



SECRETARY

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

March 12, 2013

COMMISSION VOTING RECORD

DECISION ITEM: SECY-12-0137

TITLE: IMPLEMENTATION OF THE CUMULATIVE EFFECTS OF  
REGULATION PROCESS CHANGES

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of March 12, 2013.

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

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Annette L. Vietti-Cook  
Secretary of the Commission

Attachments:

1. Voting Summary
2. Commissioner Vote Sheets

cc: Chairman Macfarlane  
Commissioner Svinicki  
Commissioner Apostolakis  
Commissioner Magwood  
Commissioner Ostendorff  
OGC  
EDO  
PDR

VOTING SUMMARY - SECY-12-0137

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. MACFARLANE	X				X	12/18/13
COMR. SVINICKI	X				X	2/25/13
COMR. APOSTOLAKIS	X				X	1/31/13
COMR. MAGWOOD	X				X	1/2/13
COMR. OSTENDORFF	X				X	2/1/13

## NOTATION VOTE

### RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: Chairman Allison M. Macfarlane

SUBJECT: SECY-12-0137 – IMPLEMENTATION OF THE  
CUMULATIVE EFFECTS OF REGULATION PROCESS  
CHANGES

Approved   X   Disapproved        Abstain       


Not Participating       

COMMENTS: Below   X   Attached        None       

I approve the staff's proposed actions to implement the cumulative effects of regulation process enhancements, as outlined in this paper. The enhancements appropriately address prior Commission direction and will help ensure our rulemaking process considers input from interested external parties in an efficient and effective way.

I believe the next step is to practice these process improvements and qualitatively measure their value for both the agency and the industry. The staff should gather input from all interested external parties and provide an implementation status report to the Commission, including any recommendations derived from lessons learned, after 3 to 5 final rulemakings, or no later than 2 years.

I believe any expansion of the use of the cumulative effects process should be evaluated as part of the proposal by Commissioners Apostolakis and Magwood in COMGEA-12-0001/COMWDM-12-0002, "Proposed Initiative to Improve Nuclear Safety and Regulatory Efficiency."

  
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SIGNATURE

12/18/12  
\_\_\_\_\_  
DATE

Entered on "STARS" Yes        No

**NOTATION VOTE**

**RESPONSE SHEET**

TO: Annette Vietti-Cook, Secretary

FROM: COMMISSIONER SVINICKI

SUBJECT: SECY-12-0137 – IMPLEMENTATION OF THE  
CUMULATIVE EFFECTS OF REGULATION PROCESS  
CHANGES

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

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

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

  
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02/25/13  
\_\_\_\_\_  
DATE

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

**Commissioner Svinicki's Comments on SECY-12-0137**  
**Implementation of the Cumulative Effects of Regulation Process Changes**

I approve the staff's proposed set of actions to implement the cumulative effects of regulation (CER) process, as laid out in SECY-12-0137, subject to the following comments. The CER process, and the set of actions it requires, will institute a systematic look at possible cumulative effects of the agency's rulemaking activities. This evaluation, while systematic and a certain enhancement to NRC's process, is, however, not holistic and may overlook significant compounding effects of the NRC's actions. As noted by Commissioner Magwood, these measures do not encompass all aspects of the agency's regulatory actions. In comments arising from a public meeting on this topic, industry stakeholders noted that, in the year 2012, rulemakings constituted less than 20 percent of NRC generic regulatory actions. In that same period, they tabulated over 50 generic communications, consisting of notices and advisories, and multiple, other generic regulatory actions. The staff should continue to develop and implement outreach tools that will allow NRC to consider more completely the impacts generated by the issuance of multiple rules, orders, generic communications, advisories, and other regulatory actions.

I support Chairman Macfarlane's proposal for an implementation status report to the Commission within two years from the date of the staff requirements memorandum arising from this paper. The development of this report should include external assessments/comments from stakeholders on the effectiveness of NRC's CER process. The staff should ensure that any template used for the consideration of CER encompasses both reactor and non-reactor licensees.

I am not confident that the staff's summary dismissal of the use of the CER process for consensus standards rules is well-reasoned. Consensus standards rules may well be of low safety significance in relation to the effort associated with their implementation, i.e., these rules may be exactly the kind of activities whose timing and prioritization may be adjusted, when considered under the CER process. The staff should continue to evaluate the use of the CER process for consensus standards rules and report on their efforts in the implementation status report. The staff should also encourage the involvement of Agreement States in the development of the template and should engage with Agreement States, broadly, on the cumulative effects of NRC's regulatory actions on the conduct of their Agreement State programs.

Additionally, efforts to develop a more concrete understanding of actual, on-the-ground manifestations of cumulative effects would be aided by moving beyond generic articulations of concern and proceeding to the development of a small set of what could be termed "case studies." These case studies would lay out, in specific terms, the accretion of a set of regulatory actions and describe how they are implemented over a narrow period of time, at one regulated entity, concurrent with that facility's routine conduct of business. The staff should seek a small set of volunteer facilities from the pool of power reactors and/or fuel cycle facilities for the purpose of having them develop such case studies, either using actions currently underway or a set of actions recently completed (such as the security upgrades required after the attacks of September 11, 2001). These case studies should also, to the extent possible, present information on the accuracy of the cost and schedule estimates used in NRC's regulatory analysis when compared to after-the-fact licensee-experienced or vendor-generated costs and schedules.

