

From: [Veil, Andrea](#)
To: [Widmayer, Derek](#)
Cc: [Banks, Mark](#); [Montgomery, Shandeth](#)
Subject: FW: Additional Comments -ACRS-EDO MOU
Date: Thursday, August 30, 2018 8:37:45 AM
Attachments: [ACRS-EDO MOU-2018 OGC Review 8-27-2018.docx](#)

Good Morning Derek,

Please make all changes to the MOU (including deleting the Part 63 reference). Once you get a clean copy back to us, I will ask Shan to finalize it and send it to the EDO's office.

Thanks,

Andrea Veil (formerly Valentin)

Executive Director

Advisory Committee on Reactor Safeguards

☎ 301-415-7360/Office T-2E2/Mail Stop T-2E26

✉ Email: andrea.veil@nrc.gov



From: Norwood, Richard
Sent: Thursday, August 30, 2018 8:27 AM
To: Veil, Andrea <andrea.veil@nrc.gov>
Cc: Banks, Mark <Mark.Banks@nrc.gov>; Baum, Robin <Robin.Baum@nrc.gov>; Widmayer, Derek <Derek.Widmayer@nrc.gov>
Subject: RE: Additional Comments -ACRS-EDO MOU

Hi Andrea,

Thank you for your explanation. It is duly noted. As you mentioned, if something comes up, we can communicate with the ACRS about the issue.

We are providing NLO, subject to the edits we discussed. If you have any questions or concerns, please feel free to contact me until the end of the week. After August 31, 2018, please contact Robin Baum with any questions or concerns. Thanks again.

Best Regards,

Richard Norwood

Attorney, Office of the General Counsel
U.S. Nuclear Regulatory Commission
11545 Rockville Pike
Mail Stop O14-A44
Rockville, MD 20852
(301) 287-9122
Richard.Norwood@nrc.gov

NOTE: THE CONTENTS OF THIS MESSAGE MAY BE PRIVILEGED AND CONFIDENTIAL AND ARE FOR THE USE OF THE INTENDED ADDRESSEE(S) ONLY.

From: Veil, Andrea
Sent: Tuesday, August 28, 2018 9:51 AM
To: Norwood, Richard <Richard.Norwood@nrc.gov>
Cc: Banks, Mark <Mark.Banks@nrc.gov>; Baum, Robin <Robin.Baum@nrc.gov>; Widmayer, Derek <Derek.Widmayer@nrc.gov>
Subject: RE: Additional Comments -ACRS-EDO MOU

Hi Richard,

I discussed the Part 63 comment with my staff and it can be deleted. As background, the members of the ACNW&M were “officially” assigned to the Commission’s adjudicatory technical advisory staff and therefore were specifically “recused” from further advice on Yucca Mountain technical matters once the LA was submitted by the DOE. (This is reflected in your comments).

The “official” adjudicatory position of members of the ACRS in regards to any future licensing matters on Yucca Mountain did not go through this vetting process and the ACRS staff has been consulting with the NRC staff on whether to include Yucca Mountain in the ACRS scope of duties (since they have not yet been assigned as adjudicatory staff).

All this being said, deleting it only has the effect of “officially” leaving it out of the MOU, so if something comes up and OGC says it is OK for the Commission to ask for ACRS help on an issue, it can be taken up at that time.

Thanks,

Andrea Veil (formerly Valentin)

Executive Director

Advisory Committee on Reactor Safeguards

 **301-415-7360/Office T-2E2/Mail Stop T-2E26**

 **Email: andrea.veil@nrc.gov**

-



From: Norwood, Richard

Sent: Tuesday, August 28, 2018 8:01 AM

To: Veil, Andrea <andrea.veil@nrc.gov>

Cc: Banks, Mark <Mark.Banks@nrc.gov>; Baum, Robin <Robin.Baum@nrc.gov>

Subject: RE: Additional Comments -ACRS-EDO MOU

Hi Andrea,

Thank you very much for your patience as this made its way through our OGC channels. Attached is a copy of our updated comments. The primary substantive issue is the addition of Part 63 to the MOU. We provided some feedback on our interpretation of the issue. Please let us know how you would like to resolve the issue. If a quick meeting is best, we are available this week to discuss. Thanks again.

Best Regards,

Richard Norwood

Attorney, Office of the General Counsel
U.S. Nuclear Regulatory Commission
11545 Rockville Pike
Mail Stop O14-A44
Rockville, MD 20852
(301) 287-9122
Richard.Norwood@nrc.gov

NOTE: THE CONTENTS OF THIS MESSAGE MAY BE PRIVILEGED AND CONFIDENTIAL AND ARE FOR THE USE OF THE INTENDED ADDRESSEE(S) ONLY.

From: Veil, Andrea

Sent: Friday, August 24, 2018 4:22 PM

To: Norwood, Richard <Richard.Norwood@nrc.gov>

Cc: Banks, Mark <Mark.Banks@nrc.gov>; Baum, Robin <Robin.Baum@nrc.gov>

Subject: RE: Additional Comments -ACRS-EDO MOU

Hi Richard,

I am circling back to see if you and your management were able to meet on the MOU and if there were any additional comments.

Thanks,

Andrea Veil (formerly Valentin)

Executive Director

Advisory Committee on Reactor Safeguards

☎ 301-415-7360/Office T-2E2/Mail Stop T-2E26

✉ Email: andrea.veil@nrc.gov



From: Norwood, Richard

Sent: Monday, August 06, 2018 2:17 PM

To: Veil, Andrea <andrea.veil@nrc.gov>

Cc: Banks, Mark <Mark.Banks@nrc.gov>; Baum, Robin <Robin.Baum@nrc.gov>

Subject: RE: Additional Comments -ACRS-EDO MOU

Hi Andrea,

Thanks for sending this over. I will review and relay any concerns to my management. Robin Baum and I are meeting with OGC management this week about this MOU, so you should hear from us by the end of the week. Thanks for your patience.

Best Regards,

Richard Norwood

From: Veil, Andrea

Sent: Monday, August 06, 2018 1:36 PM

To: Norwood, Richard <Richard.Norwood@nrc.gov>

Cc: Banks, Mark <Mark.Banks@nrc.gov>

Subject: Additional Comments -ACRS-EDO MOU

Hi Richard,

The lead ACRS staff who worked on the MOU was on AL last week. Please see his responses to your questions in the attached. The explanations are amplifying, but don't change anything that we provided last week.

Thanks,
Andrea

MEMORANDUM OF UNDERSTANDING

PARTIES: Advisory Committee on Reactor Safeguards (ACRS)
Executive Director for the Advisory Committee on Reactor Safeguards

Nuclear Regulatory Commission (NRC)
Executive Director for Operations (EDO)

SUBJECT: ACRS REVIEW OF NRC TECHNICAL MATTERS

BACKGROUND:

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

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

ACRS operations are governed by the Federal Advisory Committee Act (FACA), which is implemented through NRC regulations at 10 CFR Part 7, "Advisory Committees." Pursuant to this, the Committee functions under a Charter, which establishes the Committee's objectives, scope of activities ~~and~~, duties, ~~and administrative functions~~ [NR1]. The most recent ACRS Charter is available at the ACRS webpage (See Section A.6 in the Appendix to this MOU). FACA requirements and ACRS operational practices encourage the public, industry, state and local governments, and other stakeholders to become involved in Committee activities.

PURPOSE:

To achieve high quality and timely regulatory products, the purpose of this Memorandum of Understanding (MOU) is to establish a process to facilitate effective planning and engagement between the NRC staff [NR2] [WD3] and the ACRS staff on review activities within the Committee's ~~statutory and other~~ responsibilities as described in the "Background" section and further specified in the next section. It supersedes the previous MOU, dated October 28, 2009. This MOU should be reviewed biennially and updated as needed.

1. THE SCOPE OF ACRS RESPONSIBILITY

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

a. NRC Regulations

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

- Part 20, “Standards for Protection Against Radiation”
- Part 21, “Reporting of Defects and Noncompliance”
- Part 26, “Fitness for Duty Programs”
- Part 40, “Domestic Licensing of Source Material,” as applied to decommissioning and waste disposal
- Part 50, “Domestic Licensing of Production and Utilization Facilities”
- Part 51, “Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions”
- Part 52, “Licenses, Certifications, and Approvals for Nuclear Power Plants”
- Part 54, “Requirements for Renewal of Operating Licenses for Nuclear Power Plants”
- Part 55, “Operators’ Licenses”
- Part 60, “Disposal of High-Level Radioactive Wastes in Geologic Repositories”
- Part 61, “Licensing Requirements for Land Disposal of Radioactive Waste”
- Part [NR4] 63, “Disposal of High-Level Radioactive Wastes in a Geological ~~HLW~~ Repository at Yucca Mountain, Nevada”
- Part 70, “Domestic Licensing of Special Nuclear Material”
- Part 71, “Packaging and Transportation of Radioactive Material”
- Part 72, “Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater than Class C Waste”
- Part 73, “Physical Protection of Plants and Materials” ¹
- Part 74, “Material Control and Accounting of Special Nuclear Material”
- Part 76, “Certification of Gaseous Diffusion Plants”
- Part 100, “Reactor Site Criteria”

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

b. Licensing Documents

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

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

c. Regulatory Activities

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

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

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

a. NRC Program Office ACRS Coordinator

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

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

b. ACRS Technical Support Branch Chief

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

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

c. ACRS Staff Contact

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

d. Program Office Technical Contact

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

- Coordination with other HQ or Regional staff, NRC contractors, licensee, and vendor staff, and any other persons who should be involved in the ACRS review.

- Cognizant Program Office management review and coordination of the item in accordance with the Office's practices and procedures.
- Ensuring the Program Office ACRS Coordinator has the most accurate information on the matter that impacts the scope and schedule of the ACRS review.

e. ACRS Staff and Program Office Technical Contact Coordination

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

f. Coordination with NRC Regional Offices and Personnel

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

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

The NRC Program Office Coordinator, representing the cognizant Program Office Director or their designee, with guidance from the EDO or Commission, as appropriate, will identify matters requiring ACRS consideration to allow sufficient time to permit effective and efficient review by the ACRS. NRC Program Office ~~coordinators~~ Coordinators should have early stage discussions with the ACRS Technical Support Branch Chief and ACRS staff with the goal of identifying proposed topics to be discussed with the Committee. These proposed topics should be included in the list of scheduled and planned agenda items and should be tracked in the data management system maintained by the ACRS Technical Support Branch Chief. Discussions will ~~be focused~~ focus on ensuring that the information in the ACRS data management system is accurate and up-to-date. The ~~Reports~~ reports that are generated by the ACRS Technical Branch Chief showing the upcoming schedules for ACRS review items will be distributed to each NRC Program Office Coordinator and the EDO, and should reflect the agreed upon coordination on upcoming review items and schedules. Decisions on whether to review a matter ^[NR5] ^[WD6] will be made in accordance with Commission guidance, as determined by the needs of the EDO and Program Office Directors ^[NR7] ^[WD8], the recommendation of the responsible ACRS Subcommittee Chairman, and the ACRS Planning and Procedures Subcommittee.

Matters identified for possible ACRS consideration should include all non-administrative, non-routine Commission papers being developed by staff. Early coordination on ~~these non-routine~~ Commission papers will minimize completion delays ~~in their completion~~ that could occur if ~~the matters are not reviewed by the ACRS and~~ the Commission decides late in their development that such a ACRS review is warranted. The Commission should have the ACRS views on significant regulatory matters when it receives the staff views and recommendations, if possible. Section 4 of this MOU provides guidance to facilitate the review of significant regulatory matters consistent with staff schedules.

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

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

4. ESTABLISHING A SCHEDULE FOR THE ACRS REVIEW

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

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

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

5. DEVIATIONS FROM THIS MOU

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

6. REFERENCES

- 10 CFR Part 7, “Advisory Committees”

- “Charter, Advisory Committee on Reactor Safeguards” (current version on ACRS webpage)
- “Advisory Committee on Reactor Safeguards Bylaws” (current version on ACRS webpage)
- EDO Procedure No. 0210, “OEDO Procedure for Coordination with ACRS” (ML13051A757)
- “Advisory Committee on Reactor Safeguards; Procedures for Meetings” (published annually in the *Federal Register*)
- Staff Requirements – “Meeting with Advisory Committee On Reactor Safeguards (ACRS), 9:30 A.M., Thursday, October 2, 2003,” October 31, 2003 (ML033040278)
- ACRS Memorandum, Subject: “Procedure for ACRS Review of Regulatory Guides,” August 10, 2011 (ML11216A100)
- ACRS Memorandum, Subject: “ACRS Review of Interim Staff Guidance”, September 9, 2014 (ML14247A641)
- SECY-15-0129, “Commission Involvement in Early Stages of Rulemaking,” October 19, 2015 (ML15267A759)

(Date)

Margaret Doane
Executive Director for Operations

(Date)

Andrea D. Veil
Executive Director for ACRS

APPENDIX

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

A.1 ACRS REVIEWS AND MEETINGS

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

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

a. Submittal of Documents for ACRS Review

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

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

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

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

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

The handling of ~~Sensitive Unclassified Non-Safeguards Information (SUNSI)~~ [NR9] documents submitted to the ACRS for review is addressed in Section A.5 below.

b. Subcommittee Meetings

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

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

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

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

c. Full Committee Meetings

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

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

d. Informal Meetings

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

e. Meeting Agendas and Speakers

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

f. Presentation Material

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

A.2 ACRS REVIEWS AND COMMENTS

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

a. Comments by ACRS Members at Meetings

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

ACRS subcommittee members may ask for additional information about the documents under review that were not supplied prior to the meetings. The Program Office technical contact and

other program office staff supporting the ACRS meeting should endeavor to provide the additional information, if it is reasonably available after the subcommittee meeting, to the ACRS staff contact. The ACRS staff contact will distribute the additional information to the subcommittee members.

b. Official ACRS Comments

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

A.3 RESPONDING TO OFFICIAL ACRS COMMENTS

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

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

A.4 CONFLICT OF INTEREST OF ACRS MEMBERS

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

A.5 HANDLING OF DOCUMENTS DURING ACRS REVIEWS

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

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

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

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

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

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

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

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

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

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

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

A.6 ACRS WEBPAGE

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

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

From: [Norwood, Richard](#)
To: [Veil, Andrea](#)
Cc: [Banks, Mark](#); [Baum, Robin](#); [Widmayer, Derek](#)
Subject: RE: Additional Comments -ACRS-EDO MOU
Date: Thursday, August 30, 2018 8:27:08 AM

Hi Andrea,

Thank you for your explanation. It is duly noted. As you mentioned, if something comes up, we can communicate with the ACRS about the issue.

We are providing NLO, subject to the edits we discussed. If you have any questions or concerns, please feel free to contact me until the end of the week. After August 31, 2018, please contact Robin Baum with any questions or concerns. Thanks again.

Best Regards,

Richard Norwood

Attorney, Office of the General Counsel
U.S. Nuclear Regulatory Commission
11545 Rockville Pike
Mail Stop O14-A44
Rockville, MD 20852
(301) 287-9122
Richard.Norwood@nrc.gov

NOTE: THE CONTENTS OF THIS MESSAGE MAY BE PRIVILEGED AND CONFIDENTIAL AND ARE FOR THE USE OF THE INTENDED ADDRESSEE(S) ONLY.

From: Veil, Andrea
Sent: Tuesday, August 28, 2018 9:51 AM
To: Norwood, Richard <Richard.Norwood@nrc.gov>
Cc: Banks, Mark <Mark.Banks@nrc.gov>; Baum, Robin <Robin.Baum@nrc.gov>; Widmayer, Derek <Derek.Widmayer@nrc.gov>
Subject: RE: Additional Comments -ACRS-EDO MOU

Hi Richard,

I discussed the Part 63 comment with my staff and it can be deleted. As background, the members of the ACNW&M were “officially” assigned to the Commission’s adjudicatory technical advisory staff and therefore were specifically “recused” from further advice on Yucca Mountain technical matters once the LA was submitted by the DOE. (This is reflected in your comments).

The “official” adjudicatory position of members of the ACRS in regards to any future licensing matters on Yucca Mountain did not go through this vetting process and the ACRS

staff has been consulting with the NRC staff on whether to include Yucca Mountain in the ACRS scope of duties (since they have not yet been assigned as adjudicatory staff).

All this being said, deleting it only has the effect of “officially” leaving it out of the MOU, so if something comes up and OGC says it is OK for the Commission to ask for ACRS help on an issue, it can be taken up at that time.

Thanks,

Andrea Veil (formerly Valentin)

Executive Director

Advisory Committee on Reactor Safeguards

☎ 301-415-7360/Office T-2E2/Mail Stop T-2E26

✉ Email: andrea.veil@nrc.gov



From: Norwood, Richard

Sent: Tuesday, August 28, 2018 8:01 AM

To: Veil, Andrea <andrea.veil@nrc.gov>

Cc: Banks, Mark <Mark.Banks@nrc.gov>; Baum, Robin <Robin.Baum@nrc.gov>

Subject: RE: Additional Comments -ACRS-EDO MOU

Hi Andrea,

Thank you very much for your patience as this made its way through our OGC channels. Attached is a copy of our updated comments. The primary substantive issue is the addition of Part 63 to the MOU. We provided some feedback on our interpretation of the issue. Please let us know how you would like to resolve the issue. If a quick meeting is best, we are available this week to discuss. Thanks again.

Best Regards,

Richard Norwood

Attorney, Office of the General Counsel

U.S. Nuclear Regulatory Commission

11545 Rockville Pike

Mail Stop O14-A44

Rockville, MD 20852

(301) 287-9122

Richard.Norwood@nrc.gov

NOTE: THE CONTENTS OF THIS MESSAGE MAY BE PRIVILEGED AND CONFIDENTIAL AND ARE FOR THE USE OF THE INTENDED ADDRESSEE(S) ONLY.

From: Veil, Andrea

Sent: Friday, August 24, 2018 4:22 PM

To: Norwood, Richard <Richard.Norwood@nrc.gov>

Cc: Banks, Mark <Mark.Banks@nrc.gov>; Baum, Robin <Robin.Baum@nrc.gov>

Subject: RE: Additional Comments -ACRS-EDO MOU

Hi Richard,

I am circling back to see if you and your management were able to meet on the MOU and if there were any additional comments.

Thanks,

Andrea Veil (formerly Valentin)

Executive Director

Advisory Committee on Reactor Safeguards

☎ 301-415-7360/Office T-2E2/Mail Stop T-2E26

✉ Email: andrea.veil@nrc.gov



From: Norwood, Richard

Sent: Monday, August 06, 2018 2:17 PM

To: Veil, Andrea <andrea.veil@nrc.gov>

Cc: Banks, Mark <Mark.Banks@nrc.gov>; Baum, Robin <Robin.Baum@nrc.gov>

Subject: RE: Additional Comments -ACRS-EDO MOU

Hi Andrea,

Thanks for sending this over. I will review and relay any concerns to my management. Robin Baum and I are meeting with OGC management this week about this MOU, so you should hear from us by the end of the week. Thanks for your patience.

Best Regards,

Richard Norwood

From: Veil, Andrea

Sent: Monday, August 06, 2018 1:36 PM

To: Norwood, Richard <Richard.Norwood@nrc.gov>

Cc: Banks, Mark <Mark.Banks@nrc.gov>

Subject: Additional Comments -ACRS-EDO MOU

Hi Richard,

The lead ACRS staff who worked on the MOU was on AL last week. Please see his responses to your questions in the attached. The explanations are amplifying, but don't change anything that we provided last week.

Thanks,
Andrea

From: [Veil, Andrea](#)
To: [Norwood, Richard](#)
Cc: [Banks, Mark](#); [Baum, Robin](#); [Widmayer, Derek](#); [Bellinger, Alesha](#)
Subject: RE: Additional Comments -ACRS-EDO MOU
Date: Thursday, August 30, 2018 8:32:58 AM

Good Morning Richard,

Thank you for the update and the NLO. We appreciate your thoughtful review and insightful questions.

Best Regards,

Andrea Veil (formerly Valentin)

Executive Director

Advisory Committee on Reactor Safeguards

☎ 301-415-7360/Office T-2E2/Mail Stop T-2E26

✉ Email: andrea.veil@nrc.gov



From: Norwood, Richard
Sent: Thursday, August 30, 2018 8:27 AM
To: Veil, Andrea <andrea.veil@nrc.gov>
Cc: Banks, Mark <Mark.Banks@nrc.gov>; Baum, Robin <Robin.Baum@nrc.gov>; Widmayer, Derek <Derek.Widmayer@nrc.gov>
Subject: RE: Additional Comments -ACRS-EDO MOU

Hi Andrea,

Thank you for your explanation. It is duly noted. As you mentioned, if something comes up, we can communicate with the ACRS about the issue.

We are providing NLO, subject to the edits we discussed. If you have any questions or concerns, please feel free to contact me until the end of the week. After August 31, 2018, please contact Robin Baum with any questions or concerns. Thanks again.

Best Regards,

Richard Norwood

Attorney, Office of the General Counsel

U.S. Nuclear Regulatory Commission
11545 Rockville Pike
Mail Stop O14-A44
Rockville, MD 20852
(301) 287-9122
Richard.Norwood@nrc.gov

NOTE: THE CONTENTS OF THIS MESSAGE MAY BE PRIVILEGED AND CONFIDENTIAL AND ARE FOR THE USE OF THE INTENDED ADDRESSEE(S) ONLY.

From: Veil, Andrea
Sent: Tuesday, August 28, 2018 9:51 AM
To: Norwood, Richard <Richard.Norwood@nrc.gov>
Cc: Banks, Mark <Mark.Banks@nrc.gov>; Baum, Robin <Robin.Baum@nrc.gov>; Widmayer, Derek <Derek.Widmayer@nrc.gov>
Subject: RE: Additional Comments -ACRS-EDO MOU

Hi Richard,

I discussed the Part 63 comment with my staff and it can be deleted. As background, the members of the ACNW&M were “officially” assigned to the Commission’s adjudicatory technical advisory staff and therefore were specifically “recused” from further advice on Yucca Mountain technical matters once the LA was submitted by the DOE. (This is reflected in your comments).

The “official” adjudicatory position of members of the ACRS in regards to any future licensing matters on Yucca Mountain did not go through this vetting process and the ACRS staff has been consulting with the NRC staff on whether to include Yucca Mountain in the ACRS scope of duties (since they have not yet been assigned as adjudicatory staff).

All this being said, deleting it only has the effect of “officially” leaving it out of the MOU, so if something comes up and OGC says it is OK for the Commission to ask for ACRS help on an issue, it can be taken up at that time.

Thanks,

Andrea Veil (formerly Valentin)

Executive Director

Advisory Committee on Reactor Safeguards

☎ 301-415-7360/Office T-2E2/Mail Stop T-2E26

✉ Email: andrea.veil@nrc.gov



From: Norwood, Richard

Sent: Tuesday, August 28, 2018 8:01 AM

To: Veil, Andrea <andrea.veil@nrc.gov>

Cc: Banks, Mark <Mark.Banks@nrc.gov>; Baum, Robin <Robin.Baum@nrc.gov>

Subject: RE: Additional Comments -ACRS-EDO MOU

Hi Andrea,

Thank you very much for your patience as this made its way through our OGC channels. Attached is a copy of our updated comments. The primary substantive issue is the addition of Part 63 to the MOU. We provided some feedback on our interpretation of the issue. Please let us know how you would like to resolve the issue. If a quick meeting is best, we are available this week to discuss. Thanks again.

Best Regards,

Richard Norwood

Attorney, Office of the General Counsel

U.S. Nuclear Regulatory Commission

11545 Rockville Pike

Mail Stop O14-A44

Rockville, MD 20852

(301) 287-9122

Richard.Norwood@nrc.gov

NOTE: THE CONTENTS OF THIS MESSAGE MAY BE PRIVILEGED AND CONFIDENTIAL AND ARE FOR THE USE OF THE INTENDED ADDRESSEE(S) ONLY.

From: Veil, Andrea

Sent: Friday, August 24, 2018 4:22 PM

To: Norwood, Richard <Richard.Norwood@nrc.gov>

Cc: Banks, Mark <Mark.Banks@nrc.gov>; Baum, Robin <Robin.Baum@nrc.gov>

Subject: RE: Additional Comments -ACRS-EDO MOU

Hi Richard,

I am circling back to see if you and your management were able to meet on the MOU and if there were any additional comments.

Thanks,

Andrea Veil (formerly Valentin)

Executive Director

Advisory Committee on Reactor Safeguards

☎ 301-415-7360/Office T-2E2/Mail Stop T-2E26

✉ Email: andrea.veil@nrc.gov



From: Norwood, Richard

Sent: Monday, August 06, 2018 2:17 PM

To: Veil, Andrea <andrea.veil@nrc.gov>

Cc: Banks, Mark <Mark.Banks@nrc.gov>; Baum, Robin <Robin.Baum@nrc.gov>

Subject: RE: Additional Comments -ACRS-EDO MOU

Hi Andrea,

Thanks for sending this over. I will review and relay any concerns to my management. Robin Baum and I are meeting with OGC management this week about this MOU, so you should hear from us by the end of the week. Thanks for your patience.

