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**INTERNAL COMMISSION PROCEDURES**

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**U.S. NUCLEAR REGULATORY COMMISSION**

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## FOREWORD

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This document sets forth the procedures governing the conduct of business at the Commission level of the Nuclear Regulatory Commission. It provides an overview of the Commission's responsibilities, Commission's decision-making process, including procedures governing formal Commissioner voting, the conduct of Commission meetings, Commissioner involvement in institutional correspondence, transmittal of sensitive documents to Congress, and Commission testimony.

The Office of the Inspector General (OIG) is a statutorily established office conducting independent audits and investigations within the agency. The OIG has a statutory responsibility to communicate with the Congress, separate and apart from communication between the Commission and Congress. Accordingly, unless specifically stated, the requirements of these procedures with respect to Commission review and processing of documents, testimony, and personnel do not apply to the OIG.

These procedures will be reviewed at least every two (2) years to reflect approved reorganizations, consider changes for improved efficiency or effectiveness, and ensure conformity to legal requirements and Commission policy.

Annette L. Vietti-Cook  
Secretary of the Commission

## HIGHLIGHTS

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### COMMISSION/CHAIRMAN RESPONSIBILITIES

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- The **Commission** is responsible for policy formulation, rulemaking<sup>1</sup>, adjudications, and adjudicatory orders.
- Each **Commission** member has equal authority in all Commission decisions and equal (prompt and full) access to all agency information pertaining to Commission responsibilities.
- The **Chairman** is the official spokesman for the agency.
- The **Chairman** is the principal executive officer for the Commission and is responsible for the administrative functions of the agency.
- The **Chairman** shall be governed by the general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

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<sup>1</sup> Those matters set forth in 5 USC 553(a)(2) and (b) which do not pertain to policy formulation, orders, or adjudications shall be reserved to the Chairman. The Commission may determine by majority vote, in any area of doubt, whether any matter, action, question, or area of inquiry pertains to matters of policy formulation. See Reorganization Plan No. 1 of 1980, Sections 1(a)(2) and (3).

## HIGHLIGHTS

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### DECISION DOCUMENTS

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- SECY Papers and action memoranda (COMS) are the primary decision-making tools of the Commission; the Office of the Secretary (SECY) distributes papers, tracks the status of voting, and prepares decision documentation commonly referred to as "Staff Requirements Memoranda" (SRM).
- COMS are written exchanges between Commissioners and written memoranda between staff and the Commission requiring a response (COMSECYS). SECY assigns an identification number and tracks responses.
- The Commission's goal is to complete action on most papers in 18 business days from the issuance of a SECY Paper or COM.

## HIGHLIGHTS

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### VOTING

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- Commission decision-making is accomplished by a majority vote of the Commission (see Appendix 4).
- Decisions are made by formal vote of the Commission at regular meetings, or Affirmation sessions, or by Notation.
- Vote sheets are circulated with SECY papers and other appropriate memoranda. Specific voting choices are:

"Approve"  
"Disapprove"  
"Abstain"  
"Not Participating"

Commissioners may utilize the vote sheet to express personal views or comments on staff proposals and to submit proposed amendments to the proposal or to the draft materials proposed for consideration. Commissioners not voting are recorded as "Not Participating". Commissioners may recuse themselves from a particular matter to avoid any actual or apparent conflict of interest.

- Commissioners' votes on SECY papers are normally requested in 10 business days. An initial extension of 5 working days may be granted by the Secretary. Subsequent extensions can be granted unless a majority of the Commission objects.
- Commission decisions are recorded in Staff Requirements Memoranda. Actions requested of the staff are tracked by SECY in an automated, on-line tracking system.

## HIGHLIGHTS

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### MEETINGS

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- Meetings are scheduled and conducted in accordance with the requirements of the Government in the Sunshine Act.
- At least three (3) members participating in the meeting shall constitute a quorum for purposes of voting (see Appendix 4).
- Documents pertinent to Commission meetings must be submitted to the Commission between five (5) and fifteen (15) business days prior to the meeting date depending on stakeholder involvement, or the need for the Commission to review documents, such as a SECY Paper or the need for viewgraphs.
- A Commission meeting schedule is published each week. It is prepared from input from Commissioners and others and approved by the Commission. Commissioners may request meetings by addressing their written request to the Chairman or SECY with copies to all Commissioners, or by making the request at an agenda planning meeting.

## HIGHLIGHTS

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### CORRESPONDENCE

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- The Commission's goal is to reply to external correspondence within 16 business days from receipt of the letter.
- Chairman or Commission Correspondence that requires a response is acknowledged within 48 hours.
- Staff offices normally have 10 business days to draft a reply.
- Correspondence which reflects new, revised, or expanded policy positions must be approved by the Commission. Other correspondence may be signed by the Chairman without prior review by the Commission.
- Proposed collegial correspondence is sent to the Commissioners, who are afforded six business days to review and comment on the proposed reply.
- An additional two (2) business days for comment will be granted to a Commissioner on request.
- Incoming and outgoing correspondence is circulated in the Commission's Daily Reading File.

## HIGHLIGHTS

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# CONGRESSIONAL REQUESTS FOR SENSITIVE DOCUMENTS

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- Office of Congressional Affairs (OCA) handles requests for documents from members of Congress; normally, sensitive documents are provided to Congress only upon written request.
- The transmittal of classified or Safeguards Information must be coordinated with the Division of Facilities and Security, Office of Administration or the Office of Nuclear Security and Incident Response.
- Transmittal of sensitive documents used in the deliberative, consultative, or decision-making activities of the Commission itself must be coordinated with the Commission.
- Documents are transmitted to Congress by OCA with a cover letter identifying their sensitive nature and requesting appropriate protection. Wording of the cover letter is coordinated with the Office of the General Counsel (OGC) by OCA. Each page of each sensitive document is marked "Not for Public Disclosure".

## HIGHLIGHTS

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### CONGRESSIONAL HEARINGS

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- The Chairman, as official spokesman for the agency, is responsible for presenting the agency's testimony. Commissioners may present their own statements only if they are so identified.
- All Commissioners normally attend Congressional hearings either because they are invited to do so by the Congress or they elect to attend.
- An initial planning meeting will be set up by the Director of Congressional Affairs to discuss objectives of and key topics for the hearing, who should testify, NRC's role in the hearing and key messages to be incorporated into the testimony, identify backup material, role of other hearing panel participants, and relevant support documents.
- Final draft testimony and proposed answers to pre-hearing questions should be received by the Commission 3 business days in advance of the scheduled deadline for submittal of the testimony to Congress.
- Separate individual views of Commissioners are normally circulated to the other Commissioners no later than 24 hours before the scheduled hearing.
- OCA will report to the Commission by memoranda all commitments for additional information requested at Congressional hearings and task appropriate Commission-level or staff offices to furnish the promised information.
- OCA will track requests and forward all items to the appropriate Congressional committee.
- If promised information is to be provided in the form of signed correspondence from the Commission or the EDO, SECY will track the commitment.

## CHAPTER I

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# COMMISSION RESPONSIBILITIES

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The Nuclear Regulatory Commission, as established by the Energy Reorganization Act of 1974, is responsible for licensing and regulating nuclear facilities and materials and for conducting research in support of the licensing and regulatory process. The President's Reorganization Plan No. 1 of 1980 clarified and strengthened the duties of the Chairman as the NRC's principal executive officer and more specifically defined the responsibilities of the Commission members acting as a collegial body. Consistent with the requirements of Reorganization Plan No. 1 of 1980, on May 18, 1988, the Commissioners approved COMLZ-88-10, which made more explicit the operational responsibility of the Chairman of the Commission, as the principal executive officer of the Commission, and the other members of the Commission.

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### Collegial Functions

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#### 1. Policy, Rulemaking, and Adjudication

Functions pertaining to policy formulation, rulemaking (with certain exceptions), adjudications, and orders are reserved for the Commission itself (Reorganization Plan No. 1 of 1980, Section 1(a)). The Commission also must approve the appointment and the removal of certain senior agency officials. All other functions are vested in the Chairman (Id., Section 2(a)). In an area of doubt, the Commission may determine by majority vote whether any matter, action, question, or area of inquiry pertains to one of the Commission's functions (Id., Section 1(a)).

The Commission's collegial functions also include:

- a. approval of outgoing agency correspondence which requires the formulation of a policy position (pertains to policy formulation function -- See id., Section 1(a)(1));
- b. revising budget estimates and determining the distribution of appropriated funds according to major programs and purposes (Energy Reorganization Act of 1974, Section 201(a)(5); Reorganization Plan No. 1 of 1980, Section 2(b));

## CHAPTER I – COMMISSION RESPONSIBILITIES

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- c. approval of all significant reallocation and reprogramming actions at a threshold of \$500,000 in contract costs or 4 FTE; and approval of all resource reallocations/reprogramming actions that establish or modify policy (COMSECY-04-0028);
- d. approval of responses to Government Accountability Office (GAO) reports which the Commission has designated require Commission review of staff comments before they are sent to GAO (COMSECY-03-0035);
- e. approval of proposals for the reorganization of the major offices within the Commission. The Commission will approve reorganizations for all offices that report to the Commission as well as NRR, NRO, NMSS, ONMP, RES, NSIR, CIO/Office of Information Services (OIS), EDO, and CFO (Reorganization Plan No. 1 of 1980, Section 2(b));
- f. approval of nominations for the NRC's Distinguished and Meritorious Service Awards, all (OPM) Presidential Rank Awards, and approval of SES performance awards; and
- g. the Chairman shall be governed by the general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make. (Energy Reorganization Act of 1974, Section 201(a)(3); and Reorganization Plan No. 1 of 1980, Section 2(c).)

With regard to agency actions pursuant to initial requests under the Freedom of Information Act, the Commission reviews the proposed release of Commission documents determined by OGC to be legally withholdable. The release of Commission documents on appeal, other than those generated in individual Commissioner offices, also requires Commission review.

### 2. Appointments

The roles of the Commission and the Chairman in the appointment of certain officers are detailed in Reorganization Plan No. 1 of 1980. Statutes enacted subsequent to the Reorganization Plan that created or redefined senior agency positions include the Chief Financial Officers Act of 1990 and the Information Technology Management Reform Act of 1996.

In the following cases, the Chairman shall initiate the appointment, subject to the approval of the Commission: Executive Director for Operations; Chief Financial Officer; General Counsel; Secretary of the Commission; Director, Office of

## CHAPTER I – COMMISSION RESPONSIBILITIES

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International Programs; Director, Office of Commission Appellate Adjudication; and the Chief Administrative Judge and Members of the Atomic Safety Licensing Board Panel. The Chairman or a member of the Commission may initiate the removal of these officers subject to approval of the Commission. Similarly, the following officers, whose appointments are initiated by the Chairman, after consultation with the Executive Director for Operations, are subject to the approval of the Commission: Director of Nuclear Reactor Regulation (NRR); Director of Nuclear Material Safety and Safeguards (NMSS); and Director of Nuclear Regulatory Research (RES).<sup>1</sup> The establishment of the Office of Nuclear Security and Incident Response (NSIR) was approved by the Commission in SECY-02-0036. In February 2005, the Office of the Chief Information Officer (OCIO) was renamed the Office of Information Services. The establishment of the Office of National Materials Program (ONMP) and Office of New Reactors (NRO) were approved by the Commission in SECY-06-0125 on June 16, 2006 and in SECY-06-0144 on July 21, 2006, respectively. The appointments of the Chief Information Officer (CIO) and Directors of NSIR, OIS, ONMP, and NRO are also initiated by the Chairman, after consultation with the Executive Director for Operations, and subject to approval of the Commission. The Chairman or a member of the Commission may initiate the removal of the officers subject to approval of the Commission. Appointments of the Members of the Advisory Committee on Reactor Safeguards (ACRS), the Advisory Committee on Nuclear Waste (ACNW), and NRC's other Federal Advisory Committees are also subject to the approval of the Commission.<sup>2</sup>

Commission guidance on the process for obtaining nominations for NRC's Federal Advisory Committee positions (previously approved in COMIS-94-003 dated May 4, 1994, and COMSECY-94-018 dated June 20, 1994) is contained in Appendix 1.

### 3. Personnel Appointment Process

When a position has been formally posted and noticed, the following process is to be used:

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<sup>1</sup> Reorganization Plan No. 1 at Section 1(b)(2).

<sup>2</sup> As to the ACRS, see *id.* at 1(b)(3). As to other Advisory Committees, it is the Commission's policy that appointments of Members of the Advisory Committee on Nuclear Waste (ACNW) and the NRC's other Federal Advisory Committees (except for the LSN Advisory Review Panel, see 10 CFR 2.1011(e)(1)), are also subject to the approval of the Commission.

## CHAPTER I – COMMISSION RESPONSIBILITIES

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- a. The Office of Human Resources provides the Commission with the list of qualified candidates.<sup>3</sup>
- b. The Chairman at his/her discretion conducts interviews with all, or a selected number of qualified candidates and initiates the appointment process providing his/her recommendation for the position to the Commission for approval. The Chairman also provides the Commission a summary of his/her interviews, individual background information on the interviewed candidates, and if requested by the Commission, individual background information on the other qualified candidates.
- c. Individual Commissioners may, at their discretion, interview all, or a selected number, of the qualified candidates.<sup>4</sup> Each Commissioner provides to the Chairman his/her approval/disapproval of the Chairman's recommendation for the position along with any additional comments.

Positions without a formal posting will be handled on a case-by-case basis. The process to be used for Advisory Committee members is set forth in Appendix 1 of these Procedures.

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### Chairman Duties

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The Chairman is the official spokesman for the Commission and appoints, supervises, and removes, without further action by the Commission, the Directors and staff of the Office of Public Affairs and the Directors and staff of the Office of Congressional Affairs who report to the Chairman. The Chairman is also the principal executive officer of the Commission, and is responsible to the Commission for developing policy planning and guidance for consideration by the Commission. The Chairman shall be governed by the general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make. (Reorganization Plan No. 1 of 1980, Section 2(c)). The Chairman, on behalf of the Commission, shall see to the faithful

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<sup>3</sup> OHR should forward the list of qualified candidates, developed after OHR's initial review of the applications for a posted position, at the same time as the Commission is forwarded the best qualified list (or the equivalent) for each posted position.

<sup>4</sup> Nothing in this procedure would authorize the initiation of these appointments by anyone other than the Chairman, as provided in Reorganization Plan No. 1 of 1980.

## CHAPTER I – COMMISSION RESPONSIBILITIES

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execution of the policies and decisions of the Commission and shall report thereon to the Commission from time to time or as the Commission may direct. (Energy Reorganization Act of 1974, Section 201(a)(1)). The Chairman is responsible to the Commission for ensuring that the Executive Director for Operations and the staff of the Commission (other than the officers and staff referred to in Section (1)(b)(4), (1)(c), and (2)(a) of the Reorganization Plan) are responsive to the requirements of the Commission in the performance of its functions. The Chairman determines the use and expenditure of funds of the Commission, in accordance with the distribution of appropriated funds according to major programs and purposes and approved by the Commission. The Chairman presents to the Commission for its consideration proposals for the reorganization of the major offices within the Commission, and the budget estimates for the Commission. (Reorganization Plan, Section 2(b))

The Chairman and the Executive Director for Operations, through the Chairman, are responsible for ensuring that the Commission is fully and currently informed about matters within its functions (Id., Section 2(c)).<sup>5</sup> The Chairman shall ensure prompt and full delivery of original information with any changes thereto, including draft SECYs and COMs. This does not include preliminary information for development of Section 2(b) proposals and estimates unless expressly requested by the Commission. The Executive Director for Operations reports for all matters to the Chairman (Id., Section 4(b)).

In carrying out his or her duties, the Chairman:

- approves the internal reorganization of offices, except for those that the Commission must approve under Section 2(b) of the Reorganization Plan or those that have been delegated to the NRC staff (Id., Section 2(b)(3)(I)).
- takes all personnel actions and makes appointments, except for those described above which have been given to the Commission or to individual Commissioners under the Reorganization Plan, and those which have been delegated to individual Office Directors by the Commission or to the EDO by the Chairman (Id., Section 2(b));
- ensures that nominations for NRC Distinguished and Meritorious Service Awards, all Presidential Awards, and SES performance awards are submitted to the Commission for approval. In submitting award nominations

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<sup>5</sup> For example, the Commission has found the "Daily EDO Notes" and Commissioner staff attendance at the Chairman's morning meeting very useful. The Commission recommends this level of information sharing.

## CHAPTER I – COMMISSION RESPONSIBILITIES

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to the Commission for which the Commission is the awarding authority<sup>6</sup>, the Chairman shall ensure that the other Commissioners receive timely copies of the PRB recommendations with respect to these awards, as well as the Chairman's recommendations for any additions or modifications to the PRB recommended actions;<sup>7</sup>

- establishes and appoints members to task forces, except for those established by the EDO or Office Directors and those established to review policy matters. All Commissioners are consulted when task forces involve either policy or highly sensitive matters. Establishment of task forces that include non-NRC employees or advisory committees, or tasking memoranda to such task forces or advisory committees, including the ACRS or ACNW, are approved by the Commission (COMLZ-88-10);
- initiates the update of the agency Strategic Plan and the Commission's annual review of the Performance Plan; presents the Strategic Plan, Performance Plan, and budget estimates to the Commission for its consideration; and proposes distribution of appropriated funds according to the agency's strategic arenas and programs (COMLZ-88-10);
- presents the agency's testimony at Congressional hearings (Section 2 of Reorganization Plan No. 1 of 1980);
- approves contracts that the EDO has not been delegated authority to award (commercial contracts, projects placed with the Department of Energy (DOE) Laboratories, agreements with other Federal agencies, or modifications thereof, in which aggregate estimated costs are \$3,000,000 or more, including base and option years) (COMLZ-88-10 and SECY-04-0201). Copies of a formal request to the Chairman for approval shall be submitted simultaneously to the Commission;

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<sup>6</sup> See Exhibit 1 to the *Senior Executive Performance Management System Handbook, 10.137* for a list of positions for which the Commission is the awarding authority for performance awards.

