

**AGREEMENT BETWEEN
DOE/OCRWM AND NRC/NMSS
REGARDING PRELICENSING
INTERACTIONS**

November 16, 1998

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AGREEMENT BETWEEN DOE/OCRWM AND NRC/NMSS REGARDING PRELICENSING INTERACTIONS

1 PURPOSE

1.1 This Prelicensing Agreement describes general guidelines for communications between the staffs and management organizations of the Department of Energy (DOE) Office of Civilian Radioactive Waste Management (OCRWM) and the Nuclear Regulatory Commission (NRC) Office of Nuclear Material Safety and Safeguards (NMSS), including senior management and contractors designated by either agency, during the prelicensing period with respect to all activities preparatory to DOE's submission of an application for authorization to construct and operate a geologic repository under section 114 of the Nuclear Waste Policy Act (NWPA).

1.2 This Prelicensing Agreement supersedes the "Procedural Agreement" and the "Project-Specific Agreement", as revised in 1993.

1.3 No action taken pursuant to this agreement shall be deemed to constitute a commitment to issue any authorization or license, or in any way affect the authority of the Commission, its officers, and staff, in any licensing proceeding.

1.4 Nothing in this agreement shall be construed to confer rights to any party other than to DOE and NRC.

2 DEFINITIONS

Appendix 7 Meeting – An Appendix 7 Meeting is a meeting between the NRC On-Site Representative (OR), including any NRC personnel assigned to the OR, and DOE-Yucca Mountain Site Characterization Office (YMSCO), including contractors and subcontractors. These meetings, described in Appendix 7 of this Agreement, do not constitute interactions within the intent of Section 3 of this agreement and will not require the preparation of written reports or meeting summaries. These meetings are intended to be focused discussions of technical topics on site characterization and related activities. At the discretion of DOE and NRC, external parties may be notified and invited to observe Appendix 7 meetings and field trips subject to identification requirements and compliance with applicable access control measures for security, radiological protection, and personnel safety. No commitments may be made at Appendix 7 Meetings.

Commitments – An explicit statement to take a specified action agreed to or volunteered by the OCRWM or NMSS to one another, an external governmental agency or entity identified in the NWPA as having a right to participate. Commitments require action within a specified period or by a specified date. All commitments will be documented in correspondence by the party(ies) making the commitment. Unless expressly provided in writing, no commitments made to NRC pursuant to this prelicensing agreement are to be interpreted as becoming licensing commitments or conditions.

Interactions – Technical Exchanges, Management Meetings, or Site Visits. Management Meetings and Technical Exchanges are planned interactions open to public observation subject to the *NRC Policy Statement: Staff Meetings Open to the Public*. Technical Exchanges or Management Meetings include but are not limited to planned or scheduled DOE/NRC face-to-face meetings as well as alternative forms of planned or scheduled DOE/NRC interactions such as videoconferences. These interactions will comply with the *NRC Policy Statement: Staff Meetings Open to the Public* whether conducted by NRC or DOE. Certain interactions require written reports, as described in Section 3.5, and are subject to public notification and observation.

Management Meeting – A scheduled interaction held whenever necessary to review the summary results of Technical Exchanges; to review the status of outstanding items and issues; to discuss plans for resolution of outstanding items and issues; to update the schedule of Technical Exchanges and other actions needed for staff resolution of open items regarding the site characterization program; and to consult on what guidance is advisable and necessary for NRC to prepare. Unresolved management issues will be promptly elevated to upper management for resolution. Management Meetings are conducted to discuss programmatic issues related to program policy, schedules, scope, and major assignments of resources. Any commitments that are made during these meetings will be documented in correspondence by the party(ies) making the commitment. These meetings are subject to the *NRC Policy Statement: Staff Meetings Open to the Public* whether conducted by NRC or DOE.

Observers – A representative(s) sent to primarily observe but not participate substantially in an activity (as in a meeting, audit, or surveillance). Observers may furnish questions, observations, and recommendations generally at the beginning and end of meetings. Direct communication between observers and meeting participants during a meeting, audit, or surveillance is generally discouraged in order to minimize disruption.

Programmatic Issues – Issues discussed primarily at Management Meetings related to program policy, schedules, scope, and major commitments of resources.

Site Visit – A scheduled interaction held between DOE and NRC technical staff to: explain technical information related to ongoing field or laboratory site characterization and related activities; and visit locations at the site for field briefings and discussions of preliminary data and interpretation derived from field work. The primary purpose of a Site Visit is for both agencies to benefit from discussion of technical topics in the field. Site Visits will not require the preparation of written reports or meeting summaries. Site Visits will not be used as a forum to officially establish or change technical and/or regulatory positions, establish commitments, nor agree to courses of action. Representatives from the State of Nevada, affected units of local government, any affected Indian tribes, the public, and other interested parties may observe the proceedings of Site Visits consistent with security access, logistical arrangements, and safety rules. Proceedings covered by Appendix 7 of this agreement do not apply to Site Visits.

Technical Exchange – A scheduled interaction between DOE and NRC technical/licensing staff expected to focus primarily on technical or regulatory issues and to: review and consult on interpretations of data; identify potential licensing issues; discuss specific technical and/or

regulatory topics, the sufficiency of available information and data, methods and approaches for the acquisition of additional information, and data as needed to facilitate NRC reviews and evaluations and for staff resolution of such potential licensing issues. Technical Exchanges may be the forum for gaining an understanding and discussing technical or regulatory issues and the acceptability of actions on the part of both agencies, however, they can not be used to officially establish or change positions or make commitments. These meetings are subject to the *NRC Policy Statement: Staff Meetings Open to the Public* whether conducted by NRC or DOE.

3 GUIDELINES TO CONDUCT OCRWM AND NMSS INTERACTIONS

3.1 OCRWM and NMSS may conduct interactions on topics of mutual agreement at the request of either agency. Open, scheduled interactions may be either Management Meetings, Technical Exchanges, or Site Visits (see Section 2, "Definitions"). Proceedings covered by Appendix 7 of this agreement do not constitute interactions within the context of this agreement.

3.2 Technical Exchanges are expected to focus on technical or regulatory issues, and are intended to be staff-to-staff interactions, with respective contractor staff included as needed. Technical Exchanges may be the forum for gaining an understanding and discussing technical or regulatory issues and the acceptability of actions on the part of both agencies, however, they can not be used to officially establish or change positions or make commitments.

3.3 Management Meetings are generally expected to focus on programmatic issues. Verbal agreements can be made by the managers attending Management Meetings; however, any commitments will be documented in accordance with Section 3.5 of this agreement.

