

October 11, 2000

COMMISSION VOTING RECORD

DECISION ITEM: SECY-00-0177

TITLE: IMPLEMENTING THE ALLEGATION PROGRAM UNDER THE REVISED REACTOR OVERSIGHT PROCESS

The Commission (with all Commissioners agreeing) disapproved the subject paper as recorded in the Staff Requirements Memorandum ([SRM](#)) of October 11, 2000.

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

Annette Vietti-Cook
Secretary of the Commission

Attachments: 1. Voting Summary
2. Commissioner Vote Sheets

cc: Chairman Meserve
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield
OGC
EDO
PDR

VOTING SUMMARY - SECY-00-0177

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. MESERVE		X			X	9/15/00
COMR. DICUS		X			X	9/27/00
COMR. DIAZ		X			X	9/22/00
COMR. McGAFFIGAN		X			X	9/18/00
COMR. MERRIFIELD		X			X	9/20/00

COMMENT RESOLUTION

In their vote sheets, all Commissioners disapproved the staff's recommendation and provided some additional comments. The Commission disapproved further pursuit of Option 3 (Risk-Informed Allegation Program), even as a pilot, and decided that the Commission should maintain the existing allegation program. Option 3 was disapproved because the provision of a process by which individuals can raise issues and have them forthrightly examined and resolved by the NRC serves an important function in preserving public confidence and may expose other problems that deserve focused staff attention even if the individual allegations do not turn out to be safety significant themselves. Subsequently, the comments of the Commission were incorporated into the guidance to staff as reflected in the SRM issued on October 11, 2000.

Commissioner Comments on SECY-00-0177

Chairman Meserve

The staff proposes two options for implementation of the allegation program -- maintaining the existing program (Option 1), or modifying the existing program by determining the risk significance of an allegation at the outset and allocating resources

accordingly (Option 3). The staff does not recommend an option for implementation, but instead proposes that Option 3 be pursued on a pilot basis to obtain further insights. Because the available information is sufficient to show that Option 3 is not appropriate, I conclude that the Commission should not invest resources in a pilot of that option. Instead, I believe we should pursue the existing program, with a slight amendment of the existing process to incorporate risk insights.

Option 3 has the laudable goal of seeking to bring greater efficiency and effectiveness to the allegation process by applying risk insights at the threshold to determine the safety significance of the allegation. Allegations that are determined to have no or low safety significance would, in appropriate cases, be referred to the licensee for action through the corrective action program, but would not otherwise burden either NRC or licensee staff. The option, at least in theory, holds the promise of increasing efficiency and effectiveness by focusing the allegation program on those matters that in fact deserve close attention. Industry asserts that such a modification serves to improve safety by enabling both the NRC and licensee staff to focus their efforts. But the premise for achieving these gains is that a typical allegation is sufficiently detailed and concrete as to enable the screening of allegations at the outset. The staff has observed, however, that "for a large portion of the issues submitted, the allegor does not provide the detailed kind of information that facilitates using the SDP [Significance Determination Process]. . . . [I]n most cases the staff will have to gather additional information before the concerns can be categorized" SECY-00-0177, at 11. Thus, it appears that the efficiency gains that Option 3 is intended to provide will not materialize in practice: an inspection of some sort will have to be undertaken in order to undertake the sorting process of allegations.

There are other problems with Option 3, even if this significant obstacle could somehow be overcome. A well-functioning allegations program serves an important purpose even if many allegations, after examination, prove not to have great safety significance. Individuals currently or formerly employed at nuclear facilities sometimes come to believe that they must express their concerns directly to the NRC. Moreover, nuclear facilities and their operations are of interest to the general public and the public seeks assurance that safety issues are carefully addressed. The provision of a process by which individuals can raise issues and have them forthrightly examined and resolved by the NRC serves an important function in preserving public confidence. In the end, this function serves to benefit the public, the agency, and our licensees. Because Option 3 would serve to reduce (indeed, is intended to reduce) the attention given to many allegations at the very outset of the process, this important function of the allegation process will be diminished. In my view the cost of the existing program, \$66,000 per reactor, is small in comparison to this benefit.

