



**UNITED STATES
NUCLEAR REGULATORY COMMISSION
ADVISORY COMMITTEE ON REACTOR SAFEGUARDS
WASHINGTON, DC 20555 - 0001**

MEMORANDUM OF UNDERSTANDING

PARTIES: Advisory Committee on Reactor Safeguards
Executive Director for the Advisory Committee on Reactor Safeguards

Nuclear Regulatory Commission
Executive Director for Operations

SUBJECT: ADVISORY COMMITTEE ON REACTOR SAFEGUARDS REVIEW OF
U.S. NUCLEAR REGULATORY COMMISSION TECHNICAL MATTERS

BACKGROUND:

The Advisory Committee on Reactor Safeguards (ACRS) was established as a statutory Committee to the Atomic Energy Commission by a 1957 amendment to the Atomic Energy Act of 1954. The functions of the Committee are described in Sections 29 and 182b. The Energy Reorganization Act of 1974 transferred the Atomic Energy Commission licensing functions to the Nuclear Regulatory Commission (NRC), and the Committee has continued in the same advisory role to the Commission.

The ACRS reports directly to the Commission. It provides the Commission with independent reviews of, and advice on the safety of proposed or existing NRC licensed facilities and the adequacy of proposed safety standards. The ACRS reviews power reactor and fuel cycle facility license applications for which the NRC is responsible and the safety and risk-significant NRC regulations and guidance relating to these facilities. On its own initiative, the ACRS may conduct reviews of specific generic matters or nuclear facility safety and risk-significant items. The Committee also advises the Commission on safety and risk-significant technical issues, and performs other duties as the Commission may request. Upon request from the Department of Energy (DOE) and with the consent of the Commission, the ACRS provides advice on U.S. naval reactor designs, and hazards associated with DOE nuclear activities and facilities. Upon request and with the consent of the Commission, the ACRS also provides technical advice to the Defense Nuclear Facilities Safety Board.

ACRS operations are governed by the Federal Advisory Committee Act (FACA), which is implemented through NRC regulations at 10 CFR Part 7, "Advisory Committees." Pursuant to this, the Committee functions under a Charter, which establishes the Committee's objectives, scope of activities, and duties. The most recent ACRS Charter is available at the ACRS webpage (See Appendix, Section A.6). FACA requirements and ACRS operational practices encourage the public, industry, state and local governments, and other stakeholders to become involved in Committee activities.

PURPOSE:

To achieve high quality and timely regulatory products, the purpose of this Memorandum of Understanding (MOU) is to establish a process to facilitate effective planning and engagement between the NRC staff and the ACRS staff on review activities within the Committee's responsibilities as described above and further specified in the next section. It supersedes the previous MOU, dated October 28, 2009. This MOU should be reviewed biennially and updated as needed.

1. THE SCOPE OF ACRS RESPONSIBILITY

Areas within the ACRS scope of responsibility are identified in the following sections. The order of appearance does not imply any establishment of priorities. Priorities of ACRS responsibilities will be set by the Commission and identified in Commission directives, if necessary.

a. NRC Regulations

The scope of ACRS responsibility encompasses the following parts of NRC regulations found in Title 10 of the *Code of Federal Regulations* (10 CFR). This list is not meant to be comprehensive and is subject to revision:

- Part 20, "Standards for Protection Against Radiation"
- Part 21, "Reporting of Defects and Noncompliance"
- Part 26, "Fitness for Duty Programs"
- Part 40, "Domestic Licensing of Source Material," as applied to decommissioning and waste disposal
- Part 50, "Domestic Licensing of Production and Utilization Facilities"
- Part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions"
- Part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants"
- Part 54, "Requirements for Renewal of Operating Licenses for Nuclear Power Plants"
- Part 55, "Operators' Licenses"
- Part 60, "Disposal of High-Level Radioactive Wastes in Geologic Repositories"
- Part 61, "Licensing Requirements for Land Disposal of Radioactive Waste"
- Part 70, "Domestic Licensing of Special Nuclear Material"
- Part 71, "Packaging and Transportation of Radioactive Material"
- Part 72, "Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater than Class C Waste"
- Part 73, "Physical Protection of Plants and Materials" ¹

¹ The October 31, 2003 Staff Requirements Memorandum states that "In the security arena, the ACRS should continue to focus its attention and expertise on technical issues associated with the progression and potential consequences of postulated terrorist actions, and the assessment of the effectiveness of mitigation strategies. The ACRS should not involve itself in issues associated with threat assessment (i.e., assessments of the likelihood of various types of events), physical security, or force-on-force assessments since these are outside the committee's area of expertise, and involve intelligence information not available to the committee."