3.4 A teleconference between OCRWM and NMSS should be held approximately two weeks before each Technical Exchange and Management Meeting to reach agreement on an agenda.

3.5 Technical Exchanges and Management Meetings shall have bilateral minutes that summarize and document the meeting. The concise bilateral minutes shall include: a) brief summaries of the presentations made and the discussions held; b) regulatory or technical interpretations or positions; c) identification of points of agreement and disagreement; and d) documentation of commitments made at Management Meetings by either organization. Attachments are to include a list of attendees and copies of presentation materials and any view graphs used at the meeting. Copies will be provided to the State, affected units of local government, affected Indian Tribes, and the NRC and DOE Public Document Rooms.

3.6 Representatives from the State of Nevada, affected units of local government, any affected Indian tribes, the public, and other interested parties may observe the proceedings of Technical Exchanges, Management Meetings, or Site Visits consistent with security access, logistical arrangements, and safety rules. Such representatives may provide comments at the opening and ending of the meeting.

3.7 Consistent with *NRC Policy Statement: Staff Meetings Open to the Public*, the NRC will assume the lead to keep all parties informed about schedules for all OCRWM and NMSS Technical Exchanges, Management Meetings, and Site Visits.

3.8 Unscheduled OCRWM-NMSS communications may occur by telephone, electronic mail, or in person. Unscheduled communications shall not be a substitute for an interaction as defined in Section 2 of this procedure.

3.9 Closed, scheduled interactions between OCRWM and NMSS may also be held, according to the limited exemptions and circumstances described in the *NRC Policy Statement: Staff Meetings Open to the Public*.

3.10 At the invitation of OCRWM and consistent with NRC policy, NRC staff may attend OCRWM sponsored or conducted meetings as observers and may participate by providing comments. An OCRWM meeting attended by NRC staff as an observer shall not be a substitute for an interaction as defined in Section 2 of this procedure.

3.11 Both OCRWM and NMSS will identify management points of contact who have signature authority for correspondence to the other organization. Each organization will identify points of contact for informal communications and questions and will update these points of contact as necessary.

3.12 NMSS staff, and consistent with security access and safety rules, representatives from affected units of state, local governments, and Indian Tribes, may participate as observers at OCRWM quality assurance audits and surveillances provided that such participation does not unreasonably interfere with or delay such audits and surveillances. The OCRWM audit team leader is responsible for the direction of the audit. Observers are encouraged to participate fully by furnishing their questions, observations, and recommendations in written form to the team leader (or sub-team leader). All inquiries will be addressed. NMSS may perform audits of OCRWM and OCRWM contractor quality assurance programs. Quality assurance audits and surveillances are not considered interactions in the context of this agreement.


3.13 Interactions between NMSS and DOE program offices other than OCRWM concerning activities preparatory to DOE's submission of an application for authorization to construct and operate a geologic repository under section 114 of the NWPA will be conducted in accordance with the provisions of this agreement.

3.14 Guidelines specific to project activities are included in the appendices to this Agreement.

3.15 The terms of this Agreement regarding these interaction guidelines may be amended at


any time by mutual consent, in writing. This agreement and subsequent revisions will become effective upon the date of issuance.

3.16 Appendix 7, "Agreement Concerning the Nuclear Regulatory Commission On-Site Representatives for the Repository Project Prior to Licensing", provides a description of activities of the NRC On-Site Representatives.



Lake Barrett, Acting Director
Office of Civilian Radioactive Waste Management
U.S. Department of Energy

3/26/99
Date



Martin J. Virgilio, Deputy Director
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission

1-26-99
Date

APPENDIX 1

AGREEMENT BETWEEN YMSCO AND NMSS EFFECTIVE PRIOR TO THE SUBMITTAL OF A LICENSE APPLICATION

Appendix 1 specifies and implements provisions for activities and communication during the prelicensing period that may occur between the DOE Yucca Mountain Site Characterization Office (YMSCO) and the NRC Office of Nuclear Material Safety and Safeguards (NMSS) under the "Agreement Between DOE/OCRWM and NRC/NMSS Regarding Prelicensing Interactions." The activities include: 1) identifying YMSCO and NMSS points of contact for formal communications and informal points of contact for other communications and questions; 2) accessing data, documents, and records by YMSCO and NMSS; and, 3) accessing YMSCO site characterization samples and collection of samples by NMSS and contractor staff. Nothing in this Appendix shall be construed either to modify the "Agreement Between DOE/OCRWM and NRC/NMSS Regarding Prelicensing Interactions" in any way or to confer rights on any party other than YMSCO and NMSS.

1.0 Identification of YMSCO and NMSS Points of Contact

Points of contact identified by YMSCO and NMSS, for formal and informal communications, will be transmitted to the other organization through the point of contact designated for formal communication. Point of contact information will include the names of all points of contact, designation for formal or informal communication, their mailing and e-mail addresses, and telephone and fax numbers. YMSCO designates the following individual as the point of contact for formal communications with NMSS:

Assistant Manager for Licensing
Yucca Mountain Site Characterization Office
Office of Civilian Radioactive Waste Management
U.S. Department of Energy
P.O. Box 30307
North Las Vegas, NV 89036-0307

NMSS designates the following individual as the point of contact for formal communications with YMSCO:

Director
Division of Waste Management
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
11545 Rockville Pike
Two White Flint North
Rockville, MD 20850

2.0 Access to Site Data, Documents and Records

2.0.1 Written responses will be provided to written questions, comments, requests for data, samples, or documents, and requests for evaluations that are made by either YMSCO or NMSS. Requests by either organization for large data sets are subject to negotiation of a schedule for availability. The requesting organization is responsible for obtaining and providing to the responding organization any clearances needed for internal reproduction of published documents covered by copyrights.

2.0.2 YMSCO has developed and will maintain a data base identifying site characterization technical data collected by YMSCO, except those data excludable by law. The information contained in this data base includes a description of the data, dates when the data were acquired or developed, the quality assurance status of the data, and the storage location of the data.

2.0.3 Data sets from the YMSCO technical data management system are available to the NMSS upon written request. Requests must specify the data sets= identifications to enable retrieval from YMSCO's Technical Data Base, and format parameters, such as hard copy or electronic format, and any other applicable format items, needed to assemble and provide the data. All data provided by the DOE to the NRC prior to the submittal of the License Application are given with the following caveat: "CAUTION: Interpretations based upon these data are subject to change as more data are acquired, developed, or evaluated."

