



RELATED CORRESPONDENCE

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

DOCKETED
USNRC

March 18, 1998

'98 MAR 19 P4:40

Ms. Susan G. Jordan
New Mexico Environmental Law Center
1405 Luisa Street, Suite 5
Santa Fe, NM 87505

OFFICE OF SECRETARY
RULEMAKING AND
ADJUDICATIONS STAFF

SUBJECT: REQUEST TO ATTEND STAFF'S MEETING WITH PROFESSOR NEUMAN
REGARDING THE CROWNPOINT, NEW MEXICO PROJECT

Dear Ms. Jordan:

I am writing in response to your March 9, 1998, letter wherein you request that representatives of the Eastern Navajo Dine Against Uranium Mining (ENDAUM) and Southwest Research and Information Center (SRIC) be given the opportunity to attend the U.S. Nuclear Regulatory Commission (NRC) staff's planned meeting with Professor Neuman concerning his comments on the Final Environmental Impact Statement (FEIS) for the proposed uranium solution mining project at Crownpoint, NM. You state that attendance by these intervention petitioners in the Hydro Resources, Inc. (HRI) materials license proceeding would be consistent with the NRC's open meeting policy in 43 Federal Register (FR) 28058 (June 28, 1978), which describes the NRC's general policy regarding meetings conducted by the staff as part of its review of domestic licenses or permit applications.

The policy cited in your March 9th letter has been superseded by the Final Policy Statement on Meetings Open to the Public published September 20, 1994 (59 FR 48340-45). This policy and NRC Management Directive 3.5, "Public Attendance at Certain Meetings Involving the NRC Staff," in conjunction with NRC Staff Handbook 3.5, provide guidance for conducting public meetings.

Under the aforementioned policy and guidance, a public meeting is defined as a planned, formal encounter open to public observation between one or more NRC staff members, and one or more "outside" persons, physically present at a single meeting site with the expressed intent of discussing issues directly associated with the NRC's regulatory and safety responsibilities. An "outside" person is defined as any individual who is not "under contract to the NRC" or "acting in an official capacity as a consultant to the NRC." Because Professor Neuman is an NRC consultant whose comments on the FEIS arose as a result of him being provided the document in his official capacity as a researcher on groundwater models for the NRC, the meeting with Professor Neuman is not subject to the open meeting policy.

In addition, meetings with outside persons will not be held publicly if, *inter alia*, the staff determines that the subject matter to be discussed could result in the release of preliminary and unverified information (See 59 FR 48342, col. 3, and 48345, exemption (f)). The purpose of this exemption is to ensure that persons are not inhibited from bringing the NRC information that is not verified or sufficiently analyzed to draw firm conclusions. It also ensures that discussions about potential implications of this type of information occur candidly and openly without fear such information may be misunderstood by the public as fact, or as final conclusions.

SECT-040

DS03

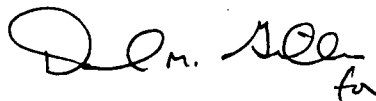
18893

As indicated in the NRC staff's memorandum dated February 27, 1998, to B. Paul Cotter, the Presiding Officer in the HRI licensing proceeding, the material enclosed in that submission to the Board was preliminary (and unverified) information that, due to time constraints, was neither presented nor discussed at the internal working meeting between Professor Neuman and the NRC Staff. After reviewing Professor Neuman's materials, the NRC staff decided to conduct a follow-up meeting to discuss his comments. Therefore, the nature of the information to be discussed is not appropriate for a public meeting.

The NRC staff plans to conduct a teleconference with Professor Neuman on March 19, 1998, and such meeting will not be open to the public. Nevertheless, the NRC staff will provide the Presiding Officer and the petitioners in the HRI licensing proceeding the staff's assessment of Professor Neuman's comments in a supplemental memorandum.

I have enclosed a copy of the Final Policy Statement and NRC Management Directive and Staff Handbook 3.5, "Public Attendance at Certain Meetings Involving the NRC Staff," dated May 24, 1996, for your information. If you have any questions regarding this subject, please contact Mr. Robert Carlson of my staff at (301) 415-8165.

