

CERTIFIED
Date: 10/29/92
By: D.A. Ward

Summary Minutes
of the ACRS Planning and
Procedures Subcommittee Meeting

October 7, 1992

Attendees

Members

David A. Ward. Chairman
Paul G. Shewmon
James C. Carroll
Raymond F. Fraley

Staff

Richard P. Savio
Sam Duraiswamy
Mabel F. Lee
Michael L. MacWilliams

PURPOSE

This meeting was held to discuss:

- 1) Future ACRS Activities - Topics proposed for consideration by the full Committee
- 2) Appointment of New Members - Status of current nominations and press release for nominations during 1993
- 3) Editing ACRS Reports - Procedures for editing ACRS reports to preclude substantive changes
- 4) "Stock" ownership by ACRS Members - Discuss proposed ACRS comments in response to OGC request regarding restrictions on stock ownership
- 5) Revisions to ACRS Bylaws - Discuss proposed revisions regarding Suspension of the Bylaws and ACRS Voting Procedures
- 6) ACRS Meeting Dates for CY 1993 - Discuss the calendar of nominal meeting dates

- 7) Procedures for Review of Generic Communications - Problems with "bypassing" the ACRS have arisen on two occasions recently. Discuss a mechanism to correct this situation
- 8) Public Release of SECY Papers - Publication of Commission SECY papers during the predecisional period is limited. This impacts on the Committee's ability to interact effectively with industry representatives. Discuss a proposed change to this process

DISCUSSION AND CONCLUSIONS

1) Future ACRS Activities

Members discussed Attachment A, pp. 9-36, and several changes were proposed. A revised version will be made available for Committee consideration

2) Appointment of New Members

DELETION
FOIA EX(b) (6)

- Vacancy on November 5, 1992 - 15 nominees are still being considered to fill the vacancy that will occur when Dave Ward completes his current term on November 4, 1992.

Members discussed proposed nominees and made the recommendations noted below:

- Vacancy on November 5, 1992

Since a vacancy will occur on November 5, 1992, as Chairman Ward completes his term. A panel should be nominated by the Committee and forwarded to the Commission during the October meeting to fill this vacancy as soon as possible.

- Status of ACRS Nominees

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FOIA EX(b) (6)

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FOIA EX(b) (6)

Vacancies During 1993

- ° Vacancies will occur in February 26, 1993 when Ivan Catton completes his appointment (1st appointment) and on June 1, 1993, when Dr. Shewmon Completes his current (4th) appointment.

A recommendation by the Committee will be needed during the December ACRS meeting to fill the first vacancy of the year and during the February meeting to fill the second vacancy. In order to begin the recruiting process, a Commission press release should be published as soon as possible. A proposed press release with line-in, line-out markings is attached (Attachment B, pp. 37-39).

Election of Member-at-Large

DELETION
FOIA EX(b) (6)

3) Editing ACRS Reports

The Subcommittee members discussed the guidelines for editing that were endorsed during the September meeting and agreed to the revised guidance noted below regarding the scope of editing ACRS reports:

- Correct factual errors (e.g., dates, names, places, etc.)
- Add the list of appropriate references that are the basis for or referred to in the body of the report
- Use standardized NRC format/style as modified per ACRS practice

(Note: Underlined added)

- Correct sentence structure/grammar

The members endorsed a procedure to be inserted in the ACRS Office Manual that clearly states that: (1) any changes made to an approved Committee report must be approved by the subcommittee Chairman (or principal author), (2) approved changes must not change the Committee's intended meaning at the time it approved the report, and (3) the Committee Chairman must be informed of any changes and agree that they do not change the meaning of the report. [In cases where the Subcommittee Chairman (or principal author) is also the Committee Chairman, the Vice-Chairman shall perform this function.]

(Note: If in the judgement of the Committee Chairman a report approved by the Committee contains a serious misstatement or error that was not addressed by the Committee before final approval, the Chairman is authorized to recommend deferral of the report until the next meeting, subject to confirmation by a poll of the members, or to correct the wording by collegial interaction per section 4.3-3 of the Committee Bylaws.)

4) "Stock" Ownership by ACRS Members

In response to a request from OGC, the members discussed during last month's meeting three possible alternate positions regarding prohibitions or "stock" holdings by ACRS members as noted below:

- a. No specific prohibitions on "stock" holdings for Committee members (Special Government Employees).

(Note: Members would be required per Section 0.735-21 to recuse themselves from Committee decisionmaking activities which would have a direct and predictable effect on the organizations in which they own "stock".)

- b. Members (Special Government Employees) should be permitted to hold those stocks which they have accumulated or earned (e.g., stock options) before their appointment to the Committee. They would be precluded from purchasing "stocks" in companies on the forbidden list after they become members to avoid the appearance of conflict.

(Note: Same prohibition on participation in Committee activities as noted in a., above would apply.)

- c. Members would be subject to agency prohibitions regarding stock ownership in companies on the forbidden list unless a specific exemption is granted by the Commission.

(Note: The Commission would be urged to take a more lenient position than it has in the past regarding Committee members [Special Government Employees]).

Dr. Lewis proposed and members agreed to consider a letter to OGC similar to Attachment C, p. 40.

Members of the Subcommittee, however, expressed concerns about a position that relies on exemptions from the Commission and propose a letter instead that would endorse alternate a. (Note: The ACNW has endorsed alternate a. as its position regarding this matter.)