<sup>7</sup> The General Counsel has found that these performance award determinations bear on management policy, and it is reasonable to conclude that how well senior NRC officials respond to Commission decisions and requirements can be a management policy issue.

## **CHAPTER I – COMMISSION RESPONSIBILITIES**

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- reviews proposed contracts and contract extensions in which aggregate estimated costs are between \$1 million and \$3 million and advises the staff within 15 working days whether they may proceed. Copies of review packages shall be submitted simultaneously to the Commission (SECY-04-0201 and SECY-06-0071);
- advises the Office of the Secretary or appropriate Office Director regarding initial decisions on FOIA requests for documents submitted by the Commission-level offices or by the EDO to the Commission. Documents determined by OGC to be legally withholdable require Commission review prior to release (COMLZ-88-10);
- makes decisions relative to the administrative and logistical support services for the agency, including physical consolidation of the agency and individual offices. Commissioners must approve matters that directly affect their individual offices (COMLZ-88-10);
- transmits draft speeches to the Commission three (3) business days in advance;
- will informally consult with Commissioners on tasking memoranda concerning policy issues through sharing drafts and obtaining Commission input to ensure that the tasking memoranda are consistent with Commission previous policy determinations, before the memoranda are issued to staff. Copies of all final tasking memoranda will be provided to the Commission at the same time the memoranda are forwarded to the staff for action. If a Commissioner believes an issued tasking memorandum is not consistent with previous Commission policy decisions, he or she should notify the Chairman. The Chairman will request the staff to defer action only on the issue(s) in question until a majority of the Commission has resolved the question of whether the memorandum text on those issue(s) is consistent with previous Commission policy on those issue(s). Action on the remaining issue(s) will go forward; and
- whenever the Chairman is outside the United States, will be temporarily incapacitated, or will be in a situation that does not allow the agency to readily contact the Chairman, it is the Commission's recommendation that the Chairman exercise his or her authority under Section 201(a)(1) of the Energy Reorganization Act of 1974 to designate an Acting Chairman. The Chairman may, at his or her discretion, from time to time designate an Acting Chairman. An Acting Chairman shall have the duties that the Chairman specifically delegates. These may include all or only some of the Chairman's

## CHAPTER I – COMMISSION RESPONSIBILITIES

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responsibilities. The Chairman may delegate the emergency response functions described below. If the Chairman is unavailable, and circumstances require actions to carry out NRC Priority Mission Essential Functions then the order of succession procedures set forth in the NRC's Continuity of Operations Plan are to be utilized.

### Emergency Response

The Chairman is responsible for all the functions pertaining to an actual emergency concerning a particular facility or materials licensed or regulated by the Commission, including the functions of declaring, responding, issuing orders, determining specific policies, advising the civil authorities and the public, directing, and coordinating actions relative to such emergency incident (*Id.*, Section 3(a)). The terrorist acts of September 11, 2001, as well as the Nation's and the NRC's response to those acts, added dimensions to the consideration of emergency management. It is understood that the Chairman's authority includes situations when an emergency threat is generic to a group or category of facilities or NRC regulated materials and thus involves an emergency pertaining to the specific facilities or materials within the group or category.

Reorganization Plan Number 1 of 1980 gives the Chairman sole discretion to determine when to declare an emergency triggering the Chairman's authority under section 3(a). Prior to exercising his or her authority under section 3(a); or as soon thereafter as possible if exigencies of the emergency do not allow prior notice, it is recommended that the Chairman provide notice to the other Commissioners and the NRC staff that an emergency status under Section 3(a) has been entered. Such notice allows the staff to be cognizant that they should follow Chairman directives rather than await the normal Commission decision-making processes.

Consistent with Reorganization Plan Number 1 of 1980, the Chairman or other member of the Commission delegated emergency authority shall, to the maximum extent possible under emergency conditions, keep the Commission informed of actions taken relative to an emergency. To that end, the Chairman is expected, to the extent it does not interfere with other ongoing emergency actions, to inform the other Commissioners of the expected length of the ongoing emergency situation and the Chairman's proposed plan, if any, for returning the agency to a non-emergency status.

The Chairman may delegate the authority to perform such emergency functions, in whole or in part, to any of the other members of the Commission. While normally such delegations are expected to be made to other members of the Commission, such authority may at the discretion of the Chairman also be delegated or redelegated, in whole or in part, to the staff of the Commission (*Id.*, Section 3(b)). When acting under the authority to perform all functions pertaining to an emergency, the Chairman, or other member of the

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Commission delegated such authority, shall conform to the policy guidelines of the Commission (Id., Section 3(c)). To the maximum extent possible under the emergency conditions, the Chairman or other member of the Commission delegated emergency authority shall inform the Commission of actions taken relative to the emergency (Id., Section 3(c)). The Chairman has clear authority to take actions during an emergency without any consultation with the other Commissioners. However, it is recommended that, where it will not interfere with the Chairman's ongoing emergency actions, the Chairman consider seeking insights from other Commissioners before taking actions that do not require an immediate response. Following the conclusion of the emergency, the Chairman renders a complete and timely report to the Commission on the actions taken during the emergency (Id., Section 3(d)).

The terrorist events of September 11, 2001, led to fuller recognition of various kinds of emergencies and to consideration of various levels of general threat condition that counsel additional protective action measures. As a result, for example, the DHS and the NRC employ color-coded threat advisory systems that counsel additional protective action measures in connection with changes in threat condition. As changes occur in the general threat condition and alert status (e.g., a change from a yellow to an orange threat condition), it is expected that customary decision-making procedures will normally apply, or will be applied within a reasonably short period following such changes, unless the circumstances lead the Chairman to invoke his or her authority to exercise all emergency functions in accordance with Reorganization Plan No. 1 of 1980.

### **Emergency Response Training**

All Commissioners shall become cognizant of the agency emergency procedures and responses in a continuing process. The Chairman should participate in at least one full participation exercise each calendar year, including a mock press conference. This exercise should be tailored to the Chairman's needs and schedule in order for the Chairman to remain as completely up-to-date as possible in any process changes or problems and to maintain proficiency in emergency response functions. In addition, the Chairman should serve as the Director of the Executive Team for any full field exercise, due to its broad scope, the significant involvement of Federal agencies, and the infrequent scheduling of this type of exercise. Each Commissioner should have the opportunity for refresher training on an annual basis, through participation as Director of the Executive Team in at least one full participation or partial participation exercise each calendar year.

A preliminary schedule for NRC participation exercises shall be developed in accordance with the Performance Plan. Commissioner participation in scheduled exercises as Director of the Executive Team shall then be established by NSIR after consultation with individual Commissioners to determine availability and interest in participation. Schedules of emergency planning exercises will be routinely reported to the Commission during Agenda

## **CHAPTER I – COMMISSION RESPONSIBILITIES**

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Planning meetings and discussed, as necessary.

In the event more than one Commissioner expresses timely interest in participating in an exercise, and they cannot work out a solution among themselves, priority should be given first, to the Chairman receiving his or her first training; second, to a Commissioner receiving his or her first training; third, to the Chairman receiving refresher training; and fourth, to Commissioners receiving refresher training in order of seniority.

A Commissioner who has not received his or her first training will not be given preference over the Chairman if doing so will prevent the Chairman from meeting the minimum goal established above of participating in one full participation exercise each calendar year, or from sitting as Director of the Executive Team for the infrequent full field exercise. Timely interest in participation in emergency exercises will normally be expressed in Agenda Planning meetings. Once scheduled to participate in an exercise, no Commissioner will be involuntarily replaced as head of the emergency exercise executive team. In the event a Commissioner becomes unavailable after scheduling, NSIR will be responsible for contacting Commissioners to determine interest and availability of other Commissioners (COMNJD-98-002).

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### **Individual Commissioner Responsibilities**

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- Each Commissioner shall appoint, remove, and supervise the personnel employed in his or her immediate office (Reorganization Plan, Section 1(c)).
- Each Commissioner, including the Chairman, has equal responsibility and authority in all Commission decisions and actions, has full and equal access to all agency information pertaining to Commission responsibilities, and has one vote (Energy Reorganization Act, Section 201(a)(1)). Except for budgetary matters or administrative matters for which the Chairman is specifically responsible for developing proposals for Commission review, documents, including draft documents, will be provided to all Commissioners, including the Chairman, simultaneously.
- The Chairman and the Executive Director for Operations, through the Chairman, are responsible for ensuring that Commissioners are fully and currently informed about matters within the Commission's functions (Reorganization Plan, Section 2(c)). Significant individual Commissioner requests for information or analyses from the NRC staff shall be directed by Commissioners to the Chairman or to the EDO, CFO, or Commission-level offices (action offices) with copies to the Chairman and SECY. After receipt of the request, if questions of priority arise because staff has identified the request as requiring significant resources to fulfill, the action office is

## **CHAPTER I – COMMISSION RESPONSIBILITIES**

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to discuss the request with the Commissioner who originated it. The purpose of that discussion is to ensure that the scope of the request is fully understood. Following that discussion, if the Commissioner or the action office still believes there is an issue regarding either the nature of the request or its priority, the action office notifies the Chairman. The Chairman will then be the initial arbiter of the matter. If the Chairman's decision is not satisfactory to the Commissioner making the request or the action office, that Commissioner or the action office can then bring the matter to the full Commission for a vote.

- In response to FOIA requests forwarded to Commission offices, each Commissioner is responsible for identifying pertinent records in his or her files and for making the necessary disclose/withhold determinations for documents originated by his or her office. Commissioners are responsible for making similar determinations, if necessary, at the appeal stage.
- Commissioners normally attend Congressional hearings either because they are invited to do so by the Congress or they elect to attend.
- Each Commissioner, including the Chairman, may maintain office working files to the extent necessary for the conduct of daily business. The Office of the Secretary maintains current paper files of SECY Papers, COMs and correspondence. The Office of the Secretary also provides an opportunity for storage of Commissioners' personal files upon expiration of his/her term of office as defined in NRC Management Directive 3.53, Part IV.
- The CFO shall allocate funds to each Commissioner's office for travel and representational expenses which will be approved by the Commission as part of the budget process. Each Commissioner's office will track their individual expenditures.<sup>8</sup>

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### **Commission Administrative Procedures**

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In order to perform its business efficiently and expeditiously, the Commission has established mechanisms for obtaining information and for conducting its decision-making

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<sup>8</sup> Specific expenditures from the representation fund must be approved and managed in accordance with the substantive criteria in M.D. 5.4, and any specific expenditures for travel must comport with applicable provisions of M.D. 14 on Travel and the Federal Travel Regulations.

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## CHAPTER I -- COMMISSION RESPONSIBILITIES

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activities. The following chapters of this booklet describe the various Commission guidelines and procedures. In accordance with these procedures, when due dates are established, the Commission must be given the full allotted time established for response. Items received later than 10:00 a.m. will not be considered as a full day for purposes of responding to the requested action. Guidelines and procedures for the conduct of business requiring action by the Chairman are established by the Office of the Chairman. Guidelines and procedures relating to the flow of information to the Commission shall be approved by the Commission.

**CHAPTER II** describes the decision documents utilized by the Commissioners and the staff to obtain Commission consideration, guidance, and decisions.

**CHAPTER III** outlines the Commissioner voting process.

**CHAPTER IV** contains a description of the development of meeting agendas and decision-making in meetings. To a large extent NRC's meeting procedures are governed by statute, both in the Government in the Sunshine Act and in the Energy Reorganization Act's requirement that a "quorum for the transaction of business shall consist of at least three members present" and that "[A]ction of the Commission shall be determined by a majority vote of the members present." (Energy Reorganization Act, Section 201(a)(1).)

**CHAPTER V** sets forth the process of obtaining collegial review of significant institutional correspondence.

**CHAPTER VI** contains guidelines for providing sensitive Commission/staff documents to Congress.

**CHAPTER VII** contains guidance regarding the preparation of agency testimony for Congressional hearings and procedures for responding to commitments made to Congress at Congressional hearings.

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### Changes to or Waiver of Commission Procedures

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A majority of the Commission members (as described in the voting procedures in Chapter III and Appendix 4) may change or waive its procedures at any time consistent with existing law. If a Commissioner or Commissioners request a change or waiver, the Office of the Secretary will put the question into writing and poll the Commission. Any change or waiver will be based on written vote of the majority.

## CHAPTER II

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# DECISION DOCUMENTS

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The primary decision-making tool of the collegial Commission is the written issue paper submitted by the Office of the Executive Director for Operations (EDO), the Chief Financial Officer (CFO), or other Office Directors reporting directly to the Commission. Best known as SECY papers; they are described below.

An additional vehicle for Commission decision-making is the written exchange of memoranda between Commissioners. In these action memoranda (called COMs), one Commissioner recommends a particular course of action to the other Commissioners. A description of the process used to obtain Commission action on such memoranda is detailed later in this chapter under the section "Action Memoranda".

The Commission also receives memoranda from the staff. Most of these documents provide information on current topics and do not require any Commission action. At times, however, a staff memorandum may contain a recommendation or seek guidance from the Commission. In that event, the memorandum will be circulated in the COM system.

Copies of draft and final SECY papers or COMs delivered to the Chairman shall be delivered simultaneously to the other Commissioners.

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## SECY PAPERS

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Policy, rulemaking, and adjudicatory matters, as well as general information, are provided to the Commission for consideration in a document style and format established specifically for the purpose. Such documents are referred to as SECY papers. A SECY paper gains its nomenclature through the designation (e.g. SECY-06-0189) assigned to it by the Office of the Secretary. In addition to its numerical designation, each paper has two other distinctive markings. **First**, a heading on the first page designates whether the subject matter relates to the formulation of policy (Policy Issue papers), or to the promulgation of agency rules (Rulemaking Issue papers), or to the granting, suspending, revoking, or amending of licenses or certificates (Adjudicatory Issue papers). Subject matter relating to Federal Court litigation is also presented in Adjudicatory Issue papers. **Second**, a color band on the top and bottom of the first page further indicates the type of action expected of the Commission. A description of the color bands used by the Commission is as follows:

## CHAPTER II -- DECISION DOCUMENTS

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- A **red band** (Commission Meeting Paper) indicates a major issue on which collegial deliberation and vote at a Commission meeting, usually in a public session, is anticipated. (See also Chapter IV, Commission Meetings).
- A **blue band** (Notation Vote Paper) indicates an issue requiring consideration by the Commission or consultation with the Commission prior to action by the staff, but not requiring collegial deliberation among Commissioners or a formal vote in a meeting, thereby lending itself to a written notation process.
- A **green band** (Affirmation Paper) indicates Commission business that does not require deliberation among the Commissioners in a meeting mode, but by law must be voted by the Commissioners in the presence of each other. Such papers are required when the action (such as approval of final rules or orders) legally binds those the NRC regulates or has a significant legal effect on persons outside the Commission. The Affirmation process is administered through a notation voting system and a subsequent formal declaration of votes by Commissioners in a public session dedicated to this purpose.
- A **black band** (Information Paper) is placed on papers which provide information on policy, rulemaking, or adjudicatory issues. Information Papers are purely informational and should not assume or request any action by the Commission. If the paper does touch upon major policy issues, the paper should conspicuously note the policy issue. Weekly Information Papers describing recent agency activities are issued without any color band. A Commissioner, however, may request conversion of an Information Paper to a Notation Vote paper if the Commissioner wants formal comment on the topic reported in the paper.

As a general policy, SECY papers will be released to the public in accordance with the guidelines set forth later in this section unless they contain specific, limited types of information which warrant protection, as described below:

- SECY papers involving matters which the Commission has specifically agreed should be withheld (Classified, Safeguards, Allegation, Investigation, Security-Related, Proprietary, Privacy Act Information, Federal/State/Foreign Government and International Agency-Controlled Information, and Sensitive Internal Information which includes adjudicatory, enforcement, lawyer-client or legal work product should be marked in accordance with M.D. 12.2 and 12.6 which govern Classified, Safeguards Information and Sensitive Unclassified Non-Safeguards Information (SUNSI).
- SECY Papers which involve particularly sensitive matters and which contain a specific withhold recommendation by the originating office together with supporting

## CHAPTER II – DECISION DOCUMENTS

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justification will be issued with the following statement which restricts any future release determination to the Commission.

**OFFICIAL USE ONLY - SENSITIVE INTERNAL INFORMATION - LIMITED TO NRC UNLESS THE COMMISSION DETERMINES OTHERWISE**

Because the Commission's general policy is to release papers whenever possible, the use of this withholding category should be limited and, when used, requires solid justification for withholding on a case by case basis. The originating office must include in the supporting justification statement reasons which are sufficiently persuasive to set aside the release policy. The justification statement should be included as a separate paragraph at the end of the SECY Paper. For voting papers, the staff should include as a specific recommendation. Papers withheld from the public in this category are internal NRC documents and may not be given to any outside sources (licensees, industry working groups, etc.). If requested, SECY will obtain the views of the Commission on release of such papers.

If the staff is recommending the paper be withheld, a date or time frame upon which the paper could be released should be specified where a time frame can be established. SECY will issue such papers with the following statement:

**OFFICIAL USE ONLY - SENSITIVE INTERNAL INFORMATION - LIMITED TO NRC UNTIL (X DAYS/MONTHS OR EVENT) UNLESS THE COMMISSION DETERMINES OTHERWISE**

SECY will issue adjudicatory information with the following statement, which limits distribution of the paper to only adjudicatory employees:

**OFFICIAL USE ONLY - SENSITIVE ADJUDICATORY MATERIAL - LIMITED TO AUTHORIZED COMMISSION ADJUDICATORY EMPLOYEES UNLESS THE COMMISSION DETERMINES OTHERWISE**

Classified and Safeguards Information will be marked in accordance with M.D. 12.2 and 12.6.

Papers which do not involve matters discussed above will be released using the following guidelines:

- **Information Papers** will be made publicly available 10 business days after issuance of the paper by SECY. This allows the Commissioners time to become familiar with the paper and decide whether they would like to convert it to a Notation Vote paper before it is made publicly available.

