



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

SECRETARY

March 26, 2008

COMMISSION VOTING RECORD

DECISION ITEM: SECY-08-0031

TITLE: PROPOSED RULE: EXPANSION OF NATIONAL SOURCE
TRACKING SYSTEM (RIN 3150-A129)

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of March 26, 2008.

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 that reads "Andrew L. Bates".

Andrew L. Bates
Acting Secretary of the Commission

Attachments:

1. Voting Summary
2. Commissioner Vote Sheets

cc: Chairman Klein
Commissioner Jaczko
Commissioner Lyons
OGC
EDO
PDR

VOTING SUMMARY - SECY-08-0031

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. KLEIN	X				X	3/20/08
COMR. JACZKO	X				X	3/14/08
COMR. LYONS	X				X	3/18/08

COMMENT RESOLUTION

In their vote sheets, all Commissioners approved the staff's recommendation and provided some additional comments. Subsequently, the comments of the Commission were incorporated into the guidance to staff as reflected in the SRM issued on March 26, 2008.


NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: CHAIRMAN KLEIN
SUBJECT: SECY-08-0031 – PROPOSED RULE: EXPANSION
OF NATIONAL SOURCE TRACKING SYSTEM (RIN
3150-AI29)

Approved xx Disapproved _____ Abstain _____
Not Participating _____

COMMENTS: Below _____ Attached xx None _____



SIGNATURE

3/20/08

DATE

Entered on "STARS" Yes No _____

Chairman Klein's Comments on SECY-08-0031

I approve the staff's recommendations in SECY-08-0031. I appreciate the staff's efforts in developing these recommendations on a controversial issue. The Commission correctly and appropriately focused its initial efforts on the higher risk category 1 and 2 sources. It is now time to focus attention on category 3 and below sources. The Commission must balance the need to include sources of lesser risk significance in the tracking system with the need to maintain the tracking system as a means to track the more risk significant category 1 and 2 sources. I believe that category 3 sources should be added to the National Source Tracking System. But then, what is the proper cutoff value below category 3? Former Commissioner McGaffigan first proposed that the staff evaluate using a cutoff value of $1/10^{\text{th}}$ of category 3 values, although he did call it category 3.5. At the time the Commission did not have a reasonable estimate of the numbers of sources or licensees involved and the staff was directed to conduct the analysis and report back to the Commission. The staff's analysis, contained in SECY-08-0031, indicates that while there would be some additional burden on both the licensee and the regulator to include sources down to $1/10^{\text{th}}$ of category 3 values in the National Source Tracking System the advantages outweigh the burden from a national risk perspective and, just as important, the effort will not significantly detract from the effort to monitor category 1 and 2 sources. I recognize there will be an additional burden on both the NRC and Agreement States to impose and implement these additional tracking requirements, but the effort is justified in this case and this is a reasonable cutoff value.

In the effort to add these additional sources to the National Source Tracking System, staff should continue to coordinate and interact with the Agreement States to reduce the burden of this decision on Agreement State resources to the maximum extent practical.

In addition, I have one minor edit to the draft Federal Register Notice on page 4. In the second sentence to the first paragraph either delete the "(Ir-192)" or add the abbreviations for the other radionuclides listed in the sentence.



Dale E. Klein

3/10/08

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER JACZKO
SUBJECT: SECY-08-0031 – PROPOSED RULE: EXPANSION
OF NATIONAL SOURCE TRACKING SYSTEM (RIN
3150-AI29)

Approved X Disapproved Abstain

Not Participating

COMMENTS: Below Attached X None



SIGNATURE

3/14/08

DATE

Entered on "STARS" Yes X No

Commissioner Jaczko's Comments on SECY-08-0031
Proposed Rule: Expansion of the National Source Tracking System (RIN 3150-AI29)

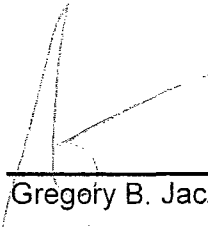
I approve of the staff's recommendation to publish in the *Federal Register* proposed amendments to 10 CFR 20 and 32 that would expand the National Source Tracking System (NSTS) reporting requirements. In general, I applaud the staff for addressing this important issue consistent with the previous direction provide to it by the Commission in the Staff Requirements Memorandum (SRM) for SECY-06-0094. The proposed expanded NSTS would include sources greater than or equal to 1/10th of the Category 3 threshold identified in the International Atomic energy Agency's Code of Conduct.