Best Regards,

Richard Norwood

From: Veil, Andrea

Sent: Monday, August 06, 2018 1:36 PM

To: Norwood, Richard <Richard.Norwood@nrc.gov>

Cc: Banks, Mark <Mark.Banks@nrc.gov>

Subject: Additional Comments -ACRS-EDO MOU

Hi Richard,

The lead ACRS staff who worked on the MOU was on AL last week. Please see his responses to your questions in the attached. The explanations are amplifying, but don't change anything that we provided last week.

Thanks,
Andrea

From: [Veil, Andrea](#)
To: [Norwood, Richard](#)
Cc: [Banks, Mark](#); [Baum, Robin](#); [Widmayer, Derek](#)
Subject: RE: Additional Comments -ACRS-EDO MOU
Date: Tuesday, August 28, 2018 9:51:08 AM

Hi Richard,

I discussed the Part 63 comment with my staff and it can be deleted. As background, the members of the ACNW&M were “officially” assigned to the Commission’s adjudicatory technical advisory staff and therefore were specifically “recused” from further advice on Yucca Mountain technical matters once the LA was submitted by the DOE. (This is reflected in your comments).

The “official” adjudicatory position of members of the ACRS in regards to any future licensing matters on Yucca Mountain did not go through this vetting process and the ACRS staff has been consulting with the NRC staff on whether to include Yucca Mountain in the ACRS scope of duties (since they have not yet been assigned as adjudicatory staff).

All this being said, deleting it only has the effect of “officially” leaving it out of the MOU, so if something comes up and OGC says it is OK for the Commission to ask for ACRS help on an issue, it can be taken up at that time.

Thanks,

Andrea Veil (formerly Valentin)

Executive Director

Advisory Committee on Reactor Safeguards

☎ 301-415-7360/Office T-2E2/Mail Stop T-2E26

✉ Email: andrea.veil@nrc.gov



From: Norwood, Richard
Sent: Tuesday, August 28, 2018 8:01 AM
To: Veil, Andrea <andrea.veil@nrc.gov>
Cc: Banks, Mark <Mark.Banks@nrc.gov>; Baum, Robin <Robin.Baum@nrc.gov>
Subject: RE: Additional Comments -ACRS-EDO MOU

Hi Andrea,

Thank you very much for your patience as this made its way through our OGC channels. Attached is a copy of our updated comments. The primary substantive issue is the addition of Part 63 to the MOU. We provided some feedback on our interpretation of the issue. Please let us know how you would like to resolve the issue. If a quick meeting is best, we are available this week to discuss. Thanks again.

Best Regards,

Richard Norwood

Attorney, Office of the General Counsel
U.S. Nuclear Regulatory Commission
11545 Rockville Pike
Mail Stop O14-A44
Rockville, MD 20852
(301) 287-9122
Richard.Norwood@nrc.gov

NOTE: THE CONTENTS OF THIS MESSAGE MAY BE PRIVILEGED AND CONFIDENTIAL AND ARE FOR THE USE OF THE INTENDED ADDRESSEE(S) ONLY.

From: Veil, Andrea
Sent: Friday, August 24, 2018 4:22 PM
To: Norwood, Richard <Richard.Norwood@nrc.gov>
Cc: Banks, Mark <Mark.Banks@nrc.gov>; Baum, Robin <Robin.Baum@nrc.gov>
Subject: RE: Additional Comments -ACRS-EDO MOU

Hi Richard,

I am circling back to see if you and your management were able to meet on the MOU and if there were any additional comments.

Thanks,

Andrea Veil (formerly Valentin)

Executive Director

Advisory Committee on Reactor Safeguards

☎ 301-415-7360/Office T-2E2/Mail Stop T-2E26

✉ Email: andrea.veil@nrc.gov



From: Norwood, Richard

Sent: Monday, August 06, 2018 2:17 PM

To: Veil, Andrea <andrea.veil@nrc.gov>

Cc: Banks, Mark <Mark.Banks@nrc.gov>; Baum, Robin <Robin.Baum@nrc.gov>

Subject: RE: Additional Comments -ACRS-EDO MOU

Hi Andrea,

Thanks for sending this over. I will review and relay any concerns to my management. Robin Baum and I are meeting with OGC management this week about this MOU, so you should hear from us by the end of the week. Thanks for your patience.

Best Regards,

Richard Norwood

From: Veil, Andrea

Sent: Monday, August 06, 2018 1:36 PM

To: Norwood, Richard <Richard.Norwood@nrc.gov>

Cc: Banks, Mark <Mark.Banks@nrc.gov>

Subject: Additional Comments -ACRS-EDO MOU

Hi Richard,

The lead ACRS staff who worked on the MOU was on AL last week. Please see his responses to your questions in the attached. The explanations are amplifying, but don't change anything that we provided last week.

Thanks,
Andrea

From: [Veil, Andrea](#)
To: [Baum, Robin](#)
Cc: [Banks, Mark](#); [Widmayer, Derek](#); [Lewis, Robert](#); [Burkhart, Lawrence](#); [Werner, Greg](#)
Subject: RE: ACRS/EDO MOU
Date: Sunday, June 03, 2018 12:15:08 PM
Attachments: [ACRS-EDO MOU-2018Final 5-3-18 ADV.docx](#)

Hi Robin,

Per your e-mail, I have attached the Draft Final ACRS/EDO MOU for your review.

Thanks in advance!

Andrea Veil (formerly Valentin)

Executive Director

Advisory Committee on Reactor Safeguards

☎ 301-415-7360/Office T-2E2/Mail Stop T-2E26

✉ Email: andrea.veil@nrc.gov

“Doubt kills more dreams than failure ever will”.

- *Suzy Kassem*

From: Baum, Robin
Sent: Friday, June 01, 2018 4:28 PM
To: Veil, Andrea <andrea.veil@nrc.gov>
Subject: RE: ACRS/EDO MOU

Just send (Email) it to me directly ! Thx !

Robin Baum
Deputy Assistant General Counsel
for Administration/Special Counsel for Acquisition
Office of the General Counsel
U.S. Nuclear Regulatory Commission
Office: OWFN – 15A57
(301) 287-0950
Robin.baum@nrc.gov

From: Veil, Andrea
Sent: Friday, June 01, 2018 8:49 AM
To: Baum, Robin <Robin.Baum@nrc.gov>
Subject: ACRS/EDO MOU

Hello Robin,

I hope all is well. This is a follow-up to a voice mail that I left a few weeks ago. I have been

working with the EDO's office on revising the ACRS/EDO MOU. All comments have been incorporated, and Rob Lewis asked that I forward it to OGC for review. What is the best way to get the document to you for review?

Thanks so much!

Andrea Veil (formerly Valentin)

Executive Director

Advisory Committee on Reactor Safeguards

☎ 301-415-7360/Office T-2E2/Mail Stop T-2E26

✉ Email: andrea.veil@nrc.gov

“Doubt kills more dreams than failure ever will”.

 - *Suzy Kassem*

MEMORANDUM OF UNDERSTANDING

PARTIES: Advisory Committee on Reactor Safeguards (ACRS)
 Executive Director for the Advisory Committee on Reactor Safeguards

 Nuclear Regulatory Commission (NRC)
 Executive Director for Operations (EDO)

SUBJECT: ACRS REVIEW OF NRC TECHNICAL MATTERS

BACKGROUND:

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

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

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

PURPOSE:

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

1. THE SCOPE OF ACRS RESPONSIBILITY

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

a. NRC Regulations

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

- Part 20, “Standards for Protection Against Radiation”
- Part 21, “Reporting of Defects and Noncompliance”
- Part 26, “Fitness for Duty Programs”
- Part 40, “Domestic Licensing of Source Material,” as applied to decommissioning and waste disposal
- Part 50, “Domestic Licensing of Production and Utilization Facilities”
- Part 51, “Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions”
- Part 52, “Licenses, Certifications, and Approvals for Nuclear Power Plants”
- Part 54, “Requirements for Renewal of Operating Licenses for Nuclear Power Plants”
- Part 55, “Operators’ Licenses”
- Part 60, “Disposal of High-Level Radioactive Wastes in Geologic Repositories”
- Part 61, “Licensing Requirements for Land Disposal of Radioactive Waste”
- Part 63, “Geological HLW Repository at Yucca Mountain”
- Part 70, “Domestic Licensing of Special Nuclear Material”
- Part 71, “Packaging and Transportation of Radioactive Material”
- Part 72, “Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater than Class C Waste”
- Part 73, “Physical Protection of Plants and Materials” ¹
- Part 74, “Material Control and Accounting of Special Nuclear Material”
- Part 76, “Certification of Gaseous Diffusion Plants”
- Part 100, “Reactor Site Criteria”

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

b. Licensing Documents

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

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

c. Regulatory Activities

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

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

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

a. NRC Program Office ACRS Coordinator

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

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

b. ACRS Technical Support Branch Chief

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

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

c. ACRS Staff Contact

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

d. Program Office Technical Contact

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

- Coordination with other HQ or Regional staff, NRC contractors, licensee, and vendor staff, and any other persons who should be involved in the ACRS review.
- Cognizant Program Office management review and coordination of the item in accordance with the Office's practices and procedures.

- Ensuring the Program Office ACRS Coordinator has the most accurate information on the matter that impacts the scope and schedule of the ACRS review.

e. ACRS Staff and Program Office Technical Contact Coordination

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

f. Coordination with NRC Regional Offices and Personnel

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

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

The NRC Program Office Coordinator, representing the cognizant Program Office Director or their designee, with guidance from the EDO or Commission, as appropriate, will identify matters requiring ACRS consideration to allow sufficient time to permit effective and efficient review by the ACRS. NRC Program Office coordinators should have early discussions with the ACRS Technical Support Branch Chief and ACRS staff with the goal of identifying proposed topics to be discussed with the Committee. These proposed topics should be included in the list of scheduled and planned agenda items and should be tracked in the data management system maintained by the ACRS Technical Support Branch Chief. Discussions will be focused on ensuring that the information in the ACRS data management system is accurate and up-to-date. The Reports that are generated by the ACRS Technical Branch Chief showing the upcoming schedules for ACRS review items will be distributed to each NRC Program Office Coordinator and the EDO, and should reflect the agreed upon coordination on upcoming review items and schedules. Decisions on whether to review a matter will be made in accordance with Commission guidance, as determined by the needs of the EDO and Program Office Directors, the recommendation of the responsible ACRS Subcommittee Chairman, and the ACRS Planning and Procedures Subcommittee.

Matters identified for possible ACRS consideration should include all non-administrative, non-routine Commission papers being developed by staff. Early coordination on these Commission papers will minimize delays in their completion that could occur if the matters are not reviewed by the ACRS and the Commission decides late in their development that such a review is warranted. The Commission should have the ACRS views on significant regulatory matters when it receives the staff views and recommendations, if possible. Section 4 of this MOU provides guidance to facilitate the review of significant regulatory matters consistent with staff schedules.

Consistent with guidance contained in SECY-15-0129, "*Commission Involvement in Early Stages of Rulemaking*," the ACRS focuses on significant proposed and final rules that address safety issues. Currently, rulemaking packages in the earliest stage of development come to the ACRS under three circumstances: (1) ACRS review as required by law (e.g., reactor design

certification rules), (2) the Commission directs the review, or (3) the Committee uses its own discretion to review. For significant rules, the “earliest stage of development,” should include the draft regulatory basis, if directed by the Commission or requested by the NRC Program Office Director. Staff in the NMSS Division of Rulemaking will coordinate with ACRS staff to determine whether a given rule falls within the identified circumstances, as well as the stage(s) at which the ACRS will review the rule.

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

4. ESTABLISHING A SCHEDULE FOR THE ACRS REVIEW

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

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

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

5. DEVIATIONS FROM THIS MOU

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

6. REFERENCES

- 10 CFR Part 7, “Advisory Committees”
- “Charter, Advisory Committee on Reactor Safeguards” (current version on ACRS webpage)

- “Advisory Committee on Reactor Safeguards Bylaws” (current version on ACRS webpage)
- EDO Procedure No. 0210, “OEDO Procedure for Coordination with ACRS” (ML13051A757)
- “Advisory Committee on Reactor Safeguards; Procedures for Meetings” (published annually in the *Federal Register*)
- Staff Requirements – “Meeting with Advisory Committee On Reactor Safeguards (ACRS), 9:30 A.M., Thursday, October 2, 2003,” October 31, 2003 (ML033040278)
- ACRS Memorandum, Subject: “Procedure for ACRS Review of Regulatory Guides,” August 10, 2011 (ML11216A100)
- ACRS Memorandum, Subject: “ACRS Review of Interim Staff Guidance”, September 9, 2014 (ML14247A641)
- SECY-15-0129, “Commission Involvement in Early Stages of Rulemaking,” October 19, 2015 (ML15267A759)

(Date)

Victor M. McCree
Executive Director for Operations

(Date)

Andrea D. Veil
Executive Director for ACRS

APPENDIX

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

A.1 ACRS REVIEWS AND MEETINGS

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

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

a. Submittal of Documents for ACRS Review

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

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

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

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

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

The handling of Sensitive Unclassified Non-Safeguards Information (SUNSI) documents submitted to the ACRS for review is addressed in Section A.5 below.

b. Subcommittee Meetings

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

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

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

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

c. Full Committee Meetings

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

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

d. Informal Meetings

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

e. Meeting Agendas and Speakers

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

f. Presentation Material

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

A.2 ACRS REVIEWS AND COMMENTS

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

a. Comments by ACRS Members at Meetings

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

ACRS subcommittee members may ask for additional information about the documents under review that were not supplied prior to the meetings. The Program Office technical contact and

other program office staff supporting the ACRS meeting should endeavor to provide the additional information, if it is reasonably available after the subcommittee meeting, to the ACRS staff contact. The ACRS staff contact will distribute the additional information to the subcommittee members.

b. Official ACRS Comments

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

A.3 RESPONDING TO OFFICIAL ACRS COMMENTS

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

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

A.4 CONFLICT OF INTEREST OF ACRS MEMBERS

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

A.5 HANDLING OF DOCUMENTS DURING ACRS REVIEWS

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

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

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

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

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

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

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

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

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

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

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

A.6 ACRS WEBPAGE

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

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

Attachment same as 6/3/18 email

From: [Veil, Andrea](#)
To: [Widmayer, Derek](#)
Cc: [Banks, Mark](#)
Subject: RE: FINAL DRAFT MOU following EDO and Program Office Review
Date: Thursday, May 03, 2018 3:29:38 PM
Attachments: [ACRS-EDO MOU-2018Final 5-3-18 ADV.docx](#)

P.S. Dennis made the following comment and ACRS Leadership agreed to change the word from “technical” to “safety”. Larry also made a similar comment so I made the change (this is contrary to your note about the SECY Paper reference). In my opinion, the words don’t not have to be verbatim to be consistent:

Consistent with guidance contained in SECY-15-0129, “*Commission Involvement in Early Stages of Rulemaking*,” the ACRS focuses on significant proposed and final rules that address **safety** ~~technical~~ issues.

I also found some missing colons, periods etc. Finally, the 6 point font footnote was pretty tough to read so I made it bigger.

I won’t send the attached until I hear back from you (and also please address my previous e-mail on Larry’s suggested wording for a more simple paragraph).

Thanks,
Andrea

From: Widmayer, Derek
Sent: Wednesday, May 02, 2018 2:20 PM
To: Veil, Andrea <andrea.veil@nrc.gov>
Cc: Banks, Mark <Mark.Banks@nrc.gov>
Subject: FINAL DRAFT MOU following EDO and Program Office Review

Andrea:

Attached is another Clean version of the MOU addressing comments and incorporating changes from the Program Office and EDO reviews. I have attached a TRACK Changes version that includes my responses to comments in two instances where I did not incorporate a change, if anyone cares. It is ready to go back to the EDO and then to OGC.

Derek

From: Veil, Andrea
Sent: Tuesday, May 01, 2018 12:11 PM
To: Widmayer, Derek <Derek.Widmayer@nrc.gov>
Cc: Banks, Mark <Mark.Banks@nrc.gov>
Subject: RE: Suggested Revision to MOU regarding SUNSI/CUI

Looks good to me. If this is the last change, please send me a clean copy of the MOU and any notes that are important for comment resolution. The next step is to get back to the EDO’s Office and then it will go to OGC.

Thanks!
Andrea

From: Widmayer, Derek
Sent: Tuesday, May 01, 2018 11:07 AM
To: Veil, Andrea <andrea.veil@nrc.gov>
Cc: Banks, Mark <Mark.Banks@nrc.gov>
Subject: Suggested Revision to MOU regarding SUNSI/CUI

Andrea:

I have attached a redline/strikeout version of the SUNSI section of the MOU showing the suggested revision from OCIO. This suggested revision is “forward” looking, thus the lengthy footnote – meaning it should not require (hopefully) a revision to the MOU when the CUI Program becomes fully implemented.

Let me know if you agree with this and I will make it so in the MOU Revision. (including fixing the two footnotes as needed)

Derek A. Widmayer

ACRS/Technical Support Branch

301-221-1448 (cell)

derek.widmayer@nrc.gov

From: [Veil, Andrea](#)
To: [Burkhart, Lawrence](#); [Werner, Greg](#)
Cc: [Lewis, Robert](#); [Banks, Mark](#); [Widmayer, Derek](#)
Subject: RE: DRAFT INPUT
Date: Thursday, May 03, 2018 3:53:10 PM
Attachments: [ACRS-EDO MOU-2018Final 5-3-18 ADV.docx](#)

Hello Larry and Greg,

ACRS has incorporated nearly all of the comments on the draft EDO/ACRS MOU. Derek Widmayer of my staff consulted with the folks responsible for the CUI transition and they suggested adding a footnote which we included.

With regard to NRO's comment on a yearly FRN for subcommittee (SC) meetings, they were never subject to FACA and the ACRS Bylaws have been revised to clarify that fact. Past yearly FRN's were issued when the committee voluntarily treated SC and FC meetings the same (no longer the case).

Once you have had a chance to review, please let me know if you want me to send it to Robin Baum or if you want to forward it to her (either way is fine with me).

Thanks,

Andrea Veil (formerly Valentin)

Executive Director

Advisory Committee on Reactor Safeguards

 301-415-7360/Office T-2E2/Mail Stop T-2E26

 Email: andrea.veil@nrc.gov

"Doubt kills more dreams than failure ever will".

- *Suzy Kassem*

From: Burkhart, Lawrence
Sent: Wednesday, April 04, 2018 2:42 PM
To: Veil, Andrea <andrea.veil@nrc.gov>
Cc: Lewis, Robert <Robert.Lewis@nrc.gov>
Subject: FW: DRAFT INPUT

Hello Andrea,

Please find attached the program offices and OEDO's comments on the draft MOU. With regard to the issue of CUI vs SUNSI, Rob suggested that this is an issue that is probably not ripe enough to fold into the MOU so going with SUNSI is probably OK. I suggested some wording about "and other sensitive information" just to try to cover any potentiality for the future.

Please remember that OGC (Robin Baum) has expressed interest in reviewing the MOU

before it is signed.

Thanks, Larry

From: Burkhart, Lawrence
Sent: Wednesday, April 04, 2018 11:59 AM
To: Lewis, Robert <Robert.Lewis@nrc.gov>
Subject: FW: DRAFT INPUT

Rob,

The attached includes RES comments now and Mike J reviewed.

Please let me know if you have any additional comments.

Larry

From: Burkhart, Lawrence
Sent: Monday, April 02, 2018 4:26 PM
To: Veil, Andrea <andrea.veil@nrc.gov>
Subject: DRAFT INPUT

Andrea,

Please see that attached for your info. Most suggested changes are editorial in nature.

I still need to run past Mike J and Vic (I will provide them the attached today). Also RES has not provided comments yet. FYI – there were no comments from NRR and NSIR. Just a few from NRO and NMSS. I added some editorial (added the citations for manufacturing licenses and standard design approvals, etc.) and some questions for consideration.

We need to think about when we send to OGC. I guess after we think we have a draft final MOU?

Let me know if you have any questions.

Lawrence (Larry) J. Burkhart
Executive Technical Assistant
OEDO/AO
(301) 287-3775 (office)
(240) 704-4320 (mobile)

From: [Veil, Andrea](#)
To: [Widmayer, Derek](#)
Cc: [Banks, Mark](#)
Subject: RE: FINAL DRAFT MOU following EDO and Program Office Review
Date: Thursday, May 03, 2018 3:09:42 PM

Hi Derek,

I'm going through the document to see how the comments were dispositioned. Larry had a suggested change to the following paragraph on page 5. I am confirming that you chose not to change the paragraph (I see that you did make the minor editorial comment):

EARLY INTERACTION AND SELECTION OF MATTERS FOR THE ACRS REVIEW

The NRC Program Office Coordinator, representing the cognizant Program Office Director or their designee, with guidance from the EDO or Commission, as appropriate, will identify matters requiring ACRS consideration to allow sufficient time to permit effective and efficient review by the ACRS. Discussions between the NRC Program Office coordinators, the ACRS Technical Support Branch Chief, and cognizant ACRS staff, if applicable, will identify proposed items to be included in the list of scheduled and planned ACRS agenda items which is located in the data management system maintained by the ACRS Technical Support Branch Chief. Discussions will be focused on ensuring that the information in the ACRS data management system is accurate and up-to-date. The Reports that are generated by the ACRS Technical Branch Chief showing the upcoming schedules for ACRS review items will be distributed to each NRC Program Office Coordinator and the EDO, and should reflect the agreed upon coordination on upcoming review items and schedules. Decisions on whether to review a matter will be made in accordance with Commission guidance, as determined by the needs of the EDO and Program Office Directors, the recommendation of the responsible ACRS Subcommittee Chairman, and the ACRS Planning and Procedures Subcommittee.

Thanks,
Andrea

From: Widmayer, Derek
Sent: Wednesday, May 02, 2018 2:20 PM
To: Veil, Andrea <andrea.veil@nrc.gov>
Cc: Banks, Mark <Mark.Banks@nrc.gov>
Subject: FINAL DRAFT MOU following EDO and Program Office Review

Andrea:

Attached is another Clean version of the MOU addressing comments and incorporating changes from the Program Office and EDO reviews. I have attached a TRACK Changes version that includes my responses to comments in two instances where I did not incorporate a change, if anyone cares. It is ready to go back to the EDO and then to OGC.

Derek

From: Veil, Andrea
Sent: Tuesday, May 01, 2018 12:11 PM
To: Widmayer, Derek <Derek.Widmayer@nrc.gov>
Cc: Banks, Mark <Mark.Banks@nrc.gov>
Subject: RE: Suggested Revision to MOU regarding SUNSI/CUI

Looks good to me. If this is the last change, please send me a clean copy of the MOU and any notes that are important for comment resolution. The next step is to get back to the EDO's Office and then it will go to OGC.

Thanks!
Andrea

From: Widmayer, Derek
Sent: Tuesday, May 01, 2018 11:07 AM
To: Veil, Andrea <andrea.veil@nrc.gov>
Cc: Banks, Mark <Mark.Banks@nrc.gov>
Subject: Suggested Revision to MOU regarding SUNSI/CUI

Andrea:

I have attached a redline/strikeout version of the SUNSI section of the MOU showing the suggested revision from OCIO. This suggested revision is "forward" looking, thus the lengthy footnote – meaning it should not require (hopefully) a revision to the MOU when the CUI Program becomes fully implemented.

Let me know if you agree with this and I will make it so in the MOU Revision. (including fixing the two footnotes as needed)

Derek A. Widmayer

ACRS/Technical Support Branch
301-221-1448 (cell)
derek.widmayer@nrc.gov

From: [Mroz, Sara](#)
To: [Widmayer, Derek](#)
Cc: [Narick, Marianne](#); [Ricketts, Paul](#)
Subject: RE: Discussion of SUNSI and/or CUI in an MOU
Date: Wednesday, April 11, 2018 10:30:17 AM

Hi Derek,

We are not planning to fully implement CUI until the summer of 2021. Until implementation, existing programs to manage information remain in effect. You will start to see more and more references to CUI agency-wide as directives are updated and as training for staff occurs.

One option might be to refer to CUI in your MOU with a reference to this yellow announcement <https://drupal.nrc.gov/announcements/yellow/policy/32810>.

I'd be happy to review your draft MOU and also discuss options with you.

-Sara

Sara K. Mroz

*Acting CUI Program Manager
Technical Assistant
Office of the Chief Information Officer
US Nuclear Regulatory Commission
Sara.Mroz@nrc.gov*

From: Ricketts, Paul
Sent: Wednesday, April 11, 2018 9:31 AM
To: Widmayer, Derek <Derek.Widmayer@nrc.gov>
Cc: Mroz, Sara <Sara.Mroz@nrc.gov>; Narick, Marianne <Marianne.Narick-Ebrey@nrc.gov>
Subject: RE: Discussion of SUNSI and/or CUI in an MOU

Derek, sorry for not getting back to you sooner...I seem to have missed this email. I am no longer working on CUI. Sara Mroz and Marianne Narick should be able to help....