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## CHAPTER II – DECISION DOCUMENTS

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- **Affirmation Papers, and Notation Vote Papers** will be released 10 business days after receipt by the Commission. An exception to this procedure will be made if a paper contains correspondence, Report to Congress, etc. In these cases the paper will be released 5 days after the letter/report is issued, and the SRM<sup>9</sup> will be issued with a statement which reads:

TO BE MADE PUBLICLY AVAILABLE 5 BUSINESS DAYS AFTER THE  
[LETTER TO... OR REPORT] IS DISPATCHED

- If the Chairman or a Commissioner proposes within 10 business days of receipt by the Commission that a paper be withheld, the reason for withholding should be documented and the Commission will be polled. A majority vote is needed to withhold a document not claimed to be sensitive or to release a document that is considered sensitive. In the event of a split Commission with no majority view, the document will not be released.
- The Commission may authorize release of a SECY paper to the public at an earlier time than the normal practice to allow earlier public access to the SECY paper. This can occur when there is a request made for early release of the paper from individuals either inside or outside the agency. When SECY receives a request for early release of a SECY paper, SECY will poll Commission offices. If a majority of the Commission agrees with the request, the SECY paper will be made publicly available at a time to be determined by the Commission.

SECY will publicly release the document and notify the appropriate staff that it is a public document. SECY will also notify the Commission's Advisory Committee on Reactor Safeguards (ACRS), or other appropriate advisory committees, which may conduct open meetings on the subject.

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### FORMAT FOR STAFF PAPERS AND MEMORANDA TO THE COMMISSION

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The following guidance concerns format for SECY papers and memoranda which are forwarded to the Commission for approval of a policy, a significant course of action,

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<sup>9</sup> SRM is the acronym for the Secretary's memorandum of decision, known as a Staff Requirements Memorandum, in which the Secretary records the results of collegial action on each paper. The SRM is described in greater detail in Chapter III.

## **CHAPTER II – DECISION DOCUMENTS**

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rulemaking, or a major adjudicatory matter.

1. If the text of the paper or memorandum is more than 5 typed pages, single spaced, the paper should include a concise summary which sets forth the major issues (e.g., technical, policy, legal), the recommendation of the office sending the paper, and a statement concerning dissenting views (if any).
2. If the subject of the paper has had a prior history before the Commission, the paper should provide the reference (staff paper numbers, meeting dates, memoranda, etc., and Commission actions on them) in a preliminary background paragraph.
3. If the paper recommends revised text in a document the Commission has been asked previously to approve, the additions and the deletions to that text should be clearly identified.
4. Any policy issues should be clearly identified in a separate section of the paper.
5. A thorough assessment of resource implications (FTE and dollars) of actions proposed in the paper should be provided under a "Resource" section.
6. A schedule, in business days or months, of when the proposed actions will be completed, including key milestones.
7. If applicable, SECY Papers should include a section which details staff commitments.
8. All SECY Papers should include a section indicating coordination with the CFO for resource implications and OGC for legal considerations.
9. SECY Papers and memoranda coming to the Commission should include any significant differing opinions that arose during the process.
10. The staff should include as a specific recommendation for Commission decision its recommendation to withhold a paper from public release for any period of time beyond those established by the normal Commission policies outlined on pages II-2, II-3, or II-4.
11. Staff coordinates with the Office of Congressional Affairs and the Office of Public Affairs to develop draft Congressional letters and draft Press Releases that require Commission approval in the context of a SECY Paper pertaining to policy formulation, rulemaking, and adjudication. Draft Congressional letters and Press Releases are then forwarded separately with the associated SECY Paper to SECY.

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## CHAPTER II -- DECISION DOCUMENTS

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### ACTION MEMORANDA

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Action Memoranda (COMs) may be (1) written exchanges between Commissioners on issues before the agency or on matters a Commissioner wants to bring to the attention of his or her fellow Commissioners, or (2) memoranda from the Executive Director for Operations (EDO), the Chief Financial Officer (CFO), or other Commission-level office seeking guidance from the Commission. The use of this system allows Commissioners to develop preliminary views, explore options and proposed direction to the staff, and to initiate activities prior to staff offices becoming involved. In addition, this system allows the staff to obtain Commission views on matters that do not warrant development of a SECY paper. The Chairman has also used the system to obtain Commissioner concurrence on personnel appointments. An attempt has been made to keep the system as informal as possible, with flexible due dates and Commissioner responses to proposals either verbally to SECY, in hand written notes, or in typewritten memoranda, all being acceptable.

Each memorandum is forwarded to the Office of the Secretary by the initiating Commissioner or office and processed with a distinctive control and identification number, similar to the SECY paper numbering system, and a proposed due date (normally 10 business days). The numbering system for Commissioner memoranda consists of a three-letter Commissioner identification, year of issuance, and a consecutive number (e.g., COMDEK-06-XXXX, COMJSM-06-XXXX). Staff memoranda are identified with a "COMSECY" identification number, year of issuance, and a consecutive number (COMSECY-06-XXXX). Distribution of the COMS is normally set by the originating office. It can be limited to Commissioners only or they may be distributed more broadly to OGC, the EDO, the CFO, or other offices. Detailed procedures and voting requirements for COMs are found in Chapter III.

COMSECYs coming to the Commission should include any significant differing opinions that arose during the process.

As a general policy, COM documents developed by a Commissioner and COMSECY documents are released to the public after completion of the Commission's action, unless they contain specific, limited types of information which warrant protection, as described below:

- COM and COMSECY documents involving matters which the Commission has specifically agreed should be withheld (Classified, Safeguards Information, Allegation, Investigation, Security-Related, Proprietary, Privacy Act Information, Federal/State/Foreign Government and International Agency-Controlled Information, and Sensitive Internal Information which includes adjudicatory, enforcement, lawyer-client or legal work product should be marked in accordance with M.D. 12.2 and

## CHAPTER II – DECISION DOCUMENTS

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12.6 which govern Classified, Safeguards Information, and Sensitive Unclassified Non-Safeguards Information (SUNSI).

- COMSECYs which involve particularly sensitive matters and which contain a specific withhold recommendation by the originating office together with supporting justification will be issued with the following statement which restricts any future release determination to the Commission.

**OFFICIAL USE ONLY - SENSITIVE INTERNAL INFORMATION - LIMITED TO NRC UNLESS THE COMMISSION DETERMINES OTHERWISE**

Because the Commission's general policy is to release decision documents whenever possible, the use of this withholding category should be limited and, when used, it requires solid justification for withholding on a case by case basis. For COMs, the Commissioner initiating the COM should communicate to SECY the sensitivity of the particular COM. For COMSECYs, the originating office must include in the supporting justification statement reasons which are sufficiently persuasive to set aside the release policy. The justification statement should be included as a separate paragraph at the end of the COMSECY. Documents withheld from the public in this category are internal NRC documents and may not be given to any outside sources (licensees, industry working groups, etc.). If requested, SECY will poll the Commission on release of such documents. COMs and COMSECYs will be released if a majority of the Commission approves release. The COMs of individual Commissioners will be released only upon approval of the originating Commissioner(s).

If the staff is recommending a COMSECY be withheld, a date or time frame upon which the document could be released should be specified where a time frame can be established. SECY will issue such document with the following statement:

**OFFICIAL USE ONLY - SENSITIVE INTERNAL INFORMATION - LIMITED TO NRC UNTIL (X DAYS/MONTHS OR EVENT) UNLESS THE COMMISSION DETERMINES OTHERWISE**

SECY will issue adjudicatory COMs and COMSECYs with the following statement, which limits distribution of the document to only adjudicatory employees:

**OFFICIAL USE ONLY – SENSITIVE ADJUDICATORY MATERIAL - LIMITED TO AUTHORIZED COMMISSION ADJUDICATORY EMPLOYEES UNLESS THE COMMISSION DETERMINES OTHERWISE**

Classified and Safeguards Information will be marked in accordance with M.D. 12.2 and 12.6.

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## CHAPTER II -- DECISION DOCUMENTS

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### RELEASE OF DOCUMENTS UNDER FOIA

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The Commission's decision-making documents, including the private intra-office exchanges between a Commissioner and his or her personal staff, are subject to review for possible release under the Freedom of Information Act (FOIA). Upon receipt of a FOIA request for Commissioner records, SECY will provide each Commissioner office an action notice in hard copy with a specified due date. Upon receipt of the FOIA notice, Commissioner offices are expected to identify and review all responsive records by the due date and provide their response to SECY. SECY will track this process. SECY also performs a search for documents and forwards the search results along with the incoming FOIA request to OGC for a release/withhold recommendation and then to individual Commissioner offices for a final release/withhold review. Commissioner offices are expected to identify and review all records within the scope of the request in their office files within the 20 business day statutory review period for FOIA requests. Release/withhold decisions are made by the individual offices. (See Appendix 2 for detailed procedures for handling withheld documents in Commissioners' offices under FOIA.) If withheld documents are subject to later FOIA appeal, a second review is conducted and final reviews are conducted by the individual offices with the advice of the General Counsel.

Commissioner offices are consulted prior to the release or withholding under the FOIA of other Commission decision-making documents after review by the General Counsel's office and SECY. If an FOIA appeal is received, the Secretary is authorized to grant the appeal after consultation with the Commissioners. If no documents are to be released on appeal, the Secretary should consult with the Commission regarding the proposed withholding.

## CHAPTER III

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# VOTING

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Commission decision-making is done through voting at scheduled Commission meetings, through notational voting on prescribed Vote Sheets,<sup>10</sup> by affirming a notational vote at an Affirmation session, or by responding to COMs. Following the Commission vote (regardless of how conducted) and Commission review of the SRM, the Office of the Secretary issues a formal Staff Requirements Memorandum (SRM). (See section below on "Record of Votes").

A majority Commission position is needed for action.<sup>11</sup> On Vote Sheets supplied by the Secretary, Commissioners vote to "Approve," "Disapprove," "Abstain," or "Not Participating." The vote sheet also provides space for Commissioners to provide views and propose modifications for consideration by other Commissioners. The majority is determined by counting the "Approve" votes and the "Disapprove" votes. Non-responding Commissioners are recorded as "Not Participating" and are not included in the majority determination.

For meeting activities, a quorum is required for the transaction of business. The quorum is determined by including only the number of Commissioners participating who are voting to "Approve" or "Disapprove", or have chosen to "Abstain."

Under certain circumstances, a Commissioner may wish to recuse himself/herself from participation in a particular matter in order to avoid any actual or apparent conflict of interest. When this occurs, the determination of a quorum and the majority vote will be based upon the number of other Commissioners voting.<sup>12</sup> The recused Commissioner does not submit a vote sheet on the issue and is not included for purposes of determining a quorum.

As a general matter, requests for Commission action will be denied if the Commission vote is 2-2;<sup>13</sup> however, in those instances where the staff has authority to act on a matter, but must first consult with the Commission before taking a proposed action, the staff may, at its discretion, proceed with its proposed action after it has been informed by the Secretary

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<sup>10</sup> A sample Vote Sheet is in Appendix 3.

<sup>11</sup> The "Basis for Determining Voting Results" is described in Appendix 4.

<sup>12</sup> See Chapter IV, Format for Commission Meetings, Footnote 18.

<sup>13</sup> See Appendix 5, Resolution of 2-2 Votes.

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## CHAPTER III – VOTING

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that the Commission has been unable to act on the staff's proposal either because of a lack of a quorum or an evenly divided vote.

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### VOTES AT COMMISSION MEETINGS

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If an opportunity for voting occurs at a Commission meeting, the Chairman determines the need for a formal vote. Commissioners vote orally at the meeting when the Chairman calls for the vote. At an Affirmation Session, the Secretary describes the item on which formal voting is to take place; reviews the outcome of the notational voting and any agreed to modifications which have occurred on the issue, noting the position taken by the Commission; and asks the individual Commissioners to declare formally that they affirm the positions as described. Commissioners normally "affirm" their votes by declaring "aye" or "yes" in unison. Separate individual views of Commissioners on matters to be affirmed must be circulated to the other Commissioners no later than 36 hours before affirmation. Should a majority desire to change the matter to be affirmed or submit individual views as a result of the individual views already submitted, and requires more than 36 hours to do so, "extraordinary circumstances" shall be deemed to exist such that the Commission may cancel the announced meeting and reschedule at a later date. (See Chapter IV, Commission Meetings, Development of a Commission Schedule, paragraph 5).

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### VOTES ON PAPERS

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Vote Sheets are prepared by the Secretary for each SECY Notation and Affirmation paper. Vote Sheets are delivered to each Commissioner's office when the paper is issued and are returned to SECY by each office when the Commissioner has completed voting. SECY also provides an electronic vote sheet to each Commissioner's office via e-mail. Specific guidance for voting is as follows:

1. **Action Dates**
  - a. The Commission's goal is that Commission action on the majority of the papers be completed within 18 business days.
  - b. Commissioners are expected to complete voting within the first 10 business days on the recommendation of a paper in most cases. After evaluation of the action required, the Office of the Secretary will, in some cases, set a shorter or longer time frame for Commission response; e.g. the substance of the paper, and/or a scheduled Commission meeting may require that a longer time frame for Commission response be set. The Office of the Secretary will poll the Commission if there is a need to set a shorter time frame for Commission response. (Commission-level offices may comment

## **CHAPTER III – VOTING**

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on the recommendation within the first 5 business days.) Commissioners are urged to vote early, and to request any necessary extensions of time as early as possible, particularly if they are expected to be out of town or unavailable to vote by the end of the 10 business day voting period.

- c. Extensions of voting time are normally limited to 5 business days. (See section on "Continuances and Extensions of Time" in this chapter for a more complete discussion of extensions.)
- d. At the completion of voting, SECY will draft a decision memorandum that reflects the majority position of the Commission and forward it to the Commission for review.
- e. In urgent cases, when a majority of the Commission has weighed in and agreed, Commission action should not be held for a Commissioner who is unavailable. SECY would note that the Commissioner was unavailable in the SRM. That Commissioner could then create a vote and place it on the record once he/she returned so that his/her opinion on the topic would be known.
- f. Three (3) business days are allowed for circulation and review of the Secretary's decision memorandum by the Commission.
- g. Commissioner requests for extensions of review time will be granted up to 2 business days.
- h. If Commissioners propose modifications to the SRM, SECY will poll the other Commissioners and determine a majority position with regard to inclusion of the changes. Subsequent revisions on an SRM will normally be circulated for a 2 business day review period with no more than a 2 business day extension on each version.
- i. SECY shall promptly transmit to the Commissioners any comments on a draft SRM that a Commission-level or staff office transmits to SECY.
- j. Absent an objection from the other Commission offices, extensions on the due date will be granted for voting papers and SRMs, and the extensions will apply to all Commissioners, without requiring subsequent requests from each Commission office.
- k. SECY may issue an SRM when a majority view exists and all extensions have expired. The SRM should be issued by noontime of the next business day after SECY notifies all Commissioner offices that an SRM will be issued.

## **CHAPTER III -- VOTING**

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### **2. Submission of Votes to the Secretary**

- a. Commissioners select the appropriate expression of their position and mark the Vote Sheet accordingly ("Approved," "Disapproved," "Abstain," or "Not Participating").
- b. Commissioners may use the Vote Sheet to propose amendments to the course of action recommended in the paper, to record comments on the issue, or to write separate views.
- c. Commissioners' staff fill out the electronic vote sheet, attach any comments, mark with /RA/ to denote that the Commissioner has signed and e-mail to SECY and other Commissioner offices. SECY will forward the electronic vote to OGC, EDO, CFO, and Commission-level offices as appropriate. This facilitates the immediate distribution of votes without waiting for hard copies to be delivered through the NRC mail system. In the case of hand written remarks or edits in the vote, the original and 9 hard copies should be provided to SECY for distribution.
- d. Commissioners' staff forward the original signed paper copy of completed votes to the Secretary as soon as they are available and promptly enter the correct vote in the Commission's on-line automated vote tracking system maintained by SECY.
- e. Further distribution of vote sheets within the staff is permissible upon issuance of the vote, but distribution outside the agency is permissible only after the final collegial decision is recorded by the Secretary in a memorandum to the action office (Staff Requirements Memorandum (SRM)). Staff actions are not to be based upon individual Commissioner votes; the staff's actions are controlled by a majority vote of the Commission as directed in the SRM when issued. SECY shall promptly transmit to the Commission any comments that a Commission-level or staff office submits to SECY.
- f. If a Commissioner proposes modifications to the course of action recommended in the paper, or proposes revisions to a document on which voting is taking place, other Commissioners, or the Executive Assistants or their designees, are expected to indicate their agreement/disagreement with the proposed changes. SECY transmits all votes/comments to other Commissioners and determines, through the SRM process and discussions with Commissioner offices, whether individual modifications to the initial proposal receive support by a majority of the Commission.

## CHAPTER III – VOTING

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- g. The Office of the Secretary will handle the release of the Staff Requirements Memorandum, and Commission Voting Record, which includes individual Commissioner votes, as a unit, based upon the releasability of the SECY Paper. A Commissioner should inform SECY and their fellow Commissioners promptly if they make a release/withhold determination on their vote that is different from the release/withhold determination made for a SECY Paper. Appropriate staff offices will be advised prior to the release.

### 3. Recording of Commissioner Votes While Away from the Office

The following are the preferred methods for recording Commissioner votes while a Commissioner is away from the office:

- a Commissioner faxes the signed vote to his or her office from the off-site location for processing and forwarding to SECY, or
- uses an overnight mail service to transmit the vote to his or her office for processing and forwarding to SECY.

However, the preferred methods may, in certain circumstances, not be possible. The following mechanism will be followed in those cases:

- A Commissioner votes orally through telephone contact with his or her staff. A Commissioner's Assistant forwards to SECY the Commissioner's completed vote sheet. (This continues to allow the Commission's action to be taken and the SRM drafted on the issue without delay.) Upon the Commissioner's return, he or she should sign and date on that date an additional vote sheet and forward it to SECY. The additional vote sheet should note the date of the original vote. SECY will use this vote sheet for placement in the official record, and, if appropriate, release it to the public in the Commission Voting Record.

