



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

September 22, 2015

SECRETARY

COMMISSION VOTING RECORD

DECISION ITEM: SECY-15-0002

TITLE: PROPOSED UPDATES OF LICENSING POLICIES, RULES,  
AND GUIDANCE FOR FUTURE NEW REACTOR  
APPLICATIONS

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of September 22, 2015.

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 blue ink, appearing to read "Annette Vietti-Cook", written over a horizontal line.

Annette L. Vietti-Cook  
Secretary of the Commission

Enclosures:

1. Voting Summary
2. Commissioner Vote Sheets

cc: Chairman Burns  
Commissioner Svinicki  
Commissioner Ostendorff  
Commissioner Baran  
OGC  
EDO  
PDR

VOTING SUMMARY - SECY-15-0002

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	PARTICIP	NOT COMMENTS	DATE
CHRM. BURNS	X				X	9/01/15
COMR. SVINICKI	X	X			X	9/03/15
COMR. OSTENDORFF	X	X			X	4/17/15
COMR. BARAN	X				X	4/14/15

**NOTATION VOTE**

**RESPONSE SHEET**

TO: Annette Vietti-Cook, Secretary  
FROM: Chairman Burns  
SUBJECT: SECY-15-0002: PROPOSED UPDATES OF  
LICENSING POLICIES, RULES, AND GUIDANCE FOR  
FUTURE NEW REACTOR APPLICATIONS

Approved  X  Disapproved   Abstain

Not Participating

COMMENTS: Below   Attached  X  None



SIGNATURE

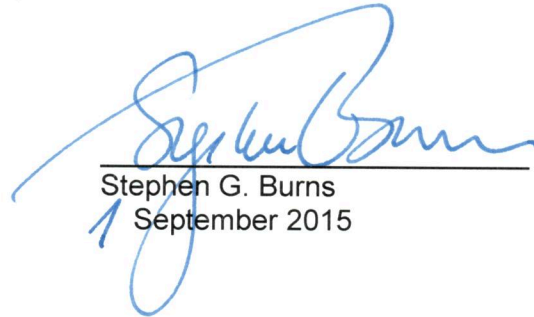
September 2015

DATE

Entered on "STARS" Yes  x  No

**Chairman Burns Comments on SECY-15-0002  
Proposed Updates of Licensing Policies, Rules, and Guidance  
for Future New Reactor Applications**

I approve the staff's recommendation in SECY-15-0002 and confirm that the Commission's guidance given in the "Policy Statement on Severe Reactor Accidents Regarding Future Designs and Existing Plants" and other Commission direction identified by staff apply to new 10 CFR Part 50 power reactor applications in a manner consistent with 10 CFR Part 52 design and license applications. Likewise, I approve revision of the regulations in 10 CFR Part 50 for new power reactor applications to more closely align with requirements in 10 CFR Part 52, incorporating the requirements identified by the staff in this paper. I also approve revision of 10 CFR Part 52 and supporting regulations, including 10 CFR Part 50, to reflect lessons learned from recent new reactor licensing activities. I support the staff's recommendation to conduct these rulemakings as a single coordinated effort. I agree with Commissioners Baran that these actions will increase clarity and transparency of our licensing requirements. I also agree with Commissioner Ostendorff that this activity will help to provide regulatory stability for prospective new reactor applicants.



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Stephen G. Burns  
1 September 2015

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary  
FROM: COMMISSIONER SVINICKI  
SUBJECT: SECY-15-0002: PROPOSED UPDATES OF  
LICENSING POLICIES, RULES, AND GUIDANCE FOR  
FUTURE NEW REACTOR APPLICATIONS

Approved XX In Part Disapproved XX In Part Abstain \_\_\_\_\_

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

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

  
\_\_\_\_\_  
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09/ 3 /15  
\_\_\_\_\_  
DATE

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

**Commissioner Svinicki's Comments on SECY-15-0002  
Proposed Updates of Licensing Policies, Rules, and Guidance for  
Future New Reactor Applications**

I approve in part and disapprove in part the staff's requests as put forward in the paper. Specifically, I approve the need to plan for a future rulemaking to enshrine greater policy coherency between the agency's regulations for new reactor applications under 10 CFR Parts 50 and 52. Based on the program of work currently before the agency and anticipated resources, however, this undertaking would fall into the category of low to medium rulemaking priority. Consequently, I disapprove the staff's implementation plan without prejudice because the specifics of it are premature and should be decided by the Commission serving at the future date (possibly five to seven years from now) when the draft proposed rule is developed and laid before the Commission for its review and approval.