- Part 74, “Material Control and Accounting of Special Nuclear Material”
- Part 76, “Certification of Gaseous Diffusion Plants”
- Part 100, “Reactor Site Criteria”

b. Licensing Documents

The Committee reviews the following licensing documents as directed in legislation and/or NRC regulations, as described in the ACRS Charter. These include but are not limited to:

- Applications and associated safety studies (e.g., safety evaluation reports) for construction and operating licenses under Atomic Energy Act, Sections 103, 104b, 104c, any application under Section 104a. or c. specifically referred to it by the Commission, and any application for an amendment to a construction or operating license under Sections 103, 104a., b., or c. specifically referred to it by the Commission:
 - Applications for Early Site Permits, Standard Design Certifications, Combined Licenses, Standard Design Approvals, and Manufacturing Licenses under 10 CFR Parts 52.23, 52.53, 52.87, 52.141, and 52.165.
 - Applications for renewals of nuclear reactor operating licenses under 10 CFR Part 54.25

c. Regulatory Activities

The Committee reviews the following types of regulatory and technical activities and advises the Commission with regard to the risks and safety-significance of those activities. These include, but are not limited to:

- Proposed Commission policy statements
- Rules with safety- or risk-significance
- Regulatory guides, branch technical positions, generic letters, interim staff guidance, standard review plans, and other regulatory guidance documents with safety- or risk-significance
- Risk-significant technical documents which support licensing actions described above in Section b (e.g., topical reports and the associated safety evaluation reports prepared by the staff)
- Prioritization and resolution of generic safety issues
- Risk-informed and performance-based regulation
- NRC-sponsored research (including annual quality review and biennial program review)
- Transient and accident analysis code certification
- Reactor licensee performance assessment and the analysis of plant operating experience
- Regulatory burden reduction initiatives
- Development of regulatory requirements associated with the use of new technology

- Issues associated with nuclear materials and waste management, including matters related to waste management, radiation health effects, and health physics as they pertain to the disposal of nuclear waste (including transportation issues), and the processing of nuclear materials

2. COORDINATION BETWEEN THE NRC PROGRAM OFFICES, REGIONS, AND THE ACRS

a. NRC Program Office ACRS Coordinator

An NRC Program Office ACRS coordinator will be established in each NRC Program Office that has matters for ACRS review (NRR, NRO, RES, NSIR, and NMSS). These office coordinators represent the NRC Program Office Directors regarding ACRS activities and implement the provisions of this MOU for their Program Office. They are responsible for

- Reviewing the reports from the ACRS data management system and ensuring that existing work items to be reviewed by the ACRS are included in the ACRS schedule as appropriate.
- Informing the ACRS Technical Support Branch Chief of revisions to the information in the reports as necessary.
- Establishing NRC Program Office procedures for implementing the provisions of this MOU as determined necessary by the Program Office Director.

b. ACRS Technical Support Branch Chief

Implements the provisions of this MOU for the ACRS. The Branch Chief is responsible for:

- Maintaining the information on matters proposed for review by the ACRS in the ACRS data management system.
- Assigning a staff contact from the ACRS Technical Support Branch with the responsibility for supporting the ACRS review of a proposed item.
- Preparing reports from the data management system, as necessary, that show upcoming schedules of ACRS subcommittee and Full Committee meetings and distributing these reports to the NRC Program Offices and the EDO on a regular basis.
- Ensuring ACRS meetings are conducted in accordance with FACA, and the ACRS Charter and Bylaws (See Appendix)

c. ACRS Staff Contact

Serves as the ACRS contact for the day-to-day interactions with the NRC Program Office technical contact (and other Program Office staff, when appropriate) on the assigned items to support the ACRS review as described in the subsequent sections of and Appendix to this MOU.