SECY will ensure that no delay is incurred while waiting for the actual Commissioner-signed vote sheet in the issuance and public release of SRMs and the Commission Voting Records. If a Commissioner-signed vote sheet is not available at the normal time of public release of an SRM and the Commission Voting Record, SECY will include a note in the Voting Record stating that the missing Commissioner-signed vote sheet will be added to the Voting Record when it is available.

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## CHAPTER III – VOTING

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### COMMENTS ON DRAFT CONGRESSIONAL LETTERS AND PRESS RELEASES ASSOCIATED WITH SECY PAPERS

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1. Draft Congressional letters and Press Releases that require Commission approval (policy formulation, rulemaking, and adjudication) are forwarded separately with the associated SECY Paper to SECY.
2. SECY attaches a cover sheet which indicates that the supplemental material is being forwarded in support of SECY-06-XXXX and circulates it with the associated SECY Paper to the Commission for review and comment.
3. Commission comments are returned to SECY separately from votes on the associated SECY Paper. SECY provides any comments on Congressional letters and draft Press Releases to the Chairman, Commissioners, OGC, OCA, OPA and originating office point of contact for the SECY Paper.
4. Editorial comments to Congressional letters are incorporated by SECY. Substantive comments are considered by the Chairman's office. SECY provides support to finalize letters and provides the final letters to Program Offices and OCA as appropriate.
5. The Chairman's office reviews the comments on the draft Press Release and coordinates with OPA any changes to the Press Release. OPA finalizes the Press Release and publishes.

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### COMMENTS ON ACTION MEMORANDA (COMS)

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1. When a Commissioner sends an action memorandum to his or her fellow Commissioners and requests their views or when the staff sends a memorandum requesting Commission views, it is forwarded to the Office of the Secretary with the notation: "SECY please track."
2. The Secretary assigns a specific reply date of 10 business days or less depending upon the subject matter (or the date requested by the originator) and assigns a distinctive control and identification number (e.g. COMJSM-06-XXXX if Commission originated memorandum, or COMSECY-06-XXXX if originated by the staff, see Chapter II-Decision Documents, "Action Memoranda"). If the memorandum is related to a SECY paper, a projected response date will be assigned in conjunction with the date assigned to the SECY paper (including any approved extensions).

## **CHAPTER III – VOTING**

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3. A copy of the memorandum is circulated to each Commissioner's office, and SECY tracks each Commissioner's response. If the memorandum is related to a SECY paper, the Secretary tracks the comments in conjunction with the SECY paper.
4. Commissioners respond in writing by separate memorandum to SECY or by handwritten or typed comments directly on their copy (or photocopy) of the COM memorandum.
5. SECY transmits all comments to other Commissioners for information. (See section on "Record of Votes" later in this chapter.)
6. After all Commissioner comments are received, SECY develops a decision memorandum. For COMSECYS, an SRM is generated. For Commissioner-generated COMs, a memorandum reporting the outcome is addressed to the individual Commissioner initiating the COM and, an SRM is prepared if tasking or guidance to the staff is the result. When Commissioners' comments differ and there is not a majority position, SECY may meet with Commissioner assistants, the staff, OGC, and/or Commissioners to resolve differing points of view. If necessary, a Commission meeting may be scheduled to resolve the issue.
7. Normally, the Office of the Secretary will handle the release of the COM, the decision memorandum, and individual Commissioner comments as a unit, based upon the releasability of the COM paper. This procedure, however, does not preclude a Commissioner from withholding his or her vote when the COM has been released or, in appropriate circumstances, releasing his or her vote when the COM has been withheld. A Commissioner should inform SECY and their fellow Commissioners promptly if they make a release/withhold determination on their vote that is different from the release/withhold determination made for a COM.

The Commission also supports the informal process being used to obtain Commission direction through the use of e-mail following Commissioner Assistant briefings. The Office of the Secretary will track the request and responses and maintain this information in the Commission official records.

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### **CONTINUANCES AND EXTENSIONS OF TIME<sup>14</sup>**

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1. If a Commissioner is unable to meet an original due date, he or she may request an extension of time to vote on a SECY Notation or Affirmation paper or on an action

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<sup>14</sup> Appendix 6 contains procedures for assuring that the Commission will have sufficient voting time when its formal review time for adjudicatory actions is limited by NRC regulations.

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## CHAPTER III – VOTING

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memorandum. The Secretary will honor requests submitted within the 10 business day voting period and within the additional 3 business day period, if needed, when Commissioners who have not yet responded are advised that a majority of the Commission has voted (see 3 below). Extensions of voting time are normally limited to 5 business days. Any extension after the initial request can be granted unless a majority of the Commission objects.

2. When voting papers are issued, Commission level offices are normally asked to provide any comments within 5 business days; if the Commission level office wishes to comment but cannot meet the 5 business day deadline, it should inform SECY in writing of the reason(s) for the delay and provide the approximate date that comments will be submitted. SECY will inform the Commissioners.
3. If a Commissioner has requested that additional information or analyses be received from the staff before voting, it is incumbent upon the staff to fulfill the request expeditiously to avoid delay in completing the voting process.
4. If a Commissioner requests and is granted an extension of voting time, all Commissioners who have yet to vote on a matter will be given the same amount of time.

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## CLOSURE PROCESS

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1. When a majority of the Commission has voted, SECY notifies the remaining Commissioners in writing of the majority action. The non-voting Commissioners are advised that they have 3 additional business days to vote.<sup>15</sup> If there are more than 3 business days remaining of the original 10 business day voting period, their votes would not be due until the end of that period.
2. When Commissioners' votes differ and there is not a majority position, SECY may meet with Commissioner assistants, the staff, OGC, and/or Commissioners to resolve differing points of view. If appropriate, a Commission meeting may be scheduled to resolve the issue.

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<sup>15</sup> If a majority of Commissioners has not voted by the end of the 10 business day voting limit, no action can be taken. SECY may institute the closure process only after a majority of the Commission votes have been received.

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## CHAPTER III – VOTING

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### RECORD OF VOTES

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#### 1. Staff Requirements Memorandum

After the Commission completes its vote or after at least a majority of the Commission has voted and all extensions of time have expired, SECY records the decision in a Staff Requirements Memorandum (SRM).<sup>16</sup>

When Commissioners' votes differ and there is not a clear majority position on the staff proposal or on amendments to that proposal by individual Commissioners, SECY may meet with Commissioner assistants, the staff, OGC, and/or Commissioners to resolve differing points of view. In the case of an Affirmation action, the SRM is not written until the formal vote has been taken at the Commission meeting scheduled for that purpose (see Chapter IV, "Affirmation Sessions").

The SRM includes:

- a. a concise statement of the Commission's decision on the recommendation of the paper, noting specifically any approved modifications to the recommendation;
  - b. a clear statement of any additional requirements or tasks to be performed by the staff together with appropriate action due dates and designation of high priority, if appropriate; these dates are assigned by SECY and confirmed through the circulation of the draft SRM; and
  - c. any exceptions to immediate public release of the SRM will be clearly indicated in a statement at the bottom of the first page.
2. If the Commission is unable to reach a decision on an issue not delegated to the staff because of a 2-2 split vote, the Secretary's SRM will advise the staff that the proposed action is not approved. The staff may resubmit the issue for Commission consideration when the reason for the inability to reach a decision has been rectified (e.g., when additional Commissioners are appointed, or when new or additional information is provided to the Commission). In cases where the staff has authority to act but discretion requires them to first consult with the Commission before taking a proposed action (e.g., an enforcement matter), the SRM may advise the staff that it may proceed with its action even though the Commission has been unable to act

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<sup>16</sup> A sample Staff Requirements Memorandum (SRM) is located at Appendix 7.

## CHAPTER III -- VOTING

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either because of a lack of a quorum or an evenly divided vote.

3. With the exception of SRMs on Affirmation items (see 5 below), draft SRMs are circulated to the Commission, OGC, EDO, CFO, and others as appropriate, for a 3 business day review period. Commissioner requests for extensions for review will be granted up to 2 business days. OGC, EDO, CFO, etc. are afforded an opportunity to review the SRM to ensure that the Commission decision is clear and understandable and that resource, schedular, and legal constraints are properly considered. If Commissioners or staff or Commission-level offices propose modifications to the SRM, SECY will poll the other Commissioners and determine a majority position with regard to inclusion of the changes. In order to conclude the decision-making process in a timely manner, subsequent versions of SRMs will normally be circulated for a 2 business day review period or less with no more than a 2 business day extension granted on each version.
4. Absent an objection from the other Commission offices, extensions on the due date will be granted for SRMs, and the extensions will apply to all Commissioners, without requiring subsequent requests from each Commission office.
5. The 3 business day Commission review of final SRMs may be waived when (1) the memorandum is based upon unanimous approval, without amendment, or (2) when time is a major consideration and the memorandum is cleared with each office by SECY. If a Commissioner objects to the waiver, SECY will poll the other Commissioners to determine what action should be taken. Waiver action will be determined by a majority of the Commission.
6. The 3 business day Commission review does not apply to SRMs on items requiring affirmation. Since these SRMs restate the formal Commission's position affirmed in a public Affirmation Session (see Chapter IV, page 4), they are issued immediately following the affirmation.
7. **Commission Voting Record**

When the final Staff Requirements Memorandum (SRM) is issued, the Secretary will issue a Commission Voting Record package (see Appendix 7) which will include:

- a. an indication of affirmative votes, negative votes, abstentions, non participation, and individual views of all Commissioners;
- b. a copy of each Commissioner's vote sheet; and
- c. a comment resolution section indicating the extent to which differing views, if any, as expressed in the individual vote sheets, were accommodated, resolved, and reflected in the final decision.

## **CHAPTER III -- VOTING**

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Copies of the Commission Voting Record will be sent to OGC and the originating office, and publicly released when appropriate.

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### **TRACKING OF REQUIREMENTS AND TASKS**

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All requirements and tasks identified in SECY papers, meetings, and COM SRMs are entered into the Commission Tracking System maintained by SECY. The system also tracks requirements for staff actions identified through Commission correspondence, in memoranda or information papers, and through individual Commissioner requests. The Tracking System is a module of STARS (SECY Tracking and Reporting System) that enables SECY to provide the Commission and the action offices with pertinent status information to assist in focusing management attention and setting priorities for the completion of tasks on schedule.

The Commission Tracking System is available online to Commissioner Offices at their request.

The SECY Tracking Officer provides the following periodic reports in hard copy:

- Weekly status report to the Commissioners' Executive Assistants on overdue tasks and tasks with revised due dates
- Monthly reports of open tasks for individual Office Directors
- Quarterly reports of open tasks for the Commissioners

The Tracking System includes a feature to identify high priority tasks for which due dates are particularly important. When a requirement needs to be expedited or is designated high priority in an SRM, it is coded to indicate that all due date extensions are subject to Commission review. For these high priority tasks the action office must notify the SECY Tracking Officer in writing or by e-mail, at least 10 business days prior to the date due to the Commission, if that date will not be met, explaining the reason for the delay and providing a revised due date. The SECY Tracking Officer will check with Commissioners' offices to confirm that the revised date is acceptable.

For other tasks, due date extensions will be accepted, provided that there is a reasonable explanation for the change and the revised due date is not more than 90 calendar days beyond the Commission requested due date, or the original due date confirmed by the staff if the Commission has not specified a due date. An exception applies when a task of particular interest to an individual Commissioner (e.g., tracked from a Commissioner's COM or memo) receives a revised due date. In such a case, the SECY Tracking Officer

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will confirm the acceptability of the revised date with the Chairman's or the Commissioner's office.

The Commission will be notified by the SECY Tracking Officer of tasks for which requested extensions will alter the due date over 90 calendar days. The action office must notify the SECY Tracking Officer in writing or by e-mail, at least 10 business days prior to the current due date, explaining the reason for the delay and providing a revised due date. Given no objection from a majority of the Commission, SECY will extend the due date. Minority views will be provided to staff for information. If a majority of the Commission objects to a new due date, the Office of the Secretary will request the action office to re-evaluate the revised due date.

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### MOTIONS FOR RECONSIDERATION OF A DECISION

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Any Commissioner may request the Commission to reconsider a decision. Such requests are addressed to SECY in writing and contain a brief explanation of the reason for the request. The subject should be entitled "Request for Reconsideration". Except as noted below (3), such a request does not prevent the implementation of the decision or the Commission Order that recorded the initial decision. (See also Chapter IV, p. 8.)

1. SECY distributes the request to the other Commissioners with an attached vote sheet asking Commissioner views within 5 business days.
2. If a majority of participating Commissioners vote to reconsider, SECY notifies the appropriate action office. The issue then is again presented to the Commission in the same format as the original vote, i.e., if the original decision was reached at a Commission meeting, another meeting will be scheduled for reconsideration. If a different resolution method is preferred, the Commissioners should so indicate on their response sheet.
3. The earlier decision remains in effect while the Commission reconsiders the matter unless a majority declares the earlier decision to be stayed. In this instance, SECY notifies the appropriate action office that the earlier Commission decision has been stayed pending reconsideration. In some instances this requires a letter or "withdrawal" order which in turn may require a separate affirmation vote. Copies of these notifications are provided to all Commissioners and appropriate staff offices.

## CHAPTER III -- VOTING

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### WITHDRAWAL OF PAPERS SUBMITTED TO THE COMMISSION

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A SECY paper or COMSECY will be returned to the staff without action if a majority of the Commissioners participating subscribe to that course of action. If the staff recommends withdrawal of a SECY paper or COMSECY, the staff must explain to the Commission the basis for its recommendation in writing. The Commission can consider such staff recommendations during the voting process.

## CHAPTER IV

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# COMMISSION MEETINGS

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## GOVERNMENT IN THE SUNSHINE ACT

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The Government in the Sunshine Act (PL 94-409) requires the collegial agencies of the Federal Government, including the NRC, to open meetings of their Commissioners to public observation except where the subject matter falls within one of the specific categories of exemption. The law is based on the premise that "the public is entitled to the fullest practicable information regarding the decision-making process of the Federal Government." The Government in the Sunshine Act applies to meetings of at least a quorum of Commissioners where deliberations determine or result in the joint conduct or disposition of official Commission business. This Chapter describes procedures for Commission meetings which are governed by the Sunshine Act, and briefly covers the scope of Non-Sunshine Act discussions.

The Act favors open meetings. An agency, however, is allowed to close a meeting or portions of a meeting or to withhold information about a meeting or portions of a meeting if the agency determines that the meeting or portions thereof, if opened, or the information, if released, would likely disclose exempted information protected from disclosure under one or more of the 10 exemptions authorized by the Act. A list of these exemptions is contained in 10 CFR Part 9. Determinations to close a meeting require a recorded majority vote of the entire Commission membership.

The Act further requires NRC and similar agencies to publicly announce, at least one week prior to each meeting, its time, place, and subject matter, and whether it is to be open or closed. The agency can provide less than 7 calendar days notice of a meeting, provided a majority of the Commission membership determines by recorded vote "that agency business requires" less notice.

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## DEVELOPMENT OF COMMISSION SCHEDULE

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1. SECY prepares weekly a schedule of Commission meetings from an assessment of the following considerations:
  - a. a projection of anticipated meeting subjects from the EDO;
  - b. projections and requirements known to SECY;

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- c. input from Commissioners, OGC, OCA, OIP, CFO;
  - d. availability of Commissioners;
  - e. readiness of affirmation items;
  - f. requests for meetings with the Commission by outside agencies or organizations; and
  - g. requests for a meeting by any Commissioner.
2. First priority is given to the scheduling of meetings, principally at 9:30 a.m. and 1:30 p.m., on days when all Commissioners are available. When only the staff will be making a presentation, the meeting will generally be scheduled for 1-1/2 hours. When the Commission determines that it would be useful and practical to obtain additional information or views from outside stakeholders, the meeting time would be extended to 2 hours, or longer. However, meetings expected to last longer than 2 hours may be divided into two sessions.
3. Factors such as holidays, Congressional hearings, availability of staff, and the conflicting schedules of individual Commissioners influence the dates and times available for meetings. As part of the data-gathering process, Commissioners' staffs enter individual travel and leave plans and other appointment information of each Commissioner into an on-line automated calendaring system which provides an integrated daily schedule of Commissioner availability.
4. SECY meets at pre-agenda sessions with the Chairman, and representatives of OGC, EDO, and OCA. SECY also informs the Executive Assistants from each Commissioner's office on the agenda prior to an Agenda Planning Session. SECY provides a proposed Commission schedule with a minimum of 7 planning weeks. The results of the meeting form the basis for the Chairman's proposed agenda to the other Commissioners.
5. The schedule, as approved by the Chairman, is reviewed and approved by the Commission at Agenda Planning Sessions (normally held at least once a month) conducted by the Chairman. Commissioners and/or their representatives and representatives from EDO, OGC, SECY, OCA, and OPA, normally attend and participate as appropriate. In recognition of the collegial process, an individual Commissioner's request that a meeting be scheduled will be granted unless a majority of the Commission disapproves the request. The approved schedule for the subsequent 6 week period is published by SECY and given wide circulation to the Headquarters and Regional Offices. A summary of the schedule for a 6 week

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## CHAPTER IV -- COMMISSION MEETINGS

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period is also released to the *Federal Register* for publication and posted to the NRC Home Page on the World Wide Web. The Commission will cancel announced meetings only when required by extraordinary circumstances and will provide as much notice as feasible in the event of a cancellation.