To be sure, the NRC will need to conduct a rulemaking on this topic. Although I disagree with the staff's determination that imposing additional requirements on new 10 CFR Part 50 power reactor applications via order or license condition is "not practical," that approach is suboptimal for the reasons outlined by the staff in the paper. It may also, whether we like it or not, be quite necessary, should we be surprised with such an application materializing out of the blue in the interim.

As Commissioner Ostendorff observed in his vote and as the paper confirms, however, there are currently no prospective applicants that have expressed intent to apply for a new power reactor license under 10 CFR Part 50 in either the near or medium planning horizon. In fact, in 2012, the staff initiated and then abandoned work on a regulatory basis for a similar (but less complex) rulemaking activity when funds were diverted to higher priority work, and that was in a period when NRC's budget was growing every year. It is both prudent and realistic to admit that – although this rulemaking is needed – we are only going to do it once, at least over the next decade or so. Timing therefore is something to be considered carefully.

The Commission unanimously supported the recent proposal of Chairman Burns on the topic of reengaging the Commission's early involvement in rulemaking. This paper is an opportunity for the Commission to support the staff with feedback not limited to whether the concept of this rulemaking is sound but rather where that activity, albeit a legitimate one, falls within the overall scheme of agency priorities. By doing so, we join the staff in both the spirit of Project Aim and in the tough decision-making that is essential for the agency to succeed in light of a tighter resource environment. I have found many of my recent conversations with the agency's senior managers revolving not just around the question of "Is it a good idea?" but rather "Is it something that is a priority for us, right now?" The second question is the harder of the two to answer but is central to the agency's success.

NRC has not yet completed one full cycle of the regulatory process laid out in 10 CFR Part 52. In fact, some complex elements, such as the Inspections, Tests, Analyses, and Acceptance Criteria (ITAAC) hearings, are yet to come. Although I credit the agency with the lessons-learned activities that have been documented thus far, we may have some lessons still to be learned. In fact, we likely do. Similarly, there may be opportunities on the Part 50 side of this new rulemaking, such as being further along in the Mitigating Strategies rulemaking, to advance the cause of doing it once and doing it right.

The paper includes rather extensive discussion of a host of guidance-related activities. It was difficult to discern whether the staff's proposed paths forward uniformly respect the fundamental

difference between one-step and two-step licensing processes. This difference was mentioned once but only with respect to the timing of submittals of descriptions of various operational programs. The staff wrote that “program descriptions that may be needed to approve a one-step COL may not be needed at the [construction permit] stage for programs that will be in place at the [operating license] stage.” No resolution was proposed by the staff, however, and I am therefore unsure what my colleagues have approved in approving this approach. I withhold my approval without prejudice to whatever the “right answer” is, as I noted above. In any event, the staff should align any revised guidance it plans to develop on this and the other related topics in Enclosure 1 of the paper, so that the eventual draft proposed rule and all associated guidance will continue to reflect the fundamental differences between one-step and two-step licensing and will conform to the “Efficiency” Principle of Good Regulation; namely, where several effective regulatory alternatives are available, the option which minimizes the use of resources should be adopted.

The most important focus for NRO’s attention and resources during Fiscal Years 2016 and 2017 is to work towards completing the essential body of work before them: the combined license (COL), early site permit, and design certification reviews currently ongoing, some of which will soon be approaching the ten year mark. In fact, the importance of these activities is reflected in the Commission’s direction to combine NRO into NRR but only in a manner that would be least disruptive to this ongoing work. Likewise, NRR currently has high priority activities underway such as completion of Fukushima-related actions and elimination of its licensing backlog. This rulemaking should not take resources or attention from any of these activities.

Consequently, the staff should include the proposed rulemaking on the Common Prioritization of Rulemaking, but as a low priority for near term resourcing. In developing the FY 2018 staff budget proposal for the Chairman, the staff should elevate the priority of the rulemaking and propose resources to begin this rulemaking, funding it at a level that would allow it to be completed in four years, which is an accelerated pace for an NRC rulemaking. To ensure that the draft proposed rule and any associated draft guidance will result in no unintended consequences to the 10 CFR Part 50 regulatory process for operating reactors, the rulemaking lead should be NRR as the primary custodian of Part 50, supported by the merged NRO organization.



