

## KEY NRC VOTES ON NUCLEAR SAFETY ISSUES, 2009–2012

The Commissioners currently serving at the NRC regrettably have a history of voting against the safety recommendations put forward by technical experts, including its own advisory committees. Some of these votes have occurred since the March 11 earthquake and tsunami. What follows is an incomplete summary of these votes:

**April 15, 2009:** The Commission voted 4-1<sup>1</sup> (Chairman Jaczko disapproved, Commissioner Svinicki approved, and the other Commissioners who voted have since left the NRC) to support a proposal to enhance the security associated with cesium chloride sources rather than to phase out the most dispersible form of the material altogether as recommended by the National Academies of Science in 2008. Cesium chloride is so dangerous that after scavengers found a small amount in Brazil in 1987 and children and others spread it on their bodies, 250 people were contaminated, 20 became ill with symptoms of radiation poisoning and 4 died.

**June 30, 2009:** The Commission voted 2-2<sup>2</sup> (Chairman Jaczko approved, Commissioner Svinicki disapproved, and the other Commissioners who voted have since left the NRC)) to defeat a staff proposal to expand the National Source Tracking System to include Category 3 radioactive sources, which the International Atomic Energy Agency says, if not safely managed or securely protected, could cause permanent injury to a person who handled them, or were otherwise in contact with them, for some hours.

**June 1, 2010:** The Commission voted 4-1<sup>3</sup> (with only Chairman Jaczko voting to disapprove) in support of a proposal to reduce the limitation on the number of work hours for employees who perform quality control and quality verification functions at nuclear power plants.

**September 7, 2010:** The Commission voted 4-1<sup>4</sup> (with only Chairman Jaczko voting to disapprove) to support a proposal to stop having separate votes on all requests to be exempted from the requirement that ‘near-site emergency operations facilities’ be located near to the site of where the actual nuclear reactor emergencies or accidents might occur. Licensees have instead proposed the creation of ‘centralized emergency operations facilities’ that are hundreds of miles away from the nuclear reactors located in multiple States they are intended to serve.

**December 2, 2010:** The Commission voted 4-1<sup>5</sup> (with only Chairman Jaczko voting to approve) to disapprove a proposal to require specific NRC licenses for radioactive materials that could be used to make a dirty bomb whose activity level is greater than 1/10<sup>th</sup> of “Category 3,” even though a previous Commission had supported such a proposal. Requiring a license would have

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<sup>1</sup> SECY 08-0184

<sup>2</sup> SECY 09-0086

<sup>3</sup> SECY-09-0183

<sup>4</sup> SECY 10-0078

<sup>5</sup> SECY-10-0105

alleviated some concerns related to the potential for a terrorist to aggregate these smaller sources to create a larger improvised dirty bomb.

**March 15, 2011:** The Commission voted 4-1<sup>6</sup> (with only Chairman Jaczko voting to disapprove) to approve a staff proposal to ignore a recommendation by NRC's Advisory Committee on Reactor Safeguards to ensure that safety measures that are assumed to address the hotter reactor cores and higher pressures associated with 'power up-rates' (which enable nuclear reactors to produce more electricity) would work to prevent a melt-down in the event of an accident. The Advisory Committee believed that the possibility that a fire or earthquake could breach the containment of the nuclear reactor needed to be considered.

**March 30, 2011:** The Commission voted 4-1<sup>7</sup> (with only Chairman Jaczko voting to approve) to disapprove a staff proposal to add requirements for personnel seeking access to nuclear reactor construction sites to ensure that appropriate security screening was conducted. The Commission instead decided to rely on a voluntary Nuclear Energy Institute personnel security initiative.

**June 10, 2011:** The Commission voted 4-1<sup>8</sup> (with Chairman Jazcko disapproving) to reject a request to further extend the NRC's enforcement discretion policy for nuclear reactors that do not comply with the NRC's fire protection regulations. The path chosen by the majority of the Commission allows some nuclear power plants to go longer than eight years without identifying their fire-related safety deficiencies and taking steps to mitigate them.