Thanks
Paul

From: Widmayer, Derek
Sent: Friday, April 06, 2018 1:55 PM
To: Ricketts, Paul <Paul.Ricketts@nrc.gov>
Subject: Discussion of SUNSI and/or CUI in an MOU

Paul:

I have been working on a revision to the Memorandum of Understanding (MOU) between the EDO and the Advisory Committee on Reactor Safeguards (ACRS) over the last year. It had not been updated since 2009 and had become somewhat stale.

One of the things that is discussed in the memo is how the Committee treats SUNSI in the event it must be discussed in one of their meetings. My question to you is, knowing we will be transitioning to CUI shortly, how should we navigate this upcoming transition in the discussion in the MOU. Should we discuss the matter and use both acronyms or do you think it would be OK to just refer to CUI as it will probably be a month or so until it is signed. Or maybe a third option or fourth ?

I can send the MOU section to you that I am referring to if that would be helpful. Also, if you are not the correct contact person, please let me know who I should contact.

Derek A. Widmayer

ACRS/Technical Support Branch

301-221-1448 (cell)

derek.widmayer@nrc.gov

From: [Veil, Andrea](#)
To: [Widmayer, Derek](#); [Banks, Mark](#)
Subject: Re: DRAFT INPUT
Date: Friday, April 06, 2018 1:42:15 PM

Thanks Derek.

Andrea

On: 06 April 2018 13:35,
"Widmayer, Derek" <Derek.Widmayer@nrc.gov> wrote:

Andrea:

Yes, Thanks. I also confirmed with Larry Burkhart that no response from RES meant they had no comments

I will be sending an email to Ron Gagnon, CUI Project Manager, for his advice on the question about how to navigate the transition to "CUI" from "SUNSI" that will take place in 2 months.

Derek

From: Veil, Andrea
Sent: Friday, April 06, 2018 1:28 PM
To: Banks, Mark <Mark.Banks@nrc.gov>
Cc: Widmayer, Derek <Derek.Widmayer@nrc.gov>
Subject: RE: DRAFT INPUT

Hi Derek,

As you heard at P&P, none of the Members had objections to the language that I highlighted before in the ACRS/EDO MOU (i.e. clearly explain interest in self-initiated reviews.....") . Once you disposition the other comments and it goes through review by Mark and myself, I can engage back with the EDO's Office and get it to Robin Baum in OGC.

Thanks,
Andrea

From: Veil, Andrea
Sent: Wednesday, April 04, 2018 2:56 PM
To: Banks, Mark <Mark.Banks@nrc.gov>

Cc: Widmayer, Derek <Derek.Widmayer@nrc.gov>

Subject: FW: DRAFT INPUT

Please see the attached from the EDO's Office and the comment regarding OGC.

Andrea

From: Burkhardt, Lawrence

Sent: Wednesday, April 04, 2018 2:42 PM

To: Veil, Andrea <andrea.veil@nrc.gov>

Cc: Lewis, Robert <Robert.Lewis@nrc.gov>

Subject: FW: DRAFT INPUT

Hello Andrea,

Please find attached the program offices and OEDO's comments on the draft MOU. With regard to the issue of CUI vs SUNSI, Rob suggested that this is an issue that is probably not ripe enough to fold into the MOU so going with SUNSI is probably OK. I suggested some wording about "and other sensitive information" just to try to cover any potentiality for the future.

Please remember that OGC (Robin Baum) has expressed interest in reviewing the MOU before it is signed.

Thanks, Larry

From: Burkhardt, Lawrence

Sent: Wednesday, April 04, 2018 11:59 AM

To: Lewis, Robert <Robert.Lewis@nrc.gov>

Subject: FW: DRAFT INPUT

Rob,

The attached includes RES comments now and Mike J reviewed.

Please let me know if you have any additional comments.

Larry

From: Burkhardt, Lawrence

Sent: Monday, April 02, 2018 4:26 PM

To: Veil, Andrea <andrea.veil@nrc.gov>

Subject: DRAFT INPUT

Andrea,

Please see that attached for your info. Most suggested changes are editorial in nature.

I still need to run past Mike J and Vic (I will provide them the attached today). Also RES has not provided comments yet. FYI – there were no comments from NRR and NSIR. Just a few from NRO and NMSS. I added some editorial (added the citations for manufacturing licenses and standard design approvals, etc.) and some questions for consideration.

We need to think about when we send to OGC. I guess after we think we have a draft final MOU?

Let me know if you have any questions.

Lawrence (Larry) J. Burkhart
Executive Technical Assistant
OEDO/AO
(301) 287-3775 (office)
(240) 704-4320 (mobile)

From: [Veil, Andrea](#)
To: [Banks, Mark](#)
Cc: [Widmayer, Derek](#)
Subject: FW: DRAFT INPUT
Date: Wednesday, April 04, 2018 2:56:02 PM
Attachments: [ACRS-EDO MOU-2018 NRO NRR NSIR NMSS some EDO comments.docx](#)

Please see the attached from the EDO's Office and the comment regarding OGC.

Andrea

From: Burkhart, Lawrence
Sent: Wednesday, April 04, 2018 2:42 PM
To: Veil, Andrea <andrea.veil@nrc.gov>
Cc: Lewis, Robert <Robert.Lewis@nrc.gov>
Subject: FW: DRAFT INPUT

Hello Andrea,

Please find attached the program offices and OEDO's comments on the draft MOU. With regard to the issue of CUI vs SUNSI, Rob suggested that this is an issue that is probably not ripe enough to fold into the MOU so going with SUNSI is probably OK. I suggested some wording about "and other sensitive information" just to try to cover any potentiality for the future.

Please remember that OGC (Robin Baum) has expressed interest in reviewing the MOU before it is signed.

Thanks, Larry

From: Burkhart, Lawrence
Sent: Wednesday, April 04, 2018 11:59 AM
To: Lewis, Robert <Robert.Lewis@nrc.gov>
Subject: FW: DRAFT INPUT

Rob,

The attached includes RES comments now and Mike J reviewed.

Please let me know if you have any additional comments.

Larry

From: Burkhart, Lawrence
Sent: Monday, April 02, 2018 4:26 PM
To: Veil, Andrea <andrea.veil@nrc.gov>
Subject: DRAFT INPUT

Andrea,

Please see that attached for your info. Most suggested changes are editorial in nature.

I still need to run past Mike J and Vic (I will provide them the attached today). Also RES has not provided comments yet. FYI – there were no comments from NRR and NSIR. Just a few from NRO and NMSS. I added some editorial (added the citations for manufacturing licenses and standard design approvals, etc.) and some questions for consideration.

We need to think about when we send to OGC. I guess after we think we have a draft final MOU?

Let me know if you have any questions.

Lawrence (Larry) J. Burkhart
Executive Technical Assistant
OEDO/AO
(301) 287-3775 (office)
(240) 704-4320 (mobile)

MEMORANDUM OF UNDERSTANDING

PARTIES: Advisory Committee on Reactor Safeguards (ACRS)
 Executive Director for the Advisory Committee on Reactor Safeguards

 Nuclear Regulatory Commission (NRC)
 Executive Director for Operations (EDO)

SUBJECT: ACRS REVIEW OF NRC TECHNICAL MATTERS

BACKGROUND:

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

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

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

PURPOSE:

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

1. THE SCOPE OF ACRS RESPONSIBILITY

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

a. NRC Regulations

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

- Part 20, “Standards for Protection Against Radiation”
- Part 21, “Reporting of Defects and Noncompliance”
- Part 26, “Fitness for Duty Programs”
- Part 40, “Domestic Licensing of Source Material,” as applied to decommissioning and waste disposal
- Part 50, “Domestic Licensing of Production and Utilization Facilities”
- Part 51, “Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions”
- Part 52, “Licenses, Certifications, and Approvals for Nuclear Power Plants”
- Part 54, “Requirements for Renewal of Operating Licenses for Nuclear Power Plants”
- Part 55, “Operators’ Licenses”
- Part 60, “Disposal of High-Level Radioactive Wastes in Geologic Repositories”
- Part 61, “Licensing Requirements for Land Disposal of Radioactive Waste”
- Part 63, “Geological HLW Repository at Yucca Mountain”
- Part 70, “Domestic Licensing of Special Nuclear Material”
- Part 71, “Packaging and Transportation of Radioactive Material”
- Part 72, “Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater than Class C Waste”
- Part 73, “Physical Protection of Plants and Materials” ¹
- Part 74, “Material Control and Accounting of Special Nuclear Material”
- Part 76, “Certification of Gaseous Diffusion Plants”
- Part 100, “Reactor Site Criteria”

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

b. Licensing Documents

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

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

c. Regulatory Activities

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

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

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

a. NRC Program Office ACRS Coordinator

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

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

b. ACRS Technical Support Branch Chief

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

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

c. ACRS Staff Contact

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

d. Program Office Technical Contact

There may be multiple Technical Contacts per program office. The contact will vary depending on the item under consideration by ACRS and will generally be the lead project manager for the activity. The Program Office Technical Contact Has the day-to-day responsibility within the Program Office for the item under ACRS consideration and is responsible for:

- Coordination with other HQ or Regional staff, NRC contractors, licensee, and vendor staff, and any other persons who should be involved in the ACRS review.

- Cognizant Program Office management review and coordination of the item in accordance with the Office's practices and procedures.
- Ensuring the Program Office ACRS Coordinator has the most accurate information on the matter that impacts the scope and schedule of the ACRS review.

e. ACRS Staff and Program Office Technical Contact Coordination

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

f. Coordination with NRC Regional Offices and Personnel

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

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

The NRC Program Office Coordinator, representing the cognizant Program Office Director or their designee, with guidance from the EDO or Commission, as appropriate, will identify matters requiring ACRS consideration to allow sufficient time to permit effective and efficient review by the ACRS. Discussions between the NRC Program Office coordinators, the ACRS Technical Support Branch Chief, and cognizant ACRS staff, if applicable, will identify proposed items to be included in the list of scheduled and planned ACRS agenda items which is located in the data management system maintained by the ACRS Technical Support Branch Chief^[BL2].

Discussions will be focused on ensuring that the information in the ACRS data management system is accurate and up-to-date. The Reports that are generated by the ACRS Technical Branch Chief showing the upcoming schedules for ACRS review items will be distributed to each NRC Program Office Coordinator and the EDO, and should reflect the agreed upon coordination on upcoming review items and schedules. Decisions on whether to review a matter will be made in accordance with Commission guidance, as determined by the needs of the EDO and Program Office Directors, the recommendation of the responsible ACRS Subcommittee Chairman, and the ACRS Planning and Procedures Subcommittee.

Matters identified for possible ACRS consideration should include all non-administrative, non-routine Commission papers being developed by staff. Early coordination on these Commission papers will minimize delays in their completion that could occur if the matters are not reviewed by the ACRS and the Commission decides late in their development that such a review is warranted. The Commission should have the ACRS views on significant regulatory matters when it receives the staff views and recommendations, if possible. Section 4 of this MOU provides guidance to facilitate the review of significant regulatory matters consistent with staff schedules.

Consistent with guidance contained in SECY-15-0129, "*Commission Involvement in Early Stages of Rulemaking*," the ACRS focuses on significant proposed and final rules that address technical^[BL3] issues. Currently, rulemaking packages in the earliest stage of development come

to the ACRS under three circumstances: (1) ACRS review as required by law (e.g., reactor design certification rules), (2) the Commission directs the review, or (3) the Committee uses its own discretion to review. For significant rules, the “earliest stage of development,” should include the draft regulatory basis, if directed by the Commission or requested by the NRC Program Office Director^[DA4]. Staff in the NMSS Division of Rulemaking will coordinate with ACRS staff to determine whether a given rule falls within the identified circumstances, as well as the stage(s) at which the ACRS will review the rule^[BL5].

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

4. ESTABLISHING A SCHEDULE FOR THE ACRS REVIEW

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

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

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

5. DEVIATIONS FROM THIS MOU

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

6. REFERENCES

- 10 CFR Part 7, “Advisory Committees”
- “Charter, Advisory Committee on Reactor Safeguards^[BL6]”

- “Advisory Committee on Reactor Safeguards Bylaws^[BL7]”
- EDO Procedure No. 0210, “OEDO Procedure for Coordination with ACRS” (ML13051A757)
- “Advisory Committee on Reactor Safeguards; Procedures for Meetings” (published annually in the *Federal Register*^[BL8])
- Staff Requirements – “Meeting with Advisory Committee On Reactor Safeguards (ACRS), 9:30 A.M., Thursday, October 2, 2003,” October 31, 2003 (ML033040278)
- ACRS Memorandum, Subject: “Procedure for ACRS Review of Regulatory Guides,” August 10, 2011 (ML11216A100)
- ACRS Memorandum, Subject: “ACRS Review of Interim Staff Guidance”, September 9, 2014 (ML14247A641)
- SECY-15-0129, “Commission Involvement in Early Stages of Rulemaking,” October 19, 2015 (ML15267A759)

(Date)

Victor M. McCree
Executive Director for Operations

(Date)

Andrea D. Veil
Executive Director for ACRS

APPENDIX

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

A.1 ACRS REVIEWS AND MEETINGS

The ACRS will generally perform a review by conducting subcommittee meetings and Full Committee meetings in accordance with the requirements in 10 CFR Part 7 and the “Procedures for Meetings” that ~~is~~are published on an annual basis in the *Federal Register*.

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

a. Submittal of Documents for ACRS Review

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

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

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

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

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

The handling of Sensitive Unclassified Non-Safeguards Information (SUNSI) documents submitted to the ACRS for review is addressed in Section A.5 below.

b. Subcommittee Meetings

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

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

Subcommittee meetings are exempt from FACA requirements; however, whenever possible, subcommittee meetings will be open to public attendance^[DA9]. Normally, the review of classified, proprietary, ~~or~~ foreign government-owned, otherwise sensitive^[BL10] information will require the closure of a subcommittee meeting. Other circumstances may also warrant the closure of a subcommittee meeting as determined by the subcommittee chair. ~~t.~~

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

c. Full Committee Meetings

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

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

d. Informal Meetings

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

e. Meeting Agendas and Speakers

Meeting agendas for ACRS subcommittee meetings and Full Committee sessions on specific items are prepared and posted on the ACRS webpage (see Section A.6 below) of the NRC website. The Program Office technical contact and the ACRS staff contact should work together to prepare the meeting agenda. The Program Office technical contact [WD11] is responsible for identifying presenters from other cognizant NRC staff (including Regional staff), NRC licensees, contractors (including DOE national laboratory staff as appropriate), vendors, and applicants for agenda items, and securing commitments from these presenters to attend and present at the ACRS meeting. The ACRS staff contact is responsible for identifying other speakers from federal agencies, outside interested groups (e.g., Nuclear Energy Institute, Union of Concerned Scientists), or as specified by ACRS members, and securing commitments from these speakers to attend and present at the ACRS meeting.

f. Presentation Material

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

A.2 ACRS REVIEWS AND COMMENTS

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

a. Comments by ACRS Members at Meetings

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

ACRS subcommittee members may ask for additional information about the documents under review that were not supplied prior to the meetings. The Program Office technical contact and

other program office staff supporting the ACRS meeting should endeavor to provide the additional information, if it is reasonably available after the subcommittee meeting, to the ACRS staff contact. The ACRS staff contact will distribute the additional information to the subcommittee members.

b. Official ACRS Comments

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

A.3 RESPONDING TO OFFICIAL ACRS COMMENTS

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

The cognizant Program Office Director will ensure consideration by the staff of official ACRS comments which are contained in a report as described in EDO Procedure 0210, "OEDO Procedure for Coordination with ACRS." The staff will take into account ACRS views on all rules and technical policy statements pertaining to nuclear safety matters. If no response is required, the ACRS will indicate such in the report to the Commission or EDO. Otherwise the cognizant Program Office Director, or designee, will respond to ACRS comments in a timely manner. The cognizant Program Office Director, or designee, shall respond by letter addressed to the ACRS Chairman with a copy to the ACRS Executive Director. The staff^[DA12] will ensure that all responses are captured as official agency records. The cognizant Program Office Director or designee, may elect to consider ACRS comments on proposed or draft documents (e.g., proposed rules, draft regulatory guides) following the closure of the public comment period as part of the process for resolving public comments. Staff responses should address all ACRS comments including those not endorsed by the staff. Staff responses to the added comments of individual members contained in an ACRS report are not required.

A.4 CONFLICT OF INTEREST OF ACRS MEMBERS

Potential conflicts of interest (COI) of ACRS members and consultants are addressed in accordance with the ACRS Bylaws. The ACRS Office maintains up-to-date information regarding current ACRS member and consultant COI. If a Program Office staff member or other interested party has a concern about a potential COI of an ACRS member or consultant with respect to an item under ACRS review, he/she should bring this concern to the attention of the ACRS Executive Director at least three working days before any ACRS meeting on the matter^[BL13]. The issue will be reviewed and, if warranted, mitigated using the COI procedures in the ACRS Bylaws.

A.5 HANDLING OF DOCUMENTS DURING ACRS REVIEWS

Open discussion of agency matters facilitates external stakeholder input and provides an opportunity for the public to better understand agency decisions. The following guidelines will be used when the ACRS is to review matters that involve sensitive unclassified non-safeguards information (SUNSI^[BL14]).

ACRS Full Committee meetings will be open to the public, unless a FACA exemption applies.² For documents the NRC treats as SUNSI, FACA only allows closure of a Full Committee meeting for protecting proprietary information. ACRS subcommittee meetings may be closed to public participation to protect SUNSI.

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

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

In those cases where the Commission or the EDO (as applicable) has approved discussion of all or part of a pre-decisional document at an open meeting of the ACRS, the document may be transmitted to the ACRS staff by the cognizant NRC Program Office for review by the Committee. The transmitted documents will be clearly marked as pre-decisional. Other applicable restrictions (e.g., proprietary information) on the release to the public of documents submitted to the ACRS should also be clearly marked on the documents to facilitate their proper storage and handling.

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

² Under the FACA, meetings of advisory committees are generally required to be open and documents provided to or prepared by advisory committees are generally required to be made available for public inspection and copying. However, FACA also provides that portions of advisory committee meetings may be closed to the public if they fall within exemptions contained in the Government in the Sunshine Act. Similarly, documents made available to or prepared for or by an advisory committee may be withheld from the public if they fall within an exemption contained in the Freedom of Information Act. - There are a number of exemptions listed in the Sunshine Act and the Freedom of Information Act and assistance in their interpretation may be obtained from the Office of the General Counsel.

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

[Infrequently, the ACRS requires access to Classified and Safeguards information in conjunction with activities within its scope of responsibility. ACRS member and staff access to this information will be authorized on the basis of the individual's clearance level and need to know in accordance with NRC security-related Management Directives^[BL15].]

A.6 ACRS WEBPAGE

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

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

First Attachment same as 4/4/18 email

From: [Veil, Andrea](#)
To: [Banks, Mark](#)
Cc: [Widmayer, Derek](#)
Subject: FW: DRAFT INPUT
Date: Monday, April 02, 2018 4:45:40 PM
Attachments: [ACRS-EDO MOU-2018 NRO NRR NSIR NMSS some EDO comments.docx](#)
[ACRS-EDO MOU-2018Final 3-26-18.docx](#)

P.S. This went to the EDO (and got ticketed to the offices) the same time as it went to the members, so Larry's version doesn't reflected Dennis's comments in the attached (dated 3-26-18). Also, I skimmed it, and the only show- stopper I see is the following:

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

The highlighted text was an added suggestion, but I don't see the Committee agreeing with this.

Thanks,
Andrea

From: Burkhardt, Lawrence
Sent: Monday, April 02, 2018 4:26 PM
To: Veil, Andrea <andrea.veil@nrc.gov>
Subject: DRAFT INPUT

Andrea,

Please see that attached for your info. Most suggested changes are editorial in nature.

I still need to run past Mike J and Vic (I will provide them the attached today). Also RES has not provided comments yet. FYI – there were no comments from NRR and NSIR. Just a few from NRO and NMSS. I added some editorial (added the citations for manufacturing licenses and standard design approvals, etc.) and some questions for consideration.

We need to think about when we send to OGC. I guess after we think we have a draft final MOU?

Let me know if you have any questions.

Lawrence (Larry) J. Burkhardt
Executive Technical Assistant
OEDO/AO
(301) 287-3775 (office)
(240) 704-4320 (mobile)

MEMORANDUM OF UNDERSTANDING

PARTIES: Advisory Committee on Reactor Safeguards (ACRS)
Executive Director for the Advisory Committee on Reactor Safeguards

Nuclear Regulatory Commission (NRC)
Executive Director for Operations (EDO)

SUBJECT: ACRS REVIEW OF NRC TECHNICAL MATTERS

BACKGROUND:

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

The ACRS reports directly to the Commission. It provides the Commission with independent reviews of, and advice on the safety of proposed or existing NRC licensed facilities and the adequacy of proposed safety standards. The ACRS reviews power reactor and fuel cycle facility license applications for which the NRC is responsible and the safety- and risk-significant NRC regulations and guidance relating to these facilities. On its own initiative, the ACRS may conduct reviews of specific generic matters or nuclear facility safety- and risk-significant items. The Committee also advises the Commission on safety- and risk-significant technical issues, and performs other duties as the Commission may request. Upon request from the Department of Energy, the ACRS reviews and provides reports on U.S. naval reactor designs under a reimbursable agreement. Upon request, and with the Commission's consent, the ACRS is required to provide advice to the Defense Nuclear Facilities Safety Board in accordance with Public Law 100-456. ~~Upon request from the Department of Energy and with the consent of the Commission, the ACRS provides advice on U.S. naval reactor designs and hazards associated with Department of Energy nuclear activities and facilities. Upon request and with the consent of the Commission, the ACRS also provides technical advice to the Defense Nuclear Facilities Safety Board.~~

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

PURPOSE:

To achieve high quality and timely regulatory products, the purpose of this Memorandum of Understanding (MOU) is to establish a process to facilitate effective planning and engagement between the EDO staff and the ACRS staff on review activities within the Committee's statutory and other responsibilities as described in the "Background" section and further specified in the

next section. It supersedes the previous MOU, dated October 28, 2009. This MOU should be reviewed biennially and updated as needed.

1. THE SCOPE OF ACRS RESPONSIBILITY

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

a. NRC Regulations

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

- Part 20, “Standards for Protection Against Radiation”
- Part 21, “Reporting of Defects and Noncompliance”
- Part 26, “Fitness for Duty Programs”
- Part 40, “Domestic Licensing of Source Material,” as applied to decommissioning and waste disposal
- Part 50, “Domestic Licensing of Production and Utilization Facilities”
- Part 51, “Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions”
- Part 52, “Licenses, Certifications, and Approvals for Nuclear Power Plants”
- Part 54, “Requirements for Renewal of Operating Licenses for Nuclear Power Plants”
- Part 55, “Operators’ Licenses”
- Part 60, “Disposal of High-Level Radioactive Wastes in Geologic Repositories”
- Part 61, “Licensing Requirements for Land Disposal of Radioactive Waste”
- Part 63, “Geological HLW Repository at Yucca Mountain”
- Part 70, “Domestic Licensing of Special Nuclear Material”
- Part 71, “Packaging and Transportation of Radioactive Material”
- Part 72, “Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater than Class C Waste”
- Part 73, “Physical Protection of Plants and Materials” ¹
- Part 74, “Material Control and Accounting of Special Nuclear Material”
- Part 76, “Certification of Gaseous Diffusion Plants”
- Part 100, “Reactor Site Criteria”

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

b. Licensing Documents

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

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

c. Regulatory Activities

The Committee reviews the following types of regulatory and technical activities and advises the Commission with regard to the risks and safety-significance of those activities:

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

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

a. NRC Program Office ACRS Coordinator

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

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

b. ACRS Technical Support Branch Chief

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

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

c. ACRS Staff Contact

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

d. Program Office Technical Contact

Has the day-to-day responsibility within the Program Office for the item under ACRS consideration and is responsible for:

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

e. ACRS Staff and Program Office Technical Contact Coordination

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

f. Coordination with NRC Regional Offices and Personnel

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

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

The NRC Program Office Coordinator, representing the cognizant Program Office Director or their designee, with guidance from the EDO or Commission, as appropriate, will identify matters requiring ACRS consideration to allow sufficient time to permit effective and efficient review by the ACRS. Discussions between the NRC Program Office coordinators, the Technical Support Branch Chief, and cognizant ACRS staff, if applicable, will identify proposed items to be included in the list of scheduled and planned ACRS agenda items which is located in the data management system maintained by the ACRS Technical Support Branch Chief. Discussions will be focused on ensuring that the information in the ACRS data management system is accurate and up-to-date. The Reports that are generated by the ACRS Technical Branch Chief showing the upcoming schedules for ACRS review items will be distributed to each NRC Program Office Coordinator and the EDO, and should reflect the agreed upon coordination on upcoming review items and schedules. Recommendations on topics to be reviewed ~~Decisions on whether to review a matter~~ will be made in accordance with Commission guidance, as determined by the needs of the EDO and Program Office Directors, the recommendation of the responsible ACRS Subcommittee Chairman, and the ACRS Planning and Procedures Subcommittee.

