

ARCHIVE: Doc#2016-300-033F, Amendment by Board Member Sean Sullivan to  
Yellow Folder Doc#2016-300-033 FY 2017 OGC Work Plan  
YELLOW FOLDER: Doc#2016-300-033 OGC FY2017 Annual Work Plan  
YELLOW FOLDER AMENDMENT #6 BY BOARD MEMBER SULLIVAN

On page 2, immediately under section I. *Support to the Board*, add the following:

Priority item: OGC will as soon as practicable, and not later than November 10, 2016, take all actions required by law and the Board Procedures to bring before the Board for consideration a modification to 10 C.F.R. Part 1704, deleting subsections (b) and (c) of Part 1704.3.

Justification

The amendment adds a tasking for OGC to bring to the Board a draft revision eliminating the regulatory requirement to have the General Counsel or his designated representative present when a quorum of members has gathered. The tasking does not result in a change to the regulations, and the Board would have to vote at least two more times before any change to the C.F.R. could be made even if this amendment is approved. This amendment does not presume nor control the outcome of subsequent Board action needed to effect a change to the C.F.R. This amendment merely begins the process that could lead to a change. Even the specific change mentioned by this amendment (“*deleting subsections (b) and (c) of Part 1704.3*”) would be subject to comment, revision, and amendment pursuant to the Board Procedures as the process sought by this amendment moves forward.

The regulatory requirement is unnecessary and should be eliminated. Eliminating the requirement from the regulations does not prevent the Board from adopting in its policies the very same Sunshine Act safeguard or something substantially similar. A safeguard established by policy can be amended or suspended when unusual circumstances (e.g., an unanticipated OGC manning shortfall) present themselves.

**AFFIRMATION OF BOARD VOTING RECORD**

**SUBJECT: Amendment by Board Member Sean Sullivan to Yellow Folder Doc#2016-300-033 FY 2017 OGC Work Plan**

**Doc Control#2016-300-033F**


The Board, with Board Member(s) Sean Sullivan, Bruce Hamilton *approving*, Board Member(s) Joyce L. Connery, Jessie H. Roberson, Daniel J. Santos *disapproving*, Board Member(s) none *abstaining*, and Board Member(s) none *recusing*, have voted to disapprove the above document on October 12, 2016.

The votes were recorded as:

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIPATING*	COMMENT	DATE
Joyce L. Connery	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	10/12/16
Jessie H. Roberson	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	10/12/16
Sean Sullivan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	10/12/16
Daniel J. Santos	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	10/11/16
Bruce Hamilton	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	10/12/16

\*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* *ll*  
~~Request for Board Action~~ by Board Member Sean Sullivan to Yellow Folder Doc#2016-300-033 FY 2017 OGC Work Plan

Doc Control#2016-300-033F

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

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

*This would require significant resources to b + cl do not see it to be necessary*

*Joyce L. Connery*  
\_\_\_\_\_  
Joyce L. Connery  
*10/12/16*  
\_\_\_\_\_  
Date


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

**FROM:** Jessie H. Roberson  
**SUBJECT:** Amendment *JS*  
~~Request for Board Action~~ by Board Member Sean Sullivan to Yellow Folder Doc#2016-300-033 FY 2017 OGC Work Plan

Doc Control#2016-300-033F

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

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

  
\_\_\_\_\_  
Jessie H. Roberson  
10/12/2016  
\_\_\_\_\_  
Date

**DEFENSE NUCLEAR FACILITIES SAFETY BOARD**

**NOTATIONAL VOTE RESPONSE SHEET**

**FROM:** Sean Sullivan  
**SUBJECT:** Amendment *JS*  
~~Request for Board Action~~ by Board Member Sean Sullivan to Yellow Folder Doc#2016-300-033 FY 2017 OGC Work Plan

Doc Control#2016-300-033F

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

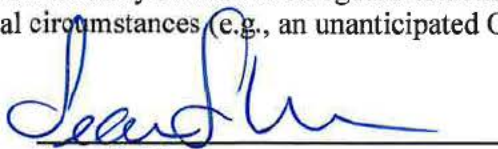
Recusal – Not Participating \_\_\_\_\_

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

The amendment proposes adding a work item requiring OGC to take action required by law and the Board Procedures to bring before the Board not later than November 10, 2016 a modification to 10 C.F.R. Part 1704, deleting subsections (b) and (c) of Part 1704.3.

The work item will result in the creation of a draft revision to the Board's Code of Federal Regulations on the Government in the Sunshine Act eliminating the regulatory requirement to have the General Counsel or his designated representative present when a quorum of members has gathered. The work item does not result in a change to the regulations, and the Board would have to vote at least two more times before any change to the C.F.R. could be made even if this amendment is approved. This amendment does not presume nor control the outcome of subsequent Board action needed to effect a change to the C.F.R. This work item merely begins the process that could lead to a change. Even the specific change mentioned by this amendment ("*deleting subsections (b) and (c) of Part 1704.3*") would be subject to comment, revision, and amendment pursuant to the Board Procedures as the process sought by this amendment moves forward.

The regulatory requirement is unnecessary and should be eliminated. Eliminating the requirement from the regulations does not prevent the Board from adopting in its policies the very same Sunshine Act safeguard or something substantially similar. A safeguard established by policy can be amended or suspended when unusual circumstances (e.g., an unanticipated OGC manning shortfall) present themselves.



Sean Sullivan

10/12/16

Date

**Shelby Qualls**

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**From:** Daniel J. Santos  
**Sent:** Tuesday, October 11, 2016 5:30 PM  
**To:** Lotus Smith; Shelby Qualls  
**Subject:** RE: Notational Vote: Doc#2016-300-033F Amendment by Board Member Sean Sullivan to YELLOW FOLDER Doc#2016-300-033, FY 2017 OGC Work Plan

Disapproved.

**From:** Lotus Smith  
**Sent:** Tuesday, October 11, 2016 4:25 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#2016-300-033F Amendment by Board Member Sean Sullivan to YELLOW FOLDER Doc#2016-300-033, FY 2017 OGC 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 Sean Sullivan to YELLOW FOLDER Doc#2016-300-033, FY 2017 OGC Work Plan

**DOC#2016-300-033F**

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 *SH*  
~~Request for Board Action~~ by Board Member Sean Sullivan to Yellow Folder  
Doc#2016-300-033 FY 2017 OGC Work Plan

Doc Control#2016-300-033F

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

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

*Bruce Hamilton*  
Bruce Hamilton  
12 OCT 2016  
Date