d. Program Office Technical Contact

Has the day-to-day responsibility within the Program Office for the item under ACRS consideration and is responsible for: (there may be multiple technical contacts per Program Office. The contact will vary depending on the item under consideration by ACRS and will generally be the lead project manager for the activity):

- Coordination with other Headquarters or Regional staff, NRC contractors, licensee, and vendor staff, and any other persons who should be involved in the ACRS review.
- Cognizant Program Office management review and coordination of the item in accordance with the Office's practices and procedures.
- Ensuring the Program Office ACRS coordinator has the most accurate information on the matter that impacts the scope and schedule of the ACRS review.

e. ACRS Staff and Program Office Technical Contact Coordination

The cognizant ACRS staff and Program Office technical contact will meet periodically and communicate frequently to ensure mutual understanding of the progress on the item for ACRS review and to make any necessary scope and scheduling adjustments accordingly (See Section 4). The Program Office technical contact is responsible for transmittal of the documents to the ACRS for review, and the cognizant ACRS staff is responsible for dissemination of the documents within the Committee (See Appendix).

f. Coordination with NRC Regional Offices and Personnel

Periodically, the ACRS visits NRC Regional Offices and/or licensee facilities. Before arranging such visits, the ACRS staff contact assigned responsibility for the visit will work with the appropriate NRC Regional office to make the necessary arrangements for the visit to the Regional office and/or licensee facility.

3. EARLY INTERACTION AND SELECTION OF MATTERS FOR THE ACRS REVIEW

The NRC Program Office coordinator, representing the cognizant Program Office Director or their designee, with guidance from the EDO or Commission, as appropriate, will identify matters requiring ACRS consideration to allow sufficient time to permit effective and efficient review by the ACRS. NRC Program Office coordinators should have early stage discussions with the ACRS Technical Support Branch Chief and ACRS staff with the goal of identifying proposed topics to be discussed with the Committee. These proposed topics should be tracked in the ACRS data management system. Reports generated by the ACRS Technical Branch Chief showing the upcoming schedules for ACRS review items will be distributed to each NRC Program Office coordinator and the EDO, and should reflect the agreed upon coordination on upcoming review items and schedules. Decisions on whether to review a matter will be made in accordance with Commission guidance, as determined by the needs of the EDO and Program Office Directors, the recommendation of the responsible ACRS subcommittee chairman, and the ACRS Planning and Procedures Subcommittee.

Matters identified for possible ACRS consideration should include all non-administrative, non-routine Commission papers being developed by staff. Early coordination on non-routine Commission papers will minimize completion delays that could occur if the Commission decides late in their development that ACRS review is warranted. The Commission should have the ACRS views on significant regulatory matters when it receives the staff views and recommendations, if possible. Section 4 of this MOU provides guidance to facilitate the review of significant regulatory matters consistent with staff schedules.

Consistent with guidance contained in SECY-15-0129, "Commission Involvement in Early Stages of Rulemaking," the ACRS focuses on significant proposed and final rules that address safety issues. Currently, rulemaking packages in the earliest stage of development come to the ACRS under three circumstances: 1) ACRS review as required by law (e.g., reactor design certification rules), 2) the Commission directs the review, or 3) the Committee uses its own discretion to review. For significant rules, the earliest stage of development, should include the draft regulatory basis, if directed by the Commission or requested by the NRC Program Office Director. Staff in the NMSS Division of Rulemaking will coordinate with ACRS staff to determine whether a given rule falls within the identified circumstances, as well as the stage(s) at which the ACRS will review the rule.

The ACRS will occasionally take up a matter for review on its own initiative. The ACRS will inform the EDO and the cognizant Program Office when these activities are initiated and clearly explain the reasons for the interest by the Committee. If any Program Office support is sought, the ACRS Executive Director will discuss the need with the EDO and the cognizant Program Office Director for the necessary support, including the desired outcome, priority, schedule, and an estimated level of effort. Once an agreement is reached, the ACRS Technical Support Branch will coordinate the relevant activities with the responsible Program Office to enable the ACRS to fulfill its review interests.