Matters identified for possible ACRS consideration should include all non-administrative, non-routine Commission papers being developed by staff. Early coordination on these Commission papers will minimize delays in their completion that could occur if the matters are not reviewed by the ACRS and the Commission decides late in their development that such a review is warranted. The Commission should have the ACRS views on significant regulatory matters when it receives the staff views and recommendations, if possible. Section 4 of this MOU provides guidance to facilitate the review of significant regulatory matters consistent with staff schedules.

Consistent with guidance contained in SECY-15-0129, “*Commission Involvement in Early Stages of Rulemaking*,” the ACRS focuses on significant proposed and final rules that address technical issues ~~safety issues~~. Currently, rulemaking packages in the earliest stage of development come to the ACRS under three circumstances: (1) ACRS review as required by law (e.g., reactor design certification rules), (2) the Commission directs the review, or (3) the Committee uses its own discretion to review. For significant rules, the “earliest stage of

development,” should include the draft regulatory basis, if directed by the Commission or requested by the NRC Program Office Director.

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

4. ESTABLISHING A SCHEDULE FOR THE ACRS REVIEW

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

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

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

5. DEVIATIONS FROM THIS MOU

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

6. REFERENCES

- 10 CFR Part 7, “Advisory Committees”
- “Charter, Advisory Committee on Reactor Safeguards”
- “Advisory Committee on Reactor Safeguards Bylaws”
- EDO Procedure No. 0210, “OEDO Procedure for Coordination with ACRS” (ML13051A757)

- “Advisory Committee on Reactor Safeguards; Procedures for Meetings” (published annually in the *Federal Register*)
- Staff Requirements – “Meeting with Advisory Committee On Reactor Safeguards (ACRS), 9:30 A.M., Thursday, October 2, 2003,” October 31, 2003 (ML033040278)
- ACRS Memorandum, Subject: “Procedure for ACRS Review of Regulatory Guides,” August 10, 2011 (ML11216A100)
- ACRS Memorandum, Subject: “ACRS Review of Interim Staff Guidance”, September 9, 2014 (ML14247A641)
- SECY-15-0129, “Commission Involvement in Early Stages of Rulemaking,” October 19, 2015 (ML15267A759)

(Date)

Victor M. McCree
Executive Director for Operations

(Date)

Andrea D. Veil
Executive Director for ACRS

APPENDIX

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

A.1 ACRS REVIEWS AND MEETINGS

The ACRS will generally perform a review by conducting subcommittee meetings and Full Committee meetings in accordance with the requirements in 10 CFR Part 7 and the “Procedures for Meetings” that is published on an annual basis in the *Federal Register*.

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

a. Submittal of Documents for ACRS Review

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

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

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

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

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

The handling of Sensitive Unclassified Non-Safeguards Information (SUNSI) documents submitted to the ACRS for review is addressed in Section A.5 below.

b. Subcommittee Meetings

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

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

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

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

c. Full Committee Meetings

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

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

d. Informal Meetings

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

e. Meeting Agendas and Speakers

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

f. Presentation Material

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

A.2 ACRS REVIEWS AND COMMENTS

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

a. Comments by ACRS Members at Meetings

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

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

staff contact. The ACRS staff contact will distribute the additional information to the subcommittee members.

b. Official ACRS Comments

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

A.3 RESPONDING TO OFFICIAL ACRS COMMENTS

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

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

A.4 CONFLICT OF INTEREST OF ACRS MEMBERS

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

A.5 HANDLING OF DOCUMENTS DURING ACRS REVIEWS

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

ACRS Full Committee meetings will be open to the public, unless a FACA exemption applies.² For documents the NRC treats as SUNSI, FACA only allows closure of a Full Committee meeting for protecting proprietary information. ACRS subcommittee meetings may be closed to public participation to protect SUNSI.

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

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

In those cases where the Commission or the EDO (as applicable) has approved discussion of all or part of a pre-decisional document at an open meeting of the ACRS, the document may be transmitted to the ACRS staff by the cognizant NRC Program Office for review by the Committee. The transmitted documents will be clearly marked as pre-decisional. Other applicable restrictions (e.g., proprietary information) on the release to the public of documents submitted to the ACRS should also be clearly marked on the documents to facilitate their proper storage and handling.

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

² Under the FACA, meetings of advisory committees are generally required to be open and documents provided to or prepared by advisory committees are generally required to be made available for public inspection and copying. However, FACA also provides that portions of advisory committee meetings may be closed to the public if they fall within exemptions contained in the Government in the Sunshine Act. Similarly, documents made available to or prepared for or by an advisory committee may be withheld from the public if they fall within an exemption contained in the Freedom of Information Act. There are a number of exemptions listed in the Sunshine Act and the Freedom of Information Act and assistance in their interpretation may be obtained from the Office of the General Counsel.

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

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

A.6 ACRS WEBPAGE

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

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

Attachment same as 4/4/18 email

From: [Veil, Andrea](#)
To: [Banks, Mark](#)
Cc: [Widmayer, Derek](#)
Subject: FW: DRAFT INPUT
Date: Monday, April 02, 2018 4:32:28 PM
Attachments: [ACRS-EDO MOU-2018 NRO NRR NSIR NMSS some EDO comments.docx](#)

Hi Mark and Derek,

I just got this from Larry in the EDO's office. Please let me know your thoughts.

Thanks,
Andrea

From: Burkhardt, Lawrence
Sent: Monday, April 02, 2018 4:26 PM
To: Veil, Andrea <andrea.veil@nrc.gov>
Subject: DRAFT INPUT

Andrea,

Please see that attached for your info. Most suggested changes are editorial in nature.

I still need to run past Mike J and Vic (I will provide them the attached today). Also RES has not provided comments yet. FYI – there were no comments from NRR and NSIR. Just a few from NRO and NMSS. I added some editorial (added the citations for manufacturing licenses and standard design approvals, etc.) and some questions for consideration.

We need to think about when we send to OGC. I guess after we think we have a draft final MOU?

Let me know if you have any questions.

Lawrence (Larry) J. Burkhardt
Executive Technical Assistant
OEDO/AO
(301) 287-3775 (office)
(240) 704-4320 (mobile)

From: [Veil, Andrea](#)
To: [Banks, Mark](#); [Widmayer, Derek](#)
Subject: ACRS-EDO MOU-2018 Update
Date: Monday, March 26, 2018 11:21:41 AM
Attachments: [ACRS-EDO MOU-2018Final 3-26-18.docx](#)

Attachment same as attachment to 4/2/18 email

Good Morning,

So far, I have only gotten comments from Dennis (I only sent it for info., so I wasn't expecting a lot). I know that the EDO's office also ticketed it to the offices. I'll check in with Larry to get that exact due date and to see if any comments have come in yet.

Thanks,
Andrea

From: [Veil, Andrea](#)
To: [Lewis, Robert](#); [Inverso, Tara](#)
Cc: [Banks, Mark](#); [Widmayer, Derek](#)
Subject: Draft Final ACRS-EDO MOU
Date: Wednesday, March 14, 2018 9:27:47 AM
Attachments: [ACRS-EDO MOU-2018Final.docx](#)

Good Morning Rob and Tara,

Please see the attached draft final ACRS/EDO MOU. It has been updated and streamlined as compared to the 2009 version (i.e. some details were moved to the Appendix).

Tara, as discussed I know that NRR and other offices wanted a chance to review before the MOU is finalized. Please share the draft, and It would be helpful to get any comments by no later than April 13. Please also reiterate that this is a high level document and should not specify, for example, how many SC Meetings etc. are allowed for a subject. A draft that had that level of detail was rejected by ACRS Leadership last year and NRR agreed to delete it.

Please let me know if you have questions.

Thanks,

Andrea Veil (formerly Valentin)

Executive Director

Advisory Committee on Reactor Safeguards

 **301-415-7360/Office T-2E2/Mail Stop T-2E26**

 **Email: andrea.veil@nrc.gov**

"Doubt kills more dreams than failure ever will".

- *Suzy Kassem*

From: [Veil, Andrea](#)
To: [Banks, Mark](#); [Widmayer, Derek](#)
Subject: ACRS-EDO MOU-2018 Update
Date: Monday, March 26, 2018 11:21:41 AM
Attachments: [ACRS-EDO MOU-2018Final 3-26-18.docx](#)

Good Morning,

So far, I have only gotten comments from Dennis (I only sent it for info., so I wasn't expecting a lot). I know that the EDO's office also ticketed it to the offices. I'll check in with Larry to get that exact due date and to see if any comments have come in yet.

Thanks,
Andrea

From: [Veil, Andrea](#)
To: [Banks, Mark](#); [Widmayer, Derek](#)
Cc: [Michael Corradini](#); [Pete Riccardella \(Priccardella@Structint.com\)](#); [Matt Sunseri](#); [Bellinger, Alesha](#)
Subject: Draft Final ACRS/EDO MOU
Date: Friday, March 09, 2018 1:24:16 PM
Attachments: [MOU-2018-ACRS-EDO-derek-mlc-adv.docx](#)

Hi Mark and Derek,

Please see the newest track changes for the ACRS/EDO MOU (in light blue). The comments are the result of Wednesday evening's meeting with ACRS Leadership.

Derek, please review and make a clean and a compare copy of the final draft document. It is saved in the ACRS G Drive (not in any specific folder).

The plan is to then share the clean document and a redlined/strikeout document with ACRS Members for their awareness prior to sending it to the EDO's Office. The MOU is not like the Bylaws and does not require a vote (the signatories are me and the EDO). Mike/Pete/Matt please let me know if I missed anything regarding the path forward.

Although not formally tracked, this was "due" last October so I am happy that we have made such significant progress.

Thanks!
Andrea

MEMORANDUM OF UNDERSTANDING

PARTIES: Advisory Committee on Reactor Safeguards (ACRS)
Executive Director for the Advisory Committee on Reactor Safeguards

Nuclear Regulatory Commission (NRC)
Executive Director for Operations (EDO)

SUBJECT: ACRS REVIEW OF NRC TECHNICAL MATTERS

BACKGROUND:

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

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

ACRS operations are governed by the Federal Advisory Committee Act (FACA), which is implemented through NRC regulations at 10 CFR Part 7, "Advisory Committees." Pursuant to this, the Committee functions under a [Charter](#)^{[PR1][WD2]}, which establishes the Committee's objectives, scope of activities, duties, and administrative functions. The most recent ACRS Charter is available at the ACRS webpage (See Section A.6 in the Appendix to this MOU). FACA requirements and ACRS operational practices encourage the public, industry, state and local governments, and other stakeholders to become involved in Committee activities.

PURPOSE:

To achieve high quality and timely regulatory products, the purpose of this Memorandum of Understanding (MOU) is to establish a process to facilitate effective planning and engagement between the EDO staff and the ACRS staff on review activities within the Committee's statutory and other responsibilities as described in the "Background" section and further specified in the next section. It supersedes the previous MOU, dated October 28, 2009. [This MOU should be reviewed biennially and updated as needed.](#)^{[PR3][WD4]}

1. THE SCOPE OF ACRS RESPONSIBILITY

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

a. NRC Regulations

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

- Part 20, “Standards for Protection Against Radiation”
- Part 21, “Reporting of Defects and Noncompliance”
- Part 26, “Fitness for Duty Programs”
- Part 40, “Domestic Licensing of Source Material,” as applied to decommissioning and waste disposal
- Part 50, “Domestic Licensing of Production and Utilization Facilities”
- Part 51, “Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions”
- Part 52, “Licenses, Certifications, and Approvals for Nuclear Power Plants”
- Part 54, “Requirements for Renewal of Operating Licenses for Nuclear Power Plants”
- Part 55, “Operators’ Licenses”
- Part 60, “Disposal of High-Level Radioactive Wastes in Geologic Repositories”
- Part 61, “Licensing Requirements for Land Disposal of Radioactive Waste”
- Part 63, “Geological HLW Repository at Yucca Mountain”
- Part 70, “Domestic Licensing of Special Nuclear Material”
- Part 71, “Packaging and Transportation of Radioactive Material”
- Part 72, “Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater than Class C Waste”
- Part 73, “Physical Protection of Plants and Materials” ¹
- Part 74, “Material Control and Accounting of Special Nuclear Material”
- Part 76, “Certification of Gaseous Diffusion Plants”
- Part 100, “Reactor Site Criteria”

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

b. Licensing Documents

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

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

c. Regulatory Activities

The Committee reviews the following types of regulatory and technical activities and advises the Commission with regard to the risks and safety-significance of those activities:

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

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

a. NRC Program Office ACRS Coordinator

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

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

b. ACRS Technical Support Branch Chief

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

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

c. ACRS Staff Contact

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

d. Program Office Technical Contact

Has the day-to-day responsibility within the Program Office for the item under ACRS consideration and is responsible for:

- Coordination with other HQ or Regional staff, NRC contractors, licensee, and vendor staff, and any other persons who should be involved in the ACRS review.
- Cognizant Program Office management review and coordination of the item in accordance with the Office's practices and procedures.

- Ensuring the Program ACRS Coordinator has the most accurate information on the matter that impacts the scope and schedule of the ACRS review.

e. ACRS Staff and Program Office Technical Contact Coordination

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

f. Coordination with NRC Regional Offices and Personnel

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

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

The NRC Program Office Coordinator, representing the cognizant Program Office Director or their designee, with guidance from the EDO or Commission, as appropriate, will identify matters requiring ACRS consideration to allow sufficient time to permit effective and efficient review by the ACRS. Discussions between the NRC Program Office coordinators, the Technical Support Branch Chief, and cognizant ACRS staff, if applicable, will identify proposed items to be included in the list of scheduled and planned ACRS agenda items which is located in the data management system maintained by the ACRS Technical Support Branch Chief. Discussions will be focused on ensuring that the information in the ACRS data management system is accurate and up-to-date. The Reports that are generated by the ACRS Technical Branch Chief showing the upcoming schedules for ACRS review items will be distributed to each NRC Program Office Coordinator and the EDO, and should reflect the agreed upon coordination on upcoming review items and schedules. Decisions on whether to review a matter will be made in accordance with Commission guidance, as determined by the needs of the EDO and Program Office Directors, the recommendation of the responsible ACRS Subcommittee Chairman, and the ACRS Planning and Procedures Subcommittee.

Matters identified for possible ACRS consideration should include all non-administrative, non-routine Commission papers being developed by staff. Early coordination on these Commission papers will minimize delays in their completion that could occur if the matters are not reviewed by the ACRS and the Commission decides late in their development that such a review is warranted. The Commission should have the ACRS views on significant regulatory matters when it receives the staff views and recommendations, if possible. Section 4 of this MOU provides guidance to facilitate the review of significant regulatory matters consistent with staff schedules.

Consistent with guidance contained in SECY-15-0129, "*Commission Involvement in Early Stages of Rulemaking*," the ACRS focuses on significant proposed and final rules that address

technical issues. Currently, rulemaking packages in the earliest stage of development come to the ACRS under three circumstances: (1) ACRS review is required by law (e.g., reactor design certification rules), (2) the Commission directs the review, or (3) the Committee uses its own discretion to review. For significant rules, the “earliest stage of development,” should include the draft regulatory basis, if directed by the Commission or requested by the NRC Program Office Director.

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

4. ESTABLISHING A SCHEDULE FOR THE ACRS REVIEW

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

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

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

5. DEVIATIONS FROM THIS MOU

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

6. REFERENCES

- 10 CFR Part 7, “Advisory Committees”
- “Charter, Advisory Committee on Reactor Safeguards”
- “Advisory Committee on Reactor Safeguards Bylaws”

- EDO Procedure No. 0210, “OEDO Procedure for Coordination with ACRS” (ML13051A757)
- “Advisory Committee on Reactor Safeguards; Procedures for Meetings” (published annually in the *Federal Register*)
- Staff Requirements – “Meeting with Advisory Committee On Reactor Safeguards (ACRS), 9:30 A.M., Thursday, October 2, 2003,” October 31, 2003 (ML033040278)
- ACRS Memorandum, Subject: “Procedure for ACRS Review of Regulatory Guides,” August 10, 2011 (ML11216A100)
- ACRS Memorandum, Subject: “ACRS Review of Interim Staff Guidance”, September 9, 2014 (ML14247A641)
- SECY-15-0129, “Commission Involvement in Early Stages of Rulemaking,” October 19, 2015 (ML15267A759)

(Date)

Victor M. McCree
Executive Director for Operations

(Date)

Andrea D. Veil
Executive Director for ACRS

APPENDIX

CONDUCT OF ACRS REVIEWS AND MEETINGS, ACRS COMMENTS AND STAFF RESPONSES, AND ADDITIONAL INFORMATION[PR6]

A.1 ACRS REVIEWS AND MEETINGS

The ACRS will generally perform a review by conducting subcommittee meetings and Full Committee meetings in accordance with the requirements in 10 CFR Part 7 and the “Procedures for Meetings” that is published on an annual basis in the *Federal Register*.

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

a. Submittal of Documents for ACRS Review

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

The documents in support of meetings of ACRS subcommittees and the Full Committee should be provided to the ACRS staff contact at least four weeks in advance of the meeting. This is the minimum time required for subcommittee members to adequately review the materials. Providing documents prior to this four week goal is encouraged. [PR7][WD8]

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

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

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

The handling of Sensitive Unclassified Non-Safeguards Information (SUNSI) documents submitted to the ACRS for review is addressed in Section A.5 below.

b. Subcommittee Meetings^{[MC9][PR10]}

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

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

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

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

c. Full Committee Meetings^[MC11]

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

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

d. Informal Meetings

ACRS members will sometimes convene informal meetings with the staff for the purposes of preparation for subcommittee and Full Committee meetings, or to receive updates on various technical matters that would facilitate the planning of the ACRS meetings. The only commitments made at these informal meetings should be for the purposes of agreeing on future scheduling of meetings. These meetings will be arranged through the Technical Branch Chief and/or ACRS staff contact. [MC12][WD13]

e. Meeting Agendas and Speakers

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

f. Presentation Material

The Program Office technical contact is responsible for providing all presentation material electronically and in hard copies to the ACRS staff contact in advance of the ACRS meetings in accordance with agreed upon schedules for all meetings. The material should be appropriately marked for proper handling and storage. [MC14][WD15]

A.2 ACRS REVIEWS AND COMMENTS

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

a. Comments by ACRS Members at Meetings

As described in Section A.1.b above [MC16][WD17], ACRS subcommittee meetings are for information gathering purposes and for determining if a matter should be presented to the Full Committee for review and comment. Comments made by ACRS subcommittee members represent the opinion of the individual member and are not to be interpreted as the official position of the ACRS. The NRC Program Office staff is encouraged to consider these ACRS comments for improving the document under review, the presentation of the information contained in the document in future discussions, and/or for the understanding of the document if it is presented to the Full Committee. No formal responses are sought to any comments made at subcommittee meetings ~~is sought~~.

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

staff contact. The ACRS staff contact will distribute the additional information to the subcommittee members.

b. **Official ACRS Comments**[MC18][WD19]

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

A.3 RESPONDING TO OFFICIAL ACRS COMMENTS [PR20]

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

The cognizant Program Office Director will ensure consideration by the staff of official ACRS comments which are contained in a report as described in EDO Procedure 0210, "OEDO Procedure for Coordination with ACRS." The staff will take into account ACRS views on all rules and technical policy statements pertaining to nuclear safety matters. If no response is required, the ACRS will indicate such in the report to the Commission or EDO. Otherwise the cognizant Program Office Director, or designee, will respond to ACRS comments in a timely manner. The cognizant Program Office Director, or designee, shall respond by letter addressed to the ACRS Chairman with a copy to the ACRS Executive Director. The staff will ensure that all responses are captured as official agency records. The cognizant Program Office Director or designee, may elect to consider ACRS comments on proposed or draft documents (e.g., proposed rules, draft regulatory guides) following the closure of the public comment period as part of the process for resolving public comments. Staff responses should address all ACRS comments including those not endorsed by the staff. Staff responses to the added comments of individual members contained in an ACRS report are not required[PR21][WD22].

A.4 CONFLICT OF INTEREST OF ACRS MEMBERS[MC23][PR24][WD25]

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

A.5 HANDLING OF ~~SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION~~
[VA26]DOCUMENTS DURING ACRS REVIEWS[PR27]

~~Open discussion of agency matters facilitates external stakeholder input and provides an opportunity for the public to better understand agency decisions. The following guidelines will be used w~~When the ACRS is to review matters that involve sensitive unclassified non-safeguards information (SUNSI), ~~the following guidelines will be used:~~

a. ~~Subcommittee Meetings~~[MC28][WD29]

~~ACRS subcommittee meetings may be closed to public participation to protect SUNSI. The transmitted documents will be appropriately marked to facilitate their proper storage and handling. Infrequently, the ACRS requires access to Classified and Safeguards information in conjunction with activities within its scope of responsibility. ACRS member and staff access to this information will be authorized on the basis of the individual's clearance level and need to know in accordance with NRC security-related Management Directives.~~

b. ~~Full Committee Meetings~~[MC30]

ACRS Full Committee meetings will be open to the public, unless a FACA exemption applies.²
~~In terms of~~For documents the NRC treats as SUNSI, FACA only allows closure of a Full Committee meeting for protecting proprietary information. ~~Open discussion of agency matters facilitates external stakeholder input and provides an opportunity for the public to better understand agency decisions. ACRS subcommittee meetings may be closed to public participation to protect SUNSI.~~

~~ACRS Full Committee meeting sessions can be closed on such grounds as discussion of proprietary material, under exemptions allowed by FACA.~~ Members of the public may request a closed meeting if they believe an exemption allowed by FACA applicable to them authorizes such closure. The staff may also request closure of a meeting, under the exemptions allowed by FACA. ~~Requests by members of the public and staff to close meetings will be considered under applicable law.~~ The closing of ACRS meetings requires a written request to the Chairman of the Commission, or the Chairman's designee, and review by the Office of the General Counsel, in accordance with 10 CFR 7.15. When requests for closure are received by the ACRS, the ACRS staff may need the assistance of the Office of the General Counsel (OGC) and NRC staff technical experts on an expedited basis to make accurate judgments as to what information should be protected.

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

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

² Under the FACA, meetings of advisory committees are generally required to be open and documents provided to or prepared by advisory committees are generally required to be made available for public inspection and copying. However, FACA also provides that portions of advisory committee meetings may be closed to the public if they fall within exemptions contained in the Government in the Sunshine Act. Similarly, documents made available to or prepared for or by an advisory committee may be withheld from the public if they fall within an exemption contained in the Freedom of Information Act. There are a number of exemptions listed in the Sunshine Act and the Freedom of Information Act and assistance in their interpretation may be obtained from the Office of the General Counsel.

Committee. The transmitted documents will be clearly marked as pre-decisional. Other applicable restrictions (e.g., proprietary information) on the release to the public of documents submitted to the ACRS should also be clearly marked on the documents to facilitate their proper storage and handling.

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

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

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

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

A.6 ACRS WEBPAGE [MC31][WD32]

The ACRS staff will maintain the information on the NRC ACRS webpage (<http://drupal.nrc.gov/acrs> [PR33][WD34]) in a timely manner to include all relevant information on ACRS Full and subcommittee meetings, including schedules and agendas, meeting transcripts, ACRS reports and memoranda, and staff responses, as appropriate.

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

From: [Michael Corradini](#)
To: [Veil, Andrea](#); [Widmayer, Derek](#)
Cc: [Pete Riccardella](#); [Matt Sunseri](#); [Banks, Mark](#)
Subject: [External_Sender] Re: ACRS-EDO MOU REVISION - Meeting Version
Date: Tuesday, January 30, 2018 5:26:41 PM
Attachments: [MOU-2018-ACRS-EDO-derek-mlc.docx](#)

Dear Andrea and Derek:

Thanks for the quick look and the update is much improved. I tried to answer Derek's comments.

We can chat next week if you'd like.

Mike

On Jan 29, 2018, at 6:51 AM, Veil, Andrea <andrea.veil@nrc.gov> wrote:

Good Morning,

Derek addressed most of the comments in the MOU, and made a few revisions where suggested. This draft can serve as our "meeting version" and we can pick a time to sit down and resolve any remaining comments prior to bringing it to the rest of the members in March.

Thanks!

Andrea

<MOU-2018-ACRS-EDO-mlc-ms-pcr.widmayer.docx>

MEMORANDUM OF UNDERSTANDING

PARTIES: Advisory Committee on Reactor Safeguards (ACRS)
 Executive Director for the Advisory Committee on Reactor Safeguards

 Nuclear Regulatory Commission (NRC)
 Executive Director for Operations (EDO)

SUBJECT: ACRS REVIEW OF NRC TECHNICAL MATTERS

BACKGROUND:

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

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

ACRS operations are governed by the Federal Advisory Committee Act (FACA), which is implemented through NRC regulations at 10 CFR Part 7, "Advisory Committees." Pursuant to this, the Committee functions under a [Charter](#)^{[PR1][WD2]}, which establishes the Committee's objectives, scope of activities, duties, and administrative functions. The most recent ACRS Charter is available at the ACRS webpage (See Section A.6 in the Appendix to this MOU). FACA requirements and ACRS operational practices encourage the public, industry, state and local governments, and other stakeholders to become involved in Committee activities.