Sincerely,

A handwritten signature in dark ink, appearing to read "J. Holonich", with a small flourish at the end.

Joseph J. Holonich, Chief
Uranium Recovery Branch
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards

Enclosures: As stated

cc: See service list

DOCKETED
USNRC

'98 MAR 19 P4:40

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

In the Matter of

HYDRO RESOURCES, INC.

Docket No.(s) 40-8968-ML

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LETTER TO SUSAN G. JORDAN have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Thomas D. Murphy
Special Assistant
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Diane Curran, Esq.
Harmon, Curran, Spielberg & Eisenberg
2001 S Street, N.W., Suite 430
Washington, DC 20009

Jep Hill, Esq.
Attorney for Hydro Resources, Inc.
Jep Hill & Associates
P.O. Box 2254
Austin, TX 78768

Administrative Judge
B. Paul Cotter, Jr.
Presiding Officer
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

John T. Hull, Esq.
Mitzi A. Young, Esq.
Office of the General Counsel
Mail Stop - 0-15 B18
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Susan G. Jordan, Esq.
Douglas Meiklejohn, Esq.
New Mexico Environmental Law Center
1405 Luisa Street, Suite 5
Santa Fe, NM 87505

Mervyn Tilden
Mary Lou Jones
Zuni Mountain Coalition
P.O. Box 39
San Rafael, NM 87051

Docket No.(s)40-8968-ML
LETTER TO SUSAN G. JORDAN

Lila Bird
Executive Director
Water Information Network
P.O. Box 4524
Albuquerque, NM 87106

Wm. Paul Robinson
Chris Shuey
Southwest Research and Information
Center
P.O. Box 4524
Albuquerque, NM 87106

John J. Indall, Esq.
Joseph E. Manges, Esq.
Comeau, Maldegen, Templeman
& Indall, LLP
P.O. Box 669
Santa Fe, NM 887504

Bernadine Martin
P.O. Box #370
Crownpoint, NM 87313

Grace Sam
Marilyn Sam
P.O. Box 800
Gallup, NM 87305

Dated at Rockville, MD, this
18th day of March 1998

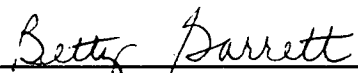
Lori Goodman
Dine' CARE
Navajo Nation
10 A Town Plaza, S-138
Durango, CO 81301

Mitchell Capitan, President
ENDAUM
P.O. Box 471
Crownpoint, NM 87313

Anthony J. Thompson, Esq.
Paul Gormley, Esq.
Shaw, Pittman, Potts and Trowbridge
2300 N Street, N.W.
Washington, DC 20037

Mervyn Tilden
P.O. Box 457
Church Rock, NM 87311

Office of the Secretary
Rulemakings and Adjudication Staff
U.S. Nuclear Regulatory Commission
Mail Stop 0-16 C1
Washington, DC 20555



Uranium Recovery Branch
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards

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

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

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

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

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

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

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

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

For the Nuclear Regulatory Commission,
Gus C. Laines,

*Assistant Director for Region II Reactors,
Division of Reactor Projects—III, Office of
Nuclear Reactor Regulation.*

[FR Doc. 94-23206 Filed 9-19-94; 8:45 am]

BILLING CODE 7590-01-M

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

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

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

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

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

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

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

Dated: September 14, 1994.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 94-23204 Filed 9-19-94; 8:45 am]

BILLING CODE 7590-01-M

Staff Meetings Open to the Public; Final Policy Statement

AGENCY: Nuclear Regulatory Commission.

ACTION: Final policy statement.

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

EFFECTIVE DATE: November 1, 1994.

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

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

SUPPLEMENTARY INFORMATION:

I. Background

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

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

General Comments

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

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

Impact on the Quality of Public Meetings

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

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

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

Policy Expansion

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

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

Definition of a Public Meeting

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

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

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

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

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

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

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

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

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

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

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

Exemptions

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

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

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

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

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

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

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

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

Meeting Arrangements

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

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

Several commenters expressed the concern that essential or urgent

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

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

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

Duration of Policy

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

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

Costs

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

American Mining Congress Comments

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

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

III. Discussion of the Policy

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

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

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

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

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

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

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

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

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

A. Purpose

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

B. Definition

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

An outside person is any individual who is not:

a. An NRC employee;

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

C. Applicability and Exemptions

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

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

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

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

c. Contains safeguards information;

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

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

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

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

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

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

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

D. Notice to the Public

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

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

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

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

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

For the Nuclear Regulatory Commission,
John C. Hoyle,

Acting Secretary of the Commission.

