



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

April 20, 2011

SECRETARY

COMMISSION VOTING RECORD

DECISION ITEM: SECY-11-0033

TITLE: PROPOSED NRC STAFF APPROACH TO ADDRESS  
RESOURCE CHALLENGES ASSOCIATED WITH REVIEW  
OF A LARGE NUMBER OF NFPA 805 LICENSE  
AMENDMENT REQUESTS

The Commission (with Commissioners Svinicki, Apostolakis, Magwood, and Ostendorff agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of April 20, 2011. Chairman Jaczko approved in part and disapproved in part.

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 "Annette L. Vietti-Cook", written over a horizontal line.

Annette L. Vietti-Cook  
Secretary of the Commission

Attachments:

1. Voting Summary
2. Commissioner Vote Sheets

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

VOTING SUMMARY - SECY-11-0033

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. JACZKO	X				X	3/24/11
	X	X			X	4/19/11
COMR. SVINICKI	X				X	4/7/11
COMR. APOSTOLAKIS	X				X	4/4/11
COMR. MAGWOOD	X				X	4/7/11
COMR. OSTENDORFF	X				X	3/23/11

COMMENT RESOLUTION

In their vote sheets, Commissioners Svinicki, Apostolakis, Magwood, and Ostendorff approved the staff's recommendation and provided some additional comments. Chairman Jaczko approved in part and disapproved in part. Subsequently, the comments of the Commission were incorporated into the guidance to staff as reflected in the SRM issued on April 20, 2011.

**NOTATION VOTE**

**RESPONSE SHEET**

**TO:** Annette Vietti-Cook, Secretary  
**FROM:** Chairman Gregory B. Jaczko  
**SUBJECT:** SECY-11-0033 – PROPOSED NRC STAFF APPROACH  
TO ADDRESS RESOURCE CHALLENGES  
ASSOCIATED WITH REVIEW OF A LARGE NUMBER  
OF NFPA 805 LICENSE AMENDMENT REQUESTS

Approved  X  Disapproved  X  Abstain

Not Participating

**COMMENTS:** Below   Attached  X  None

The attached comments supplement my vote dated 3/24/11.

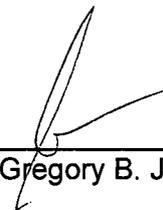
  
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4/19/11   
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**DATE**

Entered on "STARS" Yes   No

**Chairman Jaczko's Supplemental Comments on SECY-11-0033,  
"Proposed NRC Staff Approach to Address Resource Challenges Associated With  
Review of a Large Number of NFPA 805 License Amendment Requests"**

I am supplementing my comments dated March 24, 2011. I disapprove of any extension of enforcement discretion at this time. The staff soon plans to submit to the Commission, for approval, a revision to the Enforcement Policy, which would propose to extend enforcement discretion to correspond with the new LAR submittal dates. I believe any decision by the Commission to extend enforcement discretion is premature and does not take into account the staff's expertise in this area. Given the safety significance of this issue, we must continue to encourage applicants to move forward and blanket enforcement discretion denies us of this ability.

  
\_\_\_\_\_  
Gregory B. Jaczko      4/19/11      Date

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary  
FROM: Chairman Gregory B. Jaczko  
SUBJECT: SECY-11-0033 – PROPOSED NRC STAFF APPROACH  
TO ADDRESS RESOURCE CHALLENGES  
ASSOCIATED WITH REVIEW OF A LARGE NUMBER  
OF NFPA 805 LICENSE AMENDMENT REQUESTS

Approved  X  Disapproved   Abstain

Not Participating

COMMENTS: Below   Attached  X  None

  
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3/24/11   
\_\_\_\_\_  
DATE

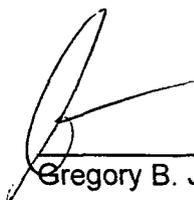
Entered on "STARS" Yes  x  No

**Chairman Jaczko's Comments on SECY-11-0033,  
"Proposed NRC Staff Approach to Address Resource Challenges Associated With  
Review of a Large Number of NFPA 805 License Amendment Requests"**

I approve of the staff's proposal to stagger the license amendment request submittals, including providing additional resources towards initially completing each review within a two year timeframe. Furthermore, I would expect that after review of the first round of applications, we should strive to achieve these licensing reviews nearer to a goal of approximately one year, keeping safety as the utmost priority.