PURPOSE:

To achieve high quality and timely regulatory products, the purpose of this Memorandum of Understanding (MOU) is to establish a process to facilitate effective planning and engagement between the EDO staff and the ACRS staff on review activities within the Committee's statutory and other responsibilities as described in the "Background" section and further specified in the next section. It supersedes the previous MOU, dated October 28, 2009. [This MOU will be reviewed biennially and updated as needed.](#)^{[PR3][WD4]}

1. THE SCOPE OF ACRS RESPONSIBILITY

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

a. NRC Regulations

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

- Part 20, “Standards for Protection Against Radiation”
- Part 21, “Reporting of Defects and Noncompliance”
- Part 26, “Fitness for Duty Programs”
- Part 40, “Domestic Licensing of Source Material,” as applied to decommissioning and waste disposal
- Part 50, “Domestic Licensing of Production and Utilization Facilities”
- Part 51, “Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions”
- Part 52, “Licenses, Certifications, and Approvals for Nuclear Power Plants”
- Part 54, “Requirements for Renewal of Operating Licenses for Nuclear Power Plants”
- Part 55, “Operators’ Licenses”
- Part 60, “Disposal of High-Level Radioactive Wastes in Geologic Repositories”
- Part 61, “Licensing Requirements for Land Disposal of Radioactive Waste”
- Part 63, “Geological HLW Repository at Yucca Mountain”
- Part 70, “Domestic Licensing of Special Nuclear Material”
- Part 71, “Packaging and Transportation of Radioactive Material”
- Part 72, “Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater than Class C Waste”
- Part 73, “Physical Protection of Plants and Materials” ¹
- Part 74, “Material Control and Accounting of Special Nuclear Material”
- Part 76, “Certification of Gaseous Diffusion Plants”
- Part 100, “Reactor Site Criteria”

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

b. Licensing Documents

The Committee reviews the following licensing documents as directed in legislation and/or NRC regulations, as described in the ACRS Charter:

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

c. Regulatory Activities

The Committee reviews the following types of regulatory and technical activities and advises the Commission with regard to the risks and safety-significance of those activities:

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

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

a. NRC Program Office ACRS Coordinator

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

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

b. ACRS Technical Support Branch Chief

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

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

c. ACRS Staff Contact

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

d. Program Office Technical Contact

Has the day-to-day responsibility within the Program Office for the item under ACRS consideration and is responsible for:

- Coordination with other HQ or Regional staff, NRC contractors, licensee, and vendor staff, and any other persons who should be involved in the ACRS review.
- Cognizant Program Office management review and coordination of the item in accordance with the Office's practices and procedures.

- Ensuring the Program ACRS Coordinator has the most accurate information on the matter that impacts the scope and schedule of the ACRS review.

e. ACRS Staff and Program Office Technical Contact Coordination

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

f. Coordination with NRC Regional Offices and Personnel

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

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

The NRC Program Office Coordinator, representing the cognizant Program Office Director or their designee, with guidance from the EDO or Commission, as appropriate, will identify matters requiring ACRS consideration to allow sufficient time to permit effective and efficient review by the ACRS. Discussions between the NRC Program Office coordinators, the Technical Support Branch Chief, and cognizant ACRS staff, if applicable, will identify proposed items to be included in the list of scheduled and planned ACRS agenda items which is located in the data management system maintained by the ACRS Technical Support Branch Chief. Discussions will be focused on ensuring that the information in the ACRS data management system is accurate and up-to-date. The Reports that are generated by the ACRS Technical Branch Chief showing the upcoming schedules for ACRS review items will be distributed to each NRC Program Office Coordinator and the EDO, and should reflect the agreed upon coordination on upcoming review items and schedules. Decisions on whether to review a matter will be made in accordance with Commission guidance, as determined by the needs of the EDO and Program Office Directors, the recommendation of the responsible ACRS Subcommittee Chairman, and the ACRS Planning and Procedures Subcommittee.

Matters identified for possible ACRS consideration should include all non-administrative, non-routine Commission papers being developed by staff. Early coordination on these Commission papers will minimize delays in their completion that could occur if the matters are not reviewed by the ACRS and the Commission decides late in their development that such a review is warranted. The Commission should have the ACRS views on significant regulatory matters when it receives the staff views and recommendations, if possible. Section 4 of this MOU provides guidance to facilitate the review of significant regulatory matters consistent with staff schedules.

Consistent with guidance contained in SECY-15-0129, “*Commission Involvement in Early Stages of Rulemaking*,” the ACRS focuses on significant proposed and final rules that address

technical issues. Currently, rulemaking packages in the earliest stage of development come to the ACRS under three circumstances: (1) ACRS review is required by law (e.g., reactor design certification rules), (2) the Commission directs the review, or (3) the Committee uses its own discretion to review. For significant rules, the “earliest stage of development,” should include the draft regulatory basis, if directed by the Commission or requested by the NRC Program Office Director.

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

4. ESTABLISHING A SCHEDULE FOR THE ACRS REVIEW

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

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

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

5. DEVIATIONS FROM THIS MOU

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

6. REFERENCES

- 10 CFR Part 7, “Advisory Committees”
- “Charter, Advisory Committee on Reactor Safeguards”
- “Advisory Committee on Reactor Safeguards Bylaws”

- EDO Procedure No. 0210, “OEDO Procedure for Coordination with ACRS” (ML13051A757)
- “Advisory Committee on Reactor Safeguards; Procedures for Meetings” (published annually in the *Federal Register*)
- Staff Requirements – “Meeting with Advisory Committee On Reactor Safeguards (ACRS), 9:30 A.M., Thursday, October 2, 2003,” October 31, 2003 (ML033040278)
- ACRS Memorandum, Subject: “Procedure for ACRS Review of Regulatory Guides,” August 10, 2011 (ML11216A100)
- ACRS Memorandum, Subject: “ACRS Review of Interim Staff Guidance”, September 9, 2014 (ML14247A641)
- SECY-15-0129, “Commission Involvement in Early Stages of Rulemaking,” October 19, 2015 (ML15267A759)

(Date)

Victor M. McCree
Executive Director for Operations

(Date)

Andrea D. Veil
Executive Director for ACRS

APPENDIX

CONDUCT OF ACRS REVIEWS AND MEETINGS, ACRS COMMENTS AND STAFF RESPONSES, AND ADDITIONAL INFORMATION^[PR6]

A.1 ACRS REVIEWS AND MEETINGS

The ACRS will generally perform a review by conducting subcommittee meetings and Full Committee meetings in accordance with the requirements in 10 CFR Part 7 and the “Procedures for Meetings” that is published on an annual basis in the *Federal Register*.

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

a. Submittal of Documents for ACRS Review

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

The documents in support of meetings of ACRS subcommittees and the Full Committee should be provided to the ACRS staff contact at least four weeks in advance of the meeting. This is the minimum time required for subcommittee members to adequately review the materials. Providing documents prior to this four week goal is encouraged. ^[PR7]^[WD8]

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

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

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

The handling of Sensitive Unclassified Non-Safeguards Information (SUNSI) documents submitted to the ACRS for review is addressed in Section A.5 below.

b. Subcommittee Meetings^{[MC9][PR10]}

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

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

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

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

c. Full Committee Meetings^[MC11]

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

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

d. Informal Meetings

ACRS members will sometimes convene informal meetings with the staff for the purposes of preparation for subcommittee and Full Committee meetings, or to receive updates on various technical matters that would facilitate the planning of the ACRS meetings. The only commitments made at these informal meetings should be for the purposes of agreeing on future scheduling of meetings. These meetings will be arranged through the Technical Branch Chief and/or ACRS staff contact. [MC12][WD13]

e. Meeting Agendas and Speakers

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

f. Presentation Material

The Program Office technical contact is responsible for providing all presentation material electronically and in hard copies to the ACRS staff contact in advance of the ACRS meetings in accordance with agreed upon schedules for all meetings. The material should be appropriately marked for proper handling and storage. [MC14][WD15]

A.2 ACRS REVIEWS AND COMMENTS

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

a. Comments by ACRS Members at Meetings

As described in Section A.1.b above [MC16][WD17], ACRS subcommittee meetings are for information gathering purposes and for determining if a matter should be presented to the Full Committee for review and comment. Comments made by ACRS subcommittee members represent the opinion of the individual member and are not to be interpreted as the official position of the ACRS. The NRC Program Office staff is encouraged to consider these ACRS comments for improving the document under review, the presentation of the information contained in the document in future discussions, and/or for the understanding of the document if it is presented to the Full Committee. No formal responses are sought to any comments made at subcommittee meetings ~~is sought~~.

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

staff contact. The ACRS staff contact will distribute the additional information to the subcommittee members.

b. Official ACRS Comments [MC18][WD19]

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

A.3 RESPONDING TO OFFICIAL ACRS COMMENTS [PR20]

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

The cognizant Program Office Director will ensure consideration by the staff of official ACRS comments which are contained in a report as described in EDO Procedure 0210, "OEDO Procedure for Coordination with ACRS." The staff will take into account ACRS views on all rules and technical policy statements pertaining to nuclear safety matters. If no response is required, the ACRS will indicate such in the report to the Commission or EDO. Otherwise the cognizant Program Office Director, or designee, will respond to ACRS comments in a timely manner. The cognizant Program Office Director, or designee, shall respond by letter addressed to the ACRS Chairman with a copy to the ACRS Executive Director. The staff will ensure that all responses are captured as official agency records. The cognizant Program Office Director or designee, may elect to consider ACRS comments on proposed or draft documents (e.g., proposed rules, draft regulatory guides) following the closure of the public comment period as part of the process for resolving public comments. Staff responses should address all ACRS comments including those not endorsed by the staff. Staff responses to the added comments of individual members contained in an ACRS report are not required [PR21][WD22].

A.4 CONFLICT OF INTEREST OF ACRS MEMBERS [MC23][PR24][WD25]

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

A.5 HANDLING OF SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION DOCUMENTS DURING ACRS REVIEWS^[PR26]

Open discussion of agency matters facilitates external stakeholder input and provides an opportunity for the public to better understand agency decisions. The following guidelines will be used w~~hen the ACRS is to review matters that involve sensitive unclassified non-safeguards information (SUNSI), the following guidelines will be used:~~

a. Subcommittee Meetings^{[MC27][WD28]}

~~ACRS subcommittee meetings may be closed to public participation to protect SUNSI. The transmitted documents will be appropriately marked to facilitate their proper storage and handling. Infrequently, the ACRS requires access to Classified and Safeguards information in conjunction with activities within its scope of responsibility. ACRS member and staff access to this information will be authorized on the basis of the individual's clearance level and need to know in accordance with NRC security-related Management Directives.~~

b. Full Committee Meetings^[MC29]

ACRS Full Committee meetings will be open to the public, unless a FACA exemption applies.² In terms of ~~For documents the NRC treats as~~ SUNSI, FACA only allows closure of a Full Committee meeting for protecting proprietary information. ~~Open discussion of agency matters facilitates external stakeholder input and provides an opportunity for the public to better understand agency decisions. ACRS subcommittee meetings may be closed to public participation to protect SUNSI.~~

~~ACRS Full Committee meeting sessions can be closed on such grounds as discussion of proprietary material, under exemptions allowed by FACA.~~ Members of the public may request a closed meeting if they believe an exemption allowed by FACA applicable to them authorizes such closure. The staff may also request closure of a meeting, under the exemptions allowed by FACA. ~~Requests by members of the public and staff to close meetings will be considered under applicable law.~~ The closing of ACRS meetings requires a written request to the Chairman of the Commission, or the Chairman's designee, and review by the Office of the General Counsel, in accordance with 10 CFR 7.15. When requests for closure are received by the ACRS, the ACRS staff may need the assistance of the Office of the General Counsel (OGC) and NRC staff technical experts on an expedited basis to make accurate judgments as to what information should be protected.

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

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

² Under the FACA, meetings of advisory committees are generally required to be open and documents provided to or prepared by advisory committees are generally required to be made available for public inspection and copying. However, FACA also provides that portions of advisory committee meetings may be closed to the public if they fall within exemptions contained in the Government in the Sunshine Act. Similarly, documents made available to or prepared for or by an advisory committee may be withheld from the public if they fall within an exemption contained in the Freedom of Information Act. There are a number of exemptions listed in the Sunshine Act and the Freedom of Information Act and assistance in their interpretation may be obtained from the Office of the General Counsel.

Committee. The transmitted documents will be clearly marked as pre-decisional. Other applicable restrictions (e.g., proprietary information) on the release to the public of documents submitted to the ACRS should also be clearly marked on the documents to facilitate their proper storage and handling.

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

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

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

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

A.6 ACRS WEBPAGE^[MC30]^[WD31]

The ACRS staff will maintain the information on the NRC ACRS webpage ([^{\[PR32\]}^{\[WD33\]}](http://drupal.nrc.gov/acrs)) in a timely manner to include all relevant information on ACRS Full and subcommittee meetings, including schedules and agendas, meeting transcripts, ACRS reports and memoranda, and staff responses, as appropriate.

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

From: [Michael Corradini](#)
To: [Veil, Andrea](#); [Widmayer, Derek](#)
Cc: [Pete Riccardella](#); [Matt Sunseri](#); [Banks, Mark](#)
Subject: [External_Sender] Re: ACRS-EDO MOU REVISION - Meeting Version
Date: Monday, January 29, 2018 8:38:15 AM
Attachments: [MOU-2018-ACRS-EDO-derek.docx](#)

Andrea and Derek - Thanks and a short meeting will be the next logical step. I did not see any big issues. Mike

On Jan 29, 2018, at 6:51 AM, Veil, Andrea <andrea.veil@nrc.gov> wrote:

Good Morning,

Derek addressed most of the comments in the MOU, and made a few revisions where suggested. This draft can serve as our "meeting version" and we can pick a time to sit down and resolve any remaining comments prior to bringing it to the rest of the members in March.

Thanks!
Andrea

<MOU-2018-ACRS-EDO-mlc-ms-pcr.widmayer.docx>

MEMORANDUM OF UNDERSTANDING

PARTIES: Advisory Committee on Reactor Safeguards (ACRS)
 Executive Director for the Advisory Committee on Reactor Safeguards

 Nuclear Regulatory Commission (NRC)
 Executive Director for Operations (EDO)

SUBJECT: ACRS REVIEW OF NRC TECHNICAL MATTERS

BACKGROUND:

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

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

ACRS operations are governed by the Federal Advisory Committee Act (FACA), which is implemented through NRC regulations at 10 CFR Part 7, "Advisory Committees." Pursuant to this, the Committee functions under a [Charter](#)^{[PR1][WD2]}, which establishes the Committee's objectives, scope of activities, duties, and administrative functions. The most recent ACRS Charter is available at the ACRS webpage (See Section A.6 in the Appendix to this MOU). FACA requirements and ACRS operational practices encourage the public, industry, state and local governments, and other stakeholders to become involved in Committee activities.

PURPOSE:

To achieve high quality and timely regulatory products, the purpose of this Memorandum of Understanding (MOU) is to establish a process to facilitate effective planning and engagement between the EDO staff and the ACRS staff on review activities within the Committee's statutory and other responsibilities as described in the "Background" section and further specified in the next section. It supersedes the previous MOU, dated October 28, 2009. [This MOU will be reviewed biennially and updated as needed.](#)^{[PR3][WD4]}

1. THE SCOPE OF ACRS RESPONSIBILITY

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

a. NRC Regulations

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

- Part 20, “Standards for Protection Against Radiation”
- Part 21, “Reporting of Defects and Noncompliance”
- Part 26, “Fitness for Duty Programs”
- Part 40, “Domestic Licensing of Source Material,” as applied to decommissioning and waste disposal
- Part 50, “Domestic Licensing of Production and Utilization Facilities”
- Part 51, “Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions”
- Part 52, “Licenses, Certifications, and Approvals for Nuclear Power Plants”
- Part 54, “Requirements for Renewal of Operating Licenses for Nuclear Power Plants”
- Part 55, “Operators’ Licenses”
- Part 60, “Disposal of High-Level Radioactive Wastes in Geologic Repositories”
- Part 61, “Licensing Requirements for Land Disposal of Radioactive Waste”
- Part 63, “Geological HLW Repository at Yucca Mountain”
- Part 70, “Domestic Licensing of Special Nuclear Material”
- Part 71, “Packaging and Transportation of Radioactive Material”
- Part 72, “Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater than Class C Waste”
- Part 73, “Physical Protection of Plants and Materials” ¹
- Part 74, “Material Control and Accounting of Special Nuclear Material”
- Part 76, “Certification of Gaseous Diffusion Plants”
- Part 100, “Reactor Site Criteria”

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

b. Licensing Documents

The Committee reviews the following licensing documents as directed in legislation and/or NRC regulations, as described in the ACRS Charter:

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

c. Regulatory Activities

The Committee reviews the following types of regulatory and technical activities and advises the Commission with regard to the risks and safety-significance of those activities:

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

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

a. NRC Program Office ACRS Coordinator

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

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

b. ACRS Technical Support Branch Chief

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

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

c. ACRS Staff Contact

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

d. Program Office Technical Contact

Has the day-to-day responsibility within the Program Office for the item under ACRS consideration and is responsible for:

- Coordination with other HQ or Regional staff, NRC contractors, licensee, and vendor staff, and any other persons who should be involved in the ACRS review.
- Cognizant Program Office management review and coordination of the item in accordance with the Office's practices and procedures.

- Ensuring the Program ACRS Coordinator has the most accurate information on the matter that impacts the scope and schedule of the ACRS review.

e. ACRS Staff and Program Office Technical Contact Coordination

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

f. Coordination with NRC Regional Offices and Personnel

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

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

The NRC Program Office Coordinator, representing the cognizant Program Office Director or their designee, with guidance from the EDO or Commission, as appropriate, will identify matters requiring ACRS consideration to allow sufficient time to permit effective and efficient review by the ACRS. Discussions between the NRC Program Office coordinators, the Technical Support Branch Chief, and cognizant ACRS staff, if applicable, will identify proposed items to be included in the list of scheduled and planned ACRS agenda items which is located in the data management system maintained by the ACRS Technical Support Branch Chief. Discussions will be focused on ensuring that the information in the ACRS data management system is accurate and up-to-date. The Reports that are generated by the ACRS Technical Branch Chief showing the upcoming schedules for ACRS review items will be distributed to each NRC Program Office Coordinator and the EDO, and should reflect the agreed upon coordination on upcoming review items and schedules. Decisions on whether to review a matter will be made in accordance with Commission guidance, as determined by the needs of the EDO and Program Office Directors, the recommendation of the responsible ACRS Subcommittee Chairman, and the ACRS Planning and Procedures Subcommittee.

Matters identified for possible ACRS consideration should include all non-administrative, non-routine Commission papers being developed by staff. Early coordination on these Commission papers will minimize delays in their completion that could occur if the matters are not reviewed by the ACRS and the Commission decides late in their development that such a review is warranted. The Commission should have the ACRS views on significant regulatory matters when it receives the staff views and recommendations, if possible. Section 4 of this MOU provides guidance to facilitate the review of significant regulatory matters consistent with staff schedules.

Consistent with guidance contained in SECY-15-0129, “*Commission Involvement in Early Stages of Rulemaking*,” the ACRS focuses on significant proposed and final rules that address

technical issues. Currently, rulemaking packages in the earliest stage of development come to the ACRS under three circumstances: (1) ACRS review is required by law (e.g., reactor design certification rules), (2) the Commission directs the review, or (3) the Committee uses its own discretion to review. For significant rules, the “earliest stage of development,” should include the draft regulatory basis, if directed by the Commission or requested by the NRC Program Office Director.

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

4. ESTABLISHING A SCHEDULE FOR THE ACRS REVIEW

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

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

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

5. DEVIATIONS FROM THIS MOU

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

6. REFERENCES

- 10 CFR Part 7, “Advisory Committees”
- “Charter, Advisory Committee on Reactor Safeguards”
- “Advisory Committee on Reactor Safeguards Bylaws”

- EDO Procedure No. 0210, “OEDO Procedure for Coordination with ACRS” (ML13051A757)
- “Advisory Committee on Reactor Safeguards; Procedures for Meetings” (published annually in the *Federal Register*)
- Staff Requirements – “Meeting with Advisory Committee On Reactor Safeguards (ACRS), 9:30 A.M., Thursday, October 2, 2003,” October 31, 2003 (ML033040278)
- ACRS Memorandum, Subject: “Procedure for ACRS Review of Regulatory Guides,” August 10, 2011 (ML11216A100)
- ACRS Memorandum, Subject: “ACRS Review of Interim Staff Guidance”, September 9, 2014 (ML14247A641)
- SECY-15-0129, “Commission Involvement in Early Stages of Rulemaking,” October 19, 2015 (ML15267A759)

(Date)

Victor M. McCree
Executive Director for Operations

(Date)

Andrea D. Veil
Executive Director for ACRS

APPENDIX

CONDUCT OF ACRS REVIEWS AND MEETINGS, ACRS COMMENTS AND STAFF RESPONSES, AND ADDITIONAL INFORMATION^[PR6]

A.1 ACRS REVIEWS AND MEETINGS

The ACRS will generally perform a review by conducting subcommittee meetings and Full Committee meetings in accordance with the requirements in 10 CFR Part 7 and the “Procedures for Meetings” that is published on an annual basis in the *Federal Register*.

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

a. Submittal of Documents for ACRS Review

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

The documents in support of meetings of ACRS subcommittees and the Full Committee should be provided to the ACRS staff contact at least four weeks in advance of the meeting. This is the minimum time required for subcommittee members to adequately review the materials. Providing documents prior to this four week goal is encouraged. ^[PR7]^[WD8]

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

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

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

The handling of Sensitive Unclassified Non-Safeguards Information (SUNSI) documents submitted to the ACRS for review is addressed in Section A.5 below.

b. Subcommittee Meetings^{[MC9][PR10]}

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

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

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

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

c. Full Committee Meetings^[MC11]

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

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

d. Informal Meetings

ACRS members will sometimes convene informal meetings with the staff for the purposes of preparation for subcommittee and Full Committee meetings, or to receive updates on various technical matters that would facilitate the planning of the ACRS meetings. The only commitments made at these informal meetings should be for the purposes of agreeing on future scheduling of meetings. These meetings will be arranged through the Technical Branch Chief and/or ACRS staff contact. [MC12][WD13]

e. Meeting Agendas and Speakers

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

f. Presentation Material

The Program Office technical contact is responsible for providing all presentation material electronically and in hard copies to the ACRS staff contact in advance of the ACRS meetings in accordance with agreed upon schedules for all meetings. The material should be appropriately marked for proper handling and storage. [MC14][WD15]

A.2 ACRS REVIEWS AND COMMENTS

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

a. Comments by ACRS Members at Meetings

As described in Section A.1.b above [MC16][WD17], ACRS subcommittee meetings are for information gathering purposes and for determining if a matter should be presented to the Full Committee for review and comment. Comments made by ACRS subcommittee members represent the opinion of the individual member and are not to be interpreted as the official position of the ACRS. The NRC Program Office staff is encouraged to consider these ACRS comments for improving the document under review, the presentation of the information contained in the document in future discussions, and/or for the understanding of the document if it is presented to the Full Committee. No formal responses are sought to any comments made at subcommittee meetings ~~is sought~~.

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

staff contact. The ACRS staff contact will distribute the additional information to the subcommittee members.

b. Official ACRS Comments [MC18][WD19]

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

A.3 RESPONDING TO OFFICIAL ACRS COMMENTS [PR20]

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

The cognizant Program Office Director will ensure consideration by the staff of official ACRS comments which are contained in a report as described in EDO Procedure 0210, "OEDO Procedure for Coordination with ACRS." The staff will take into account ACRS views on all rules and technical policy statements pertaining to nuclear safety matters. If no response is required, the ACRS will indicate such in the report to the Commission or EDO. Otherwise the cognizant Program Office Director, or designee, will respond to ACRS comments in a timely manner. The cognizant Program Office Director, or designee, shall respond by letter addressed to the ACRS Chairman with a copy to the ACRS Executive Director. The staff will ensure that all responses are captured as official agency records. The cognizant Program Office Director or designee, may elect to consider ACRS comments on proposed or draft documents (e.g., proposed rules, draft regulatory guides) following the closure of the public comment period as part of the process for resolving public comments. Staff responses should address all ACRS comments including those not endorsed by the staff. Staff responses to the added comments of individual members contained in an ACRS report are not required [PR21][WD22].

A.4 CONFLICT OF INTEREST OF ACRS MEMBERS [MC23][PR24][WD25]

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

A.5 HANDLING OF SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION DOCUMENTS DURING ACRS REVIEWS^[PR26]

Open discussion of agency matters facilitates external stakeholder input and provides an opportunity for the public to better understand agency decisions. The following guidelines will be used when the ACRS is to review matters that involve sensitive unclassified non-safeguards information (SUNSI), the following guidelines will be used:

a. Subcommittee Meetings^{[MC27][WD28]}

~~ACRS subcommittee meetings may be closed to public participation to protect SUNSI. The transmitted documents will be appropriately marked to facilitate their proper storage and handling. Infrequently, the ACRS requires access to Classified and Safeguards information in conjunction with activities within its scope of responsibility. ACRS member and staff access to this information will be authorized on the basis of the individual's clearance level and need to know in accordance with NRC security-related Management Directives.~~

b. Full Committee Meetings^[MC29]

ACRS Full Committee meetings will be open to the public, unless a FACA exemption applies.² In terms of For documents the NRC treats as SUNSI, FACA only allows closure of a Full Committee meeting for protecting proprietary information. Open discussion of agency matters facilitates external stakeholder input and provides an opportunity for the public to better understand agency decisions. ACRS subcommittee meetings may be closed to public participation to protect SUNSI.