6. In addition, the Secretary includes in the Commission's agenda scheduling package a listing of projected future meetings, projected and completed Commissioner visits to nuclear power plants and other facilities, schedules of emergency planning exercises, and a 12 month projection of Commissioners' travel and leave.
7. **Guidelines for stakeholder participation in Commission meetings:**
  - a. In planning Commission meetings, the Commission may determine that it would be useful and practical to obtain additional information or views through stakeholder participation. Emphasis will be given to meeting topics where a decision by the Commission on the topic is required (e.g. a notation vote paper is or will be before the Commission for action). In its discretion, the Commission may also schedule meetings with stakeholders covering a broad range of issues.
  - b. Upon the Commission's request, the Office of the Secretary, in coordination with the staff, will prepare a list of stakeholders that could be considered for invitation to brief the Commission. The staff should identify to the Office of the Secretary the stakeholders that have shown interest in the particular meeting topic, along with its views for participation that could assist the Commission in making its decision (e.g., particularly active stakeholders). The list will be distributed to the Commission for consideration. SECY will poll the Chairman and the Commissioners with respect to preferred invitees for Commission meetings.
  - c. The Commission will decide as part of Agenda Planning who will participate in the Commission meeting. If outside participants are invited, priority consideration will be given to other Federal Agencies, States, elected officials, tribal governments, organizations and persons that represent a broad spectrum of views, have specific interest in the meeting topic and bring a unique perspective to the briefing, and are experts on the subject matter. To the extent practical, the Commission will attempt to achieve a balance in the points of view represented at the meeting. The Commission's goal of including stakeholders in Commission meetings is to give the Commission information on a range of views on a given topic. It is not the intent, nor is it realistic, to try to have every different view on a given topic represented at a meeting. Other organizations and individuals who express an interest in

## **CHAPTER IV – COMMISSION MEETINGS**

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speaking will be encouraged to submit written comments for Commission consideration, which will be included as part of the record and/or coordinate common interests with presenters who have agreed to participate. The Commission will not normally reconsider a decision on stakeholder participation. Should a stakeholder ask to be added to the list of participants, the Commission reserves the option to consider whether the stakeholder's participation in the meeting would be helpful to the Commission. Such a request should be made in writing to the Secretary of the Commission 3 weeks in advance of the announced briefing. The written request should be clear as to who is being represented and the unique perspective that would be provided at the briefing. Normally, the Commission will approve a final list of the participants for a Commission briefing at least 2 weeks in advance of the meeting.

- d. The Office of the Secretary will arrange the briefings and invite the participants that have been agreed to by the Commission. Only one speaker will be permitted per party unless the Commission determines that broader participation is desirable or necessary. The length of the meeting will be extended to 2 or more hours. However, meetings expected to last more than 2 hours may be divided into two sessions. Outside participants will be grouped into panels as appropriate. The letter of invitation from the Secretary will state that participants should submit written material no later than 5 business days in advance of the meeting and should summarize their key points at the Commission meeting in 5-10 minutes. The amount of time for each speaker will be determined in the context of Agenda Planning. The letter will clearly state if any different deadlines apply. The Commission reserves the right to withdraw an invitation to speak if the written material on the presentation is not provided 5 business days in advance of the meeting date.
  
- e. NRC staff will submit to the Commission pertinent SECY Papers or other documents 15 business days in advance of the scheduled Commission meeting. The Commission will be given at least 2 business days to review the staff's meeting materials to determine if they should be released to the outside meeting participants and the public. It is the goal of the Commission to make documents that the Commission determines should be released available to meeting participants and publicly released at least 10 business days in advance of the Commission meeting. The Commission expects to receive meeting materials in a timely manner in the absence of an advance request from the staff for an extension of the due date. If meeting materials are not received in a timely manner, the Commission meeting may be rescheduled.

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## CHAPTER IV -- COMMISSION MEETINGS

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### FORMAT FOR COMMISSION MEETINGS

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The Commission has conducted business in both open and closed meetings and in several different meeting formats over the years. Adjustments in style, format, and conduct are made to best suit the information gathering and decision-making needs of the Commission.

The majority of Commission meetings are open for public observation. Members of the public may attend meetings held in the Commission's main conference room, observe the presentations and discussions, and obtain copies of NRC documents released at the meeting. They may not address the Commission or other meeting participants without prior Commission approval.

Under certain circumstances allowed by the Government in the Sunshine Act, the Commission may meet in closed session. A separate conference room is normally utilized for this purpose.

#### 1. Open/Public Commission Meetings

As previously noted, the Government in the Sunshine Act presumes that most Commission meetings will be conducted in public. Open meetings are held to enable the Commission to gather information in **Briefings** by NRC staff members,<sup>17</sup> the regulated industry, and members of the public in fulfillment of the Commission's responsibilities. In addition to gathering information in staff briefings, the Commission may utilize its meetings to provide the staff with guidance on future activities, and/or **Vote** on specific issues such as restart of a nuclear plant. Commission voting and decision-making activities may occur at the end of briefings by the staff, industry and/or public, or voting may occur at a later date after the Commission has had the opportunity to consider the information received during the briefing or from other documents and views. Commission meetings and briefings are generally scheduled to last 1-1/2 hours to 2 hours.

Voting does occur at short meetings (**Affirmation Sessions**) held to affirm positions previously taken in the notation voting process (see Chapter II for a description of Affirmation Papers and Chapter III "Votes at Commission Meetings"). Affirmation Sessions which may involve a short 5-10 minute discussion of issues, are required, by law,<sup>18</sup> to

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<sup>17</sup> The procedures for staff presentations at Commission meetings are in Appendix 8.

<sup>18</sup> The provisions of the Energy Reorganization Act of 1974 require that a "quorum for the transaction of business shall consist of at least three

## CHAPTER IV – COMMISSION MEETINGS

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enable the Commissioners, in the presence of each other, to formally ratify votes previously cast by paper ballot. Affirmation Sessions are generally scheduled to obtain a formal vote of the Commission on recommended actions which legally bind those the NRC regulates or has a significant legal effect on persons outside the Commission. Such actions usually involve the issuance of final rules or adjudicatory orders. Upon submission of an order from OCAA or OGC, SECY should provide public notification that an affirmation session has been tentatively scheduled for the first available date following expiration of the action date (normally 10 business days) to complete voting on the paper. Significant Orders of the Commission (and its Licensing Boards) are printed in a cumulative compilation of NRC adjudicatory decisions entitled *Nuclear Regulatory Commission Issuances*.<sup>19</sup>

The Commission may also hold occasional open meetings for a **Collegial Discussion** of a variety of matters of current interest to individual Commissioners. These meetings, while open to the public, do not usually have a formal agenda, do not involve the active participation of the NRC staff, and may or may not result in a Commission decision on any particular issue discussed.

All open meetings are transcribed by a stenographic reporting contractor for the Commission. In addition most open Commission meetings are webcast over the Internet providing real-time viewing of the meeting. These webcasts are also archived to provide for viewing at a later time. Unedited copies of the transcripts are maintained by SECY and are publicly released. Transcripts contain a disclaimer stating that it is not a part of the formal or informal record of decision of matters discussed and that expressions of opinion in the transcript do not necessarily reflect final determinations or beliefs.

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members present" and that "[A]ction of the Commission shall be determined by a majority vote of the members present" (42 USC 5841). The Commission has determined that the requirement of "presence" does not preclude the Commission from meeting with the participation of a Commissioner who is "present" by speaker phone, so long as there is no impairment of the Commissioner's ability to hear and be heard by all those in the room, and no effect on the public rights of attendance and observation under the Sunshine Act.

<sup>19</sup> Appendix 9 contains a description of the Orders published in the Nuclear Regulatory Commission Issuances document.

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## CHAPTER IV -- COMMISSION MEETINGS

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### 2. Closed Commission Meetings

Under certain limited circumstances, the Commission may meet in closed session. The Government in the Sunshine Act allows the Commission to hold discussions in closed session when the discussion includes classified information, Safeguards Information, proprietary information, investigation and enforcement matters, internal management and personnel matters, certain adjudicatory/litigation matters, and information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed Commission action. A detailed set of "Security Procedures for Conducting Classified Meetings/Hearings" has been issued by the Division of Security and Facilities Support, Office of Administration, in consultation with the Office of the Secretary. See Appendix 10 for the complete procedures.

As with open meetings, closed meetings are also used to provide the Commission with information in briefings by the staff, and allows the Commission to make decisions (Vote) on issues requiring a decision.

The most common types of closed Commission meetings are:

**Management and Organization** -- the Commission considers management, organization, and personnel issues requiring collegial attention. Attendance is very limited -- often only the Commissioners attend.

**Security Issues** briefings are held in closed session to discuss matters relating to the security and safeguards of nuclear material and facilities.

**Executive Branch** briefings are held in closed session to permit representatives of Executive Branch Departments and Agencies to brief the Commission on classified matters related to the Commission's responsibilities for import and export of nuclear materials and production and utilization facilities.

**Investigative Matters** -- on occasion, the Commission is briefed in closed session by the Inspector General and/or the Office of Investigations on pending investigative matters.

**Adjudicatory/Litigation** -- on occasion, the Commission is briefed in closed session by the General Counsel or the Office of Commission Appellate Adjudication on current adjudicatory/litigation matters.

As required by the Government in the Sunshine Act, NRC maintains a complete verbatim transcript or electronic recording of all closed meetings, except certain adjudicatory meetings which may be recorded by detailed minutes. For every closed meeting, the

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## CHAPTER IV – COMMISSION MEETINGS

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General Counsel must certify that the meeting may be properly closed. The agency must maintain a copy of the General Counsel's certification along with a statement of the presiding officer of the meeting (the Chairman) stating the time and place of the meeting and listing the persons actually present. The Secretary prepares this statement for the Chairman.

The records of closed meetings (transcripts and/or tape recordings) are normally retained by SECY, the Division of Nuclear Security, NSIR, or the Office of the Chairman, depending on the classification and sensitivity of the meeting. These records may be released to the public following review and approval by the Commission. The reviews are conducted by the originators, other agencies if involved, NSIR as needed, OGC, and Commissioners. SECY coordinates the review.

### 3. Non-Sunshine Act Discussions

Non-Sunshine Act discussions among three or more Commissioners are appropriate and legally permissible only when discussions are preliminary, informal, informational, or "big picture." If such a discussion begins to focus on discrete proposals or issues, such as to cause or be likely to cause individual participating members to form reasonably firm positions regarding matters pending or likely to arise before the agency, the discussion should be halted and continued only in the context of a Sunshine Act meeting, scheduled in accordance with the requirements of that statute. The Office of the Secretary maintains a record of the meeting which includes the date, time, topic and attendees (see Appendix 11).

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## CONDUCT OF COMMISSION MEETINGS

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1. The Commission desires to start its meetings promptly at the time scheduled. The Chairman or the designated Commissioner can begin a decision meeting as soon as a quorum of Commissioners is present.
2. The Chairman or designated Commissioner may begin non-decision meetings at the time scheduled but not later than 5 minutes after the scheduled start time unless a Commissioner has requested that the meeting be delayed.
3. Meetings are generally informal in nature; the Chairman or Acting Chairman presides at all meetings and assures equal opportunity for participation and

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## CHAPTER IV -- COMMISSION MEETINGS

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questions by all Commissioners present.<sup>20</sup> (Energy Reorganization Act, Section 201(a)(1)).

4. On occasion the Commission conducts formal sessions at which representatives of the parties in a particular adjudicatory proceeding are invited to present their positions in an Oral Argument before the Commission. Procedural arrangements are established in advance to determine the issues for discussion and to specify time limits for each Party's presentation.
5. A Commissioner who is unavoidably absent, such as because of medical leave or official travel, may take part in any Commission meeting, as described above in this Chapter, provided that he or she is in two-way communication with the other Commissioners in the meeting by a device (e.g., a speaker phone) that allows the voice of the absent Commissioner to be heard by all present in the meeting room, and that allows the absent Commissioner to hear the entire discussion in the meeting. This procedure applies whether or not the participation of the absent Commissioner is needed to create a quorum for the transaction of business. A Commissioner participating in a meeting by speaker phone has the same rights of voting possessed by every other Commissioner. When this procedure is employed, the Secretary will ensure that voices are properly identified.

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## MEETING-RELATED DOCUMENTS

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### 1. Documents in Advance of Meetings

In order to prepare for matters to be discussed at meetings, the following documents are required in advance so that the Commissioners may familiarize themselves with the purpose and content of matters to be presented:

- a. For staff only briefings of the Commission, pertinent SECY papers, documents or briefing outlines by the staff unit involved must (except in extraordinary circumstances) be available to Commissioners at least 10 business days before a meeting on a particular subject is held. The staff should advise the Commission, as early as possible, of any anticipated failure to meet the due date for submission of meeting materials and request

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<sup>20</sup> For example, the Commission recommends following the current practice, which rotates the opportunity to question participants so that each Commissioner has the opportunity to be the initial Commissioner to question participants.

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approval for any necessary extension of the due date. If the document is not available 10 business days in advance, the originating office must explain the reason to the Commission in a cover memorandum. Commissioners may request postponement of a meeting if they do not have sufficient time to review late arriving documents. When such requests are made, SECY discusses the issue with the Chairman and polls the other Commissioners to determine whether the meeting will be postponed.

- b. Viewgraphs, if they are to be used, should also be received by the Commission at least 5 business days prior to meetings. Viewgraphs are routinely posted to the NRC's external web site for open meetings for use by the public when viewing a webcast Commission meeting over the Internet.
- c. Scripts or speaker notes, if used, should be provided to the Commission at least 24 hours in advance of the meeting.
- d. Any memoranda by Commission level offices pertinent to the subject matter should be available well in advance (at least 10 business days) of the meeting.
- e. For Commission meetings at which stakeholders have been invited to speak, pertinent SECY papers, documents, or briefing outlines should be forwarded to the Commission for review at least 15 business days in advance of the meeting. This will allow the Commission time to review the documents prior to release to the meeting participants and the public. Public release will occur generally at 10 business days prior to the meeting.

### 2. Documents at Meetings

At open Commission meetings, SECY ensures that copies of the principal documents referenced in the Commission schedule and viewgraphs are placed near the entrance of the Commission Conference Room for members of the public. The presenters (staff unit or outside entity) are responsible for providing sufficient copies of the viewgraphs or other relevant written information for public availability and should ensure they arrive in the briefing room 20 minutes prior to the start of the meeting. SECY will provide copies of SECY papers. On occasion, additional documents will be available to members of the public at the meeting if it is anticipated that the discussion will draw upon information contained in the documents. SECY ensures that these documents are publicly released at the conclusion of the meeting. Occasionally, documents are made publicly available in advance of a Commission meeting on the subject.

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## CHAPTER IV – COMMISSION MEETINGS

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### STAFF REQUIREMENTS MEMORANDA

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After meetings, Commission decisions are recorded in a Staff Requirements Memorandum (SRM) prepared by the Secretary and issued to the action addressee, with copies to the Commissioners and interested staff offices to memorialize the Commission decisions or actions that took place in the meeting and the requirements placed on the staff for implementing action. Procedures for developing, reviewing, and issuing meeting SRMs are identical to those described in Chapter III for voting SRMs.

## CHAPTER V

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# INSTITUTIONAL CORRESPONDENCE

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The agency policy is to ensure preparation of responsive, timely replies to all correspondence requiring action by the Commission. This demands personal attention by staff managers as well as priority action by Commissioners. Procedures regarding the preparation of Congressional testimony and procedures for tracking commitments made in Congressional hearings and for forwarding responses to Congress are set forth in Chapter VII.

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## INCOMING CORRESPONDENCE

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### 1. Receipt and Review by the Office of the Secretary

- a. External correspondence addressed to the Chairman, or the Commission, or the Secretary, and all Congressional correspondence addressed to the Chairman, and the Commission, and the Secretary is delivered to the Office of the Secretary. Correspondence addressed to individual Commissioners is handled according to procedures established by each Commissioner.
- b. SECY reviews the incoming correspondence and makes an initial determination as to:
  - o whether a response is necessary;
  - o who should prepare the response and how much preparation time will be allowed;
  - o who should sign the response if one is required;
  - o whether the response will require Chairman review or collegial Commission review;
  - o whether an acknowledgment is required and who should prepare it; and
  - o whether the communication is ex parte as defined by the Commission's Rules of Practice (10 CFR 2.347), and requires special handling.

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## CHAPTER V -- INSTITUTIONAL CORRESPONDENCE

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- c. If an incoming communication is believed to be ex parte, SECY consults with OGC and OCAA, as necessary, before the correspondence is assigned to an action office. (See further discussion of ex parte rule in this Chapter.)
- d. With the exception of Congressional Correspondence, incoming correspondence that is not sensitive in nature (does not contain proprietary information, personal privacy information, etc.) can be made publicly available 24 hours after distribution to the addressee. Incoming Congressional Correspondence will be released with, and under the same time schedule, as the outgoing Commission response to the Congressional Correspondence. If the incoming Congressional Correspondence does not require a Commission response, it will be released by the NRC only after the initiating member of Congress has released the correspondence.

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## GUIDELINES FOR COMMISSION RESPONSE

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### 1. Action Assigned by the Office of the Secretary

#### a. Action Office

Depending upon the subject matter and the issues addressed in the incoming letter, the responsibility for preparing an appropriate response will be assigned to the Chairman, Executive Director for Operations (EDO), Chief Financial Officer (CFO), General Counsel, or Director of a Commission level office.

#### b. Action Assignment Sheet

A customized action assignment sheet is produced for each incoming letter containing such information as the author, date of the letter, subject matter, date logged, due date, etc., along with a specific control number for tracking.

All incoming correspondence addressed to the Chairman or Commission is initially reviewed by the Office of the Secretary in coordination with the Office of the Chairman to determine whether the response will require collegial Commission review or only review by the Chairman; this determination is specified on the action assignment sheet.

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## CHAPTER V -- INSTITUTIONAL CORRESPONDENCE

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c. Signature Level

The following factors are considered in determining whether correspondence will be reviewed and/or signed at the Commission level, by the EDO, CFO, or by a Commission level office:

- o does the correspondence involve substantive new policy or legal issues;
- o is the communication an official transmittal to Congress of reports and studies and other communications expressly required by law;
- o is it correspondence from/to Congressional Committees, Senators or Representatives;
- o is it correspondence from/to the White House, State Governors, or Heads of Federal agencies and Departments;
- o does the communication involve Office of Management and Budget (OMB) requests for comments on proposed Executive Orders or legislative proposals requiring collegial Commission review;
- o does the communication involve Comptroller General final reports which require action by NRC in response to General Accounting Office (GAO) recommendations; and
- o is the incoming correspondence an executive communication as determined by the signatory's present position or previous relationship with NRC and/or urgency or gravity of the subject content of the communication.