I have long been an advocate of expanding the NSTS to include Category 3 sources because of the potential security threat posed by these sources in the aggregate. The Radiation Source Protection and Security Task Force report to the President and Congress recommended the Commission take action to comprehensively address adding Category 3 sources to the NSTS. The U.S. Nuclear Regulatory Commission's (NRC) Office of the Inspector General recommended that the NRC staff look at expanding the tracking system to include all categories of sources and bulk material (OIG-06-A-10). Lastly, the Government Accountability Office (GAO) in more than one report recommended that the agency make improvements to how we secure sources (GAO-05-967 and GAO-07-1038T).

I believe the staff, in this proposed rule, has addressed the concerns raised in previous reports concerning the need to nationally track sources below the Category 2 threshold limits. In this instance, the staff analysis identified the need to secure additional sources because of "situations where a licensee's aggregate sources would create larger (more dangerous) quantities." I support the staff's recommendation to expand the NSTS beyond Category 3 to add sources that are 1/10th of the threshold level (or the high end of Category 4). Requiring these additional sources to be tracked nationally further reduces the potential to aggregate sources to a more dangerous level. I agree with the staff's analysis to expand the system to include these additional sources, in part, because of the "additional improvement in accountability and control." I also support the staff's proposed NSTS expansion since adding these sources "would not divert attention from the monitoring of higher-risk Category 1 and 2 sources."

I believe that expansion of the NSTS is crucial to ensuring that a comprehensive security framework is in place to protect the American people from the threat of a dirty bomb. Just as important, is the ongoing work by the staff to respond to the GAO investigation into our materials licensing process. This proposed rule has the added benefit of responding to one of the many recommendations made by the GAO resulting from their investigation in 2007. Additionally, I look forward to the staff providing all of its recommendations to improve how we license and secure radioactive materials as it completes its efforts directed by the Commission under the SRM to SECY-07-0147.

Lastly, I would encourage the staff to continue its efforts to evaluate technological solutions to incorporate a more definitive means of source tracking into the NSTS in the future. I believe the staff, in its evaluation of potential tagging and tracking technologies, should evaluate interim solutions such as the use of RFID or the use GPS until a more permanent solution can be developed. I would also encourage the staff to look at efforts underway within the Department of Defense and the Environmental Protection Agency to track shipments of concern to them as a potential interim solution for tracking sources.



Gregory B. Jaczko 3/17/08
Date

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER LYONS
SUBJECT: SECY-08-0031 – PROPOSED RULE: EXPANSION
OF NATIONAL SOURCE TRACKING SYSTEM (RIN
3150-AI29)

Approved Disapproved _____ Abstain _____

Not Participating _____

COMMENTS: Below _____ Attached None _____



SIGNATURE

3/18/08

DATE

Entered on "STARS" Yes No _____

Commissioner Lyons' Comments on SECY -08-0031

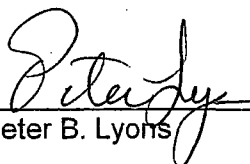
I approve the staff's proposal to publish the proposed rule in the *Federal Register* to amend 10 CFR Parts 20, and 32, which would establish the current National Source Tracking System to include additional licensees who possess sealed sources containing greater than or equal to 1/10th of the International Atomic Energy Agency (IAEA) Category 3 threshold levels with the following edits.

Page 19, of the Draft Regulatory Analysis, the analysis for follow-up by fax or mail after a phone confirmation should be completed prior to publication of the draft analysis.

Additionally, staff should include in the *Federal Register* a question that will allow it to determine if these new requirements should also be included in 10 CFR Part 110, given that many of these sources will be imported under the provisions of 10 CFR Part 110.

I believe that the Commission made the right decision to initially focus its enhanced source control efforts on Category 1 and 2 sources as defined by the IAEA Code of Conduct. However, as a result of recently identified security vulnerabilities in NRC materials licensing process, I believe that it would be proper and prudent to expand the National Source Tracking System to include sealed sources containing greater than or equal to 1/10th of the IAEA Category 3 threshold levels, and I believe lowering the NSTS threshold will mitigate any potential security concerns.

I join Commissioner Jaczko in commending the staff's efforts and in supporting the staff's proposed revision. Requiring these additional sources to be tracked nationally further reduces the potential to aggregate sources to a more risk significant level.


Peter B. Lyons

3/18/08
Date