



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

October 31, 2012

SECRETARY

COMMISSION VOTING RECORD

DECISION ITEM: SECY-12-0118

TITLE: RESOURCE ESTIMATES AND REQUEST FOR FINAL RULE
SCHEDULE EXTENSION AND DELEGATION OF
SIGNATURE AUTHORITY FOR THE ENHANCED
WEAPONS RULEMAKING

The Commission acted on the subject paper as recorded in the Staff Requirements Memorandum (SRM) of October 31, 2012.

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 black ink, appearing to read "Annette Vietti-Cook", written over a horizontal line.

Annette L. Vietti-Cook
Secretary of the Commission

Attachments:

1. Voting Summary
2. Commissioner Vote Sheets

cc: Chairman Macfarlane
Commissioner Svinicki
Commissioner Apostolakis
Commissioner Magwood
Commissioner Ostendorff
OGC
EDO
PDR

VOTING SUMMARY - SECY-12-0118

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. MACFARLANE	X				X	10/3/12
COMR. SVINICKI	X	X			X	10/22/12
COMR. APOSTOLAKIS	X	X			X	10/12/12
COMR. MAGWOOD	X	X			X	10/23/12
COMR. OSTENDORFF	X				X	9/19/12

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: Chairman Allison M. Macfarlane
SUBJECT: SECY-12-0118 – RESOURCE ESTIMATES AND
REQUEST FOR FINAL RULE SCHEDULE EXTENSION
AND DELEGATION OF SIGNATURE AUTHORITY FOR
THE ENHANCED WEAPONS RULEMAKING

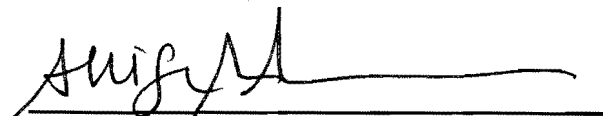
Approved X Disapproved _____ Abstain _____

Not Participating _____

COMMENTS: Below X Attached _____ None _____

I approve staff's requests to delegate authority to the EDO to issue the supplemental proposed rule, and to extend the schedule for the Enhanced Weapons rulemaking to November 22, 2013. I share Commissioner Ostendorff's concern about the length of time that this rulemaking and corollary efforts have been ongoing. Staff should continue to coordinate both internally and with entities such as the Federal Bureau of Investigation and the Bureau of Alcohol, Tobacco and Firearms to ensure the completeness of this rulemaking and its consistency with other related efforts.

I also approve staff's recommendation not to re-issue a revised DG-5020 for public comment. However, I recognize that there have been numerous changes in agencies' perspectives over the last seven years of rule development. I am also committed to ensuring that guidance, to the degree that it has been substantively changed, is available for public comment. Thus, if staff assesses, during development of the supplemental proposed rule, that there would be a need to revise the guidance document, staff should notify the Commission of the need and the estimated required resources to complete the action.



SIGNATURE

10/3/12

DATE

Entered on "STARS" Yes X No _____

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER SVINICKI
SUBJECT: SECY-12-0118 – RESOURCE ESTIMATES AND
REQUEST FOR FINAL RULE SCHEDULE EXTENSION
AND DELEGATION OF SIGNATURE AUTHORITY FOR
THE ENHANCED WEAPONS RULEMAKING

Approved XX In part Disapproved XX In part Abstain _____

Not Participating _____

COMMENTS: Below ___ Attached XX None ___



SIGNATURE

10/22/12

DATE

Entered on "STARS" Yes No _____

**Commissioner Svinicki's Comments on SECY-12-0118
Resource Estimates and Request for Final Rule Schedule Extension and Delegation of
Signature Authority for the Enhanced Weapons Rulemaking**

I approve in part and disapprove in part the staff's recommendations in SECY-12-0118, "Resource Estimates and Request for Final Rule Schedule Extension and Delegation of Signature Authority for the Enhanced Weapons Rulemaking." I approve extension of the due date for the draft final Enhanced Weapons rulemaking to March 30, 2014, but deny the staff's request to delegate authority to the Executive Director for Operations to issue the supplemental proposed rule. The review and approval of rules is a quasi-legislative, inherently policy-making function wherein the Commission exercises its Congressionally-bestowed authority to establish requirements and compel their fulfillment by private citizens and other entities. It is, therefore, among the most sober of actions undertaken by the Commission and should only be further delegated to agency staff in mundane matters.

Congress, itself, directed this particular rulemaking; therefore, the Commission should involve itself directly in approving the staff's proposed approaches (even in a narrow area such as the security of co-located independent spent fuel storage installations). I am also not persuaded that the criteria from Management Directive 6.3 invoked by the staff apply here; chiefly because the Commission "previously considered" the scope, not the content, of this regulation, but also because this content will – in my view - raise "important . . . security questions." The proposal seems to rest principally on the need to expedite the rulemaking process. To this I respond that eliminating the Commission's review and approval would expedite the issuance of every rule, but cannot be a basis for eliminating the Commission's role. The draft final rule stage is simply too late in the process for the Commission to work its will effectively, on either approach or content.