**October 12, 2011:** The Commission voted 4-1<sup>9</sup> (with Chairman Jazcko disapproving) to add further consideration of the costs or burden of NRC regulations to industry by requiring NRC staff to analyze the cumulative financial impact of all regulations on licensees.

**November 8, 2011:** The Commission voted 3-2 (with Chairman Jaczko and Commissioner Ostendorff voting to approve) to disapprove a staff proposal that the Commission adopt an amendment to its Reactor Oversight Process,<sup>10</sup> described as "a means to collect information about licensee performance, assess the information for its safety significance, and provide for appropriate licensee and NRC response," to add a new performance measure related to leaks of radioactive materials from nuclear reactors.

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<sup>6</sup> SECY 11-0014

<sup>7</sup> SECY-10-013

<sup>8</sup> <http://www.nrc.gov/reading-rm/doc-collections/commission/cvr/2011/2011-0061vtr.pdf>

<sup>9</sup> <http://www.nrc.gov/reading-rm/doc-collections/commission/cvr/2011/2011-0032vtr.pdf>

<sup>10</sup> <http://www.nrc.gov/reactors/operating/oversight/rop-description.html>

**December 15, 2011:** The Commission voted<sup>11</sup> (with Chairman Jaczko voting to support) to reject a recommendation made by the NRC’s Near-Term Task Force on Fukushima and the NRC staff review of that Task Force’s recommendation to consider all the post-Fukushima safety upgrades to be mandatory for the “adequate protection” of nuclear power plants. The other 4 Commissioners said it was “premature” to approve this recommendation. Without it, all safety upgrades would be required to go through a cost-benefit analysis in order to justify implementation, and some may never be required as a result.

**December 22, 2011:** In the publicly released votes<sup>12</sup> on the AP 1000 nuclear reactor design license, Chairman Greg Jaczko disapproved a proposal to allow the acceleration of reactor construction, Commissioner George Apostolakis voted to approve it, and Commissioner William Magwood’s vote did not refer to it. In the final vote, Chairman Jaczko was overridden by his colleagues.

**February 9, 2012:** The NRC voted 4-1, with Chairman Jaczko dissenting, to affirm the Southern Nuclear Operating Company’s combined license application for two new AP 1000 nuclear reactors to be built at the Vogtle nuclear power plant in Georgia. Chairman Jaczko dissented because the license was approved by the Commission absent a license condition that the post-Fukushima safety recommendations made by the NRC Near-Term Task Force on Fukushima be mandatory.

**March 9, 2012:** The NRC finalized its first Orders to implement post-Fukushima safety upgrades. These Orders mandate hardened vents in certain nuclear reactor designs to prevent hydrogen explosions, steps to mitigate the effects of a large earthquake or other external event on a nuclear reactor, and technologies to monitor conditions in spent nuclear fuel pools during emergencies. However, despite the support of Chairman Jaczko for the repeated recommendations of NRC’s top experts, four NRC Commissioners who have consistently voted against strong safety measures each rejected the implementation of some or all of these Orders through the use of a regulatory framework that concludes that they are necessary for the adequate protection of nuclear power plants. Commissioner Svinicki did not support this regulatory basis for any of the Orders, Commissioner Magwood did not do so for two of the three Orders, and Commissioners Apostolakis and Ostendorff rejected that basis for one of the three. As a result, the Order requiring technologies to monitor conditions in spent nuclear fuel pools during emergencies will proceed using a different regulatory basis.

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<sup>11</sup> <http://www.nrc.gov/reading-rm/doc-collections/commission/cvr/2011/2011-0137vtr.pdf> Four Commissioners indicated in their comments that they believed it was premature to decide on the question of “adequate protection” or a change in the plant’s design basis, instead calling for more study of this question on a case-by-case basis. Chairman Jaczko did not rescind his support for all of the Task Force recommendations.

<sup>12</sup> <http://www.nrc.gov/reading-rm/doc-collections/commission/cvr/2011/2011-0145vtr.pdf>