

Proposed Amendment: Revise the cover letter as shown in the attached file.

Justification: 42 U.S.C. § 2286b(d) authorizes the Board to, “... establish reporting requirements for the Secretary of Energy ...,” (emphasis added). The Board should generally practice a narrow interpretation of its statutory authority to require reports. This authority should be used with discretion, such as when information has been difficult to obtain through informal staff-to-staff interaction or when periodic recurring reports on program status are warranted. 42 U.S.C. § 2286b(d) should not be used as a mechanism to convey either explicit or an implied direction for the Secretary to carry out an activity. In this case, that appears to be the message. Likewise, 42 U.S.C. § 2286b(d) should not be used as a surrogate for a recommendation. In the event that the issues identified in the Staff Issue Report, either individually or in totality, challenged the “... adequate protection of the public health and safety...,” the statutorily appropriate path would be to recommend action to the Secretary of Energy. In this case, the staff have not indicated that this threshold has been reached, and the language of the cover letter should not overstate the Board’s “concern.”

AFFIRMATION OF BOARD VOTING RECORD

SUBJECT: Amendment by Vice Chairman Hamilton to YELLOW FOLDER Doc#2017-100-045, Board Letter on DOE Order 232.2A on Occurrence Reporting

Doc Control#2017-100-045A

The Board, with Board Member(s) Sean Sullivan, Bruce Hamilton *approving*, Board Member(s) Jessie H. Roberson, Daniel J. Santos, Joyce L. Connery *disapproving*, Board Member(s) none *abstaining*, and Board Member(s) none *not participating*, have voted to disapprove the above document on May 3, 2017.

The votes were recorded as:

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIPATING*	COMMENT	DATE
Sean Sullivan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	05/02/17
Bruce Hamilton	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	05/02/17
Jessie H. Roberson	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	05/02/17
Daniel J. Santos	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	05/03/17
Joyce L. Connery	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	05/02/17

*Reason for Not Participating:

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


Assistant Executive Secretary to the Board

Attachments:

1. Voting Summary
2. Board Member Vote Sheets

cc: Board Members
OGC
OGM Records Officer
OTD

DEFENSE NUCLEAR FACILITIES SAFETY BOARD
NOTATIONAL VOTE RESPONSE SHEET

FROM: Bruce Hamilton

SUBJECT: Amendment by Vice Chairman Hamilton to YELLOW FOLDER
Doc#2017-100-045, Board Letter on DOE Order 232.2A on Occurrence
Reporting

Doc Control#2017-100-045A

Approved X Disapproved Abstain

Recusal – Not Participating

COMMENTS: Below X Attached None

This Amendment will remove the reporting requirement from the Board Letter.

42 U.S.C. § 2286b(d) authorizes the Board to, "... establish reporting requirements for the Secretary of Energy ...," (emphasis added). The Board should generally practice a narrow interpretation of its statutory authority to require reports. This authority should be used with discretion, such as when information has been difficult to obtain through informal staff-to-staff interaction or when periodic recurring reports on program status are warranted. 42 U.S.C. § 2286b(d) should not be used as a mechanism to convey either explicit or an implied direction for the Secretary to carry out an activity. In this case, that appears to be the message. Likewise, 42 U.S.C. § 2286b(d) should not be used as a surrogate for a recommendation. In the event that the issues identified in the Staff Issue Report, either individually or in totality, challenged the "... adequate protection of the public health and safety...", the statutorily appropriate path would be to recommend action to the Secretary of Energy. In this case, the staff have not indicated that this threshold has been reached, and the language of the cover letter should not overstate the Board's "concern."

I therefore approve.


Bruce Hamilton

02 MAY 2017
Date

**DEFENSE NUCLEAR FACILITIES SAFETY BOARD
NOTATIONAL VOTE RESPONSE SHEET**

FROM: Jessie H. Roberson


SUBJECT: Amendment by Vice Chairman Hamilton to YELLOW FOLDER Doc#2017-100-045, Board Letter on DOE Order 232.2A on Occurrence Reporting
Doc Control#2017-100-045A

Approved _____ Disapproved X Abstain _____

Recusal – Not Participating _____

COMMENTS: Below X Attached _____ None _____

While I support some of the proposed editorial changes, I do not support elimination of the reporting requirement as its use is consistent with the Board's enabling statute. The reporting requirement serves to ensure a Board concern is raised to the attention of the Department's leadership for consideration, which is not the statutory role of the Board's staff.



