

NOTATION VOTE

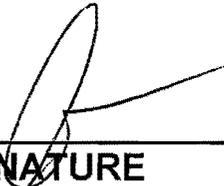
RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary  
FROM: Chairman Gregory B. Jaczko  
SUBJECT: SECY-11-0108 – REGULATION OF CHEMICAL SECURITY

Approved  X  Disapproved       Abstain      

Not Participating      

COMMENTS: Below       Attached  X  None      

  
\_\_\_\_\_  
SIGNATURE

9/12/11   
\_\_\_\_\_  
DATE

Entered on "STARS" Yes  x  No

**Chairman Jaczko's Comments on SECY-11-0108,  
"Regulation of Chemical Security"**

I approve the staff's recommendation of Option 3 to pursue rulemaking. My approval of Option 3 is based on the multi-year effort that NRC has been engaged in with the Department of Homeland Security to come to agreement on how to implement Section 550 of the DHS Appropriations Act for Fiscal Year 2007 (Public Law 109-295). The act stated that Section 550 would specifically not be applied "to any facility subject to regulation by the Nuclear Regulatory Commission;" however, the intent of Congress was that NRC, as well as the Agreement States, would then have responsibility for chemical security at sites under their regulation. In addition, a Memorandum of Understanding was signed by DHS and NRC on March 31, 2011, that specifies the classes of NRC and Agreement State-regulated facilities that are exempt from DHS Chemical Facility Anti-Terrorism Standards. Option 1, to maintain status quo, is not acceptable. It is clear that a gap exists and the NRC has indicated through its interactions with DHS, concluding with an MOU, the need for regulatory action to be taken. I am also not convinced that Option 2, where licensees would need to work through DHS, is practical or efficient.

Although the full scope of the rulemaking is not completely clear at this time, I believe that there is sufficient information at the present time to agree with the staff's rulemaking option to ensure there is not a gap for chemical security at NRC and Agreement State-licensed facilities. Therefore, the rulemaking process should be undertaken in a timely manner.

  
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Gregory B. Jaczko                      9/12/11                      Date