~~ACRS Full Committee meeting sessions can be closed on such grounds as discussion of proprietary material, under exemptions allowed by FACA. Members of the public may request a closed meeting if they believe an exemption allowed by FACA applicable to them authorizes such closure. The staff may also request closure of a meeting, under the exemptions allowed by FACA. Requests by members of the public and staff to close meetings will be considered under applicable law.~~ The closing of ACRS meetings requires a written request to the Chairman of the Commission, or the Chairman's designee, and review by the Office of the General Counsel, in accordance with 10 CFR 7.15. When requests for closure are received by the ACRS, the ACRS staff may need the assistance of the Office of the General Counsel (OGC) and NRC staff technical experts on an expedited basis to make accurate judgments as to what information should be protected.

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

In those cases where the Commission or the EDO (as applicable) has approved discussion of all or part of a pre-decisional document at an open meeting of the ACRS, the document may be

² Under the FACA, meetings of advisory committees are generally required to be open and documents provided to or prepared by advisory committees are generally required to be made available for public inspection and copying. However, FACA also provides that portions of advisory committee meetings may be closed to the public if they fall within exemptions contained in the Government in the Sunshine Act. Similarly, documents made available to or prepared for or by an advisory committee may be withheld from the public if they fall within an exemption contained in the Freedom of Information Act. There are a number of exemptions listed in the Sunshine Act and the Freedom of Information Act and assistance in their interpretation may be obtained from the Office of the General Counsel.

transmitted to the ACRS staff by the cognizant NRC Program Office for review by the Committee. The transmitted documents will be clearly marked as pre-decisional. Other applicable restrictions (e.g., proprietary information) on the release to the public of documents submitted to the ACRS should also be clearly marked on the documents to facilitate their proper storage and handling.

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

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

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

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

A.6 ACRS WEBPAGE [MC30][WD31]

The ACRS staff will maintain the information on the NRC ACRS webpage (<http://drupal.nrc.gov/acrs> [PR32][WD33]) in a timely manner to include all relevant information on ACRS Full and subcommittee meetings, including schedules and agendas, meeting transcripts, ACRS reports and memoranda, and staff responses, as appropriate.

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

From: [Veil, Andrea](#)
To: [Michael Corradini](#); [Pete Riccardella \(Priccardella@Structint.com\)](#); [Matthew Sunseri \(mattsunseri@gmail.com\)](#)
Cc: [Banks, Mark](#); [Widmayer, Derek](#)
Subject: ACRS-EDO MOU REVISION - Meeting Version
Date: Monday, January 29, 2018 7:51:11 AM
Attachments: [MOU-2018-ACRS-EDO-mlc-ms-pcr.widmayer.docx](#)

Good Morning,

Derek addressed most of the comments in the MOU, and made a few revisions where suggested. This draft can serve as our “meeting version” and we can pick a time to sit down and resolve any remaining comments prior to bringing it to the rest of the members in March.

Thanks!
Andrea

MEMORANDUM OF UNDERSTANDING

PARTIES: Advisory Committee on Reactor Safeguards (ACRS)
 Executive Director for the Advisory Committee on Reactor Safeguards

 Nuclear Regulatory Commission (NRC)
 Executive Director for Operations (EDO)

SUBJECT: ACRS REVIEW OF NRC TECHNICAL MATTERS

BACKGROUND:

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

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

ACRS operations are governed by the Federal Advisory Committee Act (FACA), which is implemented through NRC regulations at 10 CFR Part 7, "Advisory Committees." Pursuant to this, the Committee functions under a [Charter](#)^{[PR1][WD2]}, which establishes the Committee's objectives, scope of activities, duties, and administrative functions. The most recent ACRS Charter is available at the ACRS webpage (See Section A.6 in the Appendix to this MOU). FACA requirements and ACRS operational practices encourage the public, industry, state and local governments, and other stakeholders to become involved in Committee activities.

PURPOSE:

To achieve high quality and timely regulatory products, the purpose of this Memorandum of Understanding (MOU) is to establish a process to facilitate effective planning and engagement between the EDO staff and the ACRS staff on review activities within the Committee's statutory and other responsibilities as described in the "Background" section and further specified in the next section. It supersedes the previous MOU, dated October 28, 2009. [This MOU will be reviewed biennially and updated as needed.](#)^{[PR3][WD4]}

1. THE SCOPE OF ACRS RESPONSIBILITY

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

a. NRC Regulations

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

- Part 20, “Standards for Protection Against Radiation”
- Part 21, “Reporting of Defects and Noncompliance”
- Part 26, “Fitness for Duty Programs”
- Part 40, “Domestic Licensing of Source Material,” as applied to decommissioning and waste disposal
- Part 50, “Domestic Licensing of Production and Utilization Facilities”
- Part 51, “Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions”
- Part 52, “Licenses, Certifications, and Approvals for Nuclear Power Plants”
- Part 54, “Requirements for Renewal of Operating Licenses for Nuclear Power Plants”
- Part 55, “Operators’ Licenses”
- Part 60, “Disposal of High-Level Radioactive Wastes in Geologic Repositories”
- Part 61, “Licensing Requirements for Land Disposal of Radioactive Waste”
- Part 63, “Geological HLW Repository at Yucca Mountain”
- Part 70, “Domestic Licensing of Special Nuclear Material”
- Part 71, “Packaging and Transportation of Radioactive Material”
- Part 72, “Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater than Class C Waste”
- Part 73, “Physical Protection of Plants and Materials” ¹
- Part 74, “Material Control and Accounting of Special Nuclear Material”
- Part 76, “Certification of Gaseous Diffusion Plants”
- Part 100, “Reactor Site Criteria”

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

b. Licensing Documents

The Committee reviews the following licensing documents as directed in legislation and/or NRC regulations, as described in the ACRS Charter:

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

c. Regulatory Activities

The Committee reviews the following types of regulatory and technical activities and advises the Commission with regard to the risks and safety-significance of those activities:

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

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

a. NRC Program Office ACRS Coordinator

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

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

b. ACRS Technical Support Branch Chief

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

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

c. ACRS Staff Contact

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

d. Program Office Technical Contact

Has the day-to-day responsibility within the Program Office for the item under ACRS consideration and is responsible for:

- Coordination with other HQ or Regional staff, NRC contractors, licensee, and vendor staff, and any other persons who should be involved in the ACRS review.
- Cognizant Program Office management review and coordination of the item in accordance with the Office's practices and procedures.

- Ensuring the Program ACRS Coordinator has the most accurate information on the matter that impacts the scope and schedule of the ACRS review.

e. ACRS Staff and Program Office Technical Contact Coordination

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

f. Coordination with NRC Regional Offices and Personnel

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

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

The NRC Program Office Coordinator, representing the cognizant Program Office Director or their designee, with guidance from the EDO or Commission, as appropriate, will identify matters requiring ACRS consideration to allow sufficient time to permit effective and efficient review by the ACRS. Discussions between the NRC Program Office coordinators, the Technical Support Branch Chief, and cognizant ACRS staff, if applicable, will identify proposed items to be included in the list of scheduled and planned ACRS agenda items which is located in the data management system maintained by the ACRS Technical Support Branch Chief. Discussions will be focused on ensuring that the information in the ACRS data management system is accurate and up-to-date. The Reports that are generated by the ACRS Technical Branch Chief showing the upcoming schedules for ACRS review items will be distributed to each NRC Program Office Coordinator and the EDO, and should reflect the agreed upon coordination on upcoming review items and schedules. Decisions on whether to review a matter will be made in accordance with Commission guidance, as determined by the needs of the EDO and Program Office Directors, the recommendation of the responsible ACRS Subcommittee Chairman, and the ACRS Planning and Procedures Subcommittee.

Matters identified for possible ACRS consideration should include all non-administrative, non-routine Commission papers being developed by staff. Early coordination on these Commission papers will minimize delays in their completion that could occur if the matters are not reviewed by the ACRS and the Commission decides late in their development that such a review is warranted. The Commission should have the ACRS views on significant regulatory matters when it receives the staff views and recommendations, if possible. Section 4 of this MOU provides guidance to facilitate the review of significant regulatory matters consistent with staff schedules.

Consistent with guidance contained in SECY-15-0129, "*Commission Involvement in Early Stages of Rulemaking*," the ACRS focuses on significant proposed and final rules that address

technical issues. Currently, rulemaking packages in the earliest stage of development come to the ACRS under three circumstances: (1) ACRS review is required by law (e.g., reactor design certification rules), (2) the Commission directs the review, or (3) the Committee uses its own discretion to review. For significant rules, the “earliest stage of development,” should include the draft regulatory basis, if directed by the Commission or requested by the NRC Program Office Director.

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

4. ESTABLISHING A SCHEDULE FOR THE ACRS REVIEW

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

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

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

5. DEVIATIONS FROM THIS MOU

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

6. REFERENCES

- 10 CFR Part 7, “Advisory Committees”
- “Charter, Advisory Committee on Reactor Safeguards”
- “Advisory Committee on Reactor Safeguards Bylaws”

- EDO Procedure No. 0210, “OEDO Procedure for Coordination with ACRS” (ML13051A757)
- “Advisory Committee on Reactor Safeguards; Procedures for Meetings” (published annually in the *Federal Register*)
- Staff Requirements – “Meeting with Advisory Committee On Reactor Safeguards (ACRS), 9:30 A.M., Thursday, October 2, 2003,” October 31, 2003 (ML033040278)
- ACRS Memorandum, Subject: “Procedure for ACRS Review of Regulatory Guides,” August 10, 2011 (ML11216A100)
- ACRS Memorandum, Subject: “ACRS Review of Interim Staff Guidance”, September 9, 2014 (ML14247A641)
- SECY-15-0129, “Commission Involvement in Early Stages of Rulemaking,” October 19, 2015 (ML15267A759)

(Date)

Victor M. McCree
Executive Director for Operations

(Date)

Andrea D. Veil
Executive Director for ACRS

APPENDIX

CONDUCT OF ACRS REVIEWS AND MEETINGS, ACRS COMMENTS AND STAFF RESPONSES, AND ADDITIONAL INFORMATION^[PR6]

A.1 ACRS REVIEWS AND MEETINGS

The ACRS will generally perform a review by conducting subcommittee meetings and Full Committee meetings in accordance with the requirements in 10 CFR Part 7 and the “Procedures for Meetings” that is published on an annual basis in the *Federal Register*.

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

a. Submittal of Documents for ACRS Review

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

The documents in support of meetings of ACRS subcommittees and the Full Committee should be provided to the ACRS staff contact at least four weeks in advance of the meeting. This is the minimum time required for subcommittee members to adequately review the materials. Providing documents prior to this four week goal is encouraged. ^[PR7]^[WD8]

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

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

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

The handling of Sensitive Unclassified Non-Safeguards Information (SUNSI) documents submitted to the ACRS for review is addressed in Section A.5 below.

b. Subcommittee Meetings^{[MC9][PR10]}

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

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

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

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

c. Full Committee Meetings^[MC11]

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

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

d. Informal Meetings

ACRS members will sometimes convene informal meetings with the staff for the purposes of preparation for subcommittee and Full Committee meetings, or to receive updates on various technical matters that would facilitate the planning of the ACRS meetings. The only commitments made at these informal meetings should be for the purposes of agreeing on future scheduling of meetings. These meetings will be arranged through the Technical Branch Chief and/or ACRS staff contact. [MC12][WD13]

e. Meeting Agendas and Speakers

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

f. Presentation Material

The Program Office technical contact is responsible for providing all presentation material electronically and in hard copies to the ACRS staff contact in advance of the ACRS meetings in accordance with agreed upon schedules for all meetings. The material should be appropriately marked for proper handling and storage. [MC14][WD15]

A.2 ACRS REVIEWS AND COMMENTS

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

a. Comments by ACRS Members at Meetings

As described in Section A.1.b above [MC16][WD17], ACRS subcommittee meetings are for information gathering purposes and for determining if a matter should be presented to the Full Committee for review and comment. Comments made by ACRS subcommittee members represent the opinion of the individual member and are not to be interpreted as the official position of the ACRS. The NRC Program Office staff is encouraged to consider these ACRS comments for improving the document under review, the presentation of the information contained in the document in future discussions, and/or for the understanding of the document if it is presented to the Full Committee. No formal responses are sought to any comments made at subcommittee meetings ~~is sought~~.

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

staff contact. The ACRS staff contact will distribute the additional information to the subcommittee members.

b. Official ACRS Comments [MC18][WD19]

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

A.3 RESPONDING TO OFFICIAL ACRS COMMENTS [PR20]

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

The cognizant Program Office Director will ensure consideration by the staff of official ACRS comments which are contained in a report as described in EDO Procedure 0210, "OEDO Procedure for Coordination with ACRS." The staff will take into account ACRS views on all rules and technical policy statements pertaining to nuclear safety matters. If no response is required, the ACRS will indicate such in the report to the Commission or EDO. Otherwise the cognizant Program Office Director, or designee, will respond to ACRS comments in a timely manner. The cognizant Program Office Director, or designee, shall respond by letter addressed to the ACRS Chairman with a copy to the ACRS Executive Director. The staff will ensure that all responses are captured as official agency records. The cognizant Program Office Director or designee, may elect to consider ACRS comments on proposed or draft documents (e.g., proposed rules, draft regulatory guides) following the closure of the public comment period as part of the process for resolving public comments. Staff responses should address all ACRS comments including those not endorsed by the staff. Staff responses to the added comments of individual members contained in an ACRS report are not required [PR21][WD22].

A.4 CONFLICT OF INTEREST OF ACRS MEMBERS [MC23][PR24][WD25]

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

A.5 HANDLING OF SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION DOCUMENTS DURING ACRS REVIEWS^[PR26]

Open discussion of agency matters facilitates external stakeholder input and provides an opportunity for the public to better understand agency decisions. The following guidelines will be used when the ACRS is to review matters that involve sensitive unclassified non-safeguards information (SUNSI), the following guidelines will be used:

a. Subcommittee Meetings^{[MC27][WD28]}

~~ACRS subcommittee meetings may be closed to public participation to protect SUNSI. The transmitted documents will be appropriately marked to facilitate their proper storage and handling. Infrequently, the ACRS requires access to Classified and Safeguards information in conjunction with activities within its scope of responsibility. ACRS member and staff access to this information will be authorized on the basis of the individual's clearance level and need to know in accordance with NRC security-related Management Directives.~~

b. Full Committee Meetings^[MC29]

ACRS Full Committee meetings will be open to the public, unless a FACA exemption applies.² In terms of For documents the NRC treats as SUNSI, FACA only allows closure of a Full Committee meeting for protecting proprietary information. Open discussion of agency matters facilitates external stakeholder input and provides an opportunity for the public to better understand agency decisions. ACRS subcommittee meetings may be closed to public participation to protect SUNSI.

~~ACRS Full Committee meeting sessions can be closed on such grounds as discussion of proprietary material, under exemptions allowed by FACA. Members of the public may request a closed meeting if they believe an exemption allowed by FACA applicable to them authorizes such closure. The staff may also request closure of a meeting, under the exemptions allowed by FACA. Requests by members of the public and staff to close meetings will be considered under applicable law.~~ The closing of ACRS meetings requires a written request to the Chairman of the Commission, or the Chairman's designee, and review by the Office of the General Counsel, in accordance with 10 CFR 7.15. When requests for closure are received by the ACRS, the ACRS staff may need the assistance of the Office of the General Counsel (OGC) and NRC staff technical experts on an expedited basis to make accurate judgments as to what information should be protected.

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

In those cases where the Commission or the EDO (as applicable) has approved discussion of all or part of a pre-decisional document at an open meeting of the ACRS, the document may be

² Under the FACA, meetings of advisory committees are generally required to be open and documents provided to or prepared by advisory committees are generally required to be made available for public inspection and copying. However, FACA also provides that portions of advisory committee meetings may be closed to the public if they fall within exemptions contained in the Government in the Sunshine Act. Similarly, documents made available to or prepared for or by an advisory committee may be withheld from the public if they fall within an exemption contained in the Freedom of Information Act. There are a number of exemptions listed in the Sunshine Act and the Freedom of Information Act and assistance in their interpretation may be obtained from the Office of the General Counsel.

transmitted to the ACRS staff by the cognizant NRC Program Office for review by the Committee. The transmitted documents will be clearly marked as pre-decisional. Other applicable restrictions (e.g., proprietary information) on the release to the public of documents submitted to the ACRS should also be clearly marked on the documents to facilitate their proper storage and handling.

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

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

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

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

A.6 ACRS WEBPAGE [MC30][WD31]

The ACRS staff will maintain the information on the NRC ACRS webpage (<http://drupal.nrc.gov/acrs> [PR32][WD33]) in a timely manner to include all relevant information on ACRS Full and subcommittee meetings, including schedules and agendas, meeting transcripts, ACRS reports and memoranda, and staff responses, as appropriate.

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

From: [Veil, Andrea](#)
To: [Banks, Mark](#)
Cc: [Widmayer, Derek](#)
Subject: RE: Re: ACRS-EDO MOU REVISION Draft Final
Date: Thursday, January 25, 2018 9:52:10 AM

Good catch and I agree. We can add that in response to his suggestion,

From: Banks, Mark
Sent: Thursday, January 25, 2018 9:50 AM
To: Veil, Andrea <andrea.veil@nrc.gov>
Cc: Widmayer, Derek <Derek.Widmayer@nrc.gov>
Subject: RE: Re: ACRS-EDO MOU REVISION Draft Final

Hi Andrea,

Your suggested path forward sounds good. Most of the comments are in the Appendix.

I don't agree with Pete's Bylaws comment/change to the third paragraph under "Background" (the first comments). That paragraph concerns 10 CFR Part 7 and the FACA regulation regarding the required charter – the paragraph is legalistic; Bylaws are not mentioned in either and are not required.

Thanks,

Mark Banks - Chief
Technical Support Branch
Advisory Committee on Reactor Safeguards
Nuclear Regulatory Commission
Tel. 301-415-3718
Fax 301-415-5589

From: Veil, Andrea
Sent: Thursday, January 25, 2018 9:23 AM
To: Banks, Mark <Mark.Banks@nrc.gov>
Cc: Widmayer, Derek <Derek.Widmayer@nrc.gov>
Subject: RE: Re: ACRS-EDO MOU REVISION Draft Final

I didn't have any issues with the comments that were made. We just need to align before we meet with them (for example, Mike and Pete have opposite comments in a few places. In each case, I agree with Mike's comments). I think the most efficient way to have the next "meeting version" is to make the obvious changes if you agree with them, and to suggest resolution of those that need more discussion.

Thanks,
Andrea

From: Michael Corradini [<mailto:corradini@engr.wisc.edu>]
Sent: Wednesday, January 24, 2018 8:36 PM

To: Veil, Andrea <andrea.veil@nrc.gov>; Banks, Mark <Mark.Banks@nrc.gov>

Cc: Widmayer, Derek <Derek.Widmayer@nrc.gov>

Subject: [External_Sender] Re: ACRS-EDO MOU REVISION Draft Final

Dear Andrea:

I showed the MOU to Pete and Matt. I think we all feel this is a real improvement from the 2009 version.

The Appendix does seem a bit detailed and all of us have ideas/suggestions for you all to consider.

My suggestion is to look at them and consider them and we can talk a bit in February on FC or SC week.

Mike

p.s. I know I owe you the Bylaws and that is next

On Jan 23, 2018, at 9:35 AM, Veil, Andrea <andrea.veil@nrc.gov> wrote:

Thanks for the comprehensive instructions Derek.

Andrea

From: Widmayer, Derek

Sent: Tuesday, January 23, 2018 10:20 AM

To: Veil, Andrea <andrea.veil@nrc.gov>; Michael Corradini <corradini@engr.wisc.edu>; Pete Riccardella <Priccardella@Structint.com>; Matt Sunseri <mattsunseri@gmail.com>

Cc: Banks, Mark <Mark.Banks@nrc.gov>; Bellinger, Alesha <Alesha.Bellinger@nrc.gov>; Lui, Christiana <Christiana.Lui@nrc.gov>

Subject: RE: ACRS-EDO MOU REVISION Draft Final

All:

As requested, a "comparison" of the 2009 ACRS-EDO MOU versus the recently prepared 2018 MOU Revision sent to you for review is attached. It is prepared using the 2009 EDO as the BASELINE document – so revisions FROM that document are shown. The 2009 MOU is also attached if you want to print out all three and do comparisons.

If you have not worked with this kind of comparison document before, here is some guidance that hopefully makes it easy to see what is going on:

- The first thing the comparison does is try to only show how the new revision is NEW. So if you look at the new revised MOU document, it

has 5 Sections and then an APPENDIX with 6 Sections, so the comparison document displays the information with respect to that outline and Sections and tries to ELIMINATE revisions that are IRRELEVANT. This way it tries to find any text that is MOVED and show it in its new LOCATION, (rather than, for example, showing it was deleted from one place (crossed out) and shown as new text in another place. Thus:

- As you work through the comparison document, it follows the outline of the NEW MOU: NEW text is shown in **RED UNDERLINE**, Text deleted from the “old” document is shown in **RED crossout**, Text which remains in essentially the same location is shown in **GREEN**, and text which is essentially the same but is in a different location in the document from the 2009 MOU is in **GREEN UNDERLINE**.
- The comparison document will TOTALLY DELETE some things that are GONE (i.e., not moved, just deleted) to try to minimize confusion.

Two parts of the document illustrate these comparison “rules” in an easy way to understand:

First, the section entitled, “DEVIATIONS FROM THIS MOU.” This paragraph was Section 7 in the 2009 MOU just above the signatures and now is Section 5 just above the signatures. So, first find new Section 5 in the comparison document, (New section 5 is shown in **RED UNDERLINE**). In the text here, you can easily see NEW language in **RED UNDERLINE** and old language which is retained but in a new location. (**GREEN UNDERLINE**)

Second, the flowchart from the 2009 MOU has been DELETED, therefore, it does not appear in the Comparison document at all.

Finally, there might be a few places where the rules look like they weren’t followed. The program is doing the best it can with so many revisions.

As usual, please let me know if you have any questions about this or need some more information.

Derek

Derek A. Widmayer

ACRS/Technical Support Branch

391-221-1448 (cell)

derek.widmayer@nrc.gov

From: Veil, Andrea

Sent: Monday, January 22, 2018 11:47 AM

To: Michael Corradini <corradini@engr.wisc.edu>
Cc: Pete Riccardella <Priccardella@Structint.com>; Matt Sunseri <mattsunseri@gmail.com>; Banks, Mark <Mark.Banks@nrc.gov>; Bellinger, Alesha <Alesha.Bellinger@nrc.gov>; Lui, Christiana <Christiana.Lui@nrc.gov>; Widmayer, Derek <Derek.Widmayer@nrc.gov>
Subject: RE: Re: ACRS-EDO MOU Draft Final

Sure.

Derek, please prepare a redline/strikeout of the 2009 version and the current draft to send to the leadership.

Thanks,
Andrea

From: Michael Corradini [<mailto:corradini@engr.wisc.edu>]
Sent: Monday, January 22, 2018 11:45 AM
To: Veil, Andrea <andrea.veil@nrc.gov>
Cc: Pete Riccardella <Priccardella@Structint.com>; Matt Sunseri <mattsunseri@gmail.com>; Banks, Mark <Mark.Banks@nrc.gov>; Bellinger, Alesha <Alesha.Bellinger@nrc.gov>; Lui, Christiana <Christiana.Lui@nrc.gov>; Widmayer, Derek <Derek.Widmayer@nrc.gov>
Subject: [External_Sender] Re: ACRS-EDO MOU Draft Final

Can we get a copy of the prior 2009 MOU so we can understand the significant changes - and/or - see some highlighting of the significant changes in this document? That would be helpful so we do not read it "cold". Mike

On Jan 22, 2018, at 10:14 AM, Veil, Andrea <andrea.veil@nrc.gov> wrote:

Good Morning,

Mike and Pete may recall that the draft ACRS/EDO Memorandum of Understanding has been due for an update for some time, so I started the process last year. After several iterations with NRR, the retirement of the NRR Office Director, and almost all new NRR players, I was able to get back to a point of moving this forward. NRR is the most interested in the MOU, but of course other offices will want to see a draft.

The agreed upon plan between me, the ACRS Leadership and the EDO (and NRR) last year was to draft the MOU, get ACRS Leadership comments, then send it to our ACRS Coordinator and the Assistant for Operations in the EDO's office. Our EDO contact will then share it with the other offices after discussing any comments with me.

I have attached the latest draft which was a consolidated effort among me, Mark, Christiana and Derek (thanks to you all!).

Please let me know if you have comments or concerns about the content or the format. I'd like to get it to the EDO's office no later than mid-February, so I wanted to give you some time to review. We don't have a specific deadline (it was originally due last October ☺) but I do want to finalize it sooner than later.

Thanks!

