

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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AFFIRMATION SESSION

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PUBLIC MEETING

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Nuclear Regulatory Commission
Commission Hearing Room
11555 Rockville Pike
Rockville, Maryland
March 17, 2008

The Commission met in open session, pursuant to notice, at 1:00 p.m.,

Dale E. Klein, Chairman, presiding.

COMMISSIONERS PRESENT:

DALE E. KLEIN, Chairman of the Commission

GREGORY B. JACZKO, Member of the Commission

PETER B. LYONS, Member of the Commission

STAFF AND PRESENTERS SEATED AT THE COMMISSION TABLE:

KAREN CYR, General Counsel

ANNETTE VIETTI-COOK, Secretary of the Commission

DISCLAIMER

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The transcript is intended solely for general information purposes. As provided by 10 CFR 9.103, it is not part of the formal or informal record of decision of the matters discussed. Expressions of opinion in this transcript do not necessarily reflect final determination or beliefs. No pleading or other paper may be filed with the Commission in any proceeding as the result of, or addressed to, any statement or argument contained herein, except as the Commission may authorize.

[1:00 p.m.]

P R O C E E D I N G S

CHAIRMAN KLEIN: Well Good afternoon before we start Madam Secretary, I believe we have two affirmations today. Would you proceed?

ANNETTE VIETTI-COOK: Yes. The first one is Final Rule on 10 CFR Part 73 "Safeguards Information Protection Requirements". The Commission is being asked to act on a Final Rule amending a safeguards information protection requirements in 10 CFR Part 73 in making conforming changes to other provisions of the regulations. The rule utilizes the flexibility of Section 147 of the Atomic Energy Act of 1954 as amended including the amendments in the Energy Policy Act of 2005 regarding the protection of Safeguards Information. In addition the rule reflects the practices of the Commission in various orders and advisories issued since September 11, 2001. The Commission has voted to approve the publication and implementation of this final rule subject to the comments and changes noted in the attachment. Commissioner Jaczko while approving 10 CFR Part 73 disapproved the use of separate handling requirements for SGI modified handling and supported inclusion of a requirement for periodic decontrol review. Commissioner Jaczko also disapproved the abuse of discretion standard in changes to 10 CFR Part 2. Would you

please affirm your votes?

CHAIRMAN KLEIN: Aye.

COMMISSIONER JACZKO: Aye.

COMMISSIONER LYONS: Aye.

ANNETTE VIETTI-COOK: The second item is on Pa'ina Hawaii, Materials License Application. The Commission is being asked to act on the Memorandum and Order addressing two questions that the Atomic Safety and Licensing Board certified to the Commission in Pa'ina Hawaii, Materials License Application proceedings. The Commission has voted to approve a Memorandum and Order addressing the Board's question and ruling that; (1) Contentions calling for irradiator siting analysis are not barred as a matter of law, but must meet all contention admissibility standards including having adequately supported basis; and (2) there is no need at this phase of the proceeding to establish a "probability threshold" for irradiators. Would you please affirm your votes?

CHAIRMAN KLEIN: Aye.

COMMISSIONER JACZKO: Aye.

COMMISSIONER LYONS: Aye.

ANNETTE VIETTI-COOK. That's all I have.

CHAIRMAN KLEIN: Any comments on the affirmation? We will now proceed with our afternoon activities.

CERTIFICATE

This is to certify that the attached description of a meeting of the U.S. Nuclear Regulatory Commission entitled:

TITLE OF MEETING: Affirmation Session

(PUBLIC MEETING)

PLACE OF MEETING: Rockville, Maryland

DATE OF MEETING: March 17, 2008

was held as herein appears, is a true and accurate record of the meeting, and that this is the original transcript thereof taken stenographically by me, thereafter reduced to typewriting by me or under the direction of the court reporting company.

Transcriber: ANTOINETTE LEWIS

Reporter: (TAPE RECORDING)