I approve the staff's proposal not to re-issue a revised DG-5020 for public comment and instead to include the revised guidance language in the supplemental proposed rule *Federal Register* Notice. I agree with Chairman Macfarlane that the staff should notify the Commission of the need to revise the guidance document during the development of the proposed rule, if it finds such revision necessary. I also agree with Commissioner Apostolakis' proposal that the supplemental proposed rule be published for a 45-day comment period.



Kristine L. Svinicki

10/22/12

NOTATION VOTE

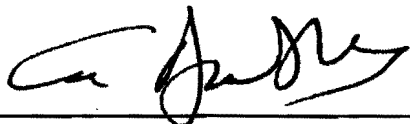
RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: Commissioner Apostolakis
SUBJECT: SECY-12-0118 – RESOURCE ESTIMATES AND
REQUEST FOR FINAL RULE SCHEDULE EXTENSION
AND DELEGATION OF SIGNATURE AUTHORITY FOR
THE ENHANCED WEAPONS RULEMAKING

Approved X(in part) Disapproved X(in part) Abstain _____

Not Participating _____

COMMENTS: Below ___ Attached X None ___



SIGNATURE

10/17/12

DATE

Entered on "STARS" Yes ✓ No _____

Commissioner Apostolakis' Comments on SECY-12-0118 – RESOURCE ESTIMATES AND REQUEST FOR FINAL RULE SCHEDULE EXTENSION AND DELEGATION OF SIGNATURE AUTHORITY FOR THE ENHANCED WEAPONS RULEMAKING

I approve staff's requests to delegate authority to the Executive Director for Operations to issue the supplemental proposed rule, to extend the schedule for the Enhanced Weapons rulemaking to November 2013, and staff's recommendation not to reissue a revised DG-5020 for public comment.

I disapprove staff's proposal to publish the supplemental proposed rule for a 30-day public comment period. Rather, staff should allow for ample stakeholder engagement during the comment period. I recommend publishing the proposed rule for a 45-day public comment period.

Staff should ensure that this rulemaking and associated guidance documents are completed no later than November 15, 2013, the date requested by staff.



George Apostolakis 10/17/12

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COMMISSION DETERMINES
OTHERWISE

RESPONSE SHEET

TO: ANNETTE VIETTI-COOK, SECRETARY

FROM: COMMISSIONER MAGWOOD

**SUBJECT: SECY-12-0118 – RESOURCE ESTIMATES AND
REQUEST FOR FINAL RULE SCHEDULE EXTENSION
AND DELEGATION OF SIGNATURE AUTHORITY FOR
THE ENHANCED WEAPONS RULEMAKING**

APPROVED DISAPPROVED _____ ABSTAIN _____

NOT PARTICIPATING _____

COMMENTS: BELOW _____ ATTACHED NONE _____



SIGNATURE

23 October 2012

DATE

ENTERED ON "STARS" YES NO _____

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OTHERWISE

Commissioner Magwood's Comments on SECY-12-0118, "Resource Estimates and Request for Final Rule Schedule Extension and Delegation of Signature Authority for the Enhanced Weapons Rulemaking"

I disapprove Staff's Request to delegate authority to the Executive Director of Operations to issue the supplemental proposed rule. I believe it is most appropriate for the Commission to remain directly involved in this important rulemaking effort. More generally, I agree with Commissioner Svinicki's comments regarding the central responsibility of the Commission in the review and approval of all rules.

I approve extension of the due date for the draft final enhanced weapons rulemaking to March, 2014. I also approve the staff's recommendation not to reissue a revised DG-5020 for public comment.

Finally, I share Commissioner Apostolakis's desire to ensure ample stakeholder engagement and therefore support his recommendation that the proposed rule be subject to a 45-Day comment period.

 10/23/12

William D. Magwood, IV

Date

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER OSTENDORFF
SUBJECT: SECY-12-0118 – RESOURCE ESTIMATES AND
REQUEST FOR FINAL RULE SCHEDULE EXTENSION
AND DELEGATION OF SIGNATURE AUTHORITY FOR
THE ENHANCED WEAPONS RULEMAKING

Approved X Disapproved _____ Abstain _____

Not Participating _____

COMMENTS: Below X Attached ___ None ___

I approve staff's request to delegate authority to the EDO to issue the supplemental proposed rule; extend the deadline for the draft final Enhanced Weapons rulemaking to November 22, 2013; and not re-issue a revised DG-5020, and instead include the revised guidance language in the supplemental proposed rule *Federal Register* notice. Although there are many important issues that this agency is currently addressing, I continue to believe that this is an important rulemaking that should be completed as soon as possible. It has now been seven years since the Energy Policy Act of 2005 and almost two years since my vote on the staff's proposed rule. Absent exigent, unforeseen circumstances, I expect staff to complete this rulemaking by or before the November 2013 due date.



SIGNATURE

7/19/12

DATE

Entered on "STARS" Yes X No _____