4. ESTABLISHING A SCHEDULE FOR THE ACRS REVIEW

Once a matter has been determined to be of interest to the Committee, the assigned ACRS staff contact will work with the Program Office technical contact to arrange a subcommittee meeting, a Full Committee meeting, if needed, and any informal meetings, as needed (the meanings of subcommittee, Full Committee, and informal meetings are addressed in the Appendix).

The cognizant Program Office technical contact will ensure that the schedule for development of a specific matter includes sufficient time for ACRS review. The most important consideration in establishing the timing of a review is to enable the EDO or the Commission to have the benefit of the Committee's advice in making a decision on the matter.

When a proposed regulatory action is to be published for public comment, the ACRS may review the matter both before and after public comment, as appropriate. There may be circumstances when the ACRS will defer its review of a specific matter until after public comments have been received and addressed by the staff. In such cases, the ACRS Executive Director will notify the EDO. The ACRS review will normally occur after the Committee to Review Generic Requirements (CRGR) review such that the CRGR's findings will be available to the ACRS. The Program Office staff should plan for this in its scheduling.

5. DEVIATIONS FROM THIS MOU

These procedures are established to facilitate staff and ACRS interactions. Deviations from these procedures may at times be necessary to carry out the NRC's mission. When this occurs, the procedures can be altered consistent with the needs of the NRC and the ACRS. Such changes will be implemented after being mutually agreed upon by the EDO and the ACRS Executive Director.

6. REFERENCES

1. 10 CFR Part 7, "Advisory Committees"
2. "Charter, Advisory Committee on Reactor Safeguards" (current version on ACRS webpage)
3. "Advisory Committee on Reactor Safeguards Bylaws" (current version on ACRS webpage)
4. EDO Procedure No. 0210, "OEDO Procedure for Coordination with ACRS" (ML13051A757)
5. "Advisory Committee on Reactor Safeguards; Procedures for Meetings" (published annually in the *Federal Register*)
6. "Staff Requirements - Meeting with Advisory Committee On Reactor Safeguards (ACRS), 9:30 A.M., Thursday, October 2, 2003, Commissioners' Conference Room, One White Flint North, Rockville, Maryland (Open to Public Attendance)" October 31, 2003 (ML033040278)
7. ACRS Memorandum, "Procedure for ACRS Review of Regulatory Guides," August 10, 2011 (ML11216A100)
8. ACRS Memorandum, "ACRS Review of Interim Staff Guidance", September 9, 2014 (ML14247A641)
9. SECY-15-0129, "Commission Involvement in Early Stages of Rulemaking," October 19, 2015 (ML15267A759)

September 24, 2018

(Date)

/RA/

Margaret M. Doane
Executive Director for Operations

September 06, 2018

(Date)

/RA/

Andrea D. Veil
Executive Director for ACRS

APPENDIX
CONDUCT OF ACRS REVIEWS AND MEETINGS, ACRS COMMENTS AND
STAFF RESPONSES, AND ADDITIONAL INFORMATION

A.1 ACRS REVIEWS AND MEETINGS

The ACRS will generally perform a review by conducting subcommittee meetings and Full Committee meetings in accordance with the requirements in 10 CFR Part 7 and the "Procedures for Meetings" that are published annually in the *Federal Register*.

The ACRS Technical Support Branch Chief is responsible for the conduct of these meetings with support from the ACRS Technical Support Branch staff, in accordance with the agreed upon schedules as described in this MOU, with the cooperation of the cognizant Program Office staff.

a. Submittal of Documents for ACRS Review

Documents for ACRS review should be provided to the ACRS by the cognizant Program Office technical contact in electronic format. When sending a specific matter to the ACRS for review, the Program Office technical contact will also ensure that the ACRS staff is provided with electronic copies of related documents (e.g., public comments and the staff's resolution of these comments, CRGR comments, if any; staff requests for additional information; supplemental licensee or applicant submittals; staff technical review memoranda; and, as appropriate, directly related differing professional opinions and/or non-concurrences).