Finally, the early screening of allegations, even if feasible, may reduce the effectiveness of our oversight in another important sense. The staff reports that the investigation of an allegation often results in the conclusion that the subject of the allegation is not of safety significance, but the inspection can reveal other important problems. For example, the staff explains that, as a result of the allegation concerning the ice condensers at D.C. Cook, the staff discovered a significant number of other issues concerning the ice condensers and that these issues "contributed significantly to the staffs understanding of the licensee's actual performance." Id. at 10. It is apparent that an allegation, while not significant in a safety sense itself, may expose other problems that deserve focused staff attention. Premature screening serves neither the NRC nor our licensees if it diminishes our understanding of problems.

I conclude that further pursuit of Option 3 is not warranted even as a pilot and that the Commission should maintain the existing allegation program. However, I believe that a slight modification to the existing process should be made. There is a benefit to using the SDP to determine how to handle allegation-related issues after they have been fully assessed. After the allegation has been investigated by the staff and sufficient information has been obtained to assess its risk significance, the procedure developed under the Revised Reactor Oversight Process (RROP) should be used to determine how the issue is handled. Issues that "screen out" as having no actual or little potential impact on safety at that juncture need not be documented in an inspection report, but, in appropriate cases, might be discussed with the licensee and entered in the corrective action program. This will serve to reduce a burden on our staff. Issues that are risk-significant should be documented and handled in a fashion consistent with the RROP. Of course, in all cases, the allegor would be informed of the disposition of the allegation consistent with present practice. The staff should continue to follow current guidance regarding the disclosure of an allegor's identity.

Information provided by the staff indicates that there may be some inconsistencies from region to region in the way in which allegations are currently handled and documented. Management should provide guidance to ensure consistent treatment of allegations and to introduce a systematic process for the interface with the RROP. The staff should keep the Commission informed of the implementation of this guidance and should highlight areas in which improvements to the allegation process are needed.

Commissioner Dicus

I disapprove the staff's recommendation to implement a risk-informed allegation pilot program. I support continuation of our current allegation process.

As I mentioned in my comments on [SECY-99-273](#), I believe the allegation process is one of our most important programs. An effective allegation process not only helps us maintain credibility as a regulator, it is vital in helping to ensure public health and safety. Under the current oversight process, we have long recognized that our inspection program is a sampling process and have used the allegation process to supplement our inspection program and help focus our inspection efforts. Under the new reactor oversight process, which is a more-focused sampling process, we should continue to carefully consider the important role, perhaps even more important role, that the allegation process will play in helping us to fulfill our regulatory mission.

The staff's review of the Significance Determination Process (SDP) as it might be applied to allegations provides valuable insight into the difficulty assessing the risk significance of allegations. The staff indicates that it is difficult to argue persuasively that a risk-informed allegation program will result in substantial cost savings, will make better use of resources, or will better address the concerns of the allegers.

Given an allegation's often imprecise nature, I am not convinced that a risk-informed allegation pilot program, as described by the staff, will help us more efficiently gain any additional understanding about underlying concerns or more effectively address the allexer's issues. Even though some cost savings may be realized, it appears to be minor, and may come at the expense of public confidence. I believe that public confidence in NRC's willingness to listen and investigate concerns is of paramount importance.

The single most important question in deciding whether to proceed is: Does risk-informing the allegation process make it a better process? At this point, after considering the pros and cons, I do not believe that it will. I support continuation of our current allegation process. I support the Chairman's suggestion to use an SDP to determine how to handle allegation-related issues after they have been fully assessed, but agree with Commissioner McGaffigan that we should defer consideration until after initial experience and lessons learned from the initial implementation of the revised reactor oversight program can be considered.

Commissioner Diaz

I appreciate the staff's extensive review of the implementation of the allegation program under the revised reactor oversight process (RROP). The staff's analysis indicates that there is no clear benefit to proceeding to a more risk-informed allegation program through use of the Significance Determination Process (SDP). For instance, significant cost savings for the NRC and licensees are doubtful. The review suggests that the typical allegation as initially presented is either ill-suited for the use of the current SDP or requires additional information or conduct an investigation for such an assessment. Referring all allegations of apparently low or no risk significance to licensees would also increase direct resource demands on licensees. In addition, the possibility that some important regulatory problems might be missed in the absence of NRC investigation must be considered. Moreover, maintenance of the existing allegation program will continue to involve judgements about safety and risk significance in determining priorities for review and resolution, within existing timeliness goals. For these reasons, I join my fellow Commissioners who have disapproved the recommended commitment to a pilot program of Option 3.