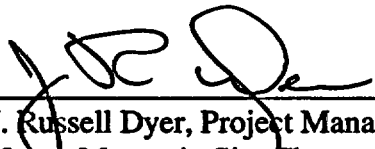
2.0.4 Upon request, at NRC's or DOE's option, each organization will provide the other at least one controlled copy of any specially developed or modified non-commercial software and available documentation used to evaluate site characterization and related activities, performance assessments, and design analyses subject to resolution of proprietary, privileged, software licensing agreements, and availability of the code.

2.0.5 OCRWM records or documents must be authorized as available by YMSCO staff. Generally, records and documents that have completed a final DOE review shall be made available to the ORs upon request; however, DOE shall only provide access to view but not to copy or retain materials that are in preparation, if such access is specifically requested by the ORs. Records or documents may not be authorized as available by contractor staff.

3.0 Sample Access, and Sample and Data Collection by NMSS and Contractor Staff

Written requests from NMSS for collection of samples or field data will be reviewed for acceptance by YMSCO to ensure that the collection will not compromise site characterization and related activities, that procedures have been established for the collection of the sample(s) or data and provided that such requests do not unreasonably interfere with site characterization and related activities. Once a request has been accepted, YMSCO will arrange for timely collection of the sample(s) or data according to applicable YMSCO procedures, and prepare and ship the sample(s) or transmit the data. If collection and/or transport of the sample(s) or collection and/or transmittal of the data will be delayed, YMSCO will notify NMSS of the proposed schedule for collection and delivery.

If samples must be collected by NMSS or contractor staff, NMSS or contractor staff will follow applicable YMSCO, DOE Nevada Operations Office, and Nellis Air Force Base procedures and fulfill specified training requirements for access to the sample site(s), including surface and underground access control, site security, radiological safety, personnel safety, and protection of wildlife and the environment. For example, if samples or data are to be collected by NMSS or contractor staff, the NMSS and contractor staff will use YMSCO's sample acquisition and handling procedures to obtain samples acquired as part of the site characterization program. Requests will be made in writing for samples for which no process of acquisition has been identified in a YMSCO procedure. YMSCO will review the request with NMSS staff to ensure that the location of the sample or the amount of sample material does not adversely impact the needs of the site characterization program. If no adverse impacts are identified, YMSCO will arrange for the NRC to receive or collect the requested materials. NMSS will request, through the YMSCO Project Manager, use of DOE rights-of-way for access to sample collection sites and will comply with the land access and environmental protection requirements.



J. Russell Dyer, Project Manager
Yucca Mountain Site Characterization Office
Office of Civilian Radioactive Waste Management
U.S. Department of Energy

2/22/99
Date



John T. Greeves, Director
Division of Waste Management
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission

1/21/99
Date

APPENDIX 2 - OWAST [RESERVED]

This appendix is reserved for any future agreement applying to communications between the Department of Energy (DOE) Office of Civilian Radioactive Waste Management (OCRWM) and the Nuclear Regulatory Commission (NRC) Office of Nuclear Material Safety and Safeguards (NMSS) related to spent fuel storage or transportation authorized under the Nuclear Waste Policy Act (NWPA) and any future amendments to the NWPA. Such an agreement will become effective upon an exchange of letters between the parties agreeing to adopt this agreement for such activities.

APPENDIX 3 - OTHER DOE PROGRAM OFFICES [RESERVED]

APPENDIX 4 - NRC POLICY STATEMENT: STAFF MEETINGS OPEN TO THE PUBLIC

APPENDIX 5 - RESERVED

APPENDIX 6 - RESERVED

APPENDIX 7

AGREEMENT CONCERNING THE NUCLEAR REGULATORY COMMISSION ON-SITE REPRESENTATIVES FOR THE REPOSITORY PROJECT PRIOR TO LICENSING

The purpose and objective of the on-site representative (OR) is to serve as a point of prompt informational exchange and consultation, to preliminarily identify concerns about investigations relating to potential licensing issues, and to serve as a point of contact for informal communications between NMSS and YMSCO.

This appendix is intended to supplement the base agreement and to detail the guidelines which will govern communication between the NRC OR, including any NRC personnel assigned to the OR, and DOE and its contractor personnel (prime and sub) through the project's Assistant Manager for Licensing. Any communications between the OR and DOE, its contractors, or subcontractors identified in this appendix will not constitute interactions within the intent of Section 3 of the base agreement and will not require the preparation of written reports or meeting summaries. These meetings are intended to be focused discussions of technical topics on site characterization and related activities. At the discretion of DOE and NRC, external parties may be notified and invited to observe OR meetings and field trips subject to identification requirements and compliance with applicable access control measures for security, radiological protection, and personnel safety. Communication between the OR and DOE and its contractors and subcontractors are not intended to interfere with or replace other channels of NRC/DOE communications and procedures for information release identified in the base agreement and Appendix 1.

The following points are agreed to:

1. The OR can attend any meetings on-site or off-site dealing with technical questions or issues related to prelicensing work following notification of the cognizant DOE project representative responsible for the meeting as discussed below. Such notification shall be by memorandum, telephone or personal contact and will be given at least 24 hours in advance where DOE has provided adequate prior notification to the OR. The meetings may involve solely DOE or solely DOE's contractors (prime and sub), or any combination of DOE with their contractors.

If objections to the OR attendance are voiced for any reason, the reason should be specified. Such objections will be infrequent and will be exceptions to the rule. If the OR does not agree with DOE objections, it will be raised to a higher management level for resolution. If resolution cannot be achieved, the OR will not attend the meeting in question.

2. The OR may communicate orally (in person or by phone) with persons employed by DOE, DOE's prime contractors or the prime's subcontractor, (on-site or off-site), providing that the following procedures are followed. If practicable, the OR will arrange for all individual sessions with prime contractor and subcontractor staff by contacting the YMSCO point of contact, or designee. If they cannot be contacted, the OR will attempt to contact the proper

prime contractor, section, or department manager. As a minimum, the OR will give timely notification of all such sessions to DOE and the affected contractor or participant(s) management as soon as possible. The OR will avoid discussions with personnel when it would appear to disrupt important duties and will seek to schedule meetings at a mutually convenient time. It is at the option of DOE, in consultation with participant management, as to whether or not a staff member, supervisor, or third party is to be present. No record of such discussions is required; however, questions that are raised or other issues that arise as a result of these interactions will be reported by the participant to the YMSCO point of contact, or designee.

When NRC headquarters or contractor staff is temporarily assigned to the OR office, the NRC Chief, Performance Assessment and HLW Integration Branch, or designee, will notify DOE's Assistant Manager for Licensing of the assignment at least one week prior to the assignment.

