

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: Chairman Jaczko
SUBJECT: SECY-09-0162 – PROPOSED RULE: 10 CFR 73.37,
“PHYSICAL PROTECTION OF IRRADIATED FUEL IN
TRANSIT” (RIN 3150-AI64)

Approved X Disapproved Abstain

Not Participating

COMMENTS: Below Attached X None



SIGNATURE

1/27/10

DATE

Entered on “STARS” Yes x No


Chairman Jaczko's Comments on SECY-09-0162
Proposed Rule: 10 CFR 73.37,
"Physical Protection of Irradiated Fuel in Transit"

I approve the staff recommendation to publish the proposed amendments to Part 10 CFR 73.37 in the Federal Register as well as the other noted actions, subject to the following comments:

The primary intent of the proposed rulemaking is to codify orders for physical protection of irradiated fuel in transit issued after the terrorist attacks of September 11, 2001, as well as adding several new requirements developed as a result of insights gained by performing security assessments of potential security vulnerabilities. The staff has also stated that the proposed rulemaking will address, in part, a request for rulemaking raised by the State of Nevada in June 22, 1999 in PRM-73-10. I believe that the staff has done a good overall job in developing the proposed rule; however, more clarity is needed regarding two Petition requests that the staff has stated have been addressed by the proposed rule or associated guidance.

PRM-73-10, Item 2: Requested the NRC clarify the definition of the term "radiological sabotage" as defined in 10 CFR 73.2. The staff indicated that this would be addressed in the supporting guidance document. The staff should work closely with the Office of General Counsel to ensure that any potential clarifications to the definition are consistent with the intent of the rule and that there are no corresponding unintended effects on other aspects of Part 73 that also utilize the same definition or other existing or proposed security regulations that also use the same definition.

PRM-73-10, Item 3: Requested the NRC amend the advance route approval requirements in 10 CFR 73.37 (b) (7) and further requested that NRC consider adopting the route selection in NUREG-0561 as part of the regulations. The staff indicated that licensees must implement U.S. Department of Transportation (DOT) routing requirements when shipping spent nuclear fuel and that incorporating route selection criteria in NUREG-0561 could potentially cause a conflict. The staff should provide in the proposed rule further clarification what is required as part of the NRC regulations and what is covered under DOT requirements. The staff should also seek comments on this aspect of the proposed rule in order to ensure stakeholders clearly understand what will be required under the new rule.



Gregory B. Jaczko 11/27/10
Date