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

BILLING CODE 7590-01-P

SECURITIES AND EXCHANGE COMMISSION

Request Under Review by Office of Management and Budget

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

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

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

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

Direct general comments to the Desk Officer for the Securities and Exchange Commission at the address below.

Direct any comments concerning the accuracy of the estimated average burden hours for compliance with the Commission rules and forms to David T.

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

Dated: September 12, 1994.

Margaret H. McFarland,

Deputy Secretary.

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

BILLING CODE 8010-01-M

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

September 13, 1994.

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

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

I. Description of the Proposal

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

¹ 15 U.S.C. § 78s(b) (1988).

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

Public Attendance at Certain Meetings Involving the NRC Staff

***Directive
3.5***

Contents

Policy	1
Objectives	1
Organizational Responsibilities and Delegations of Authority	2
The Commission	2
Executive Director for Operations (EDO)	2
Director, Office of Administration (ADM)	2
Office Directors and Regional Administrators	2
Applicability	2
Handbook	3
References	3



U. S. Nuclear Regulatory Commission

Volume: 3 Information Management

Part: 1 Publications, Mail, and Information
Disclosure

ADM

Public Attendance at Certain Meetings Involving the NRC Staff Directive 3.5

Policy (3.5-01)

In furtherance of Commission intent to keep concerned citizens informed of any Commission activity in which they express an interest, meetings between the staff of the U.S. Nuclear Regulatory Commission and outside persons will be open to attendance by all members of the general public in accordance with Part I of Handbook 3.5. This directive does not supersede the responsibilities of the NRC staff to notify parties to NRC proceedings about meetings that are open to public attendance.

Objectives (3.5-02)

- To ensure that members of the public have the opportunity to gain a full understanding of the agency's regulatory process through attendance at and observation of the agency's meetings with applicants, licensees, and others. (021)
- To ensure that applicable meetings are announced in a timely manner and to adequately inform interested members of the public. (022)
- To balance the NRC's desire for openness against the need for the NRC staff to exercise its regulatory and safety responsibilities without undue administrative burden. (023)

Organizational Responsibilities and Delegations of Authority (3.5-03)

The Commission (031)

Establishes policy regarding public attendance at meetings conducted by the NRC staff.

Executive Director for Operations (EDO) (032)

Ensures policy is implemented regarding public attendance at meetings conducted by the NRC staff.

Director, Office of Administration (ADM) (033)

Develops and administers a program for the receipt and dissemination of notices of public meetings.

Office Directors and Regional Administrators (034)

- Implement the policy in this directive for the receipt and dissemination of public meeting notices. (a)
- Inform or make recommendations, as appropriate, to EDO or Deputy EDOs when significant NRC activities are at the planning stage. (b)

Applicability (3.5-04)

- The policy and guidance in this directive and handbook apply to all NRC employees. (041)
- This directive does not apply to the Commission or to offices that report directly to the Commission. (042)
- This directive does not apply to or supersede any existing law, rule, or regulation that addresses public attendance at a specific type of meeting. (043)

Handbook

(3.5-05)

Handbook 3.5 provides the following types of information. It—

- Defines the types of agency meetings open to the public for observation; (1)
- Describes the means by which the public may learn when agency open meetings are being held; and (2)
- Specifies the procedures by which the staff provides sufficient information to the agency's central meeting announcement coordinator to announce public meetings. (3)

References

(3.5-06)

Code of Federal Regulations—

“Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders,” 10 CFR 2.

“Advisory Committees,” 10 CFR 7.

“Public Records,” 10 CFR 9.

“Early Site Permits; Standard Design Certifications; and Combined Licenses for Nuclear Power Plants,” 10 CFR Part 52.

Federal Advisory Committee Act, 5 U.S.C., Appendix I.

The Government in the Sunshine Act, 5 U.S.C. 552b.