The documents in support of meetings of ACRS subcommittees and the Full Committee should be provided to the ACRS staff contact at least four weeks in advance of the meeting. This is the minimum time required for subcommittee members to adequately review the materials. Providing documents prior to this four week goal is encouraged.

Normally, the four-week-prior requirement is met for the Full Committee session automatically by the submission of the documents and the presentation to a subcommittee meeting, as the ACRS staff contact already has the needed documents for the review of the Full Committee. The Program Office technical contact only needs to ensure that any additional documents relevant to the review by the Full Committee (e.g., a document requested by a subcommittee member at the subcommittee meeting, or a substantive revision to a document already provided to the subcommittee) are provided within four weeks of the Full Committee session.

When the documents cannot be provided within this time frame, or when the documents are so voluminous or complex that adequate Committee review in four weeks might be impeded, the Program Office technical contact should notify the ACRS staff contact as early as possible. The ACRS staff contact will work with the subcommittee chairman to determine if the meeting can proceed or should be rescheduled.

When a choice must be made between submission of documents to the Commission and submission first for ACRS review, and there is no flexibility in scheduling, the cognizant Program Office Director and the ACRS Executive Director will consult with the Secretary of the Commission. It is expected that this will occur only in very unusual circumstances and that in

these cases the Commission will make the decision as to the appropriate course of action. The handling of documents submitted to the ACRS for review is addressed in Section A.5 below.

b. Subcommittee Meetings

The first step in the ACRS review of a regulatory matter will usually be a meeting held by a subcommittee of the ACRS. ACRS subcommittees are comprised primarily of ACRS members who are most cognizant of the technical details of issues brought to the Committee for review. The current memberships of the ACRS subcommittees, including the members designated as the subcommittee chair, are on the ACRS webpage (See Section A.6 below).

The subcommittee to which a matter is assigned will be decided by the ACRS when the matter is first determined to be of interest to the Committee and is entered into the ACRS data management system.

Subcommittee meetings are exempt from FACA requirements; however, whenever possible, subcommittee meetings will be open to public attendance. Normally, the review of classified, proprietary, foreign government-owned or otherwise sensitive information will require the closure of a subcommittee meeting. Other circumstances may also warrant the closure of a subcommittee meeting as determined by the subcommittee chair.

ACRS subcommittee meetings are for information gathering purposes and for determining if a matter should be presented to the Full Committee for review and comment. Comments made by ACRS subcommittee members represent the opinion of the individual member and are not to be interpreted as the official position of the ACRS. Section A.2 below discusses responding to comments and questions made by ACRS members at subcommittee meetings. It is generally a good practice to allow several weeks between the subcommittee discussion and the Full Committee presentation of the item to allow sufficient time for the Program Office to consider the subcommittee meeting interactions and incorporate any changes to the review item as a result.

c. Full Committee Meetings

If recommended by the subcommittee at its meeting described above in A.1.b, the Full Committee will review the matter. The Full Committee session on a matter will usually be one to three hours long and is normally an abbreviated version of the presentations and discussions held on the matter at the subcommittee meeting. Usually, the subcommittee which reviewed the matter, will provide guidance on what issues to concentrate on when the matter is brought to the Full Committee. ACRS Full Committee meetings are for development of formal reports to the Commission or the EDO, whichever is appropriate, on matters brought to the Committee for review. These formal reports, voted by the Committee, represent the official comments of the ACRS (See Section A.2 below).

ACRS Full Committee meetings are conducted under the rules of FACA. Therefore, all sessions of an ACRS meeting will be open to the public, unless an exception consistent with those listed in the FACA regulation is met allowing the session to be closed to the public. Normally, the review of classified, proprietary, foreign government-owned, or otherwise sensitive information is the only reason allowing the closure of a Full Committee session. Section A.5 below explains the process that should be followed for closing a Full Committee meeting session that may necessitate discussion of proprietary information.

