

ARCHIVE: Doc#2016-300-027B Amendment by Board Member, Bruce Hamilton  
to Yellow Folder Doc#2016-300-027 FY17 OTD Work Plan 24-Hour Review

FY2017 OTD Work Plan.

Add the following new section immediately following the section entitled, "**Major Uncertainties**":

**"Special Project: Resident Inspectors.** The Technical Director shall prepare, implement and complete, no later than September 30, 2017, a change management plan to transition the name of the Board's staff stationed at any Department of Energy defense nuclear facilities from 'Site Representatives' to 'Resident Inspectors' in order to match the statutory language of 41 U.S.C. § 2286b. (h).

"This is a priority one task, and the Technical Director shall accrue labor at his discretion from other approved tasks in this work plan in order to facilitate this effort."

**AFFIRMATION OF BOARD VOTING RECORD**

**SUBJECT: Amendment by Board Member Bruce Hamilton to YELLOW FOLDER  
Doc#2016-300-027, FY17 OTD Work Plan**

**Doc Control#2016-300-027B**

The Board, with Board Member(s) Sean Sullivan, Daniel J. Santos, Bruce Hamilton *approving*, Board Member(s) Jessie H. Roberson *disapproving*, Board Member(s) Joyce L. Connery *abstaining*, and Board Member(s) none *recusing*, have voted to approve the above document on September 22, 2016.

The votes were recorded as:

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIPATING*	COMMENT	DATE
Joyce L. Connery	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	09/22/16
Jessie H. Roberson	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	09/22/16
Sean Sullivan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	09/22/16
Daniel J. Santos	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	09/22/16
Bruce Hamilton	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	09/22/16

\*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.



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:** Joyce L. Connery

**SUBJECT:** Amendment by Board Member Bruce Hamilton to YELLOW FOLDER  
Doc#2016-300-027, FY17 OTD Work Plan

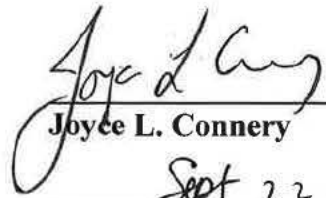
Doc Control#2016-300-027B

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

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

As noted in the memo that was prepared on this issue, there are pros and cons to either nomenclature. This issue, however, is not a "priority one task" – which as explained, refers to the staff's methodology for determining unmitigated risk and safeguard scores. I think the better term here would be "non-discretionary" if the intention was to have the staff fulfill this request without it being displaced by other priorities. On the merits of this issue, the change would be as proposed, a reflection of the statutory language. I do not believe, however, that the authors of the statute were attempting to prescribe the title, rather describe the function, especially since the fact of the assignment of such individuals was left as discretionary.

As this has no bearing on safety, I do not feel strongly enough to vote in this matter and defer to the Board Members who are more concerned with this issue than I am.

  
\_\_\_\_\_  
Joyce L. Connery  
\_\_\_\_\_  
Sept 22, 2016  
\_\_\_\_\_  
Date

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

**FROM:** Sean Sullivan

**SUBJECT:** Amendment by Board Member Bruce Hamilton to YELLOW FOLDER  
Doc#2016-300-027, FY17 OTD Work Plan

**Doc Control#2016-300-027B**

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

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

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



Sean Sullivan

9/22/16

Date

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

**FROM:** Jessie H. Roberson

**SUBJECT:** Amendment by Board Member Bruce Hamilton to YELLOW FOLDER  
Doc#2016-300-027, FY17 OTD Work Plan

**Doc Control#2016-300-027B**

Approved \_\_\_\_\_

Disapproved

Abstain \_\_\_\_\_


Recusal - Not Participating \_\_\_\_\_

**COMMENTS:**

Below  Attached \_\_\_\_\_

None \_\_\_\_\_

- I have no strong opinion for or against the  
name change. I do not agree that it should  
be treated as a priority one without first  
understanding what mission activity would be  
displaced.

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

\_\_\_\_\_  
Sept 22, 2016  
Date



**Lotus Smith**

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**From:** Daniel J. Santos  
**Sent:** Thursday, September 22, 2016 3:54 PM  
**To:** Lotus Smith; Shelby Qualls  
**Subject:** RE: Notational Vote: DOC# 2016-300-027B Amendment by Board Member Bruce Hamilton to YELLOW FOLDER Doc#2016-300-027, FY17 OTD Work Plan

Approved.

