

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER MAGWOOD
SUBJECT: SECY-09-0123 – MATERIAL CATEGORIZATION AND
FUTURE FUEL CYCLE FACILITY SECURITY-
RELATED RULEMAKING

Approved Disapproved Abstain _____

Not Participating _____

COMMENTS: Below _____ Attached None _____



SIGNATURE

17 June 2010

DATE

Entered on "STARS" Yes No _____

Commissioner Magwood's Comments on SECY 09-0123
Material Categorization and Future Fuel Cycle Facility Security-Related Rulemaking

I approve in part and disapprove in part the staff recommendation to risk-inform the material categorization scheme for SNM, which includes a material attractiveness approach, as part of the rulemaking of 10 CFR Part 73, "Physical Protection of Plants and Materials," pertaining to NRC licensed fuel cycle facilities to address the security measures put in place by NRC orders. I believe, as a general matter, that this is an appropriate strategy to assuring an appropriate categorization of materials. I also concur with the Chairman's request that the staff engage our international partners to identify efforts that may consider different approaches to material categorization.

However, I believe the staff should review its overall consideration of this subject. Much of the paper provided to the Commission appears to have been developed in the context of the previous Administration's Global Nuclear Energy Partnership (GNEP). As such, the paper is overly focused on questions associated with the security of facilities and materials related to conventional and advanced reprocessing. I believe this focus is both premature and a distraction from what should be the central focus of this effort. In this context, I disapprove two aspects of the staff's proposal.

First, I disapprove the proposal to include americium and neptunium in the categorization scheme. This is not because I have made a judgment regarding the appropriate security measures that should be taken with regard to these materials; rather, it is currently not possible to make any judgment about the handling of americium and neptunium in a fuel cycle context. No technology that would apply these materials has progressed beyond the advanced research stage and the Department of Energy has indicated no plans to pursue the development and deployment of such technologies. In fact, DOE's most recent plans indicate that no reprocessing technology may be deployed in the U.S. until mid-century. Given the state of DOE and industry plans with regard to fuel cycle technologies that would apply americium and neptunium in quantities such that the proposed threshold could be applied, it is best to defer consideration of the categorization of these materials.

Second, I disapprove the staff's proposal to change the categorization of MOX fuel for the purpose of fuel transportation. While a reasonable technical debate may be conducted regarding the attractiveness of MOX to a potential adversary, this subject has not yet matured to the stage where the Commission should consider a change in current policy. There are no commercial proposals to use MOX and the only source of MOX expected in the U.S. in the foreseeable future is the project governed by the Department of Energy. Therefore it is prudent to leave the transportation of the fuel as Category I.

For both conventional and advanced reprocessing technologies, should substantial proposals develop to pursue the deployment of facilities in the United States, it will be appropriate for the Commission to develop a comprehensive policy regarding the materials security strategy that should be applied to the reprocessing industry. Until then, consideration of these issues will serve only as an unwarranted distraction.



William D. Magwood, IV

17 June 2010

Date