Part 2, Subpart J* (which applies to the high-level waste repository proceeding), and the *E-Filing/E-Submittal Proposed Guidance*. For the foreseeable future, the only acceptable ^{technically compatible} formats are certain types of portable document format (PDF) file formats. In addition, individual submissions cannot exceed 50 megabytes (approximately 5000 pages of

text), which the NRC considers the current upper limit for practical Internet transmissions.

The Guidance creates three categories of documents: simple, large, and complex.

Simple documents are documents filed in an acceptable PDF format and transmittable to the E-Filing system in a single transmission.

Large documents, meaning documents exceeding 50 megabytes, are also filed in an acceptable PDF format. The Guidance currently recommends that these large documents should be segmented into smaller files that meet the 50 megabyte limit and then transmitted to the E-Filing system, which reunites the files as a package. Document size limits provided in the Guidance are subject to change, to keep pace with the most current technology. Participants are also asked to physically deliver to all the participants in the proceeding OSMs containing the large document, in its entirety, in a unified form that could be used as a reference copy.

Complex documents are those that (1) are not entirely in an acceptable PDF format; (2) contain Classified National Security Information or Safeguards Information; or (3) exceed the 50 megabyte limit and cannot be segmented. The Guidance asks participants to electronically submit to the E-Filing system the sections of a complex document that are in PDF, do not contain Classified National Security Information or Safeguards Information, and can be segmented into less than 50 megabytes. The Guidance also asks participants to deliver the entire complex document on an OSM to all authorized participants in the proceeding.

As was previously noted, the Guidance considers only certain forms of PDF as ^{recognizes that} qualifying formats. ^{are technically compatible with the NRC E-filing system} In choosing PDF over other formats, the NRC considered whether:

- (1) the document format is of a type that can be entered as an official agency record;
- (2) the format behaves consistently over a broad range of operating systems and platforms (meaning pagination remains identical regardless of the printer used);
- (3) the format can be easily accessed by most users;
- (4) the format is one to which other document formats can be easily converted;

As part of the ⁻¹³⁻ development of the NRC E-filing system, the NRC chose PDF formats over other formats based on the following considerations:

Information may be filed electronically to the E-Filing system under the system's protective order file regime. Each sensitive document should be clearly marked, and the cover letter should indicate the sensitivity of each document. Once transmitted to the E-Filing system, sensitive documents will be protected by being placed in specific folders in the Electronic Hearing Docket (EHD) that permit access only to those participants who have been authorized to receive and review the sensitive material.

Comment. The Guidance contemplates filing Classified National Security Information on an OSM. However, neither the rule nor the Guidance provides an exemption for paper filing of classified documents. What if the participant submitting the filing has the appropriate security clearance to possess the classified information, but does not have an NRC-approved classified computer system to process the information on electronic media?

Response. The presiding officer in each proceeding will issue an order, as necessary, that will establish the procedures for the preparation, submission, and service of documents containing classified information. Accordingly, participants who cannot provide electronic versions of documents containing classified information should bring this issue to the attention of the presiding officer at the appropriate time.

Comment. How will documents filed under protective order be accessed through the EHD? Once accessed through the EHD, may these documents be printed?

Response. Those seeking to file and access protective order file materials will be required to obtain a digital ID certificate from the agency as specified by the procedures outlined in the Guidance. The EHD will recognize a participant's digital ID certificate as one that may have access to documents filed under protective order. Once in the EHD, a secure login screen will appear only to those who may access documents filed under a particular protective order, prompting the participant to enter a login ID and password. With the exception of NRC employees, who because of their responsibility under NRC regulations not to disclose