d. Informal Meetings

ACRS members will sometimes convene informal meetings with the staff for the purpose of preparation for subcommittee and Full Committee meetings, or to receive updates on various technical matters that would facilitate the planning of the ACRS meetings. The only commitments made at these informal meetings should be for the purpose of agreeing on future scheduling of meetings. These meetings will be arranged through the Technical Branch Chief and/or ACRS staff contact.

e. Meeting Agendas and Speakers

Meeting agendas for ACRS subcommittee meetings and Full Committee sessions on specific items are prepared and posted on the ACRS webpage (see Section A.6 below) of the NRC website. The Program Office technical contact and the ACRS staff contact should work together to prepare the meeting agenda. The Program Office technical contact is responsible for identifying presenters from other cognizant NRC staff (including Regional staff), NRC licensees, contractors (including DOE national laboratory staff as appropriate), vendors, and applicants for agenda items, and securing commitments from these presenters to attend and present at the ACRS meeting. The ACRS staff contact is responsible for identifying other speakers from federal agencies, outside interested groups (e.g., Nuclear Energy Institute, Union of Concerned Scientists), or as specified by ACRS members, and securing commitments from these speakers to attend and present at the ACRS meeting.

f. Presentation Material

The Program Office technical contact is responsible for providing all presentation material electronically and in hard copies to the ACRS staff contact in advance of the ACRS meetings in accordance with agreed upon schedules for all meetings. The material should be appropriately marked for proper handling and storage.

A.2 ACRS REVIEWS AND COMMENTS

ACRS reviews may result in comments from individual ACRS members, both at subcommittee and Full Committee meetings, as well as formal reports from the Committee.

a. Comments by ACRS Members at Meetings

As described in Section A.1.b above, ACRS subcommittee meetings are for information gathering purposes and for determining if a matter should be presented to the Full Committee for review and comment. Comments made by ACRS subcommittee members represent the opinion of the individual member and are not to be interpreted as the official position of the ACRS. The NRC Program Office staff is encouraged to consider these ACRS comments for improving the document under review, the presentation of the information contained in the document in future discussions, and/or for the understanding of the document if it is presented to the Full Committee. No formal responses are sought to any comments made at subcommittee meetings.

ACRS subcommittee members may ask for additional information about the documents under review that were not supplied prior to the meetings. The Program Office technical contact and other program office staff supporting the ACRS meeting should endeavor to provide the

additional information, if it is reasonably available after the subcommittee meeting, to the ACRS staff contact. The ACRS staff contact will distribute the additional information to the subcommittee members.

b. Official ACRS Comments

The ACRS transmits its official Committee comments on matters reviewed by the Committee in reports addressed to the Commission Chairman or the EDO, as appropriate, and signed by the ACRS Chairman. The reports are prepared during report writing sessions held during ACRS Full Committee meetings, usually during the same meeting that the matter was presented to the Full Committee (on occasion, a matter will need more than one Full Committee meeting to prepare a report). The reports are approved by vote of the Committee. The ACRS Bylaws allow for individual members to add comments to an approved report prior to its transmittal to the Commission Chairman or the EDO.

A.3 RESPONDING TO OFFICIAL ACRS COMMENTS

Official ACRS comments will be transmitted in a report as discussed in section A.2 above, addressed to the Commission Chairman or to the EDO, as appropriate, signed by the ACRS Chairman, with electronic copies to the cognizant Office Director, Program Office coordinator, and Program Office technical contact. The Program Office technical contact will ensure that copies are provided, as necessary, to other staff members.

The cognizant Program Office Director will ensure consideration by the staff of official ACRS comments which are contained in a report as described in EDO Procedure 0210, "OEDO Procedure for Coordination with ACRS." The staff will take into account ACRS views on all rules and technical policy statements pertaining to nuclear safety matters. If no response is required, the ACRS will indicate such in the report to the Commission or EDO. Otherwise, the EDO or cognizant Program Office Director shall respond by letter addressed to the ACRS Chairman. The staff will ensure that all responses are captured as official agency records. The cognizant Program Office Director or designee, may elect to consider ACRS comments on proposed or draft documents (e.g., proposed rules, draft regulatory guides) following the closure of the public comment period as part of the process for resolving public comments. Staff responses should address all ACRS comments including those not endorsed by the staff. Staff responses to the added comments of individual members contained in an ACRS report are not required.

