

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary  
FROM: CHAIRMAN KLEIN  
SUBJECT: SECY-08-0187 – 2008 ANNUAL THREAT  
ENVIRONMENT REVIEW (U)

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

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

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



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SIGNATURE

2/6/09

\_\_\_\_\_  
DATE

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

**Chairman Klein's REVISED Comments on SECY-08-0187**  
**2008 Annual Threat Environment Review**

I would like to thank the staff for their efforts in providing the Commission information on the merits of including an additional adversary characteristic in both the Radiological Sabotage and Theft or Diversion Design Basis Threats (DBTs) adversary characteristic guidance. At this time, however, I do not approve the staff's proposed recommendation.

In December 2007, the Commission approved the staff's use of the Adversary Characteristic Screening Process (ACSP) for considering potential additional adversary characteristics. The ACSP enhances the transparency, predictability, and consistency of NRC's identification and application of adversary characteristics. The staff uses the screening process to develop recommendations for Commission consideration.

I believe that the NRC is employing a very good screening process, and I value the staff's input and submission of a conservative recommendation. The Commission has the ultimate responsibility and accountability for determining what constitutes an adequate level of protection. Thus, I have evaluated the staff's proposal carefully. There are many types and combinations of potential terrorist threats and a variety of factors associated with the evaluation of the credibility and significance of those threats. Based on my knowledge and experience in this field and my evaluation of the supporting information, I do not find sufficient support to determine at this time that the proposed adversary characteristic is required for adequate protection. Given the already robust defensive systems of the facilities, the uncertainty surrounding the proposed new characteristics, and the ongoing discussions among U.S. government agencies in this area, I believe it is premature to add this adversary characteristic to the NRC's DBT guidance documents.

As a general matter, nuclear power plants have robust structural designs, redundant safety systems, and highly trained operators as well as highly trained and well equipped security forces. The NRC requires licensees to use a defense-in-depth strategy to define both its safety and security philosophies at nuclear power plants. Additionally, since September 11, 2001, the NRC has required many security enhancements at licensed power reactors and Category I fuel cycle facilities. NRC licensees now have increased patrols, stronger and more capable security forces, additional physical barriers, greater standoff distances for vehicle checks, more restrictive site access controls, enhanced emergency preparedness and response plans, enhanced coordination with law enforcement authorities, and other heightened security measures. NRC has also ordered nuclear power plant licensees to develop and adopt mitigative measures to cope with large fires and explosions, including those caused by a large

commercial aircraft, which further reduces the remote possibility that a terrorist act at a nuclear power plant could endanger public health and safety.

In short, the NRC has a process in place for strong and effective action in addressing the potential for terrorist threats. Moreover, only by working with other Federal government experts in security and intelligence in evaluating a broad range of potential threats can we best address real world threats. I applaud the staff's work in this area, and I look forward to receiving future updates and recommendations.



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Dale E. Klein

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary  
FROM: COMMISSIONER JACZKO  
SUBJECT: SECY-08-0187 – 2008 ANNUAL THREAT  
ENVIRONMENT REVIEW (U)

Approved  X  Disapproved   Abstain

Not Participating

COMMENTS: Below   Attached  X  None

  
\_\_\_\_\_  
SIGNATURE

2/3/09   
\_\_\_\_\_  
DATE

Entered on "STARS" Yes  X  No

**Commissioner Gregory B. Jaczko's REVISED Comments on SECY-08-0187  
2008 Annual Threat Environment Review**

I appreciate the work the staff has done to provide the Commission with its expert judgment, informed by consultation with the intelligence community, of the current threat environment. The staff has proficiently completed the adversary characteristic screening process and concluded that an additional adversary characteristic should be included in the DBT. I agree with this recommendation and believe the Commission should move to expeditiously implement this requirement through orders requiring compensatory measures until security plans are revised.

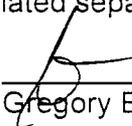
To reach their conclusion, the staff has meticulously followed the adversary characteristics screening process (detailed in SECY-07-0114) that was developed by the staff, lauded by GAO and endorsed by the Commission. At multiple steps of the process, the Commission has affirmatively approved the staff proceeding with consideration of this specific adversary characteristic, and the end results are the following conclusions:

- This characteristic involves an identified threat.
- It is an adequate protection issue. The staff and OGC have concluded that since the DBT rule is entirely an adequate protection requirement, the supporting ACD guidance on what must be done to comply is necessarily a matter of adequate protection.

I certainly understand the concern about the cost this change will place on licensees, and I am even sympathetic to the argument that, looking at the broader national security context, the price that will be paid to make nuclear power plant security even stronger than it currently is may be better spent protecting more vulnerable infrastructure. I do not believe that the Nuclear Regulatory Commission, however, has the authority to make that type of a decision. We have a duty as Commissioners to fulfill our statutory obligations as laid out in the DBT regulations that were developed through a public process. In this context, we must include this item in the adversary characteristics guidance: it is an adequate protection issue, it is clearly a tactic within the DBT, and the Commission is not legally entitled to consider cost in its decision about whether to include adversary characteristics in the DBT guidance.

Once a decision has been made to add this characteristic, I propose two additional actions: first, per previous Commission guidance in a December 4, 2007 SRM, the staff should work with licensees to explore the most cost-effective methods of defending against this characteristic. Second, the Commission should ask for a classified meeting with its oversight Committees in the House and the Senate to explain the step we have taken. Proactively providing this information to policy makers responsible for national security policy, beyond just nuclear security, will enable them to decide if this is the appropriate allocation of national resources to address the terrorist threat. If they believe it is not, they are in a position to change the legal security framework the NRC is responsible for overseeing and implementing.

A more detailed classified version of this vote is being circulated separately.

  
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Gregory B. Jaczko      Date      2/3/07