The Nuclear Regulatory Commission has struggled since the Browns Ferry fire in 1975 to develop a comprehensive set of fire protection regulations despite the fact that fire is one of the single most significant initiators of accident scenarios for operating reactors. Fire protection at nuclear power plants continues to be one of my highest priorities. I am encouraged by the considerable progress made by the staff on a broad range of important fire protection issues in the last few years. For example, the staff has resolved fire barrier issues, the use of manual operator actions, provided final guidance on resolving fire-induced circuit failures, and completed a significant milestone in approving the use of this alternate fire protection rule at the two pilot plants.

The licensees of the other 44 reactors that have opted for this approach should promptly submit their applications, and the agency must assign adequate resources to review those applications in a timely fashion. NFPA 805 is a good rule, because as we have seen at Shearon Harris and Oconee, it does improve overall reactor safety. As the staff proposes, this would enable them to complete these reviews by fiscal year 2016. Although I would prefer to have these reviews completed sooner, I support the staff's proposal because I understand they have given me their best judgment on the time and resources required to make sure we do it right – and that is always our priority. Therefore, we should process these applications in the timeliest manner focusing first on the plants with the most enhancements to safety.

  
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Gregory B. Jaczko      3/24/11  
Date

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary  
FROM: COMMISSIONER SVINICKI  
SUBJECT: SECY-11-0033 – PROPOSED NRC STAFF APPROACH  
TO ADDRESS RESOURCE CHALLENGES  
ASSOCIATED WITH REVIEW OF A LARGE NUMBER  
OF NFPA 805 LICENSE AMENDMENT REQUESTS

Approved XX Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_

Not Participating \_\_\_\_\_

COMMENTS: Below \_\_\_\_\_ Attached XX None \_\_\_\_\_

  
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04/7/11  
\_\_\_\_\_  
DATE

Entered on "STARS" Yes  No \_\_\_\_\_

**Commissioner Svinicki's Comments on SECY-11-0033**  
**Proposed NRC Staff Approach to Address Resource Challenges Associated with Review**  
**of a Large Number of NFPA 805 License Amendment Requests**

I approve the staff's proposal to increase resources for NFPA 805 license amendment request (LAR) reviews and to develop a new submittal and review process for these reviews. The staff should work with industry to develop a revised, staggered, LAR submittal schedule that will limit the number of LARs that will be in-house at any one time, while also minimizing the aging time that LARs will spend "on the shelf" at NRC, awaiting their review. The staff should also submit to the Commission, for review and approval, a revision to the Enforcement Policy that would extend enforcement discretion to correspond with the new LAR submittal dates. Until such time as the Commission's decision on these revisions is enshrined in a resultant Staff Requirements Memorandum, the current enforcement discretion should be extended.

Since the agency's available resources have already been impacted by the response to events in Japan, the staff should return to the Commission with revised estimates, including any impact to targeted completion dates originally laid out in the SECY paper. In light of NRC's need to adjust resources, the staff should remain sensitive to resource needs for other planned activities having a direct bearing on safety. In this regard, I join Commissioner Apostolakis in opposing the diversion of resources from 10 CFR 50.69 license reviews. Also, if the re-assignment of staff from the Office of New Reactors to LAR reviews will delay the overall review schedules for any particular design certification, staff should notify the Commission. Finally, I agree with Chairman Jaczko that subsequent to completing the review of an initial set of LARs, staff should aim for a review duration of approximately one year, while still conducting the reviews to the level of completeness and thoroughness required for the determination of adequate protection.