Correspondence not requiring signature by the Chairman is assigned to the appropriate Commission level office or the EDO or CFO offices to prepare a response for the signature of an individual designated by the EDO, CFO, or Office Director responsible for the action.

Communications of a routine nature to Members of Congress, Congressional Committees and their respective staffs may be signed by the Office of Congressional Affairs.

d. Suspense Date

If possible, it is the intent of the Commission to answer Commission correspondence requiring a response within 16 business days of initial

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## CHAPTER V – INSTITUTIONAL CORRESPONDENCE

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receipt into the agency. As a general rule, therefore, all incoming correspondence requiring signature of the Chairman is assigned a suspense date that allows the action office ten (10) business days to draft a proposed reply. The remaining time (6 business days) is assigned for Commission review of the proposed reply.

e. Acknowledgment Requirements

The assignment sheet will indicate whether the correspondence requires an acknowledgment. The following correspondence will be acknowledged by the office indicated on the assignment sheet within 48 hours of receipt:

- o Congressional correspondence (by OCA);
- o Correspondence from State and local government officials and Indian Tribe representatives (by EDO/STP);
- o All other correspondence designated for reply, including correspondence from the White House or the Head of a Federal Agency (by SECY).

f. Ex parte Communications

The Commission's ex parte rule (10 CFR 2.347) provides in part that "...(a) Interested persons outside the agency may not make or knowingly cause to be made to any Commission adjudicatory employee, any ex parte communication relevant to the merits of the proceeding..." Ex parte or separate communications to a Commission adjudicatory employee (including Chairman/Commissioners) on an active adjudicatory matter are strictly prohibited by this regulation. If it is determined that a piece of correspondence is subject to the Commission's ex parte rule, it is normally assigned to the appropriate action office; information copies are given to the Commission and the appropriate Licensing Board; "service" copies are sent to all parties to the proceeding involved and to the communicator; and a copy is made available to the public in ADAMS.

The Commission has directed that, as a matter of practice, ex parte communications about pending adjudications should be served to the parties promptly when they are received, regardless of their source. The Office of the Secretary provides a standard-format response to the sender explaining that in conformity with the NRC's rules on handling of such communications, it has been served on the parties to the proceeding. If a further staff response is called for, this letter can tell the writer to expect the staff to respond shortly to the merits of the incoming letter.

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## CHAPTER V – INSTITUTIONAL CORRESPONDENCE

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Ex parte communications include those received from parties to the proceeding, participants under 10 CFR 2.315, other public officials, competitors, and nonprofit or public interest organizations and associations with a special interest in the proceedings. Communications received from a member of the public at large who makes a casual or general expression of opinion about a pending proceeding are not considered ex parte communications under NRC regulations. See 51 Fed. Reg. 10,393, 10,396 (March 26, 1996). (NRC staff communications to the Commission are governed by separation of function rules found at 10 CFR Section 2.348.)

### 2. Requests for Additional Response Preparation Time

As previously noted, if possible, it is the intent of the Commission to respond to correspondence action items within 16 business days of initial receipt of the correspondence in the agency. There may be a subset of Commission correspondence that is complex, a substantial request for information, dependent on intergovernmental coordination, etc., where it is necessary and appropriate to establish a longer due date. Where this is the case, there will be close coordination between SECY, EDO, OCA, as appropriate, and an appropriate due date established as early as possible. Coordination with the Congress on acceptable due dates will be made through OCA.

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## COMMISSION DAILY READING FILE

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SECY (Correspondence and Records staff (C/R)) prepares a Daily Reading File which is the primary means for distributing incoming and outgoing correspondence to the Commissioners, Commission level offices, and the Office of the Inspector General. Urgent correspondence is hand carried. Information such as the routing, suspense date, signature level, action to be taken, and review level are indicated at the bottom of the first page of each letter. If Commissioners wish to change routing, signature level, suspense date, or provide for collegial review of a letter prior to dispatch, they should direct their requests to SECY.

The Daily Reading File contains important correspondence that is either relevant to the Commission's business or has the likelihood of generating media or public attention. It also contains correspondence concerning the known interests of individual Commissioners. In addition, the Daily Reading File regularly contains:

1. Reading File Index -- summaries of external correspondence received and outgoing Chairman and Commission Correspondence.
2. SECY Daily Report -- summaries of the previous day's internal memoranda.

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## CHAPTER V – INSTITUTIONAL CORRESPONDENCE

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The Daily Reading File is distributed to the Commissioners and to Commission level offices. Copies of correspondence contained in the Daily Reading File are also provided to the EDO.

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### OUTGOING CORRESPONDENCE

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Outgoing correspondence prepared for the Chairman's signature is forwarded to SECY by the action office.

Normally, correspondence which addresses policy issues previously resolved by the Commission, transmits factual information, or restates Commission policy, will be handled as Chairman Correspondence on behalf of the Commission.

Correspondence in which new, revised, or expanded policy positions are formulated will be handled as Commission Correspondence as well as correspondence concerning matters pending Commission decision, items relating to the performance of Commission duties and responsibilities, and items of high Commission interest (e.g. certain Executive Branch correspondence and correspondence on invitations from foreign governments).

Correspondence which formulates policy or expands, revises, or interprets current policy should only be signed by the Chairman after Commission review. On occasion, there is correspondence to be signed by the staff which does not require formulation of policy, but nevertheless, because the correspondence concerns matters pending Commission decision, items relating to the performance of Commission duties and responsibilities, or items of high Commission interest needs to be reviewed and approved by the Commission. This type of correspondence should also be forwarded to the Office of the Secretary by the action office for Commission approval.

The concurrence page of the draft letter will contain a statement prepared by the action office advising whether the proposed response requires the Commission to formulate a policy position, involves matters pending Commission decision, items relating to the performance of Commission duties and responsibilities, or involves items of high Commission interest. SECY will consider this statement in determining whether to reevaluate the initial determination of whether to handle a reply as Commission Correspondence or Chairman Correspondence.

**1. Procedures for Commission Correspondence:**

- a. When the draft reply is received from the staff, SECY will route it concurrently to the Commission, OGC, and OCA (if a Congressional response) for a 6 business days review and comment period unless the correspondence requires special (e.g. expedited) handling. Simultaneously,

## CHAPTER V – INSTITUTIONAL CORRESPONDENCE

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OGC and OCA will have 2 business days to provide their comments through SECY to the Commission for review. Special requirements will be identified on a case-by-case basis when the proposed reply is routed to the Commission Office. Commission Correspondence being circulated is covered by a **Yellow** cover which also serves as each Commissioner's Response Sheet.<sup>21</sup>

- b. Commissioners note their approval, or comments and changes, if any, on the **Yellow** Commission Response Sheet and return it to SECY. Modifications to the draft may be handwritten or, if practical, should be noted by the line-in, line-out method. Comments and changes suggested by Commissioners are referred to the Chairman for consideration. Copies are sent to the other Commissioners for information.
- c. If required, up to an additional 2 business days for review and comment will be granted to a Commissioner who is on short-term absence from the Office. If a Commissioner is unavailable for comment for an extended period of time, and has delegated authority for his or her staff to respond in his or her absence, Commissioner staff comments will be taken into consideration.
- d. Any Commissioner who does not concur in the substance of the letter may write a separate letter stating his or her views. Copies of the separate letter should be provided to the other members of the Commission. The letter may state that Commissioner(s) \_\_\_\_\_ has(have) differing views and will submit them separately.
- e. Under certain circumstances a Commissioner may wish to recuse himself/herself from participation in a particular matter in order to avoid any actual or apparent conflict of interest. If a Commissioner has recused himself/herself from a specific subject, the letter will state "Commissioner \_\_\_\_\_ did not participate in the preparation of this response."
- f. The Chairman will incorporate changes and comments necessary to convey a majority view of the Commission and forward the correspondence to SECY for incorporation into a final signature package. If extensive or substantive changes have been made to the final draft, the Chairman's Office, in consultation with SECY, will determine whether recirculation to the Commission is necessary because of substantive rewrites to ensure a majority view of the Commission is reflected, and/or additional consultation with the EDO, OGC, and/or OCA is required. The Chairman's office should,

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<sup>21</sup>

Appendix 12 contains a copy of the Yellow Response Sheet.

## CHAPTER V – INSTITUTIONAL CORRESPONDENCE

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prior to dispatch of the correspondence, inform a Commissioner if a substantive comment in the Commissioner's vote sheet will not be incorporated into the final letter.

- g. SECY will incorporate the changes, prepare the final signature package (approved outgoing response, concurrence sheet, incoming correspondence, and any pertinent background information), obtain final OCA concurrence if correspondence is a Congressional letter, and forward it to the Chairman for signature. The Chairman will then sign the letter which will then be returned to SECY for dispatch. Congressional correspondence is dispatched as indicated below in Section 3.a.
- h. SECY distributes to Commission offices a copy of the signed Commission correspondence, along with the incoming letter, in the Commission's Daily Reading File.
- i. SECY publicly releases all non-sensitive outgoing Commission correspondence approximately 5 business days after dispatch. The 5 business day delay allows for the correspondence to reach the recipient before the letter is made publicly available.
- j. Non-sensitive correspondence from the Commission to Congress and other Federal agencies will be automatically posted on the NRC's public website under the Commission's document collection, "Commission Correspondence".
- k. Correspondence will be returned to the staff if the Chairman, or a majority of the Commission, subscribes to that course of action.

### 2. Procedures for Chairman's Correspondence:

- a. When the draft reply is received from the staff, SECY will route it concurrently to the Chairman's Office, OGC, and OCA (if a Congressional response). The Chairman's office has 3 business days for comments unless the correspondence requires special (e.g. expected) handling. Simultaneously, OGC and OCA will have 1-1/2 business days to provide their comments through SECY to the Chairman's office for review. Special requirements will be identified on a case-by-case basis when the proposed reply is forwarded to the Chairman's office. Chairman correspondence being circulated will be covered by a **Blue** Chairman Response Sheet.<sup>22</sup>

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<sup>22</sup>

Appendix 12 contains a copy of the **Blue** Response Sheet.

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## CHAPTER V -- INSTITUTIONAL CORRESPONDENCE

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- b. The Chairman reviews the proposed draft and any OGC or OCA comments, makes revisions, as necessary, and returns it to SECY.
- c. SECY prepares the final signature package (approved outgoing response, concurrence sheet, incoming correspondence, and any pertinent background information), obtains final OCA concurrence if it involves a Congressional correspondence, and forwards it to the Chairman for signature. The Chairman will then sign the letter which will then be returned to SECY for dispatch. Congressional correspondence is dispatched as indicated below in Section 3.a.
- d. SECY places a copy of the signed Chairman correspondence, along with the incoming letter, in the Commission's Daily Reading File.
- e. SECY publicly releases all non-sensitive outgoing Chairman correspondence approximately 5 business days after dispatch. The 5 business day delay allows for the correspondence to reach the recipient before the letter is made publicly available.
- f. Non-sensitive Chairman correspondence to Congress and other Federal agencies will be automatically posted on the NRC's public website under the Commission's document collection, "Commission Correspondence".

### **3. Dispatch of Outgoing Correspondence and Information Copies**

#### **a. Letters to Congressional Offices**

Signed Congressional correspondence is delivered by SECY to the Office of Congressional Affairs (OCA). OCA arranges for the outgoing correspondence to be hand carried to the appropriate Congressional office.

#### **b. Non-Congressional Letters**

SECY processes and dispatches non-Congressional letters signed by the Chairman. Letters are dispatched by express mail, courier, fax machine, or U.S. mail, depending upon urgency.

Replies to correspondence assigned for direct reply by SECY to the EDO, CFO, an EDO staff office, or a Commission level office are processed and dispatched by the appropriate office. Copies of the signed responses are forwarded to SECY. SECY will distribute individual replies to the Commissioners or place them in the Daily Reading File when, in their judgment, the nature of the response so requires.

## **CHAPTER V -- INSTITUTIONAL CORRESPONDENCE**

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4. Special procedures for the transmittal of sensitive documents to Congress are set forth in Chapter VI.

## CHAPTER VI

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# TRANSMITTAL OF SENSITIVE DOCUMENTS TO CONGRESS

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Members of Congress, Members of Congressional Committees, and their staffs often request copies of classified, Safeguards Information and unclassified documents, referred to below as "sensitive" documents. The procedures set forth in this section are established to ensure that these Congressional requests are treated uniformly and responded to promptly.

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### GUIDELINES AND PROCEDURES

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Specific guidelines and procedures governing the handling of incoming requests (both oral and written), the coordination of responses, and the transmittal of documents are set forth below:

1. Sensitive documents are documents within the agency's possession which have not been disclosed to the public and which may be withheld from public disclosure under the Freedom of Information Act (FOIA) or Privacy Act.
2. The Office of Congressional Affairs (OCA) is the proper office to handle requests from members of Congress or Congressional committees and their staffs for sensitive documents. In the event such requests are received elsewhere in NRC, they should be referred to OCA for handling. OCA is to assure that all such requests are accorded uniform treatment and responded to promptly within the guidelines established by the Commission.
3. Sensitive documents will normally be provided only upon written request. While sensitive documents are requested orally by a member of Congress or a Congressional staff person, OCA should inform the requestor that the document or documents requested contain sensitive information and ask that a written request be made to the Commission. In matters where time is of the essence, the written request of a member of Congress or Congressional staff person may be dispensed with as long as the request is memorialized by OCA. Copies of all memoranda prepared by OCA which memorialize such requests are circulated to the Commission by OCA. The Commission's general practice is to provide sensitive documents requested by Members of its Congressional oversight committees. It will also provide sensitive documents to other Members of Congress when the

## **CHAPTER VI – TRANSMITTAL OF SENSITIVE DOCUMENTS TO CONGRESS**

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documents address matters pertaining to his or her State or District. In other circumstances, OCA should advise the Member that the NRC prefers that such requests be made through the full Committee or Subcommittee Chairman or ranking minority Member of an NRC oversight committee.

4. Documents relating to ongoing security activities, formal adjudications, pending enforcement actions, or ongoing investigations are particularly sensitive, and the Commission's preference is that these documents not be requested by, or provided to, Congress until after the agency has decided the matter at issue. When documents within these categories are requested, OCA will discuss the sensitivity of the document with the requester and ask that NRC provision of the document be deferred until after the agency has made its decision on the matter at issue. If the requester refuses to withdraw or defer his or her request, then OCA, after consultation with the Commission, will provide these documents to Congress pursuant to the procedures set forth below.
5. Unless otherwise directed by the Commission, sensitive documents are to be transmitted by the Director, OCA, under a cover letter which identifies their sensitive nature and requests that the documents be held in confidence with access limited to members and committee staff. It should clearly identify the documents supplied. Where not previously established, the exact wording of the cover letter should be coordinated with the Office of the General Counsel (OGC). Each page of each sensitive document provided shall be marked "Not for Public Disclosure."
6. As with all other correspondence with Congressional Committees and Subcommittees, copies of the transmittal letter should be routinely provided to the Committee Chairman or Ranking Minority Member. If requested, the documents supplied as enclosures to the transmittal letter should be provided. Copies of all letters transmitting sensitive documents to Congress are circulated to the Commission by OCA.
7. All letters going to Congress transmitting Safeguards Information should have in the body of the letter the following:

Enclosure(s) XX contains Safeguards Information and must be handled and stored in accordance with 10 CFR 73.21 as noted and described in the cover sheet. Therefore, I request that access to this (these) enclosure(s) be limited to you and those of your staff who have a need-to-know. In addition, pursuant to Section 149 of the Atomic Energy Act of 1954, as amended, and 10 CFR 73.59, access to Enclosure(s) XX must be restricted to those members of your staff who have undergone fingerprinting for a prior U.S. government criminal history check.

## **CHAPTER VI – TRANSMITTAL OF SENSITIVE DOCUMENTS TO CONGRESS**

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8. Responses to requests for investigative records compiled for law enforcement purposes should be coordinated with the Executive Director for Operations (EDO), the Office of the General Counsel (OGC), and/or the Office of the Inspector General (OIG), depending upon the nature of the records requested.
9. Responses to requests for the following types of sensitive documents should be coordinated, as appropriate, with the EDO, CFO, and OGC:
  - a. classified documents (National Security Information and Restricted Data);
  - b. documents containing Proprietary Information;
  - c. agency files containing personnel or medical information, the public disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
  - d. documents containing Safeguards Information;
  - e. draft documents containing inspection and enforcement findings, either in their entirety or excerpts from them;
  - f. staff drafts, predecisional memoranda, and letters containing advice, recommendations, or opinions prepared in or by an office reporting to the Commission, EDO, or CFO, on matters pending agency review and decision; and
  - g. documents containing confidential commercial information relating to the awarding of grants, contracts, or other agency procurement actions, disclosure of which may jeopardize the agency's competitive position.
10. Responses to requests for documents containing classified or Safeguards Information should also be coordinated with the EDO Office of Nuclear Security and Incident Response. Established procedures for handling and storing classified or Safeguards Information should be followed and delivery made only to Congressional staff persons with the appropriate clearance and need to know.
11. Classified documents originated by another agency will not be transmitted, and the requester will be advised to contact the originating agency directly, pursuant to Executive Order 12958. The possible release of NRC documents containing classified information originated by another agency will be coordinated with the originating agency. In addition, Sensitive Unclassified Non-Safeguards Information (SUNSI) documents (e.g. Homeland Security Information or other sensitive security

## **CHAPTER VI -- TRANSMITTAL OF SENSITIVE DOCUMENTS TO CONGRESS**

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- related information) received from another Federal agency will not be transmitted.
12. Requests for lists of SECY papers and other administrative records relating to the deliberative, decision-making process of the Commission should be coordinated with the Office of the Secretary (SECY).
  13. Responses to requests for sensitive documents used in the deliberative, consultative, or decision-making activities of the Commission itself should be coordinated with the Commission. These documents include the following items:
    - a. transcripts or electronic recordings of Commission meetings closed pursuant to the Government in the Sunshine Act (e.g., pending adjudications and enforcement actions, pending investigations, litigative strategy and frank discussion of individuals where release would invoke privacy issues);
    - b. interoffice communications between and among Commissioners and their personal staff containing predecisional advice, recommendations, or opinions;
    - c. documents containing predecisional staff advice, recommendations or opinions prepared by a member of a Commissioner's personal staff or a special consultant to a Commissioner; and
    - d. documents containing predecisional staff advice, recommendations, or opinions of an office reporting directly to the Chairman, Office of Congressional Affairs (OCA), and Office of Public Affairs (OPA), or to the Commission (OGC, SECY, OCAA, OIP, and the EDO). (These documents specifically include those subject to the attorney-client privilege and documents prepared by legal counsel which reveal the theory of a case or litigative strategy. They also include investigative reports prepared by OI pending Commission action).
  14. In coordinating with Commissioner offices, OCA should first collect the requested documents in coordination with SECY and the relevant Commission-level offices. Once the documents have been compiled and a cover letter drafted, a listing of the documents and the draft cover letter should be provided to each Commissioner for his or her review. Unless otherwise advised by the Commission, the Director, OCA, may transmit the requested documents to the requesting party in the afternoon mail

## **CHAPTER VI – TRANSMITTAL OF SENSITIVE DOCUMENTS TO CONGRESS**

on the third business day after circulation to Commissioners.<sup>23</sup>

15. In some cases, where the nature of the documents is highly sensitive, the Commission may wish to consider alternatives to direct transmittal. For example, the Commission may wish to suggest retaining the documents on the premises and making them available to Congressional staff for their review. It is the responsibility of the Director, OCA, and of the EDO, CFO, or the relevant Office Director to call the attention of the Commission to especially sensitive documents which in their judgment may require special handling.
16. In cases where non-public documents requested by a Congressional source are also being requested under a FOIA request, they should be transmitted to the requesting Congressional committee under a cover letter signed by the Director, OCA, explaining that the documents are subject to a pending FOIA request and requesting that they be maintained in confidence pending a FOIA determination. In cases where there is no FOIA request pending, the cover letter should simply state that the document or documents are not publicly available and ask that they not be disclosed to the public.
17. The originating office shall promptly advise OCA of any subsequent determination authorizing the public release of documents sent to Congress under sensitive handling procedures. OCA should then inform Congressional committees which have been given these documents of such a determination.