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Kristine L. Svinicki      3 September 2015

**NOTATION VOTE**

**RESPONSE SHEET**

TO: Annette Vietti-Cook, Secretary  
FROM: Commissioner Ostendorff  
SUBJECT: SECY-15-0002: PROPOSED UPDATES OF  
LICENSING POLICIES, RULES, AND GUIDANCE FOR  
FUTURE NEW REACTOR APPLICATIONS

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

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

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

W. Ostendorff  
SIGNATURE

4/17/15  
DATE

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



**Commissioner Ostendorff's Comments on SECY-15-0002, "Proposed Updates of Licensing Policies, Rules, and Guidance for Future New Reactor Applications"**

To ensure consistent technical standards are applied to all new power reactor applications, I join Commissioner Baran in confirming that the Commission's guidance given in the "Policy Statement on Severe Reactor Accidents Regarding Future Designs and Existing Plants" and other Commission direction provided in response to SECY-89-013, SECY-90-016, and SECY 93-087, apply to new 10 CFR Part 50 power reactor applications in a manner consistent with 10 CFR Part 52 design and license applications. This confirmation provides clarity and regulatory stability for prospective applicants who may be considering a new power reactor application under 10 CFR Part 50.

I approve the staff's recommendation to conduct an alignment rulemaking to codify requirements for Part 50 new power reactor applicants. However, there are currently no prospective applicants that have formally expressed intent to apply for a new power reactor under 10 CFR Part 50. Therefore, the priority and schedule for this rulemaking should be evaluated in the context of Project Aim 2020, and should take into account the forecast for potential new reactor applications under 10 CFR Part 50.

I also approve the staff's recommendation to pursue a lessons learned rulemaking. I applaud the staff's efforts to evaluate lessons learned from the implementation of the 10 CFR Part 52 process and strive for continuous improvement. In doing so, the staff has identified several areas where the Part 52 requirements could be corrected or clarified. While I support such regulatory enhancements, the priority and schedule for this rulemaking should also be evaluated in the context of Project AIM 2020 to ensure effective use of Agency resources.

**NOTATION VOTE**

**RESPONSE SHEET**

TO: Annette Vietti-Cook, Secretary  
FROM: Commissioner Baran  
SUBJECT: SECY-15-0002: PROPOSED UPDATES OF  
LICENSING POLICIES, RULES, AND GUIDANCE FOR  
FUTURE NEW REACTOR APPLICATIONS

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

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

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

  
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4/14/15  
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DATE

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

## **Commissioner Baran's Comments on SECY-15-0002, "Proposed Updates of Licensing Policies, Rules, and Guidance for Future New Reactor Applications"**

In this policy paper, the NRC staff recommends a rulemaking to align the substantive safety and security requirements applicable to new power reactors licensed under the 10 CFR Part 50 two-step licensing framework with those licensed under the more recent 10 CFR Part 52 combined license framework.

Because of the focus on the Part 52 licensing process in recent years, several important policy statements and technical requirements have not been made applicable to new applications reviewed under Part 50. As a result, if a new power reactor application were submitted today for review under Part 50, it would not be subject to all of the substantive safety requirements and policies that would apply if it were submitted for review under Part 52. For example, a new reactor application reviewed under Part 50 would not be required to address certain post-Three Mile Island requirements, including implementation of probabilistic risk assessments and other severe accident requirements. A new power reactor application under Part 50 also would not be required to comply with certain Commission policies relating to anticipated transients without a scram, station blackout, multiple steam generator tube ruptures, and fire protection standards for evolutionary and passive advanced light water reactors. The staff explains that "[t]he Part 52 requirements that do not apply to Part 50 applicants are not new issues; rather, they simply have not been applied to Part 50 applicants."

To address these and other discrepancies, the NRC staff proposes policy and regulatory updates to ensure consistency in NRC's new reactor licensing process, regardless of which regulatory path an applicant uses. The recommended rulemaking also would update both regulations to reflect lessons learned from recent new reactor licensing activities. For overall consistency and efficiency, the staff proposes to conduct a single coordinated rulemaking.

I approve the staff's four recommendations for confirming Commission direction and aligning the Part 50 and Part 52 requirements. I agree with the staff that "[e]quivalent designs submitted for NRC review under either process should be assessed against consistent technical standards that yield outcomes with equivalent demonstrations of adequate safety, security, and environmental protection." I share the staff's concern that failing to align the substantive requirements and policies applicable to applicants under Part 50 and Part 52 "is unsatisfactory, as it would create the possibility of different outcomes, dependent not upon differences in the design of a particular reactor, but solely upon the regulatory process used to license it." I also agree with the NRC staff that promoting uniformity through orders or license conditions is not an efficient alternative. With potential applicants expressing interest in using Part 50 to license new reactors, the confirmation of Commission policy and timely revisions through the proposed rulemaking would increase regulatory clarity, consistency, and transparency while ensuring that every new power reactor meets the same safety standards.