



UNITED STATES
NUCLEAR REGULATORY COMMISSION
ADVISORY COMMITTEE ON REACTOR SAFEGUARDS
WASHINGTON, D. C. 20555

October 30, 1980

MEMORANDUM FOR: ACRS Members
FROM: R. F. Fraley, Executive Director, ACRS
SUBJECT: ACRS ROLE IN THE REGULATORY PROCESS

During the 247th ACRS meeting the Committee will meet with the Chairman of the Nuclear Safety Oversight Committee (Governor Bruce Babbitt) to discuss the ACRS role in the regulatory process and methods by which its function might be strengthened consistent with the recommendations of the President's Commission on the TMI-2 accident (Rogovin Report) (see Attachment A).

This subject was discussed during the 246th meeting and the members voted on several specific suggestions taken from the Rogovin report, the ACRS letter of January 15, 1980 regarding the Rogovin report (Attachment B), the appearance by ACRS representatives before the President's Oversight Committee (July 28, 1980), etc. See Attachment C for a summary of these items and Attachment D for a summary of the vote regarding specific items.

Based on the Committee's action during the 246th meeting, I have reworked Mike Bender's proposed statement as the basis for discussion with Governor Babbitt (see Attachment E). In addition, Mike Bender has identified several additional items as the basis for additional discussion among the Committee members regarding specific ways to strengthening Committee activities (see Attachment F) particularly with respect to cosmic issues.

These items will be the basis for discussion during the Procedures Subcommittee meeting (4:30 P.M. - 6:30 P.M.) on Wednesday, November 5, 1980 and discussion by the full Committee (9:00 A.M. - 10:00 A.M. on November 6, 1980) before the meeting with Governor Babbitt.

If you have suggestions regarding any additional items that warrant discussion please let me know ASAP so I can develop related background information, etc.

In this connection it should be noted that Commission action is already in progress to strengthen the ACRS role by: better definition of the ACRS role in rulemaking; consideration of ACRS recommendations in the adjudicatory process; and ACRS identification of "cosmic" safety issues.

APPENDIX A

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I have attached the related Staff papers which propose appropriate rule changes, policy statements, etc. (Attachments G and H). These are consistent with the intent of the Committee vote taken during the 246th meeting although some fine tuning of specific wording may be appropriate.

Attachments:

- A. Report of President's Commission on The Accident at Three Mile Island
- B. ACRS letter dated 1/15/80 on Recommendations of President's Commission on ACRS Role
- C. 8/20/80 Recommendations to Strengthen the ACRS Role in the Regulatory Process
- D. Working Paper, Draft 2, Excerpt from Summary of 246th ACRS Meeting, October 9-11, 1980
- E. Draft 2, M. Bender, Proposed Chairman's Position to Strengthen the Role of the ACRS in the Regulatory Process
- F. Draft, M. Bender to Milt Plesset, letter re suggested discussion to improve role of ACRS in regulatory process
- G. Letter from Gaske to Rehm dated 10/15/80 re ACRS Participation in Rulemaking Activities
- H. Undated memo to Sege, OPE, from Fraley Consideration of ACRS Letters in Adjudicatory Proceedings

NOTE: Appendix A with Attachment E, F, G, H with attach memos, etc and Appendix D w attach D and Appendix c and B are deleted as

DELETION 5

Report Of
The President's Commission On

THE
ACCIDENT AT
THREE MILE
ISLAND

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The Need For Change:
The Legacy Of TMI
October 1979 Washington, D.C.

ATTACHMENT A

said, "increased the setting of safety policy in this agency and too much Commission guidance on safety matters to the staff and to the board."

5. The major offices within the NRC operate independently with little evidence of exchange of information or experience. For example, the fact that operators could be confused due to reliance on pressurizer level had been raised at various levels within the NRC organization. Yet, the matter "fell between the cracks" and never worked its way out of the system prior to the TMI-2 accident.

6. Licensing of a nuclear plant is a two-step process. First, the company must obtain a construction permit (CP) and several years later must obtain an operating license (OL). The CP stage does not require complete design plans, and therefore the full safety review does not occur until the OL stage. By then, hundreds of millions of dollars have been spent or committed in the construction process. Therefore, the ultimate safety review may be influenced by economic considerations that can lead to a reluctance to order major changes at the OL stage.

7. The Advisory Committee on Reactor Safeguards (ACRS) reviews all applications for licenses and poses whatever questions it deems appropriate. The ACRS is the only body independent of the NRC staff which regularly reviews safety questions. However, it has established no firm guidelines or procedures, and generally has only monthly meetings of limited duration. ACRS members are part-time and have a very small staff, thus they must rely heavily on the NRC staff for follow-up of their concerns. ACRS members tend to concentrate on their own particular areas of expertise, thereby resulting in a fragmented licensing review.

