

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: Chairman Gregory B. Jaczko
SUBJECT: SECY-10-0140 – OPTIONS FOR REVISING THE
CONSTRUCTION REACTOR OVERSIGHT PROCESS
ASSESSMENT PROGRAM

Approved X Disapproved Abstain

Not Participating

COMMENTS: Below Attached X None



SIGNATURE

12/22/10

DATE

Entered on "STARS" Yes X No

**Chairman Jaczko's Comments on SECY-10-0140,
"Options for Revising the Construction Reactor Oversight Process Assessment
Program"**

I approve Option 2 and Option 3. The purpose of the NRC's Construction Inspection Program is to ensure that an as-built facility (e.g., a new reactor) conforms to the conditions of the license for the facility. All three options for assessing licensee performance and processing inspection findings under the CIP developed by the staff would ensure that the purpose of the CIP is fulfilled. At this time the best of the three options appears to be Option 2, which will provide increased transparency and predictability of NRC's response concerning inspection findings.

As a near-term effort the staff, should implement the enhancements described in Option 2. Specifically, the staff should implement a construction regulatory framework, including strategic performance areas and cornerstones that uses traditional enforcement to disposition the Construction Inspection Program findings; and use the severity level of the findings as the input to the Construction Action Matrix (CAM). As a long-term effort, after at least 2 new reactors have been constructed, the staff should complete the development of the Construction Reactor Oversight Process (cROP) as described in Option 3.

In SECY-10-0140, and during the December 16, 2010, Commission Meeting, the staff pointed out that the traditional enforcement approach used to evaluate the significance of inspection findings has been used successfully during the Browns Ferry Unit 1 restart and is being effectively used to assess construction activities at Watts Bar Unit 2, the Louisiana Energy Services Gas Centrifuge Facility, and the U.S. Department of Energy Mixed Oxide Fuel Fabrication Facility. The staff has demonstrated good success implementing traditional enforcement approach and has not observed any widespread problems with its use in the construction assessment environment. The enhancements described in Option 2 will improve the transparency and predictability of this successful approach. In particular, the use of the CAM will provide increased transparency and predictability of NRC's response concerning inspection findings.

During the Commission meeting, there was discussion that while the use of traditional enforcement has been successful, there were concerns from the pre- Reactor Oversight Process (ROP) era about the consistency of using this process. The establishment by the NRC of the Center for Construction Inspection, which is responsible for implementing the construction inspection program for all new reactor construction, will ensure that inspection findings will be consistently processed for new reactor construction sites in each NRC region. Additionally, with the limited numbers of plants that may be under construction during the next five years, it will be significantly easier to ensure consistency of an appropriate NRC response to inspection findings.

I appreciate the noteworthy effort and consideration the staff has given to all the options, particularly the development of a significance determination process (SDP) and the use of performance indicators (PI) as described in Option 3. While I believe the current use of the SDP and PIs have proven to be effective regulatory tools for the Reactor Oversight Process for the existing fleet of operating reactors, the use of these tools for new nuclear plants under construction may be premature.

In SECY-10-0140 and during the December 16, 2010 Commission Meeting, the staff made clear that experience from significant construction work is needed for the development of meaningful construction PIs. These PIs would be the means to assess licensee performance and are

important inputs to any cROP. Without a set of meaningful PIs, it is difficult to see how Option 3, at this time, would be any more objective than Option 2. Without a set of meaningful PIs, the desired objectivity gain to be provided by Option 3 over Option 2 would only be a perception, fostered by the use of ROP-like language and not based on reality.

The planned construction of the first 2 new reactors in the coming years should provide the necessary construction experience the staff and industry needs to truly inform the use of a future SDP and PIs. Therefore, the staff should collect data and construction experience needed to develop these tools for future use.



Gregory B. Jaczko

12/22/10

Date