  
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Kristine L. Svinicki

  
04/7/11

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary  
FROM: Commissioner Apostolakis  
SUBJECT: SECY-11-0033 – PROPOSED NRC STAFF APPROACH  
TO ADDRESS RESOURCE CHALLENGES  
ASSOCIATED WITH REVIEW OF A LARGE NUMBER  
OF NFPA 805 LICENSE AMENDMENT REQUESTS

Approved XX Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_

Not Participating \_\_\_\_\_

COMMENTS: Below \_\_\_\_\_ Attached XX None \_\_\_\_\_



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4/4/11

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DATE

Entered on "STARS" Yes  No \_\_\_\_\_

**Commissioner Apostolakis' Comments on SECY 11-0033, "Proposed NRC Staff Approach to Address Resource Challenges Associated With Review of a Large Number of NFPA 805 License Amendment Requests"**

I approve the staff's proposal to develop a staggered submittal and review process for upcoming NFPA 805 license amendment requests as described in SECY 11-0033. I support generally the staff's recommendation to increase resources for these reviews. I do not support an increase in resources at the expense of the review of submittals under 10 CFR 50.69. I support the staff's proposal to submit to the Commission, for approval, a revision to the Enforcement Policy, which would propose to extend enforcement discretion to correspond with the new license amendment request submittal dates. I agree with Commissioner Ostendorff that, if the resource projections in the March 4, 2011 paper are impacted based on the recent events in Japan, the staff should inform the Commission.

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary  
FROM: COMMISSIONER MAGWOOD  
SUBJECT: SECY-11-0033 – PROPOSED NRC STAFF APPROACH  
TO ADDRESS RESOURCE CHALLENGES  
ASSOCIATED WITH REVIEW OF A LARGE NUMBER  
OF NFPA 805 LICENSE AMENDMENT REQUESTS

Approved  Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_

Not Participating \_\_\_\_\_

COMMENTS: Below \_\_\_\_\_ Attached  None \_\_\_\_\_

Will Magwood  
SIGNATURE

7 April 2011  
DATE

Entered on "STARS" Yes  No \_\_\_\_\_

**Commissioner Magwood's Comments on SECY-11-0033:  
"Proposed NRC Staff Approach to Address Resource Challenges Associated with  
Review of a Large Number of NFPA 805 License Amendment Requests"**

The staff has acknowledged that it underestimated the complexity of the NFPA 805 license amendment requests as well as the resources necessary to review them. If limited to the FY 2011 resources currently allocated to this work, staff would not be able to complete the reviews of the NFPA 805 license amendment requests expected to be submitted in 2011 and 2012 until the end of 2019. While the staff may have underestimated the resources needed to carry out this work, the Commission itself established the strategy that has resulted in the present challenging situation. Having set a true course for Charybdis, we are now presented with the need to steer toward Scylla and manage agency resources as best we can given the circumstances.

We must first clearly recognize that review of NFPA 805 license amendment requests involve no issues of safety. The existing requirements collected in 10 CFR 50, Appendix R—despite their prescriptive and deterministic approach—are entirely adequate to assure the continuing protection of public health and safety. In large part, NFPA 805 represents efficiency benefits for licensees that might otherwise be required to make changes to plant equipment or procedures to assure compliance.

That said, it would be desirable to avoid a long review backlog. Thus, to the degree practical and rational given the circumstances, it is appropriate to consider a strategy to accelerate the NFPA 805 reviews. I therefore support generally the staff's recommendation to apply additional resources to support this effort.

However, we must acknowledge that the agency's resource allocation challenge has changed substantially since staff provided SECY-11-0033. The unprecedented and ongoing events at the Fukushima Daiichi nuclear plant that developed as a result of the Tohoku-Kanto Earthquake followed this staff paper by one week. It is impractical to reassign additional staff to conduct NFPA 805 reviews until we develop a complete understanding of how the agency's response to the Fukushima Daiichi event will impact our resources and plans. While the upcoming 90-day review will not have a large impact on our resourcing plans, the follow-on longer-term review will require the diversion of substantial staff resources. However, it is reasonable to anticipate that the Commission will have a more complete understanding of the resource implications of this work by the end of 2011.