As refinement of the RROP develops, along with an integrated, risk-informed Part 50, the staff may be able to explore fresh approaches to the use of risk information in the allegation program. In this regard, I would welcome a staff review of Chairman Meserve's proposal.

Commissioner McGaffigan

I am convinced that NRC should continue to review and resolve all allegations, including referring those that are appropriate to licensees and other agencies and carefully reviewing the results of those reviews (Option 1). I join with Chairman Meserve's view that Option 3 does not merit additional consideration at this time, including any limited pilot application.

The staff, in SECY-00-0177, ably discussed many of the factors requiring consideration, including agency resources, licensee burden, public confidence, and safety contribution. I agree with the Chairman that the need to gather more information prior to screening would likely reduce savings under Option 3. Furthermore, although the staff noted that it was unable to quantify the contribution to public confidence of the current allegation program, I am of the view that its value is considerable. Thus, in the absence of any potential for significant benefits or gains in efficiency and effectiveness, I believe the agency should continue the practice of reviewing and resolving all allegations.

The Chairman's additional proposal, that is, to utilize the Significance Determination Process (SDP) to decide how allegations should be handled after they have been fully assessed, was not fully explored in SECY-00-0177. Indeed, the staff recommended waiting until FY 2002 before conducting the proposed Option 3 pilot, in part to allow any weaknesses identified in the SDP to be corrected. It strikes me that the Chairman's recommendation should similarly be postponed until FY 2002. We are already aware that some of the multiple SDPs have significant weaknesses as initial implementation of the revised reactor oversight process (RROP) proceeds. I would recommend that the Chairman's proposal be addressed by the staff in future correspondence with the Commission after conclusion of initial implementation of the RROP.

Commissioner Merrifield

I **disapprove** the staff's recommendation to conduct a limited pilot of Option 3. I commend the staff for seeking to bring greater efficiency and effectiveness to the allegation process. Clearly, an efficient and effective process is in the best interest of our allegers, our licensees, and our agency, and I encourage the staff to continue to seek such improvements. However, I believe that sufficient information has been provided in SECY-00-0177 to conclude that Option 3 would adversely effect public and worker confidence and would not improve the efficiency or effectiveness of the agency. Furthermore, there is significant doubt in my mind that the resource savings attributed to reducing unnecessary burden would materialize in practice. Thus, I do not believe that Option 3 merits additional consideration at this time and I am opposed to investing any resources in a limited pilot of that option.

The NRC's allegation process has served as a valuable component of our oversight program and we must act responsibly to ensure that worker and public confidence in this process is preserved. I share the Chairman's concern that Option 3 may

adversely effect our oversight program by prematurely screening out allegations that may not themselves be of safety significance, but whose related inspection contributes significantly to the staff's understanding of a licensee's performance. I agree that premature screening associated with Option 3 serves neither the NRC, our licensees, nor our stakeholders if it diminishes our understanding of plant performance problems.

The staff indicates that for a large portion of the issues submitted to the allegation process, the allegor does not provide the detailed kind of information that facilitates using the Significance Determination Process (SDP). Thus, if the allegation process was risk-informed as discussed in Option 3, in most cases the staff would have to gather additional information before the concerns could be categorized using the SDP. I believe that this process of gathering additional information would serve to reduce, if not eliminate, the efficiency gains and resource savings attributed to Option 3.

Regarding the Chairman's proposal to utilize the SDP to determine how to handle allegations after they have been fully assessed, I agree with Commissioner McGaffigan that we should postpone a decision on the proposal until FY 2002. Clearly there are weaknesses associated with the SDP that will have to be addressed following the initial implementation period of the new reactor oversight process. I believe it would be prudent to postpone acting on the Chairman's proposal until the SDP weaknesses are resolved and the staff has the opportunity to address the proposal in future correspondence.

Finally, the staff indicated that there is general agreement among stakeholders that the NRC should: 1) continue to independently review issues that are risk significant; 2) continue to independently evaluate wrongdoing issues; and 3) ensure that communications with allegors are timely and comprehensive. The staff should not underestimate the importance of these areas of agreement and should ensure that these activities are effectively carried out. We simply cannot afford to fail in any of these three areas.