Andrea

<ACRS-EDO MOU Draft Final Jan 2018.docx>

From: [Michael Corradini](#)
To: [Veil, Andrea](#); [Banks, Mark](#)
Cc: [Widmayer, Derek](#)
Subject: [External_Sender] Re: ACRS-EDO MOU REVISION Draft Final
Date: Wednesday, January 24, 2018 8:36:25 PM
Attachments: [MOU-2018-ACRS-EDO-mlc-ms-pcr.docx](#)

Dear Andrea:

I showed the MOU to Pete and Matt. I think we all feel this is a real improvement from the 2009 version.

The Appendix does seem a bit detailed and all of us have ideas/suggestions for you all to consider.

My suggestion is to look at them and consider them and we can talk a bit in February on FC or SC week.

Mike

p.s. I know I owe you the Bylaws and that is next

On Jan 23, 2018, at 9:35 AM, Veil, Andrea <andrea.veil@nrc.gov> wrote:

Thanks for the comprehensive instructions Derek.

Andrea

From: Widmayer, Derek
Sent: Tuesday, January 23, 2018 10:20 AM
To: Veil, Andrea <andrea.veil@nrc.gov>; Michael Corradini <corradini@engr.wisc.edu>; Pete Riccardella <Priccardella@Structint.com>; Matt Sunseri <mattsunseri@gmail.com>
Cc: Banks, Mark <Mark.Banks@nrc.gov>; Bellinger, Alesha <Alesha.Bellinger@nrc.gov>; Lui, Christiana <Christiana.Lui@nrc.gov>
Subject: RE: ACRS-EDO MOU REVISION Draft Final

All:

As requested, a “comparison” of the 2009 ACRS-EDO MOU versus the recently prepared 2018 MOU Revision sent to you for review is attached. It is prepared using the 2009 EDO as the BASELINE document – so revisions FROM that document are shown. The 2009 MOU is also attached if you want to print out all three and do comparisons.

If you have not worked with this kind of comparison document before, here is some guidance that hopefully makes it easy to see what is going on:

- The first thing the comparison does is try to only show how the new revision is NEW. So if you look at the new revised MOU document, it has 5 Sections and then an APPENDIX with 6 Sections, so the comparison document displays the information with respect to that outline and Sections and tries to ELIMINATE revisions that are IRRELEVANT. This way it tries to find any text that is MOVED and show it in its new LOCATION, (rather than, for example, showing it was deleted from one place (crossed out) and shown as new text in another place. Thus:
- As you work through the comparison document, it follows the outline of the NEW MOU: NEW text is shown in **RED UNDERLINE**, Text deleted from the “old” document is shown in **RED crossout**, Text which remains in essentially the same location is shown in **GREEN**, and text which is essentially the same but is in a different location in the document from the 2009 MOU is in **GREEN UNDERLINE**.
- The comparison document will TOTALLY DELETE some things that are GONE (i.e., not moved, just deleted) to try to minimize confusion.

Two parts of the document illustrate these comparison “rules” in an easy way to understand:

First, the section entitled, “DEVIATIONS FROM THIS MOU.” This paragraph was Section 7 in the 2009 MOU just above the signatures and now is Section 5 just above the signatures. So, first find new Section 5 in the comparison document, (New section 5 is shown in **RED UNDERLINE**). In the text here, you can easily see NEW language in **RED UNDERLINE** and old language which is retained but in a new location. (**GREEN UNDERLINE**)

Second, the flowchart from the 2009 MOU has been DELETED, therefore, it does not appear in the Comparison document at all.

Finally, there might be a few places where the rules look like they weren’t followed. The program is doing the best it can with so many revisions.

As usual, please let me know if you have any questions about this or need some more information.

Derek

Derek A. Widmayer

ACRS/Technical Support Branch

391-221-1448 (cell)

derek.widmayer@nrc.gov

From: Veil, Andrea

Sent: Monday, January 22, 2018 11:47 AM

To: Michael Corradini <corradini@engr.wisc.edu>

Cc: Pete Riccardella <Priccardella@Structint.com>; Matt Sunseri <mattsunseri@gmail.com>; Banks, Mark <Mark.Banks@nrc.gov>; Bellinger, Alesha <Alesha.Bellinger@nrc.gov>; Lui, Christiana <Christiana.Lui@nrc.gov>; Widmayer, Derek <Derek.Widmayer@nrc.gov>

Subject: RE: Re: ACRS-EDO MOU Draft Final

Sure.

Derek, please prepare a redline/strikeout of the 2009 version and the current draft to send to the leadership.

Thanks,
Andrea

From: Michael Corradini [<mailto:corradini@engr.wisc.edu>]

Sent: Monday, January 22, 2018 11:45 AM

To: Veil, Andrea <andrea.veil@nrc.gov>

Cc: Pete Riccardella <Priccardella@Structint.com>; Matt Sunseri <mattsunseri@gmail.com>; Banks, Mark <Mark.Banks@nrc.gov>; Bellinger, Alesha <Alesha.Bellinger@nrc.gov>; Lui, Christiana <Christiana.Lui@nrc.gov>; Widmayer, Derek <Derek.Widmayer@nrc.gov>

Subject: [External_Sender] Re: ACRS-EDO MOU Draft Final

Can we get a copy of the prior 2009 MOU so we can understand the significant changes - and/or - see some highlighting of the significant changes in this document? That would be helpful so we do not read it "cold". Mike

On Jan 22, 2018, at 10:14 AM, Veil, Andrea <andrea.veil@nrc.gov> wrote:

Good Morning,

Mike and Pete may recall that the draft ACRS/EDO Memorandum of Understanding has been due for an update for some time, so I started the process last year. After several iterations with NRR, the retirement of the NRR Office Director, and almost all new NRR players, I was able to get back to a point of moving this forward. NRR is the most interested in the MOU, but of course other offices will want to see a draft.

The agreed upon plan between me, the ACRS Leadership and the EDO (and NRR) last year was to draft the MOU, get ACRS Leadership comments, then send it to our ACRS Coordinator and the Assistant for Operations in the EDO's office. Our EDO contact

will then share it with the other offices after discussing any comments with me.

I have attached the latest draft which was a consolidated effort among me, Mark, Christiana and Derek (thanks to you all!).

Please let me know if you have comments or concerns about the content or the format. I'd like to get it to the EDO's office no later than mid-February, so I wanted to give you some time to review. We don't have a specific deadline (it was originally due last October ☺) but I do want to finalize it sooner than later.

Thanks!

Andrea

<ACRS-EDO MOU Draft Final Jan 2018.docx>

MEMORANDUM OF UNDERSTANDING

PARTIES: Advisory Committee on Reactor Safeguards (ACRS)
 Executive Director for the Advisory Committee on Reactor Safeguards

 Nuclear Regulatory Commission (NRC)
 Executive Director for Operations (EDO)

SUBJECT: ACRS REVIEW OF NRC TECHNICAL MATTERS

BACKGROUND:

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

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

ACRS operations are governed by the Federal Advisory Committee Act (FACA), which is implemented through NRC regulations at 10 CFR Part 7, "Advisory Committees." Pursuant to this, the Committee functions under a Charter^[PR1], which establishes the Committee's objectives, scope of activities, duties, and administrative functions. The most recent ACRS Charter is and Bylaws are available at the ACRS webpage (See Section A.6 in the Appendix to this MOU). FACA requirements and ACRS operational practices encourage the public, industry, state and local governments, and other stakeholders to become involved in Committee activities.

PURPOSE:

To achieve high quality and timely regulatory products, the purpose of this Memorandum of Understanding (MOU) is to establish a process to facilitate effective planning and engagement between the EDO staff and the ACRS staff on review activities within the Committee's statutory and other responsibilities as described in the "Background" section and further specified in the next section. It supersedes the previous MOU, dated October 28, 2009. This MOU will be reviewed biennially and updated as needed.^[PR2]

1. THE SCOPE OF ACRS RESPONSIBILITY

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

a. NRC Regulations

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

- Part 20, "Standards for Protection Against Radiation"
- Part 21, "Reporting of Defects and Noncompliance"
- Part 26, "Fitness for Duty Programs"
- Part 40, "Domestic Licensing of Source Material," as applied to decommissioning and waste disposal
- Part 50, "Domestic Licensing of Production and Utilization Facilities"
- Part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions"
- Part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants"
- Part 54, "Requirements for Renewal of Operating Licenses for Nuclear Power Plants"
- Part 55, "Operators' Licenses"
- Part 60, "Disposal of High-Level Radioactive Wastes in Geologic Repositories"
- Part 61, "Licensing Requirements for Land Disposal of Radioactive Waste"
- Part 63, "Geological HLW Repository at Yucca Mountain"
- Part 70, "Domestic Licensing of Special Nuclear Material"
- Part 71, "Packaging and Transportation of Radioactive Material"
- Part 72, "Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater than Class C Waste"
- Part 73, "Physical Protection of Plants and Materials" ¹
- Part 74, "Material Control and Accounting of Special Nuclear Material"
- Part 76, "Certification of Gaseous Diffusion Plants"
- Part 100, "Reactor Site Criteria"

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

b. Licensing Documents

The Committee reviews the following licensing documents as directed in legislation and/or NRC regulations, as described in the ACRS Charter:

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

c. Regulatory Activities

The Committee reviews the following types of regulatory and technical activities and advises the Commission with regard to the risks and safety-significance of those activities:

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

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

a. NRC Program Office ACRS Coordinator

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

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

b. ACRS Technical Support Branch Chief

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

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

c. ACRS Staff Contact

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

d. Program Office Technical Contact

Has the day-to-day responsibility within the Program Office for the item under ACRS consideration and is responsible for:

- Coordination with other HQ or Regional staff, NRC contractors, licensee, and vendor staff, and any other persons who should be involved in the ACRS review.
- Cognizant Program Office management review and coordination of the item in accordance with the Office's practices and procedures.

- Ensuring the Program ACRS Coordinator has the most accurate information on the matter that impacts the scope and schedule of the ACRS review.

e. ACRS Staff and Program Office Technical Contact Coordination

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

f. Coordination with NRC Regional Offices and Personnel

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

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

The NRC Program Office Coordinator, representing the cognizant Program Office Director or their designee, with guidance from the EDO or Commission, as appropriate, will identify matters requiring ACRS consideration to allow sufficient time to permit effective and efficient review by the ACRS. Discussions between the NRC Program Office coordinators, the Technical Support Branch Chief, and cognizant ACRS staff, if applicable, will identify proposed items to be included in the list of scheduled and planned ACRS agenda items which is located in the data management system maintained by the ACRS Technical Support Branch Chief. Discussions will be focused on ensuring that the information in the ACRS data management system is accurate and up-to-date. The Reports that are generated by the ACRS Technical Branch Chief showing the upcoming schedules for ACRS review items will be distributed to each NRC Program Office Coordinator and the EDO, and should reflect the agreed upon coordination on upcoming review items and schedules. Decisions on whether to review a matter will be made in accordance with Commission guidance, as determined by the needs of the EDO and Program Office Directors, the recommendation of the responsible ACRS Subcommittee Chairman, and the ACRS Planning and Procedures Subcommittee.

Matters identified for possible ACRS consideration should include all non-administrative, non-routine Commission papers being developed by staff. Early coordination on these Commission papers will minimize delays in their completion that could occur if the matters are not reviewed by the ACRS and the Commission decides late in their development that such a review is warranted. The Commission should have the ACRS views on significant regulatory matters when it receives the staff views and recommendations, if possible. Section 4 of this MOU provides guidance to facilitate the review of significant regulatory matters consistent with staff schedules.

Consistent with guidance contained in SECY-15-0129, “*Commission Involvement in Early Stages of Rulemaking*,” the ACRS focuses on significant proposed and final rules that address

technical issues. Currently, rulemaking packages in the earliest stage of development come to the ACRS under three circumstances: (1) ACRS review is required by law (e.g., reactor design certification rules), (2) the Commission directs the review, or (3) the Committee uses its own discretion to review. For significant rules, the “earliest stage of development,” should include the draft regulatory basis, if directed by the Commission or requested by the NRC Program Office Director.

The^[MC3] ACRS will occasionally take up a matter for review on its own initiative. The ACRS will inform the EDO and the cognizant Program Office when these activities are initiated. If any Program Office support is sought, the ACRS Executive Director will discuss the need with the EDO and the cognizant Program Office Director to arrange for the necessary support, including the desired outcome, priority, schedule and an estimated level of effort. Once an agreement is reached, the ACRS Technical Support Branch will coordinate the relevant activities with the responsible Program Office to enable the ACRS to fulfill its review interests.

4. ESTABLISHING A SCHEDULE FOR THE ACRS REVIEW

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

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

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

5. DEVIATIONS FROM THIS MOU

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

6. REFERENCES

- 10 CFR Part 7, “Advisory Committees”
- “Charter, Advisory Committee on Reactor Safeguards”
- “Advisory Committee on Reactor Safeguards Bylaws”

- EDO Procedure No. 0210, “OEDO Procedure for Coordination with ACRS” (ML13051A757)
- “Advisory Committee on Reactor Safeguards; Procedures for Meetings” (published annually in the *Federal Register*)
- Staff Requirements – “Meeting with Advisory Committee On Reactor Safeguards (ACRS), 9:30 A.M., Thursday, October 2, 2003,” October 31, 2003 (ML033040278)
- ACRS Memorandum, Subject: “Procedure for ACRS Review of Regulatory Guides,” August 10, 2011 (ML11216A100)
- ACRS Memorandum, Subject: “ACRS Review of Interim Staff Guidance”, September 9, 2014 (ML14247A641)
- SECY-15-0129, “Commission Involvement in Early Stages of Rulemaking,” October 19, 2015 (ML15267A759)

(Date)

Victor M. McCree
Executive Director for Operations

(Date)

Andrea D. Veil
Executive Director for ACRS

APPENDIX

CONDUCT OF ACRS REVIEWS AND MEETINGS, ACRS COMMENTS AND STAFF RESPONSES, AND ADDITIONAL INFORMATION^[PR4]

A.1 ACRS REVIEWS AND MEETINGS

The ACRS will generally perform a review by conducting subcommittee meetings and Full Committee meetings in accordance with the requirements in 10 CFR Part 7 and the “Procedures for Meetings” that is published on an annual basis in the *Federal Register*.

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

a. Submittal of Documents for ACRS Review

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

The documents in support of meetings of ACRS subcommittees and the Full Committee should be provided to the ACRS staff contact at least four weeks in advance of the meeting. This is the minimum time required for subcommittee members to adequately review the materials. Providing documents prior to this four week goal is encouraged. ^[PR5]

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

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

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

The handling of Sensitive Unclassified Non-Safeguards Information (SUNSI) documents submitted to the ACRS for review is addressed in Section A.5 below.

b. Subcommittee Meetings^[MC6]^[PR7]

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

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

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

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

c. Full Committee Meetings^[MC8]

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

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

d. Informal Meetings

ACRS members will sometimes convene informal meetings with the staff for the purposes of preparation for subcommittee and Full Committee meetings, or to receive updates on various technical matters that would facilitate the planning of the ACRS meetings. The only commitments made at these informal meetings should be for the purposes of agreeing on future scheduling of meetings. These meetings will be arranged through the Technical Branch Chief and/or ACRS staff contact. [MC9]

e. Meeting Agendas and Speakers

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

f. Presentation Material

The Program Office technical contact is responsible for providing all presentation material electronically and in hard copies to the ACRS staff contact in advance of the ACRS meetings in accordance with agreed upon schedules for all meetings. The material should be appropriately marked for proper handling and storage. [MC10]

A.2 ACRS REVIEWS AND COMMENTS

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

a. Comments by ACRS Members at Meetings

As described in Section A.1.b above [MC11], ACRS subcommittee meetings are for information gathering purposes and for determining if a matter should be presented to the Full Committee for review and comment. Comments made by ACRS subcommittee members represent the opinion of the individual member and are not to be interpreted as the official position of the ACRS. The NRC Program Office staff is encouraged to consider these ACRS comments for improving the document under review, the presentation of the information contained in the document in future discussions, and/or for the understanding of the document if it is presented to the Full Committee. No formal responses are sought to any comments made at subcommittee meetings ~~is sought~~.

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

staff contact. The ACRS staff contact will distribute the additional information to the subcommittee members.

b. Official ACRS Comments [MC12]

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

A.3 RESPONDING TO OFFICIAL ACRS COMMENTS [PR13]

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

The cognizant Program Office Director will ensure consideration by the staff of official ACRS comments which are contained in a report as described in EDO Procedure 0210, "EDO Procedure for Coordination with ACRS." The staff will take into account ACRS views on all rules and technical policy statements pertaining to nuclear safety matters. If no response is required, the ACRS will indicate such in the report to the Commission or EDO. Otherwise the cognizant Program Office Director, or designee, will respond to ACRS comments in a timely manner. The cognizant Program Office Director, or designee, shall respond by letter addressed to the ACRS Chairman with a copy to the ACRS Executive Director. The staff will ensure that all responses are captured as official agency records. The cognizant Program Office Director or designee, may elect to consider ACRS comments on proposed or draft documents (e.g., proposed rules, draft regulatory guides) following the closure of the public comment period as part of the process for resolving public comments. Staff responses should address all ACRS comments including those not endorsed by the staff. Staff responses to the added comments of individual members contained in an ACRS report are not required [PR14].

A.4 CONFLICT OF INTEREST OF ACRS MEMBERS [MC15] [PR16]

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

A.5 **HANDLING OF SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION DOCUMENTS DURING ACRS REVIEWS**^[PR17]

When the ACRS is to review matters that involve SUNSI, the following guidelines will be used:

a. **Subcommittee Meetings**^[MC18]

ACRS subcommittee meetings may be closed to public participation to protect SUNSI. The transmitted documents will be appropriately marked to facilitate their proper storage and handling. Infrequently, the ACRS requires access to Classified and Safeguards information in conjunction with activities within its scope of responsibility. ACRS member and staff access to this information will be authorized on the basis of the individual's clearance level and need to know in accordance with NRC security-related Management Directives.

b. **Full Committee Meetings**^[MC19]

ACRS Full Committee meetings will be open to the public, unless a FACA exemption applies.² In terms of SUNSI, FACA only allows closure of a Full Committee meeting for protecting proprietary information. Open discussion of agency matters facilitates external stakeholder input and provides an opportunity for the public to better understand agency decisions.

ACRS Full Committee meeting sessions can be closed on such grounds as discussion of proprietary material, under exemptions allowed by FACA. Members of the public may request a closed meeting if they believe an exemption applicable to them authorizes such closure. The staff may also request closure of a meeting, under the exemptions allowed by FACA. Requests by members of the public and staff to close meetings will be considered under applicable law. The closing of ACRS meetings requires a written request to the Chairman of the Commission, or the Chairman's designee, and review by the Office of the General Counsel, in accordance with 10 CFR 7.15. When requests for closure are received by the ACRS, the ACRS staff may need the assistance of the Office of the General Counsel (OGC) and NRC staff technical experts on an expedited basis to make accurate judgments as to what information should be protected.

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

In those cases where the Commission or the EDO (as applicable) has approved discussion of all or part of a pre-decisional document at an open meeting of the ACRS, the document may be transmitted to the ACRS staff by the cognizant NRC Program Office for review by the Committee. The transmitted documents will be clearly marked as pre-decisional. Other applicable restrictions (e.g., proprietary information) on the release to the public of documents submitted to the ACRS should also be clearly marked on the documents to facilitate their proper storage and handling.

² Under the FACA, meetings of advisory committees are generally required to be open and documents provided to or prepared by advisory committees are generally required to be made available for public inspection and copying. However, FACA also provides that portions of advisory committee meetings may be closed to the public if they fall within exemptions contained in the Government in the Sunshine Act. Similarly, documents made available to or prepared for or by an advisory committee may be withheld from the public if they fall within an exemption contained in the Freedom of Information Act. There are a number of exemptions listed in the Sunshine Act and the Freedom of Information Act and assistance in their interpretation may be obtained from the Office of the General Counsel.

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

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

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

A.6 ACRS WEBPAGE^[MC20]

The ACRS staff will maintain the information on the NRC ACRS webpage (<http://drupal.nrc.gov/acrs>^[PR21]) in a timely manner to include all relevant information on ACRS Full and subcommittee meetings, including schedules and agendas, meeting transcripts, ACRS reports and memoranda, and staff responses, as appropriate.

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

From: [Veil, Andrea](#)
To: [Michael Corradini](#)
Cc: [Pete Riccardella](#); [Matt Sunseri](#); [Banks, Mark](#); [Bellinger, Alesha](#); [Lui, Christiana](#); [Widmayer, Derek](#)
Subject: RE: Re: ACRS-EDO MOU Draft Final
Date: Monday, January 22, 2018 11:46:46 AM

Sure.

Derek, please prepare a redline/strikeout of the 2009 version and the current draft to send to the leadership.

Thanks,
Andrea

From: Michael Corradini [mailto:corradini@engr.wisc.edu]
Sent: Monday, January 22, 2018 11:45 AM
To: Veil, Andrea <andrea.veil@nrc.gov>
Cc: Pete Riccardella <Priccardella@Structint.com>; Matt Sunseri <mattsunseri@gmail.com>; Banks, Mark <Mark.Banks@nrc.gov>; Bellinger, Alesha <Alesha.Bellinger@nrc.gov>; Lui, Christiana <Christiana.Lui@nrc.gov>; Widmayer, Derek <Derek.Widmayer@nrc.gov>
Subject: [External_Sender] Re: ACRS-EDO MOU Draft Final

Can we get a copy of the prior 2009 MOU so we can understand the significant changes - and/or - see some highlighting of the significant changes in this document? That would be helpful so we do not read it "cold". Mike

On Jan 22, 2018, at 10:14 AM, Veil, Andrea <andrea.veil@nrc.gov> wrote:

Good Morning,

Mike and Pete may recall that the draft ACRS/EDO Memorandum of Understanding has been due for an update for some time, so I started the process last year. After several iterations with NRR, the retirement of the NRR Office Director, and almost all new NRR players, I was able to get back to a point of moving this forward. NRR is the most interested in the MOU, but of course other offices will want to see a draft.

The agreed upon plan between me, the ACRS Leadership and the EDO (and NRR) last year was to draft the MOU, get ACRS Leadership comments, then send it to our ACRS Coordinator and the Assistant for Operations in the EDO's office. Our EDO contact will then share it with the other offices after discussing any comments with me.

I have attached the latest draft which was a consolidated effort among me, Mark, Christiana and Derek (thanks to you all!).

Please let me know if you have comments or concerns about the content or the format. I'd like to get it to the EDO's office no later than mid-February, so I

wanted to give you some time to review. We don't have a specific deadline (it was originally due last October ☺) but I do want to finalize it sooner than later.

Thanks!

Andrea

<ACRS-EDO MOU Draft Final Jan 2018.docx>

From: [Veil, Andrea](#)
To: [Michael Corradini](#); [Pete Riccardella \(Priccardella@Structint.com\)](#); [Matt Sunseri](#)
Cc: [Banks, Mark](#); [Bellinger, Alesha](#); [Lui, Christiana](#); [Widmayer, Derek](#)
Subject: ACRS-EDO MOU Draft Final
Date: Monday, January 22, 2018 11:14:57 AM
Attachments: [ACRS-EDO MOU Draft Final Jan 2018.docx](#)

Good Morning,

Mike and Pete may recall that the draft ACRS/EDO Memorandum of Understanding has been due for an update for some time, so I started the process last year. After several iterations with NRR, the retirement of the NRR Office Director, and almost all new NRR players, I was able to get back to a point of moving this forward. NRR is the most interested in the MOU, but of course other offices will want to see a draft.

The agreed upon plan between me, the ACRS Leadership and the EDO (and NRR) last year was to draft the MOU, get ACRS Leadership comments, then send it to our ACRS Coordinator and the Assistant for Operations in the EDO's office. Our EDO contact will then share it with the other offices after discussing any comments with me.

I have attached the latest draft which was a consolidated effort among me, Mark, Christiana and Derek (thanks to you all!).

Please let me know if you have comments or concerns about the content or the format. I'd like to get it to the EDO's office no later than mid-February, so I wanted to give you some time to review. We don't have a specific deadline (it was originally due last October ☺) but I do want to finalize it sooner than later.

