

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: GREGORY B. JACZKO
SUBJECT: SECY-09-0035 – PROPOSED RULE: REQUIREMENTS
FOR DISTRIBUTION OF BYPRODUCT MATERIAL,
PARTS 30, 31, 32, 40, AND 70 (RIN 3150-AH91)

Approved X Disapproved _____ Abstain _____

Not Participating _____

COMMENTS: Below _____ Attached X None _____



SIGNATURE

09/8/2009

DATE

Entered on "STARS" Yes X No _____

Chairman Jaczko's Comments on SECY-09-0035
Proposed Rule: Requirements for Distribution of Byproduct Material,
Parts 30, 31, 32, 40, and 70

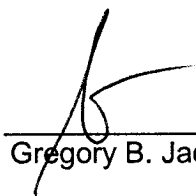
I approve the staff's recommendation to publish the proposed amendments to 10 CFR Parts 30, 31, 32, 40, and 70 in the Federal Register. This is a complicated and wide-ranging proposed rule, and I commend the staff for the effort that they have put into this paper. Given the number of topics addressed in this proposed rule, I suggest that the staff consider whether the clarity of the Federal Register Notice would be enhanced by the addition of a section containing "Questions and Answers," similar to sections that have been included in Federal Register Notices for other rulemakings. Also, summarizing all of the areas for which staff is specifically requesting public comment would be helpful to the reader.

I agree with Commissioner Klein's comment that the justification for the proposed new class exemption for certain types of industrial devices should be based on safety considerations. The discussion should be revised to reflect that the difficulty of maintaining accountability of these types of devices is not the basis for the proposed revision. In addition, since this new exemption is an area that could have the largest impact, it should be highlighted for public comment.

More importantly, I am not convinced that we should be allowing for a new class exemption at this time. As the proposed rule states, "Under the proposed exemption from licensing requirements, there would be no controls on disposal; the devices would be disposed of without regard to their radioactivity." In general, the agency is moving towards more accountability of radioactive material, not less. I look forward to reviewing the public comments on this issue.

The staff proposes to remove unnecessary limitations from the class exemption for gas and aerosol detectors by revising the requirement of "designed to protect life or property from fires and airborne hazards" to instead be "designed to protect health, safety, or property." This would seem to be a requirement that is much harder to define. I recommend that the staff highlight this as an area for public comment.

I also agree that the staff should ensure that it has completed revising the licensing and inspection guidance affected by this rulemaking by the time the draft final rule is provided to the Commission for consideration. Should the Commission direct that the final rule be issued, the staff should publish the revised guidance for public comment as soon thereafter as possible.



Gregory B. Jaczko

9/28/09

Date