5) Revisions to ACRS Bylaws

- Suspension of Bylaws - During last month's meeting, two alternate positions were presented to the Committee for a vote this month

Alt. A: Proposed by Dr. Lewis:

Add the following to the preamble of the Bylaws -

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"Any provision of these Bylaws may be suspended for the purpose of a particular action, by unanimous vote of those present and voting, who shall constitute a minimum of two-thirds of the membership of the Committee. A motion to suspend the Bylaws shall take precedence over any other motion pending before the Committee."

Alt. B: Proposed by Mr. Carroll -

"Any provisions of these Bylaws may be suspended by two-thirds vote of those members present and voting, who shall constitute a minimum of two-thirds of the membership of the Committee. A motion to suspend the Bylaws shall take precedence over any other motion pending before the Committee."

Based on discussion among the subcommittee members, Jay Carroll proposed the following alternate version for consideration by the Committee -

Alt. C:

"Any provision of these Bylaws may be suspended for the purpose of a particular action by an affirmative vote of all but one member of those members present and voting. A motion to suspend the Bylaws shall be considered a major decision by the Committee and shall take precedence over any other motion pending before the Committee."

* ACRS Voting Procedures - Dr. Lewis has expressed concern regarding the way in which the Committee votes for the panels of prospective members that it recommends to the Commission and has presented a revised procedure for consideration.

Members agreed to present his proposed procedure to the Committee for its consideration. (See Attachment D, pp. 41-42, for the procedure proposed by Dr. Lewis.)

6) ACRS Meeting Dates for CY 1993

Attachment E, pp. 43-54, identifies the traditional meeting dates for ACRS meetings.

It was noted that the April meeting falls on Easter weekend and should be rescheduled. Delaying the April and May meeting by one week would provide a better schedule for the meetings.

A decision is needed by the full Committee.

7) Procedures for Review of Generic Communications

Bypassing ACRS - On two recent occasions, review of the NRC Shutdown Risk Study and Publication of the proposed generic

letter on replacement of analog with digital systems in operating plants, members of the staff have displayed a lack of understanding regarding the Committee's role in the processing of staff documents which provide safety-related guidance to the industry (e.g., Reg. Guides, Standard Review Plans, Generic Issues, and Unresolved Safety Issues)

The ACRS-EDO Memorandum of Understanding provides for the ACRS to have opportunities (period of two months in the schedule) to review such documents before they are published for public comments and before they are published as final documents.

The NRC staff periodically seems to overlook this MOU requirement and proceeds with related action after it has provided the ACRS information copies without an opportunity for ACRS input.

It was agreed that the ACRS Chairman should meet with the Deputy EDO (James Sneizek) to discuss this problem.

Members also noted that the flow chart (Attach. F, p. 55) from SECY-92-224, Revised Implementing Procedures for Issuance of Generic Communications, recently published by the staff, provides for ACRS review in parallel with CRGR review. This is not consistent with the MOU which provides for ACRS review of NRC Rules and Policy Matters before they are sent to the CRGR and for ACRS review of safety-related guidance after it has been reviewed by CRGR.

A decision is needed by the Committee regarding the process it prefers so the documents can be reconciled.

In addition, a question was raised regarding the need for a process that provides an opportunity for ACRS review at two stages in the process of development (e.g., before and after the public comment period).

8) Public Release of SECY Papers -

Members noted that proposed SECY papers and other "predecisional" documents such as proposed generic letters, etc., are often not made available to representatives of the nuclear industry (public) until after the ACRS has completed its review. This inhibits the Committee's ability to interact effectively with representatives of organizations such as NUMARC, INPO, EPRI, etc., in its review of proposed regulatory issues and formulation of related advice.

It was noted that, when requested by the Committee (Nov. 1991) to release SECYs related to advanced reactors, the Commission agreed to do so earlier in the process (See Attachments G, pp. 56-57, and H, pp. 58-61.)

Members agreed that it would be appropriate to request a

similar practice regarding other safety-related SECYs and other technical documents (See Attachment I, pp. 62-63 for a proposed letter to the NRC).

- ATTACHMENT A - Memorandum dated 10/7/92 from R. P. Savio,
PP. 9-36 Subject: Future ACRS Activities - 391ST ACRS
Meeting, Nov. 5-7, 1992
- ATTACHMENT B - Proposed Press Release, Subject: NRC Invites
PP. 37-39 Public to Submit Nominations for ACRS
- ATTACHMENT C - [ATTACHMENT REMOVED - FOIA EX(b)(5)]
P. 40
- ATTACHMENT D - Letter from H. W. Lewis for ACRS Members dtd. PP.
41-42 10/7/92, Subject: ACRS Voting Procedures
- ATTACHMENT E - Proposed dated for CY 1993
PP. 43-54
- ATTACHMENT F - Flow Chart, Generic Communication Development
P. 55 Process
- ATTACHMENT G - Memorandum dated 2/28/92 from S. J. Chilk,
PP. 56-57 Subject: Public Release of SECY Papers
- ATTACHMENT H - ACRS Report dated 11/14/92, Subject: NRC Staff
PP. 58-61 Recommendations for Reviewing, Monitoring, and
Approving Vendors' Test Programs to Support the
Design Certification of Passive Light Water
Reactors as Described in SECY-91-273
- ATTACHMENT I - [ATTACHMENT REMOVED - FOIA EX(b)(5)]
PP. 62-63