



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

July 19, 2013

SECRETARY

COMMISSION VOTING RECORD

DECISION ITEM: SECY-13-0033

TITLE: ALLOWING INTERIM OPERATION UNDER TITLE 10 OF
THE CODE OF FEDERAL REGULATIONS SECTION 52.103

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of July 19, 2013.

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

A handwritten signature in black ink, appearing to read "Andrew L. Bates", written over a horizontal line.

Andrew L. Bates
Acting Secretary of the Commission

Attachments:

1. Voting Summary
2. Commissioner Vote Sheets

cc: Chairman Macfarlane
Commissioner Svinicki
Commissioner Apostolakis
Commissioner Magwood
Commissioner Ostendorff
OGC
EDO
PDR

VOTING SUMMARY - SECY-13-0033

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	PARTICIP	NOT COMMENTS	DATE
CHRM. MACFARLANE	X				X	6/12/13
COMR. SVINICKI	X				X	7/12/13
COMR. APOSTOLAKIS	X					6/27/13
COMR. MAGWOOD	X				X	7/9/13
COMR. OSTENDORFF	X				X	5/3/13

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: Chairman Allison M. Macfarlane
SUBJECT: SECY-13-0033 – ALLOWING INTERIM OPERATION
UNDER TITLE 10 OF THE CODE OF FEDERAL
REGULATIONS SECTION 52.103

Approved X Disapproved Abstain

Not Participating

COMMENTS: Below Attached X None


SIGNATURE

6/12/13
DATE

Entered on "STARS" Yes No

Chairman Macfarlane's Comments

SECY-13-0033, "ALLOWING INTERIM OPERATION UNDER TITLE 10 OF THE CODE OF FEDERAL REGULATIONS SECTION 52.103"

I approve the staff recommendation that the Commission delegate the authority to issue the required finding under 10CFR52.103(g) to the staff. The staff has implemented formal procedures under NRO Instructions NRO-REG-103, "Inspections, Tests, Analyses, and Acceptance Criteria Closure Verification Process" and NRO-REG-102, "Prioritization of Inspections, Tests, Analysis, and Acceptance Criteria (ITAAC) for Inspection" that ensure that a thorough review of ITAAC closure is conducted for all licensees. The option of delegating the 10CFR52.103(g) finding to the staff is recognized in 10CFR2.304(j) and there is adequate precedence in the previous delegations by the Commission of the authority to issue Combined Licences and Operating Licenses to the staff.

In addition, I acknowledge the four issues associated with interim operations under the pendency of an ITAAC hearing that the staff raised, specifically:

- If interim operation is approved, the staff will rely on the environmental evaluation of operational impacts performed in the Combined License (COL) EIS unless the interim operation would introduce new and significant information.
- For operational programs that are specified as being implemented on a 10CFR52.103(g) finding, these programs would be implemented during interim operation.
- ITAAC maintenance activities would no longer be required following the 10CFR52.103(g) finding.
- If a petition to modify the terms and conditions of a COL is received (10CFR52.103(f)), this petition needs to be coordinated with decisions having the effect of allowing operation (including interim operation).

I join Commissioner Ostendorff in commending the staff for their efforts to address these issues in a timely manner to support the potential need during the ITAAC closure and preparation for operation for the Vogtle and Summer units. The staff should continue to develop these processes to ensure that, in practice, the actions of the Commission in determining adequate protection during the period of interim operation cannot be construed as prejudicing the staff's findings with respect to ITAAC closure.

Given the lack of clarity regarding processes for ITAAC hearings, I urge the staff, OGC and OCAA to work together to develop a range of options for ITAAC hearing formats for Commission review and approval.

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER SVINICKI
SUBJECT: SECY-13-0033 – ALLOWING INTERIM OPERATION
UNDER TITLE 10 OF THE CODE OF FEDERAL
REGULATIONS SECTION 52.103

Approved XX Disapproved _____ Abstain _____

Not Participating _____

COMMENTS: Below XX Attached _____ None _____

I approve the staff's recommendation that the Commission delegate to the staff the making of the 10 CFR 52.103(g) acceptance criteria finding for all ITAAC, irrespective of the pendency of any hearing. I also join Chairman Macfarlane in supporting direction to the staff, OGC, and OCAA to confer on and develop options for the conduct of ITAAC hearings and to submit such options for the Commission's review and approval. Procedures related to the conduct of ITAAC hearings should be developed, deliberated, and resolved within the next 12 to 18 months.



SIGNATURE

07/12/13

DATE

Entered on "STARS" Yes No _____

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: Commissioner Apostolakis
SUBJECT: SECY-13-0033 – ALLOWING INTERIM OPERATION
UNDER TITLE 10 OF THE CODE OF FEDERAL
REGULATIONS SECTION 52.103

Approved X Disapproved Abstain

Not Participating

COMMENTS: Below Attached None X



SIGNATURE

6/27/13

DATE

Entered on "STARS" Yes x No

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER MAGWOOD
SUBJECT: SECY-13-0033 – ALLOWING INTERIM OPERATION
UNDER TITLE 10 OF THE CODE OF FEDERAL
REGULATIONS SECTION 52.103

Approved Disapproved _____ Abstain _____

Not Participating _____

COMMENTS: Below _____ Attached None _____



SIGNATURE

9 July 2013

DATE

Entered on "STARS" Yes No _____

**Commissioner Magwood's Comments on SECY-13-0033,
"Allowing Interim Operations under
Title 10 of the Code of Federal Regulations Section 52.103"**

In the subject SECY, staff informed the Commission of issues related to implementation of Inspections, Tests, Analyses, and Acceptance Criteria (ITAAC) for new nuclear power plants, and specific issues associated with interim operations while ITAAC hearings are pending. I appreciate staff's continuing efforts to anticipate process questions associated with 10 CFR Part 52 that can be resolved at an early date.

I approve staff's request that the Commission delegate to staff the finding on all 10.CFR 52.103(g) acceptance criteria, consistent with existing regulation and precedent. As staff points out, this delegation permits the Commission to exercise its familiar role as arbiter in the resolution of contested issues related to ITAAC hearings.

I echo the Chairman's concern about the present lack of clarity regarding the processes and procedures for ITAAC hearings and recommend that staff develop a range of options for Commission review and approval.



William D. Magwood IV

7/9/13

Date

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER OSTENDORFF
SUBJECT: SECY-13-0033 – ALLOWING INTERIM OPERATION UNDER TITLE 10 OF THE CODE OF FEDERAL REGULATIONS SECTION 52.103

Approved X Disapproved _____ Abstain _____

Not Participating _____

COMMENTS: Below X Attached ___ None ___

I approve the staff's recommendation that that the Commission delegate to the staff the making of the 10 CFR 52.103(g) acceptance criteria finding for all ITAAC. This process will allow the Commission to focus its attention on the adjudicatory proceedings, as appropriate. I appreciate the staff's efforts to clarify the issues associated with interim operation under 10 CFR 52.103(c). It is prudent to resolve these issues early to ensure that efficient processes are in place to implement this provision, if needed, for the Vogtle and Summer new reactors. The staff should continue to proactively identify issues and bring them to the attention of the Commission, as full implementation of the ITAAC program and processes are carried out for the first time.



SIGNATURE

5/3/13

DATE

Entered on "STARS" Yes X No ___