Jessie H. Roberson
05/02/2017

Date

Cameron Shelton

From: Daniel J. Santos
Sent: Wednesday, May 03, 2017 11:06 AM
To: Cameron Shelton; Shelby Qualls
Subject: RE: Notational Vote: Doc#2017-100-045A, Amendment by Vice Chairman Hamilton to YELLOW FOLDER Doc#2017-100-045, Board Letter on DOE Order 232.2A on Occurrence Reporting - YELLOW FOLDER

Disapproved with the following comment:

I support the original characterization of the concerns. The impact of changes to occurrence reporting resulting from deleted Order requirements could lead to less discipline toward nuclear safety and could adversely impact the safety posture of the defense nuclear complex. Studies of major accidents across many industries continue to reinforce the importance of having a strong learning culture with adequate information flow and accountability at all levels and across all stakeholders. DOE's action to revise DOE Order 232.2A appears to be a step in the opposite direction and could end up being a contributing factor that negatively impacts the sustainability of adequate protection of the health and safety of the public.

From: Cameron Shelton
Sent: Tuesday, May 02, 2017 11:06 AM
To: Bruce Hamilton <[REDACTED]>; Daniel J. Santos <[REDACTED]>; Jessie Roberson <[REDACTED]>; Joyce Connery <[REDACTED]>; Sean Sullivan <[REDACTED]>
Cc: Glenn Sklar <[REDACTED]>; Katherine Herrera <[REDACTED]>; James Biggins <[REDACTED]>; Richard Reback <[REDACTED]>; Steven Stokes <[REDACTED]>; Richard Tontodonato <[REDACTED]>; ExSec <[REDACTED]>; Adam Poloski <[REDACTED]>; Chris Roscetti <[REDACTED]>; John Pasko <[REDACTED]>; Timothy Dwyer <[REDACTED]>
Subject: Notational Vote: Doc#2017-100-045A, Amendment by Vice Chairman Hamilton to YELLOW FOLDER Doc#2017-100-045, Board Letter on DOE Order 232.2A on Occurrence Reporting - YELLOW FOLDER

This email is an electronic record of Notational Vote. Voting ballot will follow shortly. Also, accepting electronic votes.

**DEFENSE NUCLEAR FACILITIES SAFETY BOARD
NOTATIONAL VOTE RESPONSE SHEET**

FROM: Members of the Board
SUBJECT: Amendment by Vice Chairman Hamilton to YELLOW FOLDER Doc#2017-100-045, Board Letter on DOE Order 232.2A on Occurrence Reporting

DOC# 2017-100-045A

Office Directors have provided their input.

Approved _____
Disapproved _____
Abstain _____

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

NOTATIONAL VOTE RESPONSE SHEET

FROM: Joyce L. Connery

SUBJECT: Amendment by Vice Chairman Hamilton to YELLOW FOLDER
Doc#2017-100-045, Board Letter on DOE Order 232.2A on Occurrence Reporting

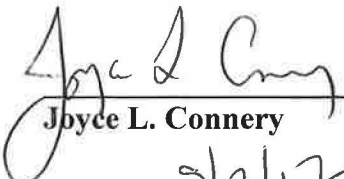
Doc Control#2017-100-045A

Approved _____ Disapproved X Abstain _____

Recusal – Not Participating _____

COMMENTS: Below X Attached _____ None _____

I disagree with the Board Member's view of how the Board should use its authority to obtain information from the Department of Energy. In this instance, we have been told that supplementary actions are planned and the Board is simply asking to be apprised of those plans so that we can make a determination as to whether the implementation of Order 232.2A as written would erode safety at the sites we are charged with overseeing. This is not a burdensome request.



Joyce L. Connery
9/2/17

Date