NRC Management Directive 8.11, “Review Process for 10 CFR 2.206 Petitions.”

“Staff Meetings Open to the Public; Final Policy Statement” (September 20, 1994; 59 FR 48340).

***Public Attendance at Certain
Meetings Involving the
NRC Staff***

***Handbook
3.5***

Contents

Part I

Definition of a Public Meeting	1
Public Meeting (A)	1
The Commission, Commission Offices, and Other Exemptions (B)	2
Examples of Staff Meetings (C)	4
Meetings Typically Open to the Public (1)	4
Meetings Typically Closed to the Public (2)	6
Meetings Between NRC Staff and the Public (3)	10

Part II

Announcing Meetings Open to the Public	12
Formal Notice of Public Meetings (A)	12
Procedures for Noticing Public Meetings (B)	12

Exhibit

1 NRC Form 549, "Public Meeting Announcement Data Input"	14
--	----

Part I

Definition of a Public Meeting

Public Meeting (A)

The NRC has a longstanding practice of providing the public with the fullest information practicable on its activities and conducting business in an open manner, while balancing the need for the NRC staff to exercise its regulatory and safety responsibilities without undue administrative burden. The NRC staff has held meetings with interested members of the public on a variety of issues, often in response to intense expressions of public interest. Such meetings can enhance the public's confidence in the NRC and help clarify concerns before any decisions are made. Both the NRC and the public will benefit if the need for meetings with the public is considered early in the process. (1)

A public meeting is a planned, formal encounter open to public observation between one or more NRC staff members and one or more outside persons physically present at a single meeting site with the expressed intent of discussing substantive issues that are directly associated with NRC's regulatory and safety responsibilities. This policy applies solely to NRC staff-sponsored and staff-conducted meetings and not to meetings conducted by outside entities that NRC staff members might attend and participate in. (2)

The NRC recognizes that some meetings open under the policy statement may warrant a greater degree of public participation. If participation beyond that of observation is allowed for a particular meeting (e.g., if members of the public will have an opportunity to speak or ask questions), a description of the nature of this participation will be specified when the meeting is announced and at the outset of the meeting by the senior NRC official participating in the meeting. (3)

An outside person is any individual who is not—(4)

- An NRC employee (a)
- Under contract to the NRC (b)

Public Meeting (A) (continued)

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

The Commission, Commission Offices, and Other Exemptions (B)

The definition of a public meeting in this handbook applies to meetings between the NRC staff and outside persons. It does not apply to the Commission or offices that report directly to the Commission. Similarly, it does not apply to meetings between the NRC staff and representatives of State and local governments. These representatives include those from Agreement States concerned with NRC Agreement State activities or State regulatory actions or other matters of general interest to the State or to the Commission, that is, matters other than specific NRC licensing or regulatory actions involving specific licensees. Also, the definition of a public meeting is not intended to apply to or supersede any existing law, rule, regulation, or policy statement that addresses public attendance at a specific type of meeting. For example, 10 CFR 7 specifically addresses public attendance at advisory committee meetings, and 10 CFR 9, Subpart C, addresses public attendance at Commission meetings. The policy also does not negate existing memoranda of understanding, procedural agreements, or other formal agreements or requirements regarding the accessibility of the public to observe or participate in meetings between NRC and its licensees or any other entities. In addition, the policy does not apply to meetings involving enforcement matters or to settlement conferences. (1)

In general, meetings between the NRC staff and outside persons will be public meetings unless the NRC staff determines that—(2)

- The *subject matter* to be discussed—(a)

The Commission, Commission Offices, and Other Exemptions (B) (continued)

- Is specifically authorized by an Executive order to be kept secret in the interests of national defense or foreign policy (classified information); or is specifically exempted from public disclosure by statute (i)
- Contains trade secrets and commercial or financial information (proprietary information) (ii)
- Contains safeguards information (iii)
- Is of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy (iv)
- Is related to a planned, ongoing, or completed investigation and/or contains information compiled for law enforcement purposes (v)
- Could result in the inappropriate disclosure and dissemination of preliminary, unverified information (vi)
- Is a general information exchange having no direct, substantive connection to a specific NRC regulatory decision or action (vii)
- The administrative burden associated with public attendance at the meeting could result in interfering with the NRC staff's execution of its safety and regulatory responsibilities, such as when the meeting is an integral part of the execution of the NRC inspection program. (b)