3. The DOE project office, DOE prime contractors, and their subcontractors will provide the OR access to records which would be generally relevant to a potential licensing decision by the Commission as follows. Upon request by the OR, DOE or the DOE contractor or subcontractor shall provide: 1) copies of any records of data; 2) records which document the analyses, evaluations, or reduction of data; or 3) records which contain information deduced by reason. These records will be made available to the OR, after the documentation has been reviewed and approved in accordance with the appropriate project office administrative procedure. Records that have not been reviewed and approved by the project office shall be made available for viewing, but not to copy or to retain, at any stage of completion. Requests by the OR for release of such records shall be made through and authorized by the YMSCO point of contact, or designee.
4. Copies of pre-decisional and preliminary drafts of documents required by the Nuclear Waste Policy Act of 1982 as amended, or related to precicensing activities, which have not been approved by DOE, will not be provided to the OR without DOE approval. Documents of this type may be made available by authorized DOE personnel, for review in DOE or DOE contractor offices. Such documents may not be authorized as available by a DOE contractor alone. Any such documents made available are for the use of the OR and shall not be placed in any NRC public document room.
5. The OR does not have the authority to direct DOE, its contractors or subcontractors to perform any work nor does the OR have stop work authority. Any formal identification of questions or issues for investigation by DOE that could result in contractor or subcontractor work must be formally presented to DOE through the NRC Chief, Performance Assessment and HLW Integration Branch in writing.
6. The OR will attend on-site meetings upon request by the DOE project office or prime contractor on-site whenever possible. The OR will provide any records which would normally be available under 10 CFR Part 2.790 of the Commission's regulations to project participants upon request to copy. If convenient, copies of such records will be provided by the OR.

7. The OR shall be afforded access to the site, research facilities, and other contractor and subcontractor areas to observe testing or other data gathering activities, in progress, as part of site characterization and related activities subject to compliance with the applicable requirements for identification, and applicable access control measures for security, radiological protection and personnel safety, provided that such access shall not interfere with the activities being conducted by DOE or its contractors and that any discussions conducted during such access shall comply with Point 2 above.

Such access shall be allowed as rapidly as it is for DOE or DOE contractor employees upon display of an appropriate access identification badge, or, if badging is not possible for national security reasons, upon prior notification to DOE or cognizant contractor supervisory personnel (by memorandum, telephone, or personal contact). When an access identification badge is available to DOE or DOE's contractors and subcontractors on a routine basis, it shall be made available to the OR upon completion of the required security clearances and appropriate radiological and personnel safety training. DOE will ensure that any training required is provided to the OR.

8. NRC can videotape or photograph any inanimate objects or geologic features associated with site characterization and related activities at the Yucca Mountain Site consistent with Nevada Test Site security. Additionally, upon request from the OR, DOE will provide NRC videotape footage of personnel performing site characterization and related activities. If requested, the OR and other NRC staff will be permitted to accompany DOE during the videotaping.
9. DOE YMSCO may provide, to the NRC OR, the information required to execute DOE responsibilities under Appendix 7 of this agreement by informal note, by telephone, or by personal contact. Such communications shall adhere to the procedures for communication and information release specified elsewhere in this agreement.
10. Meetings and field trips conducted as described in this section are not to be considered as opportunities to establish or alter regulatory positions or commitments. No agendas, minutes, or records of these meetings or field trips are required. Matters that arise may be (1) reported to YMSCO management by the ORs or other NRC representatives assigned to the OR's office through the YMSCO points of contact, or designees, or (2) discussed in internal meeting summaries prepared for each organization's management.
11. Prior notification of external parties, including State, affected units of local government, any affected Indian Tribes, or the general public, is not required for field trips or meetings under this Appendix. At the discretion of DOE and NRC, external parties may be notified and invited to observe OR meetings and field trips subject to identification requirements and compliance with applicable access control measures for security, radiological protection, and personnel safety.

12. NMSS may station on-site representatives at any OCRWM project office or work site to serve as points of prompt information exchange and consultation. At such time as the NRC ORs are stationed at the site, they are to be provided with office space that is near the DOE project office and site activities.

Notice of Consideration of Issuance of this amendment was published in the Federal Register on November 10, 1993 (58 FR 59757).

The purpose of the licensee's amendment request was to revise the Technical Specifications (TS) to remove the fire protection special reporting requirements.

The NRC staff has concluded that the licensee's request cannot be granted. The licensee was notified of the Commission's denial of the proposed change by a letter dated October 20, 1994, the licensee may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, D.C., by the above date.

A copy of any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, and to the Office of the General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 1111, Knoxville, Tennessee 37902, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated September 28, 1993, and (2) the Commission's letter to the licensee dated

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, D.C., and at the Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, Attention: Document Control Desk.

Dated at Rockville, Maryland, this 13 day of September, 1994.

For the Nuclear Regulatory Commission,
Gus C. Linaas,
Assistant Director for Region II Reactors,
Division of Reactor Projects—II/II, Office of
Nuclear Reactor Regulation.
[FR Doc. 94-23206 Filed 9-19-94; 8:45 am]
BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on October 5, 1994, Room T-2E13, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and matters the release of which would represent a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows: *Wednesday, October 5, 1994—2:00 p.m. until the conclusion of business.*

The Subcommittee will discuss proposed ACRS activities and related matters. Also, it will discuss qualifications of candidates nominated for appointment to the ACRS. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff person named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor can be obtained by contacting the cognizant ACRS staff person, Dr. John T. Larkins (telephone: 301/415-7360) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual five days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: September 14, 1994.

Sam Duraiswamy,
Chief, Nuclear Reactors Branch.
[FR Doc. 94-23204 Filed 9-19-94; 8:45 am]
BILLING CODE 7590-01-M

Staff Meetings Open to the Public; Final Policy Statement

AGENCY: Nuclear Regulatory Commission.

ACTION: Final policy statement.

SUMMARY: This statement presents the policy that the Nuclear Regulatory Commission (NRC) staff will follow in opening meetings between the NRC staff and one or more outside persons to public observation. This policy statement also announces central agency services available to the public for obtaining schedules for the staff meetings that are open to public attendance. Implementing guidance will be issued to the NRC staff as a management directive. The policy statement relates only to meetings involving the NRC staff and does not affect existing regulations that apply to public attendance at meetings such as Commission meetings, advisory committee meetings, and enforcement conferences.

EFFECTIVE DATE: November 1, 1994.

ADDRESSES: Management Directive 3.5 and copies of comments received on the proposed policy statement are available for inspection at the NRC Public Document Room, 2120 L St., NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Donnie H. Grimsley, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, telephone: (301) 504-1881.

