

POLICY ISSUE
NOTATION VOTE

RESPONSE SHEET

TO: Brooke P. Clark, Secretary
FROM: Commissioner Crowell
SUBJECT: SECY-22-0098: Rulemaking Options for Revising Security Requirements for Facilities Storing Spent Nuclear Fuel and High-Level Radioactive Waste

Approved X Disapproved _____ Abstain _____ Not Participating _____

COMMENTS: Below _____ Attached X None _____

Entered in STAR

Yes X

No _____

Signature

Commissioner Crowell’s comments on SECY-22-0098, “Rulemaking Options for Revising Security Requirements for Facilities Storing Spent Nuclear Fuel and High-Level Radioactive Waste”

I appreciate all of the staff’s hard work on this rule, including the national laboratory research on a technically viable methodology to support dose-based options. I also appreciate the staff’s alternate view, which ensured that all reasonable options were provided for the Commission’s consideration.

However, I agree with the staff that no sufficient basis currently exists to impose new requirements to increase regulatory clarity or consistency for ISFSI security. Importantly, the staff’s 2022 review of Sandia’s 2018 classified report concluded, “that the study does not provide a basis for enhancing ISFSI security at NRC-licensed facilities because ‘the simplifying assumptions used in the analyses combined with the conservative and non-representative values do not adequately characterize or provide an accurate estimate of release fractions for an ISFSI related sabotage event.’”¹ In addition, based on licensing and regulatory activities for ISFSIs since 2009, the staff no longer has concerns that ISFSI security requirements are “unnecessarily complex” and “difficult for the NRC staff, licensees, applicants, and other stakeholders to understand and apply.”²

At present, I do not see sufficient benefit in codifying existing requirements in a limited-scope rulemaking. In the many years since 2007, when NRC started this rulemaking, all commercial nuclear power plants that needed ISFSIs built them under the current security framework, including important post 9/11 updated NRC security orders. Currently, there are no new ISFSI licensees in the foreseeable future that would benefit from the generic changes a rulemaking would provide. Furthermore, were we to proceed with rulemaking, the result would be a familiar, albeit slightly redistributed, mosaic of codified, public security requirements and other sensitive security-requirements that must remain in non-public orders. However, in the interest of openness and transparency, the staff should prepare publicly available redacted versions of the prevailing interim safeguards, security compensatory measures, and additional security measures that have been, and are currently, sent to general license and specifically licensed ISFSIs.

However, it may be necessary to revisit the need for such a rulemaking in the future as new and advanced reactors operate beyond their inaugural fuel cycles, as well as if existing or new reactors are utilizing advanced or higher burn-up fuels, including High Assay Low Enriched Uranium fuels.

For the reasons stated above, I approve the staff’s recommended Option 1 to discontinue the rulemaking at this time.

¹ SECY-22-0098 at 3.

² SECY-22-0098 at 4.