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

SECRETARY

July 16, 2009

COMMISSION VOTING RECORD

DECISION ITEM: SECY-09-0064

TITLE: REGULATION OF FUSION-BASED POWER GENERATION DEVICES

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of July 16, 2009.

This Record contains a summary of voting on this matter together with the individual vote sheets, views and comments of the Commission.

Annette L. Vietti-Cook
Secretary of the Commission

Attachments:
1. Voting Summary
2. Commissioner Vote Sheets

cc: Chairman Jaczko
Commissioner Klein
Commissioner Svinicki
OGC
EDO

VOTING SUMMARY - SECY-09-0064

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. JACZKO	X				X	7/6/09
COMR. KLEIN	X				X	7/1/09
COMR. SVINICKI	X				X	7/7/09

COMMENT RESOLUTION

In their vote sheets, all Commissioners approved the staff's recommendation and provided some additional comments. Subsequently, the comments of the Commission were incorporated into the guidance to staff as reflected in the SRM issued on July 16, 2009.

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: Chairman Jaczko

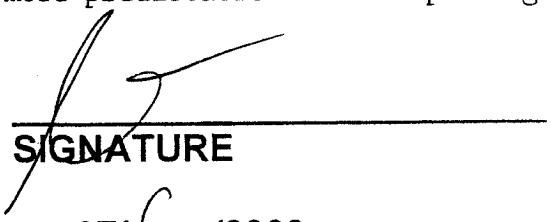
SUBJECT: SECY-09-0064 – REGULATION OF FUSION-BASED POWER GENERATION DEVICES

Approved XX **Disapproved** _____ **Abstain** _____

Not Participating _____

COMMENTS: **Below** XX **Attached** _____ **None** ___

I approve staff's recommendation and agree with Commissioner Klein's comments. Particularly, his comment regarding that the staff should wait until commercial deployment of fusion technology is more predictable before expending significant resources.



SIGNATURE

07/ 6 /2009

DATE

Entered on "STARS" Yes X No ___

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: COMMISSIONER KLEIN

SUBJECT: SECY-09-0064 – REGULATION OF FUSION-BASED POWER GENERATION DEVICES

Approved __X__ Disapproved _____ Abstain _____

Not Participating _____

COMMENTS: Below ___ Attached __X__ None ___

SIGNATURE

7/1/09
DATE

Entered on "STARS" Yes ✓ No ___

Commissioner Klein's Comments on SECY-09-0064,
Regulation of Fusion-Based Power Generation Devices

I approve the staff's recommendation for the NRC, as a general matter, to assert regulatory jurisdiction over commercial fusion energy devices, and for the NRC staff to conduct further evaluations of the technical and legal issues associated with the regulation of specific fusion devices and provide more detailed recommendations to the Commission in a future paper. The staff, however, should wait until commercial deployment of fusion technology is more predictable, by way of successful testing of a fusion technology, before expending significant resources to develop a regulatory framework for fusion technology.

Dale E. Klein — 7/1/2009 (Date)

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: COMMISSIONER SVINICKI

SUBJECT: SECY-09-0064 – REGULATION OF FUSION-BASED POWER GENERATION DEVICES

Approved XX Disapproved _____ Abstain _____

Not Participating _____

COMMENTS: Below ___ Attached XX None ___

SIGNATURE

07/ 7 /09

DATE

Entered on "STARS" Yes ✓ No ___

Commissioner Svinicki's Comments on SECY-09-0064
Regulation of Fusion-Based Power Generation Devices

I approve Option 2, under which the Commission asserts, as a general matter, that the NRC has regulatory jurisdiction over commercial fusion energy devices whenever such devices are of significance to the common defense and security, or could affect the health and safety of the public. I support the staff's analysis that such regulatory authority has its roots in the Atomic Energy Act (AEA); specifically, the report accompanying the 1954 AEA amendments (as cited by staff in the SECY) which defined "atomic energy" to include "both fission and fusion types of nuclear reactions."

Since such a finding regarding future commercial fusion energy devices is speculative at this time, however, I also support the staff's recommendation to 1) conduct further evaluations of the technical and legal issues associated with asserting regulatory jurisdiction and 2) continue to develop technical and scientific understanding

Finally, I join Dr. Klein in cautioning that significant resources should not be expended to develop any such regulatory framework for fusion technology until commercial deployment of fusion technology is much nearer at hand.

Kristine L. Svinicki 07/7/09