SUPPLEMENTARY INFORMATION:

I. Background

The NRC first published its policy for open staff meetings in the Federal Register on June 28, 1978 (43 FR 28058). On September 14, 1993 (58 FR 48080), the NRC published for public comment a proposed policy statement entitled "Staff Meetings Open to the Public" in the Federal Register that would supersede the policy statement of 1978 (58 FR 48080). The NRC requested comments on the proposed policy statement and on comments submitted previously by the American Mining Congress that were made in response to an interim NRC policy statement similar to the policy statement that was proposed.

II. Summary of Public Comments on the Proposed Policy Statement and NRC Responses

General Comments

In late 1993, the NRC received 13 letters with comments on the proposed policy statement on "Staff Meetings Open to the Public." These comments were from the following organizations: the American Mining Congress; two law firms, Winston & Strawn and Newman & Holtzinger, P.C.; and seven utilities, including Texas Electric, Yankee Atomic Electric Company, Commonwealth Edison Company, Florida Power Corporation, Georgia Power Company, Virginia Electric and Power Company, and Southern Nuclear Operating Company; the Nuclear Management and Resources Council, the State of New Jersey Department of Environmental Protection and Energy, and Ohio Citizens for Responsible Energy, Inc. (OCRE). Two of these commenters, Georgia Power Company and Virginia Electric and Power Company, endorsed the comments of the Nuclear Management and Resources Council.

Two commenters endorsed the proposed policy statement. The other commenters either objected to the proposed policy statement or expressed their preference for retaining the 1978 policy statement. Several endorsed the general concept of opening staff meetings. Most offered suggestions for improving the proposed policy statement should it be adopted by the Commission.

Impact on the Quality of Public Meetings

The principal concern expressed was that having the public present during meetings with the NRC staff would have an adverse impact on the quality of those meetings. Several commenters indicated that the presence of the public at meetings with the NRC staff would unnecessarily complicate NRC and licensee discussions, would adversely affect the candor of those discussions (because the public would likely misunderstand and misconstrue the content of conversations), and would generally have an adverse effect on open communications between the NRC and licensees.

The NRC has been conducting public meetings for nearly 15 years under the 1978 policy statement. Since September 1992, the Office of Nuclear Reactor Regulation, the Office for Analysis and Evaluation of Operational Data, and the regional offices have operated under an interim policy similar to the proposed policy statement. The NRC has not

found that meetings open to the public under the 1978 policy statement or under the 1992 Interim Policy Statement have substantially interfered with the NRC staff's ability to accomplish its meeting goals or that the presence of public observers adversely affected its ability to communicate openly with licensees and other participants. Even though the NRC recognizes that having meetings open to public observation exposes the participants to the risk that information may be misunderstood or misconstrued, the NRC has not, in its many years of public meetings, found that risk to be of sufficient concern to outweigh the public confidence gained in the NRC's regulatory programs that comes from public observation of NRC staff meetings with outside persons.

Policy Expansion

Several commenters viewed the presumption that all staff meetings are open for public observation unless they fall into one of the exemptions detailed in the proposed policy statement as representing a significant extension of the agency policy on open staff meetings over that published in the 1978 policy statement. They also argue that the extension adds little to existing opportunities for public participation.

The NRC agrees that the proposed policy statement would result in more meetings being open to the public than would have been under the 1978 policy statement. The 1978 policy covered only meetings between the NRC and parties to proceedings. The proposed policy statement reflects NRC's longstanding practice of providing the public with the fullest information practicable on its activities and of conducting business in an open manner. Evolving agency practice since 1978 has resulted in additional types of meetings being open to the public that are not covered by the 1978 policy statement. These include meetings with licensees on technical issues, with licensee senior management on Systematic Assessment of Licensee Performance reports, and with licensees on exit meetings for special team inspections or by accident investigation and diagnostic evaluation teams. In addition, NRC has open meetings with trade organizations and with public interest groups regarding policy and technical issues and the agency's regulatory responsibilities. The policy statement codifies current practice by establishing uniform guidelines for the staff.

Definition of a Public Meeting

Several commenters offered suggestions for refining the definition of "public meeting." Several commenters

suggested that the type of individuals attending a meeting should be a determinant of whether the meeting is open to the public. One commenter suggested limiting public meetings to those where a decision-maker was attending. Other commenters suggested limiting public meetings only to those where technical staff were in attendance or where only a project manager and one or more licensee representatives were present. The NRC strongly believes that the subject matter of the meeting, or the administrative burden of opening the meeting, rather than the type of participant in attendance, should be the determining criterion for deciding if a meeting should be considered open for public observation.

One commenter expressed concern that the policy does not apply to state and local governments, including agreement states. The policy statement does apply to those entities as provided for in Section C.1. of the policy statement.

A commenter suggested language be included to establish a presumption that meetings between the NRC staff and outside parties be open. The NRC believes its policy statement clearly announces a policy of openness and establishes only a limited number of necessary exemptions. The NRC believes the policy statement provides meaningful opportunities for the public to be informed of NRC activities without unduly affecting open and candid discussions between licensees and the NRC staff or interfering with the NRC staff's ability to exercise its regulatory and safety responsibilities without undue administrative burden.

Other commenters suggested that the definition of a public meeting specifically exclude all meetings other than "face to face meetings," that is, exclude meetings using electronic communications, such as telephone conference calls or teleconferencing. The NRC agrees that the definition of a public meeting is not intended to include conversations using electronic communications and has modified the definition to clarify that meetings covered by this policy statement are those where participants are physically present at a single meeting site.

One commenter suggested that the definition of a public meeting be limited to one in which public interest has been expressed or where the NRC has reason to believe there is substantial public interest. The use of this type of criterion would require that the NRC judge what is of significant interest to a wide range of groups that have varied interests. The NRC does not presume to judge for these varied groups what meetings they may

consider to be of significant interest. The NRC believes that it is the responsibility of members of the public, not the NRC, to decide if they are interested in attending a staff meeting.

Several commenters suggested that the public's role at open staff meetings be clearly limited to that of observers. The preamble of the proposed policy statement clearly states that staff meetings open to the public would be open only to observation. However, in response to this concern, the NRC has amended the definition of a public meeting to include the phrase, "open to public observation."

Several commenters suggested that the policy statement include specific ways to limit public participation, such as permitting members of the public to ask questions only at the conclusion of a meeting or requiring them to submit written comments or questions. The policy statement is not intended to address the role of the public beyond that of observation. However, the NRC recognizes that some meetings open under the policy statement may warrant a greater degree of public participation. If participation beyond that of observation is allowed for a particular meeting, a description of the degree of participation will be specified when the meeting is announced and at the outset of the meeting by the senior NRC official participating in the meeting.