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<sup>23</sup> Appendix 13 contains a checklist for use by relevant offices which, in coordination with OCA/OGC and SECY, are gathering Commission documents pursuant to Congressional document requests.

## CHAPTER VII

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# CONGRESSIONAL HEARINGS

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The Chairman, as official spokesman for the agency, or his designee, is responsible for presenting the agency's testimony for Congressional hearings. All Commissioners will/may attend Congressional hearings either when invited to do so by the Congress or when they elect to attend.

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## PREPARATION OF TESTIMONY AND SUPPORTING INFORMATION

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### 1. Initial Planning Meeting

- Upon learning of a potential Congressional hearing where NRC may be asked to testify, either informally or through a letter of invitation, an initial planning meeting will be set up by the Director of Congressional Affairs with the Chairman or his/her designee. Attendees should also include the Executive Director for Operations (EDO) and the General Counsel (or their designees), as well as other office directors or their designees, as appropriate. A representative from each Commissioner's office may also be invited to attend.
- The purpose of the initial planning meeting is to identify and discuss: (1) the objective(s) of and key topics for the hearing; (2) who should testify for the NRC; (3) NRC's role in the hearing and key messages to be incorporated into the testimony; (4) what backup material is required (questions and answers, plant information summaries, etc.); (5) the role of other hearing panel participants; and (6) relevant supporting documents (GAO reports, etc.) that might provide insight as to the scope and purpose of the hearing.

### 2. Preparation of Testimony and Supporting Information

- The Director of OCA should establish, based on the outcome of the initial planning meeting, and with input from OEDO/OGC, the expected products and overall schedule, with specific milestones, to ensure the timely delivery of a high quality product to the Commission for review and approval and to the Congress for presentation.

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## CHAPTER VII – CONGRESSIONAL HEARINGS

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- If exceptional circumstances arise and it is apparent that there is insufficient time to follow the above schedule, the Office of Congressional Affairs will advise the Chairman who will determine whether an attempt should be made to negotiate an extension with the Congress. If an extension is neither sought nor granted, OCA, after consulting with the Chairman, will reallocate the review time and inform the Commission.
- OCA and the staff shall designate the lead individuals for each hearing who will be responsible for coordinating preparation of the testimony and hearing materials utilizing NRC staff input. The EDO and/or General Counsel, as appropriate, will assign one staff individual (at the OEDO level) the responsibility, authority, and accountability for facilitating preparation of input materials for the hearing and providing them to OCA. This staff person must remain cognizant of the status of the prepared materials and assist OCA in the timely delivery of the required materials to the Commission for review and approval and to Congress, and any pre-hearing and post-hearing agency followup work. The final draft testimony must be timely so that the Chairman will be afforded enough time to review the document and allow the Chairman's Office to forward the testimony to the Commissioners for comment and approval at least 3 days prior to the scheduled deadline for submittal to Congress. Time must also be provided for OMB review of draft testimony addressing budgetary needs (e.g., appropriations or authorization bills).
- The backup Questions and Answers (Q's and A's) must be concise; contain messages consistent with the testimony; address key areas of Congressional concern as we understand them; and address related GAO, IG, or other report findings. Any new information should be brought to the specific attention of the Commission. The backup Q's and A's must be timely so that the Chairman will be afforded enough time to review the document and allow the Chairman's Office to forward the Q's and A's to the Commissioners at least 3 days prior to the hearing.
- If a Commissioner wishes to have his or her separate views noted in the Chairman's testimony, he or she is urged to provide input to the Chairman and the other Commissioners when his or her comments are provided on the draft testimony. If a Commissioner decides to prepare his or her own testimony, the testimony must be circulated to the other Commissioners for their information no later than 24 hours before the scheduled hearing.
- A few days before the hearing, a pre-brief will be scheduled by OCA to provide any last minute intelligence and logistics, to answer any questions

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## CHAPTER VII – CONGRESSIONAL HEARINGS

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the witness may have, and listen to delivery of the oral statement by the witness in order to make any adjustments as needed. Typically attendance should be kept to a minimum subject to the needs of the witness, and may include the heads of OCA, OPA, EDO, OGC, CFO, or their designee, and a representative from the Chairman's Office (if he/she is not the NRC witness) should attend. Other office directors may be invited depending on the Congressional entity conducting the hearing and the subject matter.

- Representatives of other Commissioner offices may also be invited and are expected to be invited whenever practicable for hearings in which the entire Commission will participate.

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## COMMITMENTS AND POST-HEARING QUESTIONS

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During the course of a Congressional hearing, officials who testify for NRC occasionally make commitments to provide additional information at a later date. Witnesses are also frequently asked to supply documents or information for the hearing record. In other situations, witnesses may promise to examine a particular matter and report back to an individual Member of Congress. Specific guidelines and procedures for tracking commitments made in Congressional hearings and forwarding responses to Congress are as follows:

- Within 24 hours of the hearing, the Office of Congressional Affairs will provide a brief summary of the hearing via e-mail to the Commission offices, EDO, CFO, OPA, OGC, and other appropriate offices. Within 3 days of the hearing, a full report will follow through a memorandum to the Commission from the Director of Congressional Affairs. The memorandum will include any commitments derived from the hearing.
- The memorandum prepared by the Office of Congressional Affairs will task the EDO, CFO, or the appropriate Commission level office to furnish the documents or information promised during the course of the hearing. The memorandum will provide a suspense date negotiated with the EDO or appropriate Commission-level office that will furnish the information (or will state that the material has already been located and provided).
- If the promised information will be provided in the form of signed correspondence from the Commission, EDO, or the CFO, SECY will be requested to track the commitment on the Commission Correspondence Tracking Sheet. In such cases, the memorandum prepared by the Office of

## **CHAPTER VII – CONGRESSIONAL HEARINGS**

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Congressional Affairs will carry the notation: "SECY, please track with correspondence." The action office will forward the completed correspondence to SECY, which will clear the correspondence with the Commission in accordance with the procedures set forth in Chapter V before forwarding it to Congressional Affairs for delivery to Congress.

- If the information is to be provided in a form other than signed correspondence (e.g., documents intended as inserts for the hearing record), the Office of Congressional Affairs will track the commitment and clear the information with the Commission before delivering it to Congress.
- Post-hearing questions are normally handled as part of the hearing record and response time schedules are the same as for pre-hearing questions. However, post-hearing communications with the House Appropriations Committee are handled by the Chief Financial Officer (CFO) and response times schedules are set by the CFO in coordination with the Chairman's Office and OCA.
- Documents for Congress that are publicly available do not have to be cleared with the Commission before they are provided to Congress.
- Copies of hearing transcripts will be distributed to the appropriate EDO, CFO, and Commission level offices by OCA for editing. The Office of Congressional Affairs will prepare the final edited transcript for Congress.
- All items will be forwarded to OCA for transmittal to the Congress. OCA will transmit inserts for the hearing record along with the edited hearing transcript. All items will be transmitted promptly.

**APPENDIX 1**

**PROCESS FOR OBTAINING NOMINATIONS FOR  
NRC'S ADVISORY COMMITTEES**

## APPENDIX 1

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### PROCEDURES FOR OBTAINING NOMINATIONS FOR NRC'S ADVISORY COMMITTEES

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1. The Designated Federal Official for the committee with the vacancy should prepare a draft Federal Register Notice and a Press Release for Commission approval and a list of the professional societies/technical organizations to which it would be sent for the solicitation of nominations. These documents will indicate what specific expertise/skills are being sought for the opening. The specific expertise/skills will be chosen in consultation with the advisory committee which has the opening.
2. At the time of publication of the Federal Register Notice and Press Release, notification of the search for nominations will be given to appropriate professional societies/technical organizations. The advisory committee with the opening should be specifically invited to suggest candidates.
3. All nominations and resumes should be sent directly to the Office of Human Resources (OHR).
4. OHR should convene the appropriate screening panel for review of nominations and provide it with the necessary administrative support. The panel will be composed of:
  - a. a representative of the Commission or the principal staff office with whom the committee works;
  - b. a (full-time Federal employee) representative of the advisory committee with the existing or anticipated vacancy; and
  - c. an appropriate individual (full-time Federal employee with expertise being sought) identified by the Commission from outside the agency should be invited by the NRC Chairman to join the Panel.
5. Each screening panel will:
  - a. Review and rate the nominations for the selecting official using as benchmarks the specific expertise/skills being sought for the opening, as well

## APPENDIX 1

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### PROCEDURES FOR OBTAINING NOMINATIONS FOR NRC'S ADVISORY COMMITTEES (Continued)

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as the individual's breadth of knowledge and ability/experience in applying his/her skills to problems outside of their specific field of expertise. The panel's report should list all of the qualified candidates, and it should rank at least the best qualified candidates. A brief narrative should be provided identifying the criteria and rationale for the best qualified rankings.

- b. In carrying out the provisions of (a) above, the panel may seek the advice of other individuals whose views may be useful to the screening panel.
  - c. Submit a copy of the panel's report to the appropriate committee for its independent recommendation on the nominees, as well as submit a copy to the Commission (or to the designated selecting official for the particular advisory committee).
6. The advisory committee should submit its selection recommendations to the screening panel, and/or the Commission (or the designated selecting official) as they see fit.

**APPENDIX 2**

**PROCEDURES FOR HANDLING WITHHELD  
DOCUMENTS IN COMMISSIONERS' OFFICES  
UNDER FOIA**

## APPENDIX 2

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### PROCEDURES FOR HANDLING WITHHELD DOCUMENTS IN COMMISSIONERS' OFFICES UNDER FOIA

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1. Each Commissioner's office will give SECY copies of all the documents covered by the FOIA request, including the documents to be withheld, with the applicable exemption number for each document to be withheld.
2. When a Commissioner does not want OGC or the FOIA office to see a document to be withheld, the Commissioner's office will provide SECY, to be forwarded to OGC, a "certification" (Attachment) that the Commissioner's legal assistant has reviewed the document, and that it can be withheld under a specific stated FOIA exemption.
3. SECY will maintain the required separate "six-year" file of documents which are withheld by the Commission offices rather than sending the documents to the FOIA office. Maintenance of these files will be in accordance with Schedule 14 of the Records Disposition Schedule, Records & FOIA/Privacy Services Branch, OIS.

Attachment

**ATTACHMENT**  
**TO APPENDIX 2**

**CERTIFICATION**

Upon review of the records subject to the Freedom of Information Act Request (FOIA)\_\_\_\_\_, the documents listed below, or the indicated portions thereof, should be withheld from release under the above reference FOIA request. The undersigned hereby certifies that each document or portion thereof is exempt from public disclosure for the exemption set forth below.

\_\_\_\_\_  
NAME AND OFFICE

\_\_\_\_\_  
DATE

**WITHHELD DOCUMENTS**

**EXEMPTION**

- 1.
- 2.
- 3.
- 4.
- 5.

**APPENDIX 3**

**SAMPLE VOTE SHEET**

NOTATION VOTE  
RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary  
FROM: CHAIRMAN KLEIN  
SUBJECT: **SECY-06-0143 - STAKEHOLDER COMMENTS  
AND PATH FORWARD ON DECOMMISSIONING  
GUIDANCE TO ADDRESS LICENSE  
TERMINATION RULE ANALYSIS ISSUES**

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

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

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

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

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

**APPENDIX 4**

**BASIS FOR DETERMINING VOTING RESULTS**

## APPENDIX 4

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### BASIS FOR DETERMINING VOTING RESULTS

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In determining the outcome of Commission votes, the following rules apply:

1. votes from at least a quorum of 3 Commissioners are required to act;
2. a vote to "abstain" may be counted to constitute a bare quorum if there are less than 3 yes votes plus no votes;
3. action is based on the majority of those participating (yes votes plus no votes plus the **abstain** votes used for establishing a quorum of 3 Commissioners).

#### Primary Examples:

	Votes		<u>Abstain</u>	<u>Not Particip.</u>	<u>Quorum</u>	<u>Results</u>
	<u>Yes</u>	<u>No</u>				
Case 1	3	0	0	2	Yes	Passes
Case 2	0	3	2	0	Yes	Fails
Case 3	2	2	0	1	Yes	No Action
Case 4	2	2	1	0	Yes	No Action
Case 5	2	1	2	0	Yes	Passes
Case 6	2	1	1	1	Yes	Passes
Case 7	2	1	0	2	Yes	Passes
Case 8	2	0	1	2	Yes	Passes
Case 9	2	0	0	3	No	No Action
Case 10	2	0	2	1	Yes	Passes
Case 11	1	0	2	2	Yes	No Action
Case 12	1	1	0	3	No	No Action
Case 13	2	0	3	0	Yes	Passes

**APPENDIX 5**

**RESOLUTION OF 2-2 VOTE**

## APPENDIX 5

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### RESOLUTION OF 2-2 VOTE

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As a general matter requests for Commission action will be denied if the Commission vote is 2-2.<sup>1</sup> Therefore, a 2-2 vote will result in:

- a. denial of staff recommendations, except as noted below;
- b. denial of full power operating licenses;
- c. referral of export license applications to the President;
- d. denial of motions in adjudicatory proceedings;
- e. denial of motions for reconsideration challenging Commission adjudicatory orders or other Commission statements having a legal effect;
- f. denial of review of Licensing Board decisions and Director's Decisions under 2.206, even if staff recommends "review";
- g. denial of requests to close Commission meetings or to hold meetings on short notice; and
- h. denial of requests by members of the public to speak at Commission meetings.

Exceptions to this rule include:

- a. The Commission may alter policy decisions which have not been set forth in an adjudicatory order or policy statement. For example, if the Commission previously took the position that the Commission's export licensing responsibilities should be given to the Executive Branch, a 2-2 vote on this would result in a change of that policy to one of the Commission having no position on the matter. This permits the Commission to provide current views on policy matters before Congressional committees, etc.;
- b. If staff has been delegated authority to act by the Commission, but as a matter of discretion, seeks Commissioner views before taking action (e.g., an enforcement

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<sup>1</sup> Reference OGC Memorandum of May 25, 1988.

## APPENDIX 5

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### RESOLUTION OF 2-2 VOTE (Continued)

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- action), the staff may take its proposed course of action;
- c. Commissioner requests for extension of time to respond to staff papers will be granted because under the Commission's procedures such requests are granted unless a majority objects;
  - d. Sunshine Act transcripts will be released because a majority of the full Commission must support invocation of an exemption;
  - e. Grant of FOIA appeals because a majority must support invoking an exemption.

In some cases rather than taking action on a matter that resulted in a 2-2 vote, the Commission may choose to defer a decision until a fifth Commissioner has been appointed.

**APPENDIX 6**

**SPECIALIZED PROCEDURES WHEN  
COMMISSION REVIEW TIME FOR  
ADJUDICATORY ACTIONS IS LIMITED**

## APPENDIX 6

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### **SPECIALIZED PROCEDURES WHEN COMMISSION REVIEW TIME FOR ADJUDICATORY ACTIONS IS LIMITED**

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When Commission review time is limited by NRC rules in adjudicatory actions,<sup>1</sup> the following procedures are applied.

1. Prior to or concurrent with the submission of a SECY adjudicatory paper for the Commission's consideration, the originating office (usually the Office of Commission Appellate Adjudication (OCAA), but in some circumstances, the General Counsel (OGC)) may request in writing from SECY an extension of time for research, analysis and/or Commission review. SECY can grant initial requests for extensions of up to 30 business days without contacting each Commission office. Should the overall hearing schedule likely be extended as a result of an OCAA extension, prior Commission approval should be obtained. If a prior extension has already been granted, however, and if the time for the additional extension is over 30 business days, SECY will obtain a position from the Commission. Except in extraordinary circumstances, comments should be received 10 business days before the Commission decision is due. SECY enforces this provision.

