

**Proposed Amendment:** I propose to amend the cover letter of this report by deleting the second sentence of the second paragraph.

**Justification:** 42 U.S.C. § 2286b(d) authorizes the Board to, "... establish reporting requirements for the Secretary of Energy ...." This authority 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.

**AFFIRMATION OF BOARD VOTING RECORD**

**SUBJECT: Amendment by Vice Chairman Hamilton to YELLOW FOLDER Doc#2017-100-067, WTP Tech Issues**

**Doc Control#2017-100-067A**

The Board, with Board Member(s) Sean Sullivan, Bruce Hamilton *approving*, Board Member(s) Jessie H. Roberson, Joyce L. Connery *disapproving*, Board Member(s) none *abstaining*, and Board Member(s) Daniel J. Santos *not participating*, have voted to disapprove the above document on September 21, 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 type="checkbox"/>	09/21/17
Bruce Hamilton	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	09/20/17
Jessie H. Roberson	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	09/20/17
Daniel J. Santos	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	09/20/17
Joyce L. Connery	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	09/20/17

\*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 Vice Chairman Hamilton to YELLOW FOLDER Doc#2017-100-067 WTP Tech Issues

**Doc Control#2017-100-067A**

Approved  Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_  
Recusal – Not Participating \_\_\_\_\_

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

  
Sean Sullivan  
9/21/17  
Date

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

**FROM:** Bruce Hamilton

**SUBJECT:** Amendment by Vice Chairman Hamilton to YELLOW FOLDER Doc#2017-100-067 WTP Tech Issues

**Doc Control#2017-100-067A**

Approved   X                        Disapproved                             Abstain       

Recusal – Not Participating       

**COMMENTS:** Below   X   Attached        None       

This amendment would remove the 42 U.S.C. § 2286b(d) reporting requirement from the cover letter for this Technical Report.

42 U.S.C. § 2286b(d) authorizes the Board to, "... establish reporting requirements *for the Secretary of Energy ...*" (emphasis added). Given that the Board has not determined that the safety issues identified in the report rise to the level of providing adequate protection of the public health and safety, it is inappropriate to use this authority 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, if the Board determines that an issue is of sufficient significance that it should invoke the formal reporting requirement of its enabling statute, then it follows that the requirement should usually be transmitted directly to the Secretary. The Board should generally refrain from using this authority at various touchpoints within the Department subordinate to the Secretary. Such broader interpretation of the language in the statute would bypass the Secretary and might have negative consequences, including: (i) omitting the Secretary's endorsement of the reporting requirement, thus eroding the Department's urgency to address it; (ii) interfering with the Secretary's ability to allocate the Department's resources for processing the reporting requirement in the most efficient manner; and, (iii) creating the false perception that the Secretary is unaccountable for the response to the reporting requirement.

I therefore approve.

  
Bruce Hamilton

20 SEPT 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#2017-100-067 WTP Tech Issues

**Doc Control#2017-100-067A**

Approved \_\_\_\_\_ Disapproved  Abstain \_\_\_\_\_  
Recusal – Not Participating \_\_\_\_\_

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

If the Board decides to approve the subject report I believe a reporting requirement should be included.

  
\_\_\_\_\_  
Jessie H. Roberson

\_\_\_\_\_  
Date

Sept 20, 2017

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


**FROM: Daniel J. Santos**

**SUBJECT: Amendment by Vice Chairman Hamilton to YELLOW FOLDER Doc#2017-  
100-067 WTP Tech Issues**

**Doc Control#2017-100-067A**

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_  
Recusal – Not Participating X

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

  
\_\_\_\_\_  
Daniel J. Santos  
9/20/17  
\_\_\_\_\_  
Date

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

**FROM:** Joyce L. Connery

**SUBJECT:** Amendment by Vice Chairman Hamilton to YELLOW FOLDER Doc#2017-100-067 WTP Tech Issues

**Doc Control#2017-100-067A**

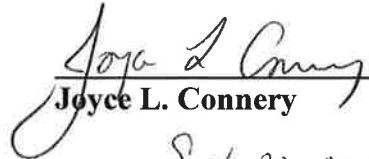
Approved \_\_\_\_\_ Disapproved  X  Abstain \_\_\_\_\_

Recusal – Not Participating \_\_\_\_\_

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

The amendment seeks to remove the reporting requirement for the reason that it is being “used as a mechanism to convey an explicit or implied mandate for DOE to carry out an activity”. This is a mischaracterization of a request of the Board for a biannual briefing. It is not explicitly nor implicitly mandating DOE to perform any action except to update the Board on progress. The statute explicitly gives the Board the power to establish reporting requirements and doing so allows the Board to hear directly from the Department on issues it deems important to its mission. There has been a pattern of Board Members using the Amendment process to strike any reporting requirements “on principle” and this has led to less effective communications to the Department and less of a dialogue with the Department in order to mutually understand concerns.

The pattern in the past has been that if the amendment to remove the reporting requirement is voted down, the Board Members that voted to remove the reporting requirement will vote AGAINST the transmittal of the Agency work—in some cases delaying or preventing important information from reaching the Department. I am voting against the removal of this requirement in the sincere hope that Board Members will see the value in transmitting the document with the reporting requirement, even if they prefer a transmission without the requirement. We are a collegial Board and should be able to compromise.

  
\_\_\_\_\_  
Joyce L. Connery  
Sept 20, 2017  
\_\_\_\_\_  
Date