

POLICY ISSUE
NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: Commissioner Wright
SUBJECT: SECY-21-0001: Rulemaking Plan - Transforming the
NRC's Environmental Review Process

Approved Disapproved Abstain Not Participating

COMMENTS: Below Attached None

Entered in STARS

Yes

No

Signature

March 31, 2022

Date

Commissioner Wright's Comments on SECY-21-0001, "Rulemaking Plan – Transformation of the NRC's Environmental Review Process"

I join the Chairman in recognizing the staff's recent efforts to transform the agency's environmental reviews, including creation of the Environmental Center of Expertise (EnvCOE) and the EnvCOE Toolbox and handbook and rulemaking proposals related to categorical exclusions. I agree that these efforts should help share knowledge and increase consistency in National Environmental Policy Act (NEPA) reviews within the agency without negatively impacting public participation.

I also appreciate the staff's proposal to initiate a rulemaking to update the NRC's regulations implementing NEPA set forth in 10 C.F.R. Part 51. NEPA is an important public disclosure statute, aimed at informing the public of the potential impacts of federal agency actions before the agency takes the action. The staff's proposed changes are intended to enhance the efficiency and flexibility of the agency's NEPA process, create consistency across rulemaking efforts, and provide technology-inclusive language suitable for the environmental review of advanced reactors. I support each of those goals, and I view the staff's proposals as consistent with NEPA, other relevant laws and requirements, updates in the law, our experience and expertise, and with the NRC's Principles of Good Regulation.

But given several developments, including the Council on Environmental Quality's (CEQ's) reconsideration of its 2020 final rule, the need for resources to update the environmental review process for license renewal, and in light of other ongoing rulemakings to update Part 51, I believe that moving forward with this rulemaking at this time is not the best approach for accomplishing the staff's goals. Therefore, I approve Alternative 2, which involves the staff updating guidance for applicants and staff. While updating guidance does not involve a full notice and comment rulemaking, it does allow for public participation and should improve efficiency and streamline the agency's environmental review process more expeditiously and with fewer resources than rulemaking.

I agree with Chairman Hanson that the staff should leverage other ongoing revisions and updates to Part 51 to include administrative changes related to document distribution, indexing, electronic notification, reducing redundancy, and improving readability. I also agree with Chairman Hanson that the staff should evaluate its process regarding analyzing reasonable alternatives in an Environmental Impact Statement (EIS), monitor the CEQ's revisions to its regulations, and provide the results of the evaluations and any recommendations to the Commission for consideration.

In addition, the staff should continue to monitor any additional revisions to CEQ's regulations and consider recommending further revisions to be made as part of current or future Part 51 rulemakings.

Finally, I fully support the staff in its role as the agency's NEPA expert. NEPA provides agencies discretion to determine what type of review is appropriate for particular classes of licensing actions. Specifically, CEQ regulations provide that some actions do not require an environmental review (i.e., are categorically excluded); some actions trigger an Environmental Assessment (EA), which could lead to an EIS if a finding of no significant impact cannot be made; and some actions require an EIS. Based on its experience and NEPA expertise, the staff recommends preparing an EA for certain categories of licensing applications, such as some advanced reactors. While advanced reactors are still in the early stages, I support the staff's determinations on which applications are appropriate for an EA rather than an EIS. In my view,

the quality of a NEPA document is not based on its length or on a default to an EIS. Instead, it is more important that the agency accurately reflect the nature of the project's impacts, clearly discuss any potential impacts, and provide a basis for its conclusions with respect to those impacts. Therefore, the staff should consider recommending revisions to 10 C.F.R. § 51.20(b) to allow for an EA when appropriate as part of an ongoing or future revision to Part 51.