The Secretary may also authorize an extension of time, without prior Commission approval, to conform the review time for an adjudicatory matter to external events (such as subsequent related Licensing Board decisions, reconsideration motions, and staff papers requiring affirmation).

2. The same general procedure applies after a paper has been issued and is pending action by the Commission. If a Commissioner requests extension of the review time in writing and if there has been no majority position on the paper, SECY will routinely grant an initial extension of no longer than one business week.

Subsequent extensions and extensions requested after formulation of a majority position will be granted subject to the wishes of the majority.

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<sup>1</sup> In accordance with the requirements of 10 CFR Section 2.341, within 40 calendar days after the date of a decision of a presiding officer or within 40 calendar days after a petition for review of a decision of a presiding officer, which ever is greater, the Commission may review the decision or action on its own motion (*sua sponte*), unless the Commission in its discretion extends the time for its review.

**APPENDIX 6**

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**SPECIALIZED PROCEDURES WHEN COMMISSION REVIEW TIME  
FOR ADJUDICATORY ACTIONS IS LIMITED (Continued)**

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3. The Secretary issues an order informing the appropriate Board and the parties of review time for which the Commission extends the time for its review in accordance with 10 CFR 2.341.

**APPENDIX 7**

**STAFF REQUIREMENTS MEMORANDUM AND  
COMMISSION VOTING RECORD**



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

June 2, 2006

SECRETARY

MEMORANDUM TO: Luis A. Reyes  
Executive Director for Operations

FROM: Annette L. Vietti-Cook, Secretary 

SUBJECT: STAFF REQUIREMENTS - SECY-06-0097 - PROPOSED  
RULEMAKING TO AMEND 10 CFR PARTS 19, 20, AND 50:  
OCCUPATIONAL DOSE RECORDS, LABELING CONTAINERS,  
AND THE TOTAL EFFECTIVE DOSE EQUIVALENT (RIN  
3150-AH40)

The Commission has approved the staff's recommendation to publish in the *Federal Register* the proposed amendments to 10 CFR Parts 19, 20, and 50, subject to the changes noted below. The Commission also agreed that the staff should certify that, based on the information currently available, the proposed rule, if adopted, is not likely to have a significant economic impact on a substantial number of small entities.

Changes to the draft *Federal Register* notice

1. Page 1, paragraph 1, revise line 7 to read '... to be clarify that it is consistent with ....'
2. Page 2, 3<sup>rd</sup> full paragraph, revise line 1 to read 'If you do not receive ....'
3. Page 7, 1<sup>st</sup> full paragraph, revise lines 1 and 2 to read '... licensees would ~~continue the current~~ provide reporting to ~~for all~~ occupationally exposed individuals ~~except for those individuals whose annual dose does not exceeds~~ 1 millisievert ....'
4. Page 7, 2<sup>nd</sup> full paragraph, revise line 3 to read '... dose limits in 10 CFR 20.1201(a).'
5. Page 8, 2<sup>nd</sup> full paragraph, revise line 2 to read '... administrative and reporting information ~~collection~~ burdens on ....'
6. Page 15, 2<sup>nd</sup> *Response*, insert the following as the 1<sup>st</sup> sentence: "The NRC believes that the applicability of the criterion is clear and no further changes are required." Revise the last line to read '... of 1 mSv (100 mrem) at that ....'
7. Page 17, 1<sup>st</sup> *Response*, insert the following as the 1<sup>st</sup> sentence: "The NRC disagrees with this comment."
8. Page 43, 2<sup>nd</sup> paragraph under section 3.3.4, next to last line, delete the extra "\$" before "8,500".

cc: Chairman Diaz  
Commissioner McGaffigan  
Commissioner Merrifield  
Commissioner Jaczko  
Commissioner Lyons  
OGC  
CFO  
OCA  
OPA  
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)  
PDR



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

June 2, 2006

SECRETARY

COMMISSION VOTING RECORD

DECISION ITEM: SECY-06-0097

TITLE: PROPOSED RULEMAKING TO AMEND 10 CFR PARTS 19, 20, AND 50: OCCUPATIONAL DOSE RECORDS, LABELING CONTAINERS, AND THE TOTAL EFFECTIVE DOSE EQUIVALENT (RIN 3150-AH40)

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of June 2, 2006.

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

A handwritten signature in black ink, appearing to read "Annette L. Vietti-Cook".

Annette L. Vietti-Cook  
Secretary of the Commission

Attachments:

1. Voting Summary
2. Commissioner Vote Sheets

cc: Chairman Diaz  
Commissioner McGaffigan  
Commissioner Merrifield  
Commissioner Jaczko  
Commissioner Lyons  
OGC  
EDO  
PDR

VOTING SUMMARY - SECY-06-0097

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. DIAZ	X				X	5/10/06
COMR. McGAFFIGAN	X				X	5/19/06
COMR. MERRIFIELD	X				X	5/16/06
COMR. JACZKO	X					5/24/06
COMR. LYONS	X				X	5/18/06

COMMENT RESOLUTION

In their vote sheets, all Commissioners approved the staff's recommendation and some provided additional comments. Subsequently, the comments of the Commission were incorporated into the guidance to staff as reflected in the SRM issued on June 2, 2006.

NOTATION VOTE  
RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary  
FROM: CHAIRMAN DIAZ  
SUBJECT: **SECY-06-0097 - PROPOSED RULEMAKING TO  
AMEND 10 CFR PARTS 19, 20, AND 50:  
OCCUPATIONAL DOSE RECORDS, LABELING  
CONTAINERS, AND THE TOTAL EFFECTIVE  
DOSE EQUIVALENT (RIN 3150-AH40)**

Approved <sup>x</sup>   *LD*   Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_  
Not Participating \_\_\_\_\_

COMMENTS:

See attached comments.

  *Luis Diaz*    
SIGNATURE  
  *May 10, 06*    
DATE

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

**Chairman Diaz's Comments on SECY-06-0097**

I agree with the staff's determination that the proposed amendments would effectively aid in reducing administrative and information collection burdens while maintaining protection of the health and safety of workers, the public, and the environment.

I approve the staff's recommendation to publish in the *Federal Register* the proposed amendments to 10 CFR Parts 19, 20, and 50. I also agree that the staff should certify that, based on the information currently available, the proposed rule, if adopted, is not likely to have a significant economic impact on a substantial number of small entities.

A handwritten signature in black ink, appearing to be 'LD', is located to the right of the second paragraph of text.

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: COMMISSIONER MCGAFFIGAN

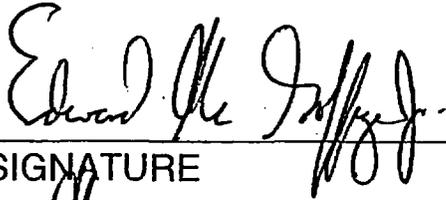
SUBJECT: **SECY-06-0097 - PROPOSED RULEMAKING TO AMEND 10 CFR PARTS 19, 20, AND 50: OCCUPATIONAL DOSE RECORDS, LABELING CONTAINERS, AND THE TOTAL EFFECTIVE DOSE EQUIVALENT (RIN 3150-AH40)**

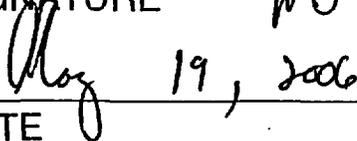
Approved <sup>w/comments and edits</sup>  Disapproved  Abstain

Not Participating

COMMENTS:

See attached.

  
\_\_\_\_\_  
SIGNATURE

  
\_\_\_\_\_  
DATE

Entered on "STARS" Yes  No

## Commissioner McGaffigan's Comments on SECY-06-0097

I approve for publication in the Federal Register the proposed amendments to 10 CFR Parts 19, 20, and 50. I also agree that, based on the information currently available, the proposed rule, if adopted, is not likely to have significant economic impact on a substantial number of small entities. I am providing the following edits to the draft federal register notice.

1. draft federal register notice, p. 2, middle of the page,

"E-mail comments to: [SECY@nrc.gov](mailto:SECY@nrc.gov). If you do not receive a reply e-mail confirming . . . "

2. draft federal register notice, p. 7, first full paragraph

"The NRC is proposing a change to the notification requirement in 10 CFR 19.13(b) so that licensees would ~~continue the current~~ provide reporting to for all occupationally exposed individuals except for those individuals whose annual dose ~~does not exceeds~~ 1 millisievert (mSv) (100 millirem (mrem)) TEDE or 1 mSv (100 mrem) to any individual organ or tissue in the preceding year. . ."

3. draft federal register notice, p. 7, second full paragraph

"In the draft rule language previously published by the NRC (69 FR 8350; February 24, 2004), the proposed threshold for reporting doses to individuals was two percent of the dose limits in 10 CFR 20.1201(a). . ."

4. draft federal register notice, p. 8, first full paragraph. It appears that information collection burdens would remain the same, but reporting burdens would be lower.

"Based upon this information, the proposed change to the regulations would result in a significant reduction in administrative and reporting information collection burdens on licensees. . ."

5. draft federal register notice, p. 15, second response

". . . Under the proposed regulations, the licensee would be required to provide only those reports (NRC Form 5s) to an individual whose recorded dose exceeded the reporting threshold of 1 mSv (100 mrem) at that facility.

6. draft federal register notice, Section III. Public comments.

In general, the staff's response to each comment should clearly state whether NRC agrees or disagrees, and the basis for any change or lack thereof.

FRN, p. 15, second response, add a new opening sentence:

"The NRC believes that the applicability of the criterion is clear and no further changes are required. . ."

FRN, p. 17, first response, add a new opening sentence:

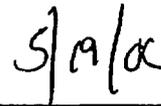
"The NRC disagrees with this comment. . ."

7. draft federal register notice, p. 43, second paragraph under Section 3.3.4, last sentence, extra "\$"

"... For a discounted flow of funds at a 7 percent rate, the estimated savings per nuclear power plant and for the nuclear power industry are \$120,000 (\$8,500 x 13.77) and \$12 million (\$880,000 x 13.77), respectively."



Edward McGaffigan Jr.



(Date)

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary  
FROM: COMMISSIONER MERRIFIELD  
SUBJECT: **SECY-06-0097 - PROPOSED RULEMAKING TO AMEND 10 CFR PARTS 19, 20, AND 50: OCCUPATIONAL DOSE RECORDS, LABELING CONTAINERS, AND THE TOTAL EFFECTIVE DOSE EQUIVALENT (RIN 3150-AH40)**

Approved  Disapproved  Abstain

Not Participating

COMMENTS:

*See attached comments.*

  
\_\_\_\_\_  
SIGNATURE

*5/16/06*  
\_\_\_\_\_  
DATE

Entered on "STARS" Yes  No

Comments from Commissioner Merrifield on SECY-06-0097:

I approve the staff recommendations in SECY-06-0097 with one edit as described below. This is an appropriate action that reduces regulatory burdens but also maintains adequate protection of the public health and safety.

My editorial comment is to revise the third sentence of the first paragraph in the *Federal Register* Notice to read as follows:

“The proposed rule would also amend the definition of TEDE to be clarify that it is consistent with current Commission policy.”

NOTATION VOTE  
RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary  
FROM: COMMISSIONER JACZKO  
SUBJECT: **SECY-06-0097 - PROPOSED RULEMAKING TO AMEND 10 CFR PARTS 19, 20, AND 50: OCCUPATIONAL DOSE RECORDS, LABELING CONTAINERS, AND THE TOTAL EFFECTIVE DOSE EQUIVALENT (RIN 3150-AH40)**

Approved  Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_  
Not Participating \_\_\_\_\_

COMMENTS:

\_\_\_\_\_  
SIGNATURE  
\_\_\_\_\_  
5/24/06  
\_\_\_\_\_  
DATE

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

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: COMMISSIONER LYONS

SUBJECT: **SECY-06-0097 - PROPOSED RULEMAKING TO  
AMEND 10 CFR PARTS 19, 20, AND 50:  
OCCUPATIONAL DOSE RECORDS, LABELING  
CONTAINERS, AND THE TOTAL EFFECTIVE  
DOSE EQUIVALENT (RIN 3150-AH40)**

Approved  Disapproved  Abstain

Not Participating

COMMENTS:

Peter B. Lyons  
SIGNATURE



5/ 18 /06  
DATE

Entered on "STARS" Yes  No

**Commissioner Lyons' Comments on SECY-06-0097**

I approve staff's recommendation to publish in the *Federal Register* the proposed amendments to 10 CFR Parts 19, 20, and 50. I also agree that staff should certify that, based on the information currently available, the proposed rule, if adopted, is not likely to have significant economic impact on a substantial number of small entities.

  
Peter B. Lyons      5/18/06  
Date

**APPENDIX 8**

**PROCEDURES FOR STAFF PRESENTATIONS  
AT COMMISSION MEETINGS**

## APPENDIX 8

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### PROCEDURES FOR STAFF PRESENTATIONS AT COMMISSION MEETINGS

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In the interest of conserving time the following procedures apply to all staff members presenting information at Commission meetings.

1. The presentation should be based on the assumption that Commissioners have read the background paper(s) and are familiar with its content(s).
2. Briefings should cover approximately one-half of the allotted time; the remainder should be reserved for questions and answers.
3. At the outset, briefers should clearly identify the focus of the briefing, should indicate whether there are any safety, security, or preparedness implications, and describe any potential new resource requirements (both personnel and financial).
4. Briefers should summarize background history through emphasis on only the important events.
5. Briefers should not read slides and handouts verbatim and should discuss only the high points to which they wish to focus the Commission's attention.
6. The briefing should be completed within the allotted time.
7. Briefers should follow guidance outlined in the EDO Memorandum to Office Directors and Regional Administrators dated December 6, 2001 (ML013410072), for the preparation and processing of visuals for Commission meetings (slide template may be found at ML013410107).
8. A sufficient number of copies of the viewgraphs or other relevant written information should be placed in the Commission briefing room 20 minutes before the start of the briefing for the public.

**APPENDIX 9**

**NUCLEAR REGULATORY COMMISSION ISSUANCES**

## APPENDIX 9

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### NUCLEAR REGULATORY COMMISSION ISSUANCES

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The following types of significant Commission adjudicatory decisions are published in "Nuclear Regulatory Commission Issuances" (NRCI).

1. Orders addressing a significant issue of law or policy, including but not limited to:
  - a. those which apply established rule of law to factual situations significantly different from those in earlier published orders;
  - b. those useful for the historical record;
  - c. those where the Licensing Board decision is modified or reversed by the Commission;
  - d. those not accepting the rationale of previously published decisions.
2. Licensing and enforcement orders issued by the Boards and the Commission which may not address significant legal or policy questions, but which are nonetheless significant because of their content (e.g., suspension of licenses, imposition of civil penalties, results of immediate effectiveness reviews, action in cases likely to result in judicial review).
3. Orders applying legal theories or administrative policies in cases not significant by themselves, but which contain issues capable of arising again where precedent would be useful (e.g., Seabrook low power operation order addressing financial qualification of applicants for low power operation license CLI-88-10, 28 NRC 573 (1988)).
4. Grants or denials of significant stay motions.

Ordinarily, insignificant Orders (e.g., Orders under 10 CFR 346) and minor procedural Orders (e.g., extensions of time and scheduling matters) are not published in NRCI.

**APPENDIX 11**

**RECORD OF NON-SUNSHINE ACT DISCUSSION**



**APPENDIX 12**

**CORRESPONDENCE RESPONSE SHEETS**

CORR: 06-0095

CORR: 06-0095

## COMMISSION CORRESPONDENCE

### Correspondence Response Sheet

**Date:** July 17, 2006

**To:** Chairman Klein  
Commissioner McGaffigan  
Commissioner Merrifield  
Commissioner Jaczko  
Commissioner Lyons

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

**Subject:** *Letter to Lisa Jackson, Commissioner, Department of Environmental Protection, State of New Jersey, responds to letter regarding NRC staff's recommendation to terminate the Heritage Minerals, Inc. license*

**ACTION:** *Please comment/concur and respond to the Office of the Secretary by:*

**Time:** 4:00 P.M.

**Day:** Monday

**Date:** July 24, 2006

**Comment:**

**Contact:** George Pangburn, RI/OEDO  
610-337-5281

Entered in STARS Tracking System Yes No

CORR: 06-0096

CORR: 06-0096

## CHAIRMAN CORRESPONDENCE

### Correspondence Response Sheet

**Date:** *July 21, 2006*

**To:** *Chairman Klein*

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

**Subject:** *Letter to Linda J. Keen, President and Chief Executive Officer, Canadian Nuclear Safety Commission, responds to letter regarding appointment as NRC Chariman*

**ACTION:** *Your response must be received in the Office of the Secretary by:*

**Time:** *4:00 P.M.*

**Day:** *Wednesday*

**Date:** *July 26, 2006*

**Comment:**

**Contact:** *J. Jacobson, OIP  
301-415-2977*

**APPENDIX 13**

**COMMISSION OFFICE AND STAFF INSTRUCTIONS  
FOR PROCESSING CONGRESSIONAL  
REQUESTS FOR DOCUMENTS**

**COMMISSION OFFICE AND STAFF INSTRUCTIONS FOR PROCESSING  
CONGRESSIONAL REQUESTS FOR DOCUMENTS**

**Congressional Association**

- Chairman, Oversight Committee
- Member, Oversight Committee
- Individual Member of Congress
- Committee Staff

**Documents to be released:**

- Un-redacted Release
- Redacted Release (based on FOIA/Privacy Act procedures)
- Only publicly available documents

**Provide documents with the following listing:**

- Classified National Security Information
  - Safeguards Information
  - Proprietary Information
  - Privacy Information
  - Sensitive Investigatory Information
  - Sensitive Adjudicatory Information or Attorney-Client Information
  - Sensitive Pre-decisional Information
  - Not Publicly Available, but not of concern if publicly released
  - Publicly Available

**Cover Letter**

- If documents are to be provided and are not to be made public by the requester, please include a statement in the cover letter that documents are sensitive and not to be publicly released. Mark each page of sensitive documents to be provided with "Not for Public Disclosure".

Due Date for Completion of Staff Review: \_\_\_\_\_

OCA Contact: \_\_\_\_\_