It is important to note that whether or not a meeting should be open for public attendance is dependent primarily on the subject matter to be discussed, not on who outside nor who within the NRC staff is participating (e.g., staff level versus senior management). (3)

Also note that meetings between staff and licensees or trade groups to discuss technical issues or licensee performance would normally be open because they may lead to a specific regulatory decision or action. However, should a meeting involving a general information exchange be closed and should discussions during such a meeting approach issues that might lead to a specific regulatory decision or action, the NRC staff may advise the meeting attendees that such matters cannot be discussed in a closed meeting and propose discussing the issues in a future open meeting. (4)

The Commission, Commission Offices, and Other Exemptions (B) (continued)

The staff shall inform outside persons if a meeting will be a public meeting to allow them to raise concerns regarding confidential information before a meeting, should that be necessary. (5)

This meeting policy is a matter of NRC discretion and may be departed from as NRC convenience and necessity may dictate. Any deviation from this policy must be approved by a branch chief or higher level official. (6)

Examples of Staff Meetings (C)

The following examples of meetings that are typically open or typically closed to public attendance are not intended to be all-inclusive but to establish a thought process that can be used to make decisions on any meeting scenario. Guidance also is provided regarding when the staff should initiate meetings with the public.

Meetings Typically Open to the Public (1)

The following are examples of meetings between the staff and licensees, applicants, industry representatives, intervenors, or petitioners. These meetings are typically open to the public for observation only.

Staff Meetings With Licensees or Applicants Relating to Licensing Issues (a)

A meeting conducted by the NRC technical staff with applicants or licensees as part of its review of a particular domestic license or permit application (including an application for an amendment to a license or permit) will be open to attendance to all parties or petitioners for leave to intervene in the case and, to the extent of available space, to interested members of the public.

Staff Meetings With Parties or Petitioners With Leave To Intervene in a Case (b)

A meeting conducted between the NRC technical staff and other parties or petitioners with leave to intervene in a case regarding the staff's review of the licensing action will be open to applicants or licensees and, to the extent of available space, to interested members of the public.

Examples of Staff Meetings (C) (continued)

Meetings Typically Open to the Public (1) (continued)

Headquarters and Regional Staff Working-Level Meetings With Licensees (c)

Representatives of a utility licensed to operate a nuclear power plant request the opportunity to hold a “working-level” meeting with the NRC headquarters or regional staff to provide the staff with additional technical information related to a proposed license amendment (change to the technical specifications) the staff is reviewing. The discussions that would take place at this meeting could directly affect an NRC regulatory decision or action (granting of the proposed license amendment request); therefore, this meeting should be a public meeting.

Facility Shutdown and Restart Meetings (d)

The NRC staff has issued an order shutting down a nuclear power plant because of potential safety concerns. Representatives of the utility licensed to operate the facility request a meeting with several NRC staff to discuss the actions they have taken to address the staff’s concerns, as well as to discuss possible restart of the facility. The discussions that would take place at this meeting could directly affect an NRC regulatory decision or action (proposed restart of the facility); therefore, this meeting should be a public meeting. In this case, it also may be necessary to obtain alternate meeting space away from the site to support public attendance.

Incident Investigation and Augmented Inspection Team Exit Meetings (e)

In reaction to an event at a nuclear power plant the NRC establishes an incident investigation team (IIT) or an augmented inspection team (AIT) to thoroughly evaluate the situation at the site. Upon completion of the evaluation, an exit meeting is held with the licensee to discuss the team’s findings. The exit meetings for IITs and AITs will normally be open to the public unless the EDO (in the case of an IIT) or the appropriate regional administrator (in the case of an AIT), in consultation with the Director, Office of Public Affairs, decides the criteria contained in this guidance indicate it is appropriate to have a closed meeting. Alternatively, in connection with AIT public meetings or IIT public meetings, the EDO or the regional administrator may decide it is more appropriate to have a separate public meeting and/or press conference in lieu of the public exit meeting with the licensee.