**From:** Lotus Smith  
**Sent:** Wednesday, September 21, 2016 3:57 PM  
**To:** Bruce Hamilton <[REDACTED]>; Daniel J. Santos <[REDACTED]>; Jessie Roberson <[REDACTED]>; Joyce Connery <[REDACTED]>; Sean Sullivan <[REDACTED]>  
**Cc:** ExSec <[REDACTED]>  
**Subject:** Notational Vote: DOC# 2016-300-027B Amendment by Board Member Bruce Hamilton to YELLOW FOLDER Doc#2016-300-027, FY17 OTD Work Plan

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 Bruce Hamilton to YELLOW FOLDER Doc#2016-300-027, FY17 OTD Work Plan

**DOC# 2016-300-027B**

Office Directors have provided their input.

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

**COMMENTS:**

**Below** \_\_\_\_\_  
**Attached** \_\_\_\_\_  
**None** \_\_\_\_\_

Lotus Smith  
Executive Secretary  
Office of the Chairman  
Defense Nuclear Facilities Safety Board  
625 Indiana Ave, NW, STE 700  
Washington, DC 20004

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

**FROM:** Bruce Hamilton

**SUBJECT:** Amendment by Board Member Bruce Hamilton to YELLOW FOLDER  
Doc#2016-300-027, FY17 OTD Work Plan

**Doc Control#2016-300-027B**

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

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

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

This Amendment directs the following action:

**“Special Project: Resident Inspectors.** The Technical Director shall prepare, implement and complete, no later than September 30, 2017, a change management plan to transition the name of the Board’s staff stationed at any Department of Energy defense nuclear facilities from ‘Site Representatives’ to ‘Resident Inspectors’ in order to match the statutory language of 41 U.S.C. § 2286b. (h).

“This is a priority one task, and the Technical Director shall accrue labor at his discretion from other approved tasks in this work plan in order to facilitate this effort.”

Note that this amendment does *not* implicitly or explicitly signal the Board’s intention to change the duties, roles, or responsibilities as a result of this name change.

The following historical perspective worth noting.

The first written reference to Board’s staff stationed at DOE sites appears to be in the Board’s Annual Report to Congress for 1992 (dated April 1993), which states twice that a member of the Board’s staff had been assigned to Pantex as the Board’s site representative. It does not discuss the choice of the term “site representative.”

Interviews late last year with long-tenured current and former members of the Board’s staff, the original Chairman and Vice Chairman, and another original Board Member found a common understanding of the rejection of the term “resident inspector” and origin of the term “site representative.” The Board avoided the term “inspector” because the Board’s functions do not include “inspection,” and the Board

has not established criteria against which to inspect. By comparison, U.S. Nuclear Regulatory Commission (NRC) resident inspectors perform inspections for compliance with NRC regulations. The Board apparently did not want to be perceived as overstepping its authority by assigning "inspectors" when its assigned functions did not include inspection. Moreover, the Board intended these people to be their "eyes and ears" and to work to understand the "bigger picture" instead of following a standard review plan or checklist. Inspection was perceived to be a completely different and undesired activity.

The Board may also have been influenced by the name of the Naval Reactors (NR) Representative's Offices (NRRO) maintained at field activities by NR, although NRRO activities were not completely analogous to those of site representatives. The interviews found general agreement that the personnel were stationed at the sites as representatives of the Board and thus were called "site representatives."

While the reasoning of the original Board may have been sound and well-intentioned, it violated one of the fundamental principles of the American tradition of self-government; namely, the rule of law. 41 U.S.C. § 2286b (h) authorized the Board to have "Resident Inspectors," not "Site Representatives." Instead of having the statute changed, the Board consciously chose to ignore the law and use a different term than the one Congress had directed. It continued this practice for two and a half decades. That the practical difference in the two terms was inconsequential is not relevant. Our respect for the rule of law must apply to all elements of the statute, big and small, and not just the ones we choose to follow or determine to be appropriate.

This amendment will improve alignment between the Board's enabling statute and its implementation, and it will demonstrate that the rule of law remains revered.

I therefore approve.

  
**Bruce Hamilton**

22 SEPT 2016  
**Date**