A.4 CONFLICT OF INTEREST OF ACRS MEMBERS

Potential conflicts of interest (COI) of ACRS members and consultants are addressed in accordance with the ACRS Bylaws. The ACRS Office maintains up-to-date information regarding current ACRS member and consultant COI. If a Program Office staff member or other interested party has a concern about a potential COI of an ACRS member or consultant with respect to an item under ACRS review, this concern should be brought to the attention of the ACRS Executive Director at least three working days before any ACRS meeting on the matter. The issue will be reviewed and, if warranted, mitigated using the COI procedures in the ACRS Bylaws. Alternatively, a Program Office staff member or other interested party may contact the Office of General Counsel (OGC) regarding a concern about a potential COI of an ACRS member or consultant.

A.5 HANDLING OF DOCUMENTS DURING ACRS REVIEWS

Open discussion of agency matters facilitates external stakeholder input and provides an opportunity for the public to better understand agency decisions. The following guidelines will be used when the ACRS is to review matters that involve controlled unclassified information (CUI).²

ACRS Full Committee meetings will be open to the public, unless a FACA exemption applies.³ For documents the NRC treats as CUI, FACA only allows closure of a Full Committee meeting for protecting proprietary information. ACRS subcommittee meetings may be closed to public participation to protect CUI.

Members of the public may request a closed meeting if they believe an exemption allowed by FACA that is applicable to them authorizes such closure. The staff may also request closure of a meeting, under the exemptions allowed by FACA. The closing of ACRS meetings in response to such requests requires a written request to the Chairman of the Commission, or the Chairman's designee, and review by OGC, in accordance with 10 CFR 7.15. When requests for closure are received by the ACRS, the ACRS staff may need the assistance of the OGC and NRC staff technical experts on an expedited basis to make accurate judgments as to what information should be protected.

When the ACRS wishes to discuss all or part of a pre-decisional document at an open meeting, cognizant staff will participate if prior approval has been obtained from the Commission or its designee (when the Commission itself is to make the final decision on the matter addressed in the paper), or from the EDO (for other pre-decisional documents originating from the staff).

In those cases where the Commission or the EDO (as applicable) has approved discussion of all or part of a pre-decisional document at an open meeting of the ACRS, the document may be transmitted to the ACRS staff by the cognizant NRC Program Office for review by the Committee. The transmitted documents will be clearly marked as pre-decisional. Other

² CUI is information that requires safeguarding or dissemination controls pursuant to and consistent with applicable law, regulations, and government-wide policies but is not classified under Executive Order 13526 or the Atomic Energy Act, as amended. The CUI Program is a federally mandated program created to standardize the way the executive branch handles unclassified information that requires safeguarding or dissemination controls. The NRC was developing its CUI program at the time this MOU was signed which will change agency practices for marking, handling, protecting, destroying, and disseminating sensitive information. Practices for protecting sensitive information at the NRC until the CUI Program is fully implemented are documented on the SUNSI webpage: <http://www.internal.nrc.gov/sunsi/>. This website will be kept updated and contain current practices as the agency's CUI program is put into place. Once the NRC CUI Program is fully implemented, the appropriate internal CUI website should be visited for appropriate information. Yellow Announcement YA-17-0117 – Clarification Regarding Management Directive 12.5, "NRC Cybersecurity Program," and the Controlled Unclassified Information Program – provides more information on this transition and can be found at: <http://drupal.nrc.gov/announcements/yellow/policy/32810>.

³ Under the FACA, meetings of advisory committees are generally required to be open and documents provided to or prepared by advisory committees are generally required to be made available for public inspection and copying. However, FACA also provides that portions of advisory committee meetings may be closed to the public if they fall within exemptions contained in the Government in the Sunshine Act. Similarly, documents made available to or prepared for or by an advisory committee may be withheld from the public if they fall within an exemption contained in the Freedom of Information Act. There are a number of exemptions listed in the Sunshine Act and the Freedom of Information Act and assistance in their interpretation may be obtained from the Office of the General Counsel.

applicable restrictions (e.g., proprietary information) on the release to the public of documents submitted to the ACRS should also be clearly marked on the documents to facilitate their proper storage and handling.