  
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Kristine L. Svinicki 02/25/13

**NOTATION VOTE**

**RESPONSE SHEET**

TO: Annette Vietti-Cook, Secretary

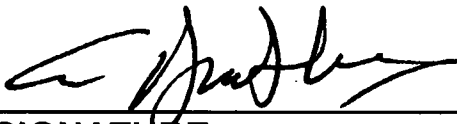
FROM: Commissioner George Apostolakis

SUBJECT: SECY-12-0137 – IMPLEMENTATION OF THE  
CUMULATIVE EFFECTS OF REGULATION PROCESS  
CHANGES

Approved   X   Disapproved        Abstain       

Not Participating       

COMMENTS: Below        Attached   X   None       

  
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  1/31/13    
DATE

Entered on "STARS" Yes   x   No

**Commissioner Apostolakis' Comments on SECY-12-0137  
Implementation of the Cumulative Effects of Regulation Process Changes**

I approve the staff's proposed actions to implement the cumulative effects of regulation (CER) process enhancements as described in SECY-12-0137, subject to the comments below. These enhancements are a step in the right direction to ensuring that regulatory actions are not considered in isolation and that the burden of imposing a given action is considered relative to its significance in improving safety or security, recognizing the burden of other regulatory actions being imposed in the same time frame. However, our efforts shouldn't stop here. As Commissioner Magwood noted in his vote on SECY-12-0137, COMGEA-12001/COMWDM-12-002, "Proposed Initiative to Improve Nuclear Safety and Regulatory Efficiency," suggests exploring ways to enable a more holistic prioritization of regulatory actions based on plant-specific risk insights. I agree with Chairman Macfarlane and Commissioner Magwood that any expansion of the consideration of the cumulative effects of regulation should be considered in the broader context of COMGEA-12001/COMWDM-12-002.

The staff's paper discussed a proposal by industry to use a "CER template" in the early stages of rulemaking to determine the viability and priority of a new rulemaking, as compared to ongoing regulatory actions. The staff should ensure that the development of any template is done with input from both reactor and non-reactor licensees. Additionally, the staff should encourage Agreement State engagement in the development of the template, to the extent there is interest.

Finally, I support Chairman Macfarlane in her call for an implementation status report to the Commission within two years. This report should also provide recommendations for improvements derived from lessons learned, including input from external stakeholders.

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George Apostolakis  
1/31/13

**NOTATION VOTE**

**RESPONSE SHEET**

TO: Annette Vietti-Cook, Secretary

FROM: COMMISSIONER MAGWOOD

SUBJECT: SECY-12-0137 – IMPLEMENTATION OF THE  
CUMULATIVE EFFECTS OF REGULATION PROCESS  
CHANGES

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

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

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

  
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2 January 2013  
\_\_\_\_\_  
DATE

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**Commissioner Magwood's comments on  
SECY-12-0137, "Implementation of the  
Cumulative Effect of Regulation Process Changes"**

I appreciate staff's efforts to improve the efficiency and transparency of our rulemaking activities. SECY-12-0137 discusses several process enhancements that offer the potential for the agency to address the inefficiencies that may exist if stakeholders are not adequately involved in the early stages of rulemaking and if the challenges associated with implementing a rule are not addressed concurrently with the rule's effective date. Accordingly, I approve the proposals discussed in the staff's paper. These steps will improve transparency and predictability. As I have noted previously, I particularly find that a requirement to issue rules and applicable guidance concurrently will have significant benefits.

However, I do not believe that these administrative and procedural steps address the very complex matter of cumulative effects of multiple regulations and other regulatory instruments. I remain concerned that our current approach does not allocate appropriately the resources and management attention of the agency and its licensees to those matters that present highest safety risk to the public. For that reason, I agree with Chairman Macfarlane's vote to consider this larger issue in the context of COMGEA-12-0001/COMWDM-12-0002. The thrust of that initiative is to enable a more holistic prioritization of regulatory actions based on plant-specific risks and characteristics.

However, while potentially impactful, the initiative mentioned above may not address all of the regulatory activities that come into play. Thus, I encourage the staff to continue to take up the challenge of considering more completely the overall impacts of multiple rules, orders, generic letters, and other regulatory actions on licensees and their ability to focus effectively on items of greatest safety import.

The staff should report back to the Commission in one year on the results of their continued review of these matters and on the impact of the activities proposed in SECY-12-0137.

 1/2/13  
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William D. Magwood, IV      Date

## NOTATION VOTE

### RESPONSE SHEET

**TO:** Annette Vietti-Cook, Secretary

**FROM:** COMMISSIONER OSTENDORFF


**SUBJECT:** SECY-12-0137 – IMPLEMENTATION OF THE  
CUMULATIVE EFFECTS OF REGULATION PROCESS  
CHANGES

Approved   X   Disapproved        Abstain       

Not Participating       

**COMMENTS:** Below   X   Attached        None       

I approve the staff's recommendation and proposed actions in SECY-12-0137. Consistent with my vote on COMSECY-12-0007, "Impacts of the Cumulative Effects of Regulation on Existing Rulemaking Due Dates," the NRC's CER process demonstrates progress towards the objectives of President Obama's Executive Order on Regulation and Independent Regulatory Agencies (E.O. 13579). Also consistent with my vote on COMSECY-12-0007, the CER approach is in too early of a stage to be able to ascertain if the overall CER goals will eventually be realized. I believe NRC senior management should carefully monitor the CER approach to ensure it achieves its objectives and that no significant unintended consequences occur. In addition, I support Chairman Macfarlane's, Commissioners Apostolakis', and Commissioner Magwood's call for a paper on CER implementation. I concur with Chairman Macfarlane's proposal that staff should inform the Commission of CER lessons learned within two years from the date of the SRM on SECY-12-0137. Finally, I support Commissioner Apostolakis' proposal that development of a CER template should include both reactor and non-reactor licensees and encourage Agreement State engagement if there is interest.

  
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2/1/13  
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**DATE**

Entered on "STARS" Yes   X   No