Examples of Staff Meetings (C) (continued)

Meetings Typically Open to the Public (1) (continued)

Staff Meetings With a Nuclear Steam Supply System Vendor on Confirmatory Research for the Vendor's Application for Design Certification (f)

NRC officials desire to meet with representatives of a nuclear steam supply system (NSSS) vendor and representatives of a foreign government to discuss the specific confirmatory research related to the vendor's application for design certification under 10 CFR 52 that will need to be performed. The confirmatory research will influence the NRC staff's design certification review. Although a meeting with representatives of a foreign government would not need to be a public meeting, a meeting with representatives of the vendor would. Accordingly, this meeting should be a public meeting.

Nuclear Energy Institute (g)

Representatives of the Nuclear Energy Institute (NEI) desire to meet with several NRC staff to discuss the proposed staff position delineated in a draft generic letter. The discussions that would take place at this meeting could directly impact an NRC regulatory decision or action (development and adoption of proposed staff position); therefore, this meeting should be a public meeting.

Meetings Typically Closed to the Public (2)

The following are examples of meetings between the staff and licensees, contractors, or others that, because of the nature of the meeting, are closed to the public.

Inspector Meetings With Licensee Management and Technical Staff (a)

The senior resident inspector and the resident inspector at a nuclear power plant may hold short meetings as needed with the plant manager to discuss activities at the facility. Arranging for public attendance at these types of meetings would place an undue administrative burden (for example, establishing access authorization to the protected area for members of the public) on the licensee and inspectors and would result in substantially interfering with their performing their safety and regulatory responsibilities; therefore, these types of meetings would not need to be public meetings.

Examples of Staff Meetings (C) (continued)

Meetings Typically Closed to the Public (2) (continued)

Inspector Meetings With Licensee Management and Technical Staff (a) (continued)

Similarly, headquarters and regional inspectors evaluating a specific discipline will meet with licensee management and technical staff to discuss current program status and issues. These meetings are considered an integral part of the NRC's inspection effort and thus are not open to the public.

"Drop-In" Meetings or Similar Management Meetings (b)

Senior executives of a utility licensed to operate a nuclear power plant request the opportunity to conduct a "drop-in" visit or similar management meeting with the Executive Director for Operations, with other senior managers at agency headquarters, or with senior managers of the regional office in which their facility is located. These visits or meetings typically consist of a general exchange of information not directly related to any regulatory action or decision; therefore, such meetings would not typically need to be public meetings.

Budget Meetings With Office of Management and Budget Officials (c)

Officials from the Office of Management and Budget (OMB) desire to meet with NRC officials to discuss the NRC's proposed budget for the next fiscal year. The OMB officials are acting in their official capacities as representatives of the executive branch and are not considered "outside persons" in the definition of a public meeting; therefore, this meeting would not be a public meeting.

Staff Meetings With a Vendor for a NSSS About a Schedule for Application Submissions (d)

Several NRC staff desire to meet with an NSSS vendor at the vendor's office to discuss the vendor's application for design certification under 10 CFR 52. The NRC staff desires to discuss the timeframe and schedule for submission of certain portions of the application, as well as the impact that the vendor's not meeting these deadlines would have on the NRC staff's review of the application. The NRC staff does not desire to discuss any technical or safety issues associated with the application. These discussions are not an information exchange related to any substantive

Examples of Staff Meetings (C) (continued)

Meetings Typically Closed to the Public (2) (continued)

Staff Meetings With a Vendor for a NSSS About a Schedule for Application Submissions (d) (continued)

issues associated with NRC's regulatory and safety responsibilities; therefore, this meeting would not be a public meeting.

Staff Meetings With NRC Contractors (e)

NRC officials desire to meet with representatives of an organization under contract to NRC to do confirmatory research related to an advanced light-water reactor design certification application. The organization (since it is under contract to NRC) is not an outside person; therefore, this meeting would not need to be a public meeting.

Staff Meeting With an Allegor of Wrongdoing (f)

Several NRC officials desire to meet and interview a member of the public or an employee of an organization licensed by NRC to possess certain types of radioactive materials regarding the individual's allegations of wrongdoing by the organization. The discussions are related to potential or ongoing investigatory activities; therefore, this meeting would not need to be a public meeting.