One commenter asked that NRC prohibit members of the public from interrupting meetings to pursue a personal agenda or raise public policy issues. The NRC recognizes the concern outside persons may have regarding this possibility. As above, the NRC staff will indicate the ground rules for a public meeting at the beginning of a meeting and adhere to those rules throughout the meeting.

The suggestion that the term "encounter" in the definition of a public meeting be changed to "meeting" was rejected. Had this suggestion been accepted, the definition would have read, "A public meeting is a formal meeting. . . ." phrasing that does not comply with the logical terms of a definition.

Exemptions

In reviewing the comments regarding the exemptions and scope of the policy statement, the NRC staff recognizes that exemption "g" should be clarified. The phrase, "Is a general information exchange" has been added to the exemption. Furthermore, guidance has been provided to the staff at the end of Section C.2 as follows: "Also note that meetings between staff and licensees or trade groups to discuss technical issues

or licensee performance would normally be open because they may lead to a specific regulatory decision or action. However, should a meeting involving a general information exchange be closed and should discussions during such a meeting approach issues that might lead to a specific regulatory decision or action, the NRC staff may advise the meeting attendees that such matters cannot be discussed in a closed meeting and propose discussing the issues in a future open meeting."

Several commenters suggested that the policy statement contain additional specific exemptions for closing a meeting. For example, one commenter suggested closing meetings that are administrative in nature, that are held to discuss scheduling or constraints associated with licensee actions, or that are held to review material submitted to the NRC by licensees. The NRC believes that these types of meetings will be exempt to the extent the definition of a public meeting encompasses only meetings where substantive issues are discussed. Also, exemption "g" as rewritten covers those types of meetings because they are held only for the exchange of information.

Several commenters suggested closing meetings for the exchange of preliminary, unverified information; meetings held within a licensee's protected areas; and meetings between NRC Resident Inspectors and licensees. The NRC believes that these types of meetings are already exempted by the policy statement in that the first type would be closed under exemption "f," and second and third types would be closed under exemption "h."

One commenter suggested that exemptions "f," "g," and "h" need to be refined to preserve NRC's flexibility to carry out its health and safety responsibilities without being unduly inhibited by the expanded openness policy. Another commenter believed these exemptions were too broad. NRC believes exemption "f" is sufficiently focused to be clearly interpreted. Exemptions "g" and "h" have been refined and the NRC believes that the policy statement has sufficient flexibility to ensure that NRC meets its safety and regulatory responsibilities. The policy statement clearly enunciates this flexibility in stating, "(t)his policy is a matter of NRC discretion and may be departed from as NRC convenience and necessity may dictate." The commenter specifically requested that the term "substantially" be deleted from exemption "h." The NRC agrees because the NRC will not open a meeting if the NRC staff believes the administrative burden will interfere with the efficient

performance of its safety and regulatory responsibilities and exemption "h" has been broadened to specifically exclude meetings held as an integral part of an NRC inspection.

One commenter interpreted the provision in exemption "f" in the policy statement as a means to exempt meetings convened to solve potential problems, such as reclamation proposals or enforcement matters. The NRC does not agree with this interpretation. The exemption addresses meetings that could result in the inappropriate disclosure and dissemination of "preliminary, unverified information." The purpose of this exemption is not to close all meetings for which preliminary information, proposals, or concerns are discussed, but to specifically ensure that agency licensees and applicants will not be inhibited in bringing preliminary, unverified information to the attention of the NRC.

The NRC staff believes that this reasoning applies to another commenter who believes that meetings between the staff and licensees, where technical issues or approaches to emerging issues are discussed, should also be classified as "preliminary" in nature and not open to the public.

Meeting Arrangements

Several commenters raised issues regarding arrangements for public meetings. One recommended that public recording and transcription of meetings be prohibited. The NRC does not believe it should limit public attendees when they want to record or transcribe proceedings which they have a right to attend. This type of a prohibition would be difficult to enforce and would infringe upon an established practice of media representatives and others who routinely record public proceedings for their convenience and subsequent use.

One commenter suggested that "outside parties" be consulted before announcing a meeting open to public observation because they may wish to submit proprietary, personal, or other confidential information prior to the meeting. Another suggested that the NRC staff inform the "outside parties" if a meeting will be a public meeting. This is the current NRC practice; however, the NRC will include a provision in its implementing management directive emphasizing that the NRC staff should make outside persons aware when a meeting will be a public meeting. This practice will allow the outside persons to raise concerns regarding confidential information before a meeting.

Several commenters expressed the concern that essential or urgent

meetings would not be scheduled promptly enough because of the need to provide "ten days advanced notice." This provision is intended to ensure that when the NRC staff deems that a meeting should be a public meeting there is sufficient time to provide adequate public notice of the meeting. When a meeting is deemed essential and adequate public notice cannot be provided, exemption "h" of the policy statement would apply because trying to provide notice would constitute an administrative burden that could interfere with the NRC staff's efficient execution of its safety and regulatory responsibilities; however, limited notice would still be provided using available telephone and electronic bulletin board systems.

Another commenter noted that its experience has been that some past public meetings noticed in the Federal Register were published on the day of the meeting or published so close to the date of the meeting that public attendance was impossible. The NRC recognizes that delays may occur because of the requirement to publish a notice of the meeting in the Federal Register. Consequently, the NRC did not adopt publication in the Federal Register as the principal mechanism for announcing public staff meetings. The NRC will announce public meetings through a toll-free telephone recording, a toll-free electronic bulletin board, weekly distribution of public meeting announcements to the Press, and by posting meeting announcements in the NRC Public Document Room.

One commenter suggested that minutes of closed meetings be prepared when substantive regulatory issues are raised in a closed meeting or when minutes of the closed meeting can be prepared and released to the public. The NRC recognizes that closed meetings may involve discussions regarding substantive regulatory matters, such as those involving preliminary, unverified information; meetings may also be closed because of the administrative burden of opening the meeting for public observation. The NRC does not believe it is necessary to require in the policy statement the preparation of meeting minutes or summaries of closed meetings. However, current NRC practice, when appropriate, is to make publicly available summaries of non-public meetings. This practice will continue.

Duration of Policy

One commenter suggested that any revised policy adopted by the NRC be limited to a two-year trial basis similar to that approved for open enforcement

conferences. Another commenter suggested that the policy statement should be limited to a period necessary to determine if there is sufficient interest to justify the expense of opening routine meetings to the public. The NRC believes that its long-term experience with open meetings justifies opening staff meetings and that this practice has resulted in significant benefits to the public. Thus the NRC does not believe its policy should be limited for any particular period of time.