In those cases where the ACRS will discuss issues addressed in a pre-decisional document, but will not disclose the contents of the document, the document may be transmitted to the ACRS staff by the cognizant NRC Program Office for transmittal to individual Committee members as background information. As long as any discussion of the issues that may also be addressed in such a document does not disclose the contents of the document in a meeting open to the public, the withholding of the document under Freedom of Information Act (FOIA) is not likely to be compromised. However, the use of the document itself in the Committee's deliberations will result in the document becoming part of the Committee's FACA record. This will result in the document being retained for the life of the Committee and may affect the ability to withhold the document under FOIA. As noted above, FOIA requests for such documents will be discussed with OGC to determine the status of the documents under FOIA exemptions.

All documents used by the Committee in its deliberations are required to be retained by the Committee as part of its FACA records and will be retained for the life of the Committee. Requests for such documents by members of the public will be discussed with OGC to determine the status of the documents under FOIA exemptions.

Infrequently, the ACRS requires access to Classified and Safeguards information in conjunction with activities within its scope of responsibility. ACRS member and staff access to this information will be authorized on the basis of the individual's clearance level and need to know in accordance with NRC security-related Management Directives.

A.6 ACRS WEBPAGE

The ACRS staff will maintain the information on the internal NRC ACRS webpage (<http://drupal.nrc.gov/acrs>) in a timely manner to include all relevant information on ACRS Full and subcommittee meetings, including schedules and agendas, meeting transcripts, ACRS reports and memoranda, and staff responses, as appropriate.

The ACRS staff will also ensure that the ACRS webpage includes accurate information concerning ACRS policies and procedures that affect the conduct of ACRS Full and subcommittee meetings and staff interactions with the ACRS, including the most recent versions of the ACRS Charter and Bylaws, membership information, procedures for conduct of ACRS meetings, planning documents, relevant ACRS office administrative documents, and any other information, as appropriate.

applicable restrictions (e.g., proprietary information) on the release to the public of documents submitted to the ACRS should also be clearly marked on the documents to facilitate their proper storage and handling.

In those cases where the ACRS will discuss issues addressed in a pre-decisional document, but will not disclose the contents of the document, the document may be transmitted to the ACRS staff by the cognizant NRC Program Office for transmittal to individual Committee members as background information. As long as any discussion of the issues that may also be addressed in such a document does not disclose the contents of the document in a meeting open to the public, the withholding of the document under Freedom of Information Act (FOIA) is not likely to be compromised. However, the use of the document itself in the Committee's deliberations will result in the document becoming part of the Committee's FACA record. This will result in the document being retained for the life of the Committee and may affect the ability to withhold the document under FOIA. As noted above, FOIA requests for such documents will be discussed with OGC to determine the status of the documents under FOIA exemptions.

All documents used by the Committee in its deliberations are required to be retained by the Committee as part of its FACA records and will be retained for the life of the Committee. Requests for such documents by members of the public will be discussed with OGC to determine the status of the documents under FOIA exemptions.

Infrequently, the ACRS requires access to Classified and Safeguards information in conjunction with activities within its scope of responsibility. ACRS member and staff access to this information will be authorized on the basis of the individual's clearance level and need to know in accordance with NRC security-related Management Directives.

A.6 ACRS WEBPAGE

The ACRS staff will maintain the information on the internal NRC ACRS webpage (<http://drupal.nrc.gov/acrs>) in a timely manner to include all relevant information on ACRS Full and subcommittee meetings, including schedules and agendas, meeting transcripts, ACRS reports and memoranda, and staff responses, as appropriate.

The ACRS staff will also ensure that the ACRS webpage includes accurate information concerning ACRS policies and procedures that affect the conduct of ACRS Full and subcommittee meetings and staff interactions with the ACRS, including the most recent versions of the ACRS Charter and Bylaws, membership information, procedures for conduct of ACRS meetings, planning documents, relevant ACRS office administrative documents, and any other information, as appropriate.

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