Inspection Exit Meetings (g)

Upon conclusion of an inspection, NRC inspectors meet and discuss with the licensee of a nuclear power plant the preliminary results of their inspection activities (an exit meeting). Since the inspectors' findings are preliminary in that they are subject to NRC management review, open meetings could result in the inappropriate disclosure of preliminary, unverified information. Therefore, routine inspection exit meetings are generally not open to public attendance. Attendance at the exit meeting by representatives of Agreement States or adjacent States, for example, would be governed by the policy agreed to by a specific State and the NRC concerning attendance by such representatives.*

*In certain significant cases of high public interest, the regional administrator or the office director, in consultation with the Director, Office of Public Affairs, may decide it is appropriate to allow public attendance or have a separate public meeting to discuss the results of the inspection or review.

Examples of Staff Meetings (C) (continued)

Meetings Typically Closed to the Public (2) (continued)

Fitness-for-Duty Meetings (h)

NRC officials desire to meet with representatives of a utility licensed to operate a nuclear power plant to discuss preliminary information regarding the fitness for duty of a specific licensed reactor operator. The meeting would not need to be a public meeting because public discussion of the licensed individual could be an invasion of personal privacy.

Staff Review Visits to Licensee Corporate and Plant Facilities (i)

A reviewer from the Office of Nuclear Reactor Regulation (NRR) is going to the utility corporate office to examine design calculations before writing the safety evaluation report. As a followup, the reviewer goes to the site the following week to review the in-plant design implementation. The timing of the exit interview is fluid based on licensee activities and/or sufficient development by NRC of any NRC findings.* Opening the meeting would thus constitute an undue administrative burden.

Project Manager and Regional Staff Meeting With the Licensee Following System Modification Problems (j)

A licensee performed a modification on its unit's rod control system. The modification was not reviewed and not required to be reviewed by the NRC staff. During postmodification testing, some problems are encountered. The NRC inspection staff learns of problems with both the hardware and the test procedure and discusses the concerns with NRC management. The NRR project manager and regional management decide that they need to meet with licensee management to discuss NRC's concerns regarding problems with the modification and testing. This meeting need not be open to the public because the NRC concerns are based on preliminary, unverified information.

Regional Management Meeting With the Licensee Regarding Preliminary Calculations (k)

During a design-basis reconstitution effort, a licensee determines through preliminary calculations that in the past its service water

*In certain significant cases of high public interest, the regional administrator or the office director, in consultation with the Director, Office of Public Affairs, may decide it is appropriate to allow public attendance or have a separate public meeting to discuss the results of the inspection or review.

Examples of Staff Meetings (C) (continued)

Meetings Typically Closed to the Public (2) (continued)

Regional Management Meeting With the Licensee Regarding Preliminary Calculations (k) (continued)

system (ultimate heat sink) may not have been able to provide design basis flow to all heat loads under accident conditions. The licensee informs the NRC verbally of the potential past problem. Current test results demonstrate that the system is operable. The computer modelling required to determine if the system had, in the past, been inoperable is complex and will take 1 month to complete. Regional management and technical experts meet with the licensee to get a better understanding of the problem, its consequences, and the ongoing evaluation. This meeting is not open to the public because it could result in the release of preliminary, unverified information.

NRC Management Visit to a Licensee Facility (l)

An NRC manager may visit a facility on short notice or without any notice for purposes other than meeting with licensee officials. These purposes may include but are not limited to monitoring and assessing the performance of NRC subordinates, touring the facility, or independently assessing licensee performance. During such a trip, the manager may visit licensee officials and may discuss substantive regulatory issues with them. Opening such a meeting to the public would constitute an undue administrative burden and could impede the efficient execution of the NRC's safety and regulatory responsibilities.