Costs

Several commenters expressed concern regarding expenditures that would be required by the NRC and licensees to accommodate public observation of meetings. Two commenters expressed concern that additional expenditures would be incurred without commensurate benefits; for example, that public meetings may be held with no public attendance. Should this happen, these commenters suggested that these types of meetings be added as exemptions because no public interest in them would have been demonstrated. Others believed that the proposal should be abandoned because it would affect fee assessments under the agency's 100-percent user fee policy, resulting in a net loss in regulatory effectiveness and with no public benefit. The NRC does not envision more than a nominal increase in expenditures because the meetings in question will be held with or without public attendance, and are usually held at NRC facilities and meetings at licensee facilities are normally held in a facility readily accessible to the public. NRC's costs associated with operating the toll-free telephone line and the public-access electronic bulletin board are minimal and, to a great extent, offset by consolidating several current meeting notice telephone systems into one. Press notices of public meetings will be included in the agency's Weekly Press Release Compilation. Concerns related to fee assessments are routinely addressed as part of rulemakings for 10 CFR Parts 170 and 171. In February 1994, the NRC issued the "Report to the Congress on the U.S. Nuclear Regulatory Commission's Licensee Policy Review Required by the Energy Policy Act of 1992" that addresses concerns raised regarding the NRC licensee fee policy.

American Mining Congress Comments

The NRC invited public comment on concerns that had been submitted by the American Mining Congress (AMC) on the September 1992, Interim Policy Guidance that had been used by the

NRC Office of Nuclear Reactor Regulation, the Office for Analysis and Evaluation of Operational Data, and the NRC regional offices. The AMC stated that the proposed policy was generally responsive to its concerns. AMC's additional comments and the concerns of other commenters who referenced AMC's concerns are addressed in the preceding analysis of comments in Section II of this document.

III. Discussion of the Policy

The purpose of revising the open meeting policy is to further the goal of providing meaningful opportunities for the public to be informed of NRC activities without unduly affecting open and candid discussions between licensees and the NRC staff or interfering with the NRC staff's ability to exercise its regulatory and safety responsibilities without undue administrative burden. The policy also provides guidance to the NRC staff concerning the types of meetings that should be open to public observation. The open meeting policy is a matter of NRC discretion and may be departed from as NRC convenience and necessity may dictate.

The open meeting policy excludes meetings where the expressed intent is not to discuss substantive issues that are directly associated with NRC's regulatory and safety responsibilities. Meetings that would not need to be open could include training, conferences, and association meetings where both NRC staff and applicant/licensee officials participate. The open meeting policy also excludes meetings or interviews between NRC staff and licensee staff or management personnel that occur during the performance of an NRC inspection. The policy also excludes meetings the NRC staff has with its own employees, contractors, and consultants, other Federal agencies where the matter does not relate to a specific activity for which NRC has oversight, and with representatives of foreign governments and State and local representatives on matters other than those relating to specific NRC licensing or regulatory actions involving individual NRC licensees.

Exemptions to the policy will permit meetings to be closed to ensure that classified, commercial or financial proprietary, safeguards, personal privacy, and investigative information protected by statute or otherwise requiring protection is not disclosed to the public. Other exemptions are provided to ensure that the NRC staff has sufficient flexibility to efficiently carry out its responsibilities.

A meeting to discuss preliminary, unverified information is not an open meeting under the policy. The purpose of this exemption is to ensure that licensees and applicants are not inhibited in bringing to the Commission information that is not verified or sufficiently analyzed to draw firm conclusions. It also ensures that discussions about potential implications of this type of information occur candidly and openly without fear that it may be misunderstood by the public as fact or as final conclusions.

A meeting that is an information exchange having no direct, substantive connection to a specific NRC decision or action is not an open meeting under this policy. The purpose of this exemption is to ensure that routine administrative matters relating to regulatory activities can be carried out efficiently. For example, drop-in visits or similar management meetings between senior executives of a utility licensed to operate a nuclear power plant and the Executive Director for Operations, Regional Administrators, or other senior NRC managers are generally closed meetings because they typically consist of a general exchange of information not directly related to any regulatory action or decision. Furthermore, meetings to discuss schedules for NRC actions, or the status of an applicant's or licensee's activities would not be open under this exemption. Meetings between staff and licensees or trade groups to discuss technical issues or licensee performance would normally be open under this provision because they may lead to specific regulatory action.

The final exemption is for meetings where the administrative burden associated with public attendance could interfere with the NRC staff's efficient execution of its safety and regulatory responsibilities. This exemption ensures that the NRC staff has the discretion to have a needed meeting on short notice where adequate public notice cannot be provided without placing an undue burden on the agency. The meeting could be necessary because of an urgent issue that needs addressing or where the opportunity becomes available on short notice to meet with an official of the applicant or licensee that would benefit the NRC staff person in carrying out his or her duties. The meeting also might be in a location that does not have the facilities to easily accommodate the public, such as within a plant's protected area, because these meetings would require an undue administrative burden to establish access authorization for members of the public. For example, an NRC manager may visit a facility on short notice or without any notice for

purposes other than meeting with licensee officials. These purposes may include but are not limited to monitoring and assessing the performance of NRC subordinates, touring the facility, or independently assessing licensee performance. During such a trip, he or she may visit licensee officials and may discuss substantive regulatory issues with them. Opening such a meeting to the public would constitute an undue administrative burden and could impede the efficient executions of the NRC's safety and regulatory responsibilities.

The public meeting notice system planned for providing public notice of all NRC staff meetings open to the public will have a toll-free telephone recording and a public-access electronic bulletin board for announcing meeting notice information. Open staff meetings will also be announced by a weekly press release as well as being posted in the agency's Public Document Room, as is the current practice.

IV. Commission Policy Statement on Staff Meetings Open to the Public

A. Purpose

This statement presents the policy that the Nuclear Regulatory Commission (NRC) staff will follow in opening meetings between the NRC staff and one or more outside persons to public observation. The policy continues NRC's longstanding practice of providing the public with the fullest information practicable on its activities and of conducting business in an open manner, while balancing the need for the NRC staff to exercise its regulatory and safety responsibilities without undue administrative burden. This policy also announces central agency services available to the public for obtaining schedules for the staff meetings that are open to public attendance. Implementing guidance will be issued to the NRC staff as a management directive. This meeting policy is a matter of NRC discretion and may be departed from as NRC convenience and necessity may dictate.

B. Definition

A public meeting is a planned, formal encounter open to public observation between one or more NRC staff members and one or more outside persons physically present at a single meeting site, with the expressed intent of discussing substantive issues that are directly associated with the NRC's regulatory and safety responsibilities.