I therefore recommend that the NFPA 805 reviews proceed with existing resources through the end of CY 2011. To the degree that additional resources are available beginning in CY 2012 (consistent with SECY-11-0033 and subject to the comments below), I support the reallocation of these resources to support an accelerated review schedule.

I do not, however, support the staff's proposal to starve important projects of resources to pursue these reviews. In particular, I do not approve any reallocation that would delay work in

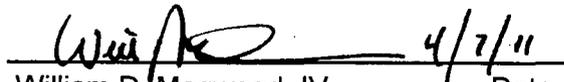
the Office of Research to develop fire PRA methods and a fire event database. Nor do I support the staff's suggested disruption of the cable hot shorting experiments planned to be conducted at Sandia National Laboratories. I view these activities as efforts of considerable long-term, multi-program import and I do not believe they should be sacrificed to accelerate NFPA 805 reviews.

While I am concerned with the impact the staff proposal would have on the Design Certification and Combined Operating Licenses for the U.S. Advanced Pressurized Water Reactor and the U.S. Evolutionary Power Reactor, I am prepared to accept staff's assertion that the overall schedule for these programs will not be impacted by the proposed reallocation of resources. However, should staff eventually conclude that an impact to the overall schedule for these efforts is likely as a result of the proposed reallocation, staff should notify the Commission.

I am less persuaded to accept staff's assertion regarding the various impacted programs in NRR. While staff indicates that impacts of these programs would not affect our safety mission, it is clear that at the very least, staff's proposal would result in a substantial delay in programs that would present licensees with opportunities for efficiency gains. The Commission has received no information that would indicate that staff has conducted a methodical analysis to support the choice of delaying these tasks in favor of an acceleration in NFPA 805. I recommend that staff reconsider these plans in light of clear Commission guidance that the impacted NRR programs have no less than equivalent priority when compared to the conduct of NFPA 805 reviews.

Before any reallocation of resources is effected, staff should provide the Commission with an information paper to detail the impacts on both the NFPA 805 reviews and the programs from which resources would be diverted. This paper should also provide a revised schedule for NFPA 805 reviews.

Because this approach may not support the magnitude of acceleration anticipated by SECY-11-0033, I support the extension of enforcement discretion to allow a reasonable prioritization of license amendment application by licensees. This seems particularly necessary given the as-yet undefined implications of NRC response to the Fukushima Daiichi event.

  
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William D. Magwood, IV                      4/7/11                      Date

**NOTATION VOTE**

**RESPONSE SHEET**

**TO:** Annette Vietti-Cook, Secretary  
**FROM:** COMMISSIONER OSTENDORFF  
**SUBJECT:** SECY-11-0033 – PROPOSED NRC STAFF APPROACH  
TO ADDRESS RESOURCE CHALLENGES  
ASSOCIATED WITH REVIEW OF A LARGE NUMBER  
OF NFPA 805 LICENSE AMENDMENT REQUESTS

Approved XX Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_

Not Participating \_\_\_\_\_

**COMMENTS:** Below XX Attached \_\_\_\_\_ None \_\_\_\_\_

I approve the staff's recommendation to increase resources for NFPA 805 LAR reviews and the staggered submittal and review process outlined in this paper. I commend the staff for their careful evaluation of the resource challenges and developing a proposed approach to achieve better efficiency and higher quality applications and reviews. My approval of the proposed staggered approach is with the understanding that the staff will provide an Enforcement Policy revision to the Commission for review and approval, providing plant-specific enforcement discretion to correspond with the new LAR submittal schedule. If the resource projections in the March 4, 2011 paper are impacted based on the recent events in Japan, the staff should inform the Commission.

  
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3/23/11  
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