Meetings Between NRC Staff and the Public (3)

Each office director and regional administrator should be cognizant of the fact that under appropriate circumstances, meetings with the public should be initiated. Recommendations regarding meetings with the public should be made, as appropriate, to the EDO or Deputy EDO when significant NRC activities are at the planning stage. (a)

The following are circumstances under which meetings with the public should be initiated: (b)

Strong Public Interest (i)

Through correspondence or other means of communications, including the number or nature of comments in response to a notice on

Examples of Staff Meetings (C) (continued)

Meetings Between NRC Staff and the Public (3) (continued)

Strong Public Interest (i) (continued)

a proposed action, members of the public have expressed significant interest in a particular action under NRC staff review.

Local Community Groups (ii)

Local community groups have expressed interest in current or past NRC actions involving a facility, for example, letters to the agency, past hearings on a facility, or related 10 CFR 2.206 petitions. (Guidance related to conduct of informal public hearings regarding a 2.206 petition currently under NRC staff review can be found in Handbook 8.11, Part II.)

Government Official Interest (iii)

Members of Congress or State or local government officials have expressed interest on behalf of their constituents and have requested a meeting or other public outreach effort.

Previous Public Interest (iv)

Earlier public interest was expressed at the subject facility or at other facilities on similar issues involved in making a licensing determination, such as license renewal or a decommissioning decision.

Safety Significance (v)

Significant public interest may be anticipated for issues involving safety, such as following a significant plant event.

Anticipated Interest in Significant NRC Activity (vi)

The NRC expects a significant NRC activity or pending decision, such as the entrance or exit interview of a major team inspection, approval to the restart of a facility, or issuance of an order, to generate public interest and a strong public response.

Part II

Announcing Meetings Open to the Public

Formal Notice of Public Meetings (A)

Meetings open to the public should normally be announced to the public and to the Commission at least 10 calendar days in advance of the date of the meeting and may be announced up to 60 calendar days before the meeting. Outside persons with whom the staff is meeting should be informed when a meeting is to be open for public observation or participation. (1)

Meetings will be announced to the public through the Weekly Compilation of Press Releases, on a toll-free telephone recording and computer bulletin board, and through notices posted in the Public Document Room. (2)

The Commission will be informed of all public meetings by the meeting announcement coordinator, Office of Administration (ADM), Division of Freedom of Information and Publications Services (DFIPS), following receipt of meeting notices from agency offices in accordance with Sections (B)(1) and (2) of this part. (3)

Procedures for Noticing Public Meetings (B)

To notice a public meeting, provide the information specified in NRC Form 549, "Public Meeting Announcement Data Input" (Exhibit 1), to the meeting announcement coordinator, ADM, DFIPS, at least 10 calendar days in advance of the meeting by facsimile (301) 415-5130 or mail (Mail Stop T-6 D8) in accordance with guidelines specified on NRC Form 549. The staff may also submit meeting announcements to the meeting announcement coordinator by E-mail at the following address: PMNS. (1)

Procedures for Noticing Public Meetings (B) (continued)

When a party in a proceeding or a petitioner for leave to intervene requests information about forthcoming meetings conducted by the NRC staff, *reasonable effort is made by the NRC staff to inform the party or petitioner of these meetings.* When this notice is given to parties in a proceeding, the staff may submit a copy of that notice to the meeting announcement coordinator if it contains the mandatory information requested in NRC Form 549. (2)

Upon receipt of NRC Form 549, or other acceptable notice, the meeting announcement coordinator will enter the pertinent information into the computerized public notice file database and disseminate the notices as follows: (3)

- A weekly report of all meetings, by date and in time-of-day order, contained in the file as of 10:00 a.m. on Friday of each week by agency mail to the following organizations: (a)
 - The Commission (i)
 - Office of the Secretary (ii)
 - The Executive Director for Operations (iii)
 - Program office directors, regional administrators, and other office directors at their request (iv)
 - Director, Office of Public Affairs (v)
 - Public Document Room for posting (vi)
 - Chairmen of the Advisory Committees on Nuclear Waste and Reactor Safeguards (vii)
- A daily report by facsimile will be sent to the same recipients only when a meeting has been newly scheduled, cancelled, or changed within the following 10 calendar days. (b)

The meeting announcement coordinator will update information for the toll-free telephone recording on a daily basis. (4)

Meetings scheduled with less than a 10-calendar-day public notice must be approved in writing by the appropriate branch chief before the notice is submitted to the meeting announcement coordinator. (5)