

Proposed Amendment:

Revise the last sentence of the forwarding letter to read –

Therefore, pursuant to 42 U.S.C. § 2286b(d), the Board requests that DOE provide a briefing and report to the Board on what specific actions, given the changes to DOE Order 232.2A, will be taken to ensure that nuclear safety and its oversight are not degraded at defense nuclear facilities prior to implementing DOE Order 232.2A.

Justification: 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.

AFFIRMATION OF BOARD VOTING RECORD

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

Doc Control#2017-100-045B

The Board, with Board Member(s) Jessie H. Roberson, Daniel J. Santos *approving*, Board Member(s) Sean Sullivan, Bruce Hamilton, 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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	05/02/17
Bruce Hamilton	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	05/02/17
Jessie H. Roberson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	05/03/17
Daniel J. Santos	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	05/02/17
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: Sean Sullivan

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

Doc Control#2017-100-045B

Approved _____ Disapproved X Abstain _____

Recusal – Not Participating _____

COMMENTS: Below X Attached _____ None _____

The draft correspondence requests DOE provide a report to the Board and this amendment proposes that in addition to the report DOE must also brief the Board.

In the manner being attempted here, use of the Board's statutory power to cause the Secretary to report is inappropriate. The power would be used not to gather information but to coerce action. See my comments to Doc#2017-100-045A, a competing amendment proposing deletion of all reporting requirements.

This amendment enlarges the flaw contained in the original draft correspondence. I therefore disapprove.

//s//

Sean Sullivan

5/2/17

Date

DEFENSE NUCLEAR FACILITIES SAFETY BOARD
NOTATIONAL VOTE RESPONSE SHEET

FROM: Bruce Hamilton

**SUBJECT: Amendment by Board Member Santos to YELLOW FOLDER
Doc#2017-100-045, Board Letter on DOE Order 232.2A on Occurrence
Reporting**

Doc Control#2017-100-045B

Approved _____ **Disapproved** **X** **Abstain** _____

Recusal – Not Participating _____

COMMENTS: Below **X** **Attached** _____ **None** _____

This Amendment proposes to invoke 42 U.S.C. § 2286b(d) to require a DOE briefing and report to the Board on what specific actions, given the changes to DOE Order 232.2A, will be taken to ensure that nuclear safety and its oversight are not degraded at defense nuclear facilities prior to implementing DOE Order 232.2A. The justification for this Amendment reads, “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.”

This Amendment is unsound on two counts.

First, the Amendment suggests that the Board knows better than DOE how to manage DOE’s internal affairs, and it implies that a legitimate role for the Board is to help DOE in improving its nuclear safety posture. This is contrary to the Board’s mission, as specified in 42 U.S.C. § 2286a.(a), which states clearly that the Board is to, “...provide independent analysis, advice, and recommendations to the Secretary of Energy ... in providing adequate protection of public health and safety at ... defense nuclear facilities.” In other words, the Board is limited to informing the Secretary when adequate protection of public health and safety is compromised. The Board should refrain from suggesting, nudging, or otherwise encouraging improvements in safety which do not reach the adequate protection threshold: to do otherwise would have the Board

assume a role in optimization or continuous improvement in DOE's internal management without being accountable for any increased costs and/or schedule delays that might result.

Second, the Amendment proposes to misapply the Board's statutory authority. 42 U.S.C. § 2286b(d) authorizes the Board to, "... establish reporting requirements for the Secretary of Energy" 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 an explicit or an implied mandate for DOE to carry out an activity. In this case, that appears to be the message. Further, 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, there is no indication that this threshold has been reached.

I therefore disapprove.


Bruce Hamilton

2 MAY 2017
Date

DEFENSE NUCLEAR FACILITIES SAFETY BOARD
NOTATIONAL VOTE RESPONSE SHEET

FROM: Jessie H. Roberson

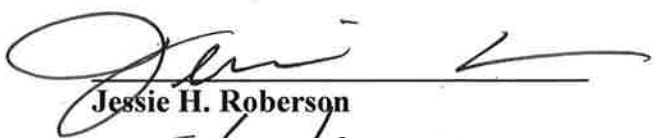
SUBJECT: Amendment by Board Member Santos to YELLOW FOLDER
Doc#2017-100-045, Board Letter on DOE Order 232.2A on Occurrence
Reporting

Doc Control#2017-100-045B

Approved Disapproved _____ Abstain _____

Recusal – Not Participating _____

COMMENTS: Below _____ Attached _____ None



Jessie H. Roberson
05/03/2017

Date

Cameron Shelton

From: Daniel J. Santos
Sent: Tuesday, May 02, 2017 1:53 PM
To: Cameron Shelton; Shelby Qualls
Subject: RE: Notational Vote: Doc#2017-100-045B, Amendment by Board Member Santos to YELLOW FOLDER Doc#2017-100-045, Board Letter on DOE Order 232.2A on Occurrence Reporting - YELLOW FOLDER

Approved with the following comment:

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 1:32 PM
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#2017-100-045B, Amendment by Board Member Santos 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 Board Member Santos to YELLOW FOLDER Doc#2017-100-045, Board Letter on DOE Order 232.2A on Occurrence Reporting

DOC# 2017-100-045B

Office Directors have provided their input.

Approved _____
Disapproved _____
Abstain _____
Recusal – Not Participating _____

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

NOTATIONAL VOTE RESPONSE SHEET

FROM: Joyce L. Connery

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

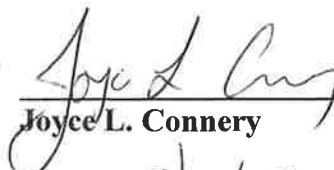
Doc Control#2017-100-045B

Approved _____ Disapproved X Abstain _____

Recusal – Not Participating _____

COMMENTS: Below X Attached _____ None _____

I agree with the analysis and the concern for the potential impacts of the implementation of the new Order as written. I would prefer to receive the information from the Department first and then, if needed, request a briefing. I do not think we need to be overly prescriptive in how the Department provides the Board with the information requested.



Joyce L. Connery
5/2/17

Date