8. There are serious inadequacies in the NRC licensing process.

a. Applicants for licenses are only required to analyze "single-failure" accidents; they are not required to analyze what happens when two systems or components fail independently of each other. The accident at TMI-2 was a multiple-failure accident.

b. NRC's design safety review places primary emphasis on those items labeled "safety-related." This designation is crucial since items not labeled "safety-related" need not be reviewed in the licensing process, are not required to meet NRC design criteria, need not be testable, do not require redundancy, and are ordinarily not subject to NRC inspection. There are no precise criteria as to which components and systems are to be labeled "safety-related;" the utility makes the initial determination subject to NRC approval. For example, at TMI-2, the PORV was not a "safety-related" item because it had a block valve behind it. On the other hand, the block valve was not "safety-related" because it had a PORV in front of it.

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2. An oversight committee on nuclear power should be established. Its purpose would be to examine, on a continuing basis, the performance of the agency and of the nuclear industry in addressing and resolving important public safety issues associated with the construction and operation of nuclear power plants, and in exploring the overall risks of nuclear power.

a. The members of the committee, not to exceed 15 in number, should be appointed by the President and should include: persons conversant with public health, environmental protection, emergency planning, energy technology and policy, nuclear power generation, and nuclear safety; one or more state governors; and members of the general public.

b. The committee, assisted by its own staff, should report to the President and to Congress at least annually.

3. The Advisory Committee on Reactor Safeguards (ACRS) should be retained, in a strengthened role, to continue providing an independent technical check on safety matters. The members of the committee should continue to be part-time appointees; the Commission believes that the independence and high quality of the members might be compromised by making them full-time federal employees. The Commission recommends the following changes:

a. The staff of ACRS should be strengthened to provide increased capacity for independent analysis. Special consideration should be given to improving ACRS' capabilities in the field of public health.

b. The ACRS should not be required to review each license application. When ACRS chooses to review a license application, it should have the statutory right to intervene in hearings as a party. In particular, ACRS should be authorized to raise any safety issue in licensing proceedings, to give reasons and arguments for its views, and to require formal response by the agency to any submission it makes. Any member of ACRS should be authorized to appear and testify in hearings, but should be exempt from subpoena in any proceedings in which he has not previously appeared voluntarily or made an individual written submission.

c. ACRS should have similar rights in rulemaking proceedings. In particular, it should have the power to initiate a rulemaking proceeding before the agency to resolve any generic safety issue it identifies.

The Agency's Substantive Mandate

The new agency's primary statutory mission and first operating priority must be the assurance of safety in the generation of nuclear power, including safeguards of nuclear materials from theft, diversion, or loss. Accordingly, the Commission recommends the following:

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NUCLEAR REGULATORY COMMISSION
ADVISORY COMMITTEE ON REACTOR SAFEGUARDS
WASHINGTON, D. C. 20555

January 15, 1980

Honorable John F. Ahearne
Chairman
U. S. Nuclear Regulatory Commission
Washington, DC 20555

Subject: RECOMMENDATIONS OF PRESIDENT'S COMMISSION ON ACRS ROLE

Dear Dr. Ahearne:

The following comments are offered in response to Mr. Chilk's letter of November 9, 1979 requesting that the ACRS provide the Commission with its views and analysis of the role of the ACRS as contained in the recommendations of the report of the President's Commission (PC) on the Accident at Three Mile Island. Individual recommendations from the report are listed below with ACRS comments following.

1. "The Advisory Committee on Reactor Safeguards (ACRS) should be retained, in a strengthened role, to continue providing an independent check on safety matters." The ACRS agrees.
2. "The members of the Committee should continue to be part-time appointees;...." The ACRS agrees.
3. "The staff of ACRS should be strengthened to provide increased capacity for independent analysis." The ACRS agrees that current staff support is inadequate to provide suitable independent-analysis capability; to keep abreast of NRC Staff, industry, and foreign group activities on specific safety matters; to provide technical and background information to the members so the latter can make the best use of their limited time; and to provide proper support to the numerous ACRS subcommittees. The Committee therefore requests that ten additional, senior-staff positions be authorized for the ACRS staff in order to meet the sense of the PC's recommendations and to provide an adequate technical support base for improved operation of the Committee. These positions are intended to be in addition to those authorized in the Fellowship Program. However, if budgetary limitations prevent this level of support, the Committee would accept some conversion of Fellowship positions into permanent, senior positions.

In connection with strengthening the staff, it is noted that the help of some outside organization could occasionally be very useful in the assembly of information and data or in carrying out some specific analysis. It is requested that means be explored whereby the ACRS could obtain such short-term studies as needed.

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Attachment B

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
ADVISORY COMMITTEE ON REACTOR SAFEGUARDS
WASHINGTON, D. C. 20555

January 15, 1980

OK
to release

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U. S. Nuclear Regulatory Commission
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