

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: Chairman Gregory B. Jaczko

SUBJECT: SECY-12-0004 – FINAL RULE—10 CFR PARTS 2, 12, 51, 54, AND 61 “AMENDMENTS TO ADJUDICATORY PROCESS RULES AND RELATED REQUIREMENTS (RIN 3150-AI43)

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

Not Participating _____

COMMENTS: Below ___ Attached X None ___



SIGNATURE

3/30/12

DATE

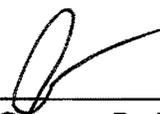
Entered on “STARS” Yes x No ___

**Chairman Jaczko's Comments on SECY-12-0004,
"Final Rule—10 CFR Parts 2, 12, 51, 54, and 61 "Amendments to
Adjudicatory Process Rules and Related Requirements (RIN 3150-AI43)**

I approve the publication of the draft final rule subject to the following comments. I appreciate the comprehensive analysis and outreach that supported this effort and believe these changes will improve and clarify our adjudicatory processes for all participants. I agree, in large part, with OGC's recommendations with the following exceptions.

I do not approve revising 10 C.F.R. § 2.346 to authorize the Secretary to take action on "other minor matters" in addition to "minor procedural matters" allowed under the current language. The recent orders cited in the FRN show the complexity and disparity of the matters that have been issued by the Secretary. In my view, this highlights the need to provide guidance on how to define these terms and apply these criteria. I am concerned that this change would do the opposite, by effectively removing one of two defining criteria – "procedural" - in the regulation. This will place the Secretary in a position of determining whether a matter is within his or her authority based on an assessment of its precedential or policy significance. In my view, we should not delegate this potentially difficult and consequential decision over substantive matters.

Regarding interlocutory appeals, I recommend Option 1, allowing any party to appeal an order granting a hearing request or intervention petition. I believe the efficiency of our adjudicatory processes would be served by resolving these matters before the hearing process begins. Additionally, this would serve to make our hearing process more equitable by allowing all parties to appeal the denial of proposed contentions.



Gregory B. Jaczko

3/30/12

Date