An outside person is any individual who is not:

a. An NRC employee;

- b. Under contract to the NRC;
- c. Acting in an official capacity as a consultant to the NRC;
- d. Acting in an official capacity as a representative of an agency of the executive, legislative, or judicial branch of the U.S. Government (except when the agency is subject to NRC regulatory oversight);
- e. Acting in an official capacity as a representative of a foreign government;
- f. Acting in an official capacity as a representative of a State or local government (except when specific NRC licensing or regulatory matters are discussed).

C. Applicability and Exemptions

1. This policy applies solely to NRC staff-sponsored and conducted meetings and not to meetings conducted by outside entities that NRC staff members might attend and participate in. It does not apply to the Commission or offices that report directly to the Commission. Similarly, it does not apply to meetings between the NRC staff and representatives of State governments, including Agreement State representatives, relating to NRC Agreement State activities or to State regulatory actions or to other matters of general interest to the State or to the Commission, that is, matters other than specific NRC licensing or regulatory actions involving specific licensees. Also, the policy is not intended to apply to or supersede any existing law, rule, or regulation that addresses public attendance at a specific type of meeting. For example, 10 CFR Part 7 specifically addresses public attendance at advisory committee meetings; and 10 CFR Part 9, Subpart C, addresses public attendance at Commission meetings. The policy also does not negate existing Memoranda of Understanding, procedural agreements, or other formal agreements or requirements regarding the accessibility of the public to observe or participate in meetings between NRC and its licensees or any other entities. In addition, the policy does not apply to meetings involving enforcement matters under 10 CFR Part 2, Appendix C nor to settlement conferences.

2. In general, meetings between the NRC staff and outside persons will be classified as public meetings unless the NRC staff determines that the subject matter to be discussed—

- a. Is specifically authorized by an Executive Order to be kept secret in the interests of national defense or foreign policy (classified information) or specifically exempted from public disclosure by statute;

b. Contains trade secrets and commercial or financial information (proprietary information);

c. Contains safeguards information;

d. Is of a personal nature where such disclosure would constitute a clearly unwarranted invasion of personal privacy;

e. Is related to a planned, ongoing, or completed investigation and/or contains information compiled for law enforcement purposes;

f. Could result in the inappropriate disclosure and dissemination of preliminary, unverified information;

g. Is a general information exchange having no direct, substantive connection to a specific NRC regulatory decision or action;

h. Indicates that the administrative burden associated with public attendance at the meeting could result in interfering with the NRC staff's execution of its safety and regulatory responsibilities, such as when the meeting is an integral part of the execution of the NRC inspection program.

It is important to note that whether or not a meeting should be open for public attendance is dependent primarily on the subject matter to be discussed, not who outside nor who within the NRC staff is participating (e.g., staff level versus senior management).

Also note that meetings between staff and licensees or trade groups to discuss technical issues or licensee performance would normally be open because they may lead to a specific regulatory decision or action. However, should a meeting involving a general information exchange be closed and should discussions during such a meeting approach issues that might lead to a specific regulatory decision or action, the NRC staff may advise the meeting attendees that such matters cannot be discussed in a closed meeting and propose discussing the issues in a future open meeting.

D. Notice to the Public

1. Normally, meeting announcement information is to be provided by the staff to the agency's meeting announcement coordinator at least ten days in advance of the date of the meeting so that adequate notice can be made to the public.

Public notice will be provided through the Weekly Compilation of Press Releases and posting in the NRC headquarter's Public Document Room, 2120 L Street (Lower Level) NW., Washington, DC. The public may obtain a schedule of agency staff meetings on a toll-free telephone recording at 800-

952-9674 and on a toll-free electronic bulletin board at 800-952-9676.

2. Meetings which are scheduled for the next 60 calendar days will be announced to the public. Meeting announcements will include the date, time, and location of the meeting, as well as its purpose, the agency and outside organizations in attendance, and the name and telephone number of the agency contact for the meeting. Information about canceled, rescheduled, and open meetings scheduled on short notice will be updated daily or as needed by its posting at the agency Public Document Room, on the telephone recording, and on the electronic bulletin board.

Dated at Rockville, MD, this 14th day of September 1994.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Acting Secretary of the Commission.

[FR Doc. 94-23205 Filed 9-19-94; 8:45 am]

BILLING CODE 7590-01-P

SECURITIES AND EXCHANGE COMMISSION

Request Under Review by Office of Management and Budget

Acting Agency Clearance Officer:
David T. Copenhafer, (202) 942-8800.

Upon written request copy available from: Securities and Exchange Commission, Office of Filing and Information Services, 450 5th Street, N.W., Washington, D.C. 20549.

New Mutual Funds Prospectuses Telephone Survey—File No. 270-394.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted for OMB approval a request to execute a telephone research survey. The survey will attempt to assess the public's understanding of mutual funds and other financial matters. The results will enable the Commission to better understand the level of investor comprehension of mutual fund prospectuses and financial issues. The mutual fund comprehension telephone survey is estimated to require a total of 16.66 burden hours. The burden hour per participant will be .16 hours or 10 minutes.

Direct general comments to the Desk Officer for the Securities and Exchange Commission at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with the Commission rules and forms to David T.

Copenhafer, Acting Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549 and Desk Officer for the Securities and Exchange Commission, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Dated: September 12, 1994.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94-23227 Filed 9-19-94; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-34665; File No. SR-DTC-94-07]

September 13, 1994.

Self-Regulatory Organization; the Depository Trust Company; Order Approving Proposed Rule Change Establishing the Stock Loan Income-Tracking System

On May 6, 1994, The Depository Trust Company ("DTC") submitted a proposed rule change (File No. SR-DTC-94-07) to the Securities and Exchange Commission ("Commission") pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act").¹ Notice of the proposal appeared in the Federal Register on June 22, 1994, to solicit comment from interest persons.² This order approves the proposal.

I. Description of the Proposal

The purpose of the proposed rule change is to establish the stock loan income-tracking system that will eliminate the need for participants to track income distributions on their securities that are the subject of outstanding stock loans. The current DTC procedures enable participants to identify stock loan related deliver orders through the use of reason codes. Proper allocation of income payments arising from the securities that are the subject of these loans currently rests entirely with the lending and borrowing participants because DTC allocates income to participants to whom the securities are credited on the relevant entitlement date (i.e., the borrowing participants). Lending participants recover income that DTC has allocated to borrowing participants either through DTC's securities payment order service or through some other mutually agreed upon arrangement by the participants.

¹ 15 U.S.C. § 78a(b) (1988).

² Securities Exchange Act Release No. 34218 (June 15, 1994), 59 FR 32252 [File No. SR-DTC-94-07] (notice of proposed rule change).