Thanks!
Andrea

MEMORANDUM OF UNDERSTANDING

PARTIES: Advisory Committee on Reactor Safeguards (ACRS)
 Executive Director for the Advisory Committee on Reactor Safeguards

 Nuclear Regulatory Commission (NRC)
 Executive Director for Operations (EDO)

SUBJECT: ACRS REVIEW OF NRC TECHNICAL MATTERS

BACKGROUND:

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

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

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

PURPOSE:

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

1. THE SCOPE OF ACRS RESPONSIBILITY

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

a. NRC Regulations

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

- Part 20, “Standards for Protection Against Radiation”
- Part 21, “Reporting of Defects and Noncompliance”
- Part 26, “Fitness for Duty Programs”
- Part 40, “Domestic Licensing of Source Material,” as applied to decommissioning and waste disposal
- Part 50, “Domestic Licensing of Production and Utilization Facilities”
- Part 51, “Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions”
- Part 52, “Licenses, Certifications, and Approvals for Nuclear Power Plants”
- Part 54, “Requirements for Renewal of Operating Licenses for Nuclear Power Plants”
- Part 55, “Operators’ Licenses”
- Part 60, “Disposal of High-Level Radioactive Wastes in Geologic Repositories”
- Part 61, “Licensing Requirements for Land Disposal of Radioactive Waste”
- Part 63, “Geological HLW Repository at Yucca Mountain”
- Part 70, “Domestic Licensing of Special Nuclear Material”
- Part 71, “Packaging and Transportation of Radioactive Material”
- Part 72, “Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater than Class C Waste”
- Part 73, “Physical Protection of Plants and Materials” ¹
- Part 74, “Material Control and Accounting of Special Nuclear Material”
- Part 76, “Certification of Gaseous Diffusion Plants”
- Part 100, “Reactor Site Criteria”

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

b. Licensing Documents

The Committee reviews the following licensing documents as directed in legislation and/or NRC regulations, as described in the ACRS Charter:

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

c. Regulatory Activities

The Committee reviews the following types of regulatory and technical activities and advises the Commission with regard to the risks and safety-significance of those activities:

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

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

a. NRC Program Office ACRS Coordinator

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

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

b. ACRS Technical Support Branch Chief

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

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

c. ACRS Staff Contact

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

d. Program Office Technical Contact

Has the day-to-day responsibility within the Program Office for the item under ACRS consideration and is responsible for:

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

e. ACRS Staff and Program Office Technical Contact Coordination

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

f. Coordination with NRC Regional Offices and Personnel

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

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

The NRC Program Office Coordinator, representing the cognizant Program Office Director or their designee, with guidance from the EDO or Commission, as appropriate, will identify matters requiring ACRS consideration to allow sufficient time to permit effective and efficient review by the ACRS. Discussions between the NRC Program Office coordinators, the Technical Support Branch Chief, and cognizant ACRS staff, if applicable, will identify proposed items to be included in the list of scheduled and planned ACRS agenda items which is located in the data management system maintained by the ACRS Technical Support Branch Chief. Discussions will be focused on ensuring that the information in the ACRS data management system is accurate and up-to-date. The Reports that are generated by the ACRS Technical Branch Chief showing the upcoming schedules for ACRS review items will be distributed to each NRC Program Office Coordinator and the EDO, and should reflect the agreed upon coordination on upcoming review items and schedules. Decisions on whether to review a matter will be made in accordance with Commission guidance, as determined by the needs of the EDO and Program Office Directors, the recommendation of the responsible ACRS Subcommittee Chairman, and the ACRS Planning and Procedures Subcommittee.

Matters identified for possible ACRS consideration should include all non-administrative, non-routine Commission papers being developed by staff. Early coordination on these Commission papers will minimize delays in their completion that could occur if the matters are not reviewed by the ACRS and the Commission decides late in their development that such a review is warranted. The Commission should have the ACRS views on significant regulatory matters when it receives the staff views and recommendations, if possible. Section 4 of this MOU provides guidance to facilitate the review of significant regulatory matters consistent with staff schedules.

Consistent with guidance contained in SECY-15-0129, “*Commission Involvement in Early Stages of Rulemaking*,” the ACRS focuses on significant proposed and final rules that address technical issues. Currently, rulemaking packages in the earliest stage of development come to the ACRS under three circumstances: (1) ACRS review is required by law (e.g., reactor design

certification rules), (2) the Commission directs the review, or (3) the Committee uses its own discretion to review. For significant rules, the “earliest stage of development,” should include the draft regulatory basis, if directed by the Commission or requested by the NRC Program Office Director.

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

4. ESTABLISHING A SCHEDULE FOR THE ACRS REVIEW

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

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

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

5. DEVIATIONS FROM THIS MOU

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

6. REFERENCES

- 10 CFR Part 7, “Advisory Committees”
- “Charter, Advisory Committee on Reactor Safeguards”
- “Advisory Committee on Reactor Safeguards Bylaws”

- EDO Procedure No. 0210, “OEDO Procedure for Coordination with ACRS” (ML13051A757)
- “Advisory Committee on Reactor Safeguards; Procedures for Meetings” (published annually in the *Federal Register*)
- Staff Requirements – “Meeting with Advisory Committee On Reactor Safeguards (ACRS), 9:30 A.M., Thursday, October 2, 2003,” October 31, 2003 (ML033040278)
- ACRS Memorandum, Subject: “Procedure for ACRS Review of Regulatory Guides,” August 10, 2011 (ML11216A100)
- ACRS Memorandum, Subject: “ACRS Review of Interim Staff Guidance”, September 9, 2014 (ML14247A641)
- SECY-15-0129, “Commission Involvement in Early Stages of Rulemaking,” October 19, 2015 (ML15267A759)

(Date)

Victor M. McCree
Executive Director for Operations

(Date)

Andrea D. Veil
Executive Director for ACRS

APPENDIX

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

A.1 ACRS REVIEWS AND MEETINGS

The ACRS will generally perform a review by conducting subcommittee meetings and Full Committee meetings in accordance with the requirements in 10 CFR Part 7 and the “Procedures for Meetings” that is published on an annual basis in the *Federal Register*.

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

a. Submittal of Documents for ACRS Review

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

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

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

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

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

The handling of Sensitive Unclassified Non-Safeguards Information (SUNSI) documents submitted to the ACRS for review is addressed in Section A.5 below.

b. Subcommittee Meetings

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

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

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

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

c. Full Committee Meetings

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

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

d. Informal Meetings

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

e. Meeting Agendas and Speakers

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

f. Presentation Material

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

A.2 ACRS REVIEWS AND COMMENTS

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

a. Comments by ACRS Members at Meetings

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

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

staff contact. The ACRS staff contact will distribute the additional information to the subcommittee members.

b. Official ACRS Comments

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

A.3 RESPONDING TO OFFICIAL ACRS COMMENTS

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

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

A.4 CONFLICT OF INTEREST OF ACRS MEMBERS

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

A.5 HANDLING OF SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION DOCUMENTS DURING ACRS REVIEWS

When the ACRS is to review matters that involve SUNSI, the following guidelines will be used:

a. Subcommittee Meetings

ACRS subcommittee meetings may be closed to public participation to protect SUNSI. The transmitted documents will be appropriately marked to facilitate their proper storage and handling. Infrequently, the ACRS requires access to Classified and Safeguards information in conjunction with activities within its scope of responsibility. ACRS member and staff access to this information will be authorized on the basis of the individual's clearance level and need to know in accordance with NRC security-related Management Directives.

b. Full Committee Meetings

ACRS Full Committee meetings will be open to the public, unless a FACA exemption applies.² In terms of SUNSI, FACA only allows closure of a Full Committee meeting for protecting proprietary information. Open discussion of agency matters facilitates external stakeholder input and provides an opportunity for the public to better understand agency decisions.

ACRS Full Committee meeting sessions can be closed on such grounds as discussion of proprietary material, under exemptions allowed by FACA. Members of the public may request a closed meeting if they believe an exemption applicable to them authorizes such closure. The staff may also request closure of a meeting, under the exemptions allowed by FACA. Requests by members of the public and staff to close meetings will be considered under applicable law. The closing of ACRS meetings requires a written request to the Chairman of the Commission, or the Chairman's designee, and review by the Office of the General Counsel, in accordance with 10 CFR 7.15. When requests for closure are received by the ACRS, the ACRS staff may need the assistance of the Office of the General Counsel (OGC) and NRC staff technical experts on an expedited basis to make accurate judgments as to what information should be protected.

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

In those cases where the Commission or the EDO (as applicable) has approved discussion of all or part of a pre-decisional document at an open meeting of the ACRS, the document may be transmitted to the ACRS staff by the cognizant NRC Program Office for review by the Committee. The transmitted documents will be clearly marked as pre-decisional. Other applicable restrictions (e.g., proprietary information) on the release to the public of documents submitted to the ACRS should also be clearly marked on the documents to facilitate their proper storage and handling.

² Under the FACA, meetings of advisory committees are generally required to be open and documents provided to or prepared by advisory committees are generally required to be made available for public inspection and copying. However, FACA also provides that portions of advisory committee meetings may be closed to the public if they fall within exemptions contained in the Government in the Sunshine Act. Similarly, documents made available to or prepared for or by an advisory committee may be withheld from the public if they fall within an exemption contained in the Freedom of Information Act. There are a number of exemptions listed in the Sunshine Act and the Freedom of Information Act and assistance in their interpretation may be obtained from the Office of the General Counsel.

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

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

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

A.6 ACRS WEBPAGE

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

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

From: [Veil, Andrea](#)
To: [Widmayer, Derek](#); [Banks, Mark](#)
Subject: RE: ACRS/EDO MOU Comments
Date: Monday, January 22, 2018 10:56:19 AM

Thanks Derek,

I agree at a high level, but sometimes the Chair will be so busy (or forgets) and the letters take longer. I say that we take it out, but as a staff we commit to reminding the Chair if we don't see a letter in a timely fashion.

Andrea

From: Widmayer, Derek
Sent: Monday, January 22, 2018 10:52 AM
To: Banks, Mark <Mark.Banks@nrc.gov>; Veil, Andrea <andrea.veil@nrc.gov>
Subject: RE: ACRS/EDO MOU Comments

Andrea and Mark:

I have only one reaction to Mark's comments and provide the following in the event you want to reconsider:

The paragraph that Mark suggests deleting about the issuance of the Letter Report from the Committee in two weeks following the FC session:

I think it is consistent with being at a high-level, just my opinion, and this item attempts to make an agreement to the EDO so the staff knows what the Committee's "commitment" is to getting its views to the staff after the full committee meeting. This is sort of the quid-pro-quo, if you will, from the Committee to the EDO where we ask the staff for "final" documents to review four weeks before the SC meeting. These two timeframes sort of put the "regularization" on the timeframe that is to be expected for the ACRS review of an item.

Nothing in the Agreement should be seen as totally without any flexibility, and I think both sets of staff generally do a great job of meeting the intent of the Agreement without too much acrimony.

I don't think there is harm in leaving it in, particularly since we have a fairly detailed procedure put in place already that meets this agreement in that we try to finish all of the reviews on the Letter Report by the end of the week following the meeting.

Derek

From: Banks, Mark
Sent: Friday, January 19, 2018 1:24 PM
To: Veil, Andrea <andrea.veil@nrc.gov>
Cc: Widmayer, Derek <Derek.Widmayer@nrc.gov>

Subject: ACRS/EDO MOU Comments

Hi Andrea,

Attached are my comments on the latest version (clean) of the MOU. Many are purely editorial (e.g., subcommittee does not get a capital S, except when a specific subcommittee is referenced – in line with the Bylaws). I did make several substantive comments: 1) the language referring to subcommittees following FACA needs to be revised to align with the in-progress update of the Bylaws on this subject, which we have discussed (Derek-you likely don't know of the Bylaw revision which is now in Mike C. hands); the revised MOU and Bylaws will need to be issued together; 2) the FACA/Sunshine Act exemptions do not include SUNSI, only the proprietary part of SUNSI; thus, the MOU should not mention SUNSI in this regard, especially when discussing FACA exemptions to close a Full Committee meeting. I believe I "fixed" both of these issues; however, please pay special attention.

This document is taking some time to revise; our predecessors did not do us any favors.....

Thanks,

Mark Banks - Chief
Technical Support Branch
Advisory Committee on Reactor Safeguards
Nuclear Regulatory Commission
Tel. 301-415-3718
Fax 301-415-5589

From: [Veil, Andrea](#)
To: [Banks, Mark](#)
Cc: [Widmayer, Derek](#); [Lui, Christiana](#)
Subject: RE: ACRS/EDO MOU Comments
Date: Monday, January 22, 2018 10:32:57 AM

Good Morning,

I am re-reading the entire MOU very carefully, and I am close to getting this to the ACRS Leadership. I made the following change on page 6 (Section 3) since the OD's don't direct the ACRS:

Consistent with guidance contained in SECY-15-0129, "*Commission Involvement in Early Stages of Rulemaking*," the ACRS focuses on significant proposed and final rules that address technical issues. Currently, rulemaking packages in the earliest stage of development come to the ACRS under three circumstances: (1) ACRS review is required by law (e.g., reactor design certification rules), (2) the Commission directs the review, or (3) the Committee uses its own discretion to review. For significant rules, the "earliest stage of development," should include the draft regulatory basis, if directed by the Commission or **requested by** the NRC Program Office Director.

Thanks,
Andrea

From: Banks, Mark
Sent: Friday, January 19, 2018 1:24 PM
To: Veil, Andrea <andrea.veil@nrc.gov>
Cc: Widmayer, Derek <Derek.Widmayer@nrc.gov>
Subject: ACRS/EDO MOU Comments

Hi Andrea,

Attached are my comments on the latest version (clean) of the MOU. Many are purely editorial (e.g., subcommittee does not get a capital S, except when a specific subcommittee is referenced – in line with the Bylaws). I did make several substantive comments: 1) the language referring to subcommittees following FACA needs to be revised to align with the in-progress update of the Bylaws on this subject, which we have discussed (Derek-you likely don't know of the Bylaw revision which is now in Mike C. hands); the revised MOU and Bylaws will need to be issued together; 2) the FACA/Sunshine Act exemptions do not include SUNSI, only the proprietary part of SUNSI; thus, the MOU should not mention SUNSI in this regard, especially when discussing FACA exemptions to close a Full Committee meeting. I believe I "fixed" both of these issues; however, please pay special attention.

This document is taking some time to revise; our predecessors did not do us any favors.....

Thanks,

Mark Banks - Chief
Technical Support Branch
Advisory Committee on Reactor Safeguards
Nuclear Regulatory Commission
Tel. 301-415-3718
Fax 301-415-5589

From: [Veil, Andrea](#)
To: [Banks, Mark](#); [Widmayer, Derek](#)
Subject: FW: MOU Draft Jan 2018 CL_Veil.docx
Date: Thursday, January 11, 2018 1:27:31 PM

Please let me know if you have any objection to the language below. I thought it strikes the right balance and had no comments. It would replace the paragraph at the bottom of page 6 where both Chris and I made comments.

Thanks,
Andrea

From: Lui, Christiana
Sent: Thursday, January 11, 2018 1:05 PM
To: Veil, Andrea <andrea.veil@nrc.gov>
Subject: RE: MOU Draft Jan 2018 CL_Veil.docx

See if the following paragraph would help to get the ball rolling...

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

From: Veil, Andrea
Sent: Thursday, January 11, 2018 9:45 AM
To: Lui, Christiana <Christiana.Lui@nrc.gov>
Cc: Banks, Mark <Mark.Banks@nrc.gov>; Widmayer, Derek <Derek.Widmayer@nrc.gov>
Subject: MOU Draft Jan 2018 CL_Veil.docx

Hi Chris,

I'll stop by in about 10 mins. to discuss. I generally agreed with your comments, and added a few of my own.

Mark and Derek, I asked for your help in a couple of places. Also, note that the other overarching comment that Chris had was that some of this could be put in an Appendix in order to shorten the memo. The next step is to clean it up and get it to the ACRS leadership, then to Rob and Tara in the EDO's Office.

Thanks!
Andrea

From: [Veil, Andrea](#)
To: [Widmayer, Derek](#); [Lui, Christiana](#)
Cc: [Banks, Mark](#)
Subject: Re: MOU Draft Jan 2018 CL_Veil.docx
Date: Thursday, January 11, 2018 11:11:18 AM

Hi Derek,

I really appreciate this expanded discussion and I understand the context better. Thanks for putting this all together in your response.

I also need your help on the flow-chart (please see Chris's comments). Also, based on the ACRS Member retreat, 4 weeks may not be accurate anymore if the committee decides to discuss a letter and one meeting and defer writing it until the next meeting. I don't know how we can genetically capture this. I also changed my mind on a five year review, and I think it should be every two years to force us to review it internally. It doesn't require us to revise it every time, just to review it.

Please let me know if you have any additional comments or mark-ups (including the flow chart).

Thanks!
Andrea

On: 11 January 2018 11:01, "Widmayer, Derek" <Derek.Widmayer@nrc.gov> wrote:
Folks:

Concerning the discussion about the role of the "NRC Program Office ACRS Coordinator:"

The MOU being replaced (which is of course NOT reflected in this version) discussed the "old" way of doing business – there was a "Future ACRS Activities List" (showing proposed ACRS activities for the next 12 months) created by Jessie which was sent to each of the Program Office Coordinators on a monthly basis and then there was a Monthly Meeting at which this list was discussed. This was the "coordinated regular" process by which things "in the future" were identified as needing ACRS attention and how they got put on our "radar." This Future Activities List allowed timely addition of new SECY Papers, Branch Technical Positions, Interim Staff Guidance (ISGs) and things ACRS should be or might be interested in reviewing to come to the attention of ACRS staff and thus ACRS leadership. Since the "Program Office Director" is nominally the "responsible" individual, but was not the appropriate person to be doing this, each Office had an ACRS Coordinator (or more than one). We have abandoned this "regularized" process, although nominally a few of the Program Offices still have an identified "Program Office ACRS Coordinator."

Since abandoning the process, there have been two instances that I know of (one concerning a rulemaking, one concerning an ISG) where the ACRS and/or Program Offices were chastised on why the "coordination" process did not work better or in some ways caused a huge issue within the Program Office. In the case of the rulemaking, the Program Office was required to address the lack of coordination in an SRM from the Commission. There was also a case where I was personally raked over the coals regarding

“coordination” on a RG review even though we seemed to have a coordinated process for those reviews with the Office of Research. A major issue with this coal raking was the lack of understanding within the ACRS staff as to who was “in charge” of ACRS coordination within the Office of RES.

The process that is being described in the Revised MOU is an attempt to “revive” this Program Office and ACRS Office coordination in some way using the reports that are generated monthly at this time. So Chris’s comment about “does anyone pay attention to these reports?” is probably “NO (in some cases)” but I was trying to come up with some way of replacing the old system (where the answer was “YES” but which did not require the preparation of a “redundant” report called the “Future Activities List,” but which involved (hopefully) “informal” interactions between the TSB Branch Chief and the Program Office Coordinators (for some reason, the monthly meeting on the Future Activities List was a problem for folks?) **Mark has commented that he thinks folks on the distribution list are paying attention to the reports.**

The simple question that is trying to be answered here is, Is everything that should come to the ACRS over the next X (we have traditionally used 12) months identified in our database, and what should come OFF and what should go ON – for planning purposes. We could utilize a “placeholder” system” of some kind rather than trying to list things in a specific future month, or whatever method one suggests.

Anyway, I think the identification of future ACRS activities is somewhat of a “catch as catch can” process right now, and as Chris comments, should be “leveraged” better. It looks like Andrea’s comment is to “delete” the ACRS Program Coordinator. I would caution before doing this and think if there is another way of “regularizing” the process. **Mark has commented on this also, I support his comments and word changes.**

A last thought about this – the rewrite of the MOU is the ACRS “major commitment” to responding to OUR OWN results on the last OIG Safety Culture and Climate Survey where our internal results indicated a lack of “quality” in the ACRS reviews of NRC products. We spent a lot of time discussing this and trying to get to the bottom of what all the meanings of “quality” are and how to improve all (or some) of those. To the extent the “coordination” with Program Offices can be improved is how I thought many of the improvements could be achieved.

Derek

From: Veil, Andrea

Sent: Thursday, January 11, 2018 9:45 AM

To: Lui, Christiana <Christiana.Lui@nrc.gov>

Cc: Banks, Mark <Mark.Banks@nrc.gov>; Widmayer, Derek <Derek.Widmayer@nrc.gov>

Subject: MOU Draft Jan 2018 CL_Veil.docx

Hi Chris,

I’ll stop by in about 10 mins. to discuss. I generally agreed with your comments, and added

a few of my own.

Mark and Derek, I asked for your help in a couple of places. Also, note that the other overarching comment that Chris had was that some of this could be put in an Appendix in order to shorten the memo. The next step is to clean it up and get it to the ACRS leadership, then to Rob and Tara in the EDO's Office.

Thanks!
Andrea

From: [Veil, Andrea](#)
To: [Lui, Christiana](#)
Cc: [Banks, Mark](#); [Widmayer, Derek](#)
Subject: MOU Draft Jan 2018 CL_Veil.docx
Date: Thursday, January 11, 2018 9:45:32 AM
Attachments: [MOU Draft Jan 2018 CL_Veil.docx](#)

Hi Chris,

I'll stop by in about 10 mins. to discuss. I generally agreed with your comments, and added a few of my own.

Mark and Derek, I asked for your help in a couple of places. Also, note that the other overarching comment that Chris had was that some of this could be put in an Appendix in order to shorten the memo. The next step is to clean it up and get it to the ACRS leadership, then to Rob and Tara in the EDO's Office.

Thanks!
Andrea

MEMORANDUM OF UNDERSTANDING

PARTIES: Advisory Committee on Reactor Safeguards (ACRS)
Executive Director for the Advisory Committee on Reactor Safeguards

Nuclear Regulatory Commission (NRC) Staff^[LC1]
Executive Director for Operations (EDO)

SUBJECT: ACRS PARTICIPATION IN THE DEVELOPMENT OF NRC RULES, SAFETY- AND RISK-SIGNIFICANT GUIDANCE, LICENSING DECISIONS, AND RESOLUTION OF TECHNICAL ISSUES^[LC2]

BACKGROUND:

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

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

ACRS operations are governed by the Federal Advisory Committee Act (FACA), which is implemented through NRC regulations at 10 CFR Part 7, "Advisory Committees." Pursuant to this, the Committee functions under a Charter which establishes the Committee's objectives, scope of activities, duties, and administrative functions. The most recent ACRS Charter is available at the ACRS webpage (See Section 9 of this MOU). FACA requirements and ACRS operational practices encourage the public, industry, state and local governments, and other stakeholders to become involved in Committee activities.

PURPOSE:

~~The purpose of this Memorandum of Understanding (MOU) is to update the previous MOU, dated October 28, 2009, and establish a process for ensuring that (1) the NRC staff solicits ACRS views early in the development of NRC safety- and risk-significant rules and guidance; in licensing decisions; and in resolution of technical issues, (2) the staff keeps the ACRS informed~~

of emerging issues, and (3) the ACRS responds to staff requests for review and comment in a timely manner. This MOU:

- ~~Identifies areas within the scope of ACRS responsibility.~~
- ~~Establishes a process to enable the ACRS and the staff to establish plans and schedules that address the needs of the Commission, the staff, and the ACRS.~~
- ~~Establishes a process for ensuring that ACRS reviews are done at a sufficiently early stage to permit effective and efficient interaction.~~^[LC3]

To achieve high quality and timely regulatory products, the purpose of this Memorandum of Understanding (MOU) is to establish a process to facilitate effective planning and engagement between the EDO staff and the ACRS staff on review activities within the Committee's statutory and other responsibilities as described in the "Background" section and further specified in the next section. It supersedes the previous MOU, dated October 28, 2009. This MOU will be reviewed periodically (annually? biennially?)^[VA4] and updated as needed.

1. THE SCOPE OF ACRS RESPONSIBILITY

Areas within the ACRS scope of responsibility are identified in the following sections. The ~~intent is to identify the areas of responsibility and~~^{order of appearance does} not ~~to~~ imply any establishment of priorities. Priorities will be set by the Commission and identified in Commission directives.

a. NRC Regulations^[VA5]

The scope of ACRS responsibility encompasses the following parts of NRC regulations found in Title 10 of the Code of Federal Regulations:

- Part 20, "Standards for Protection Against Radiation"
- Part 21, "Reporting of Defects and Noncompliance"
- Part 26, "Fitness for Duty Programs"
- Part 40, "Domestic Licensing of Source Material," as applied to decommissioning and waste disposal
- Part 50, "Domestic Licensing of Production and Utilization Facilities"
- Part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions"
- Part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants"
- Part 54, "Requirements for Renewal of Operating Licenses for Nuclear Power Plants"
- Part 55, "Operators' Licenses"
- Part 60, "Disposal of High-Level Radioactive Wastes in Geologic Repositories"
- Part 61, "Licensing Requirements for Land Disposal of Radioactive Waste"
- Part 63^[LC6], "Geological HLW Repository at Yucca Mountain"???

- Part 70, “Domestic Licensing of Special Nuclear Material”
- Part 71, “Packaging and Transportation of Radioactive Material”
- Part 72, “Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater than Class C Waste”
- Part 73, “Physical Protection of Plants and Materials”¹
- Part 74^[LC7], “MC&A for SNM”
- Part 76, “Certification of Gaseous Diffusion Plants”
- Part 100, “Reactor Site Criteria”

b. Licensing Documents

The Committee shall^[LC8]^[VA9] review the following licensing documents as directed in legislation and/or NRC regulations, as described in the ACRS Charter:

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

c. Regulatory Activities

The Committee shall^[LC10]^[VA11] review the following types of regulatory and technical activities and advise the Commission with regard to the hazards and safety-significance of those activities:

- Proposed Commission Policy Statements^[LC12]
- Rules with safety- or risk-significance
- Regulatory guides, branch technical positions, generic letters, interim staff guidance, standard review plans, and other regulatory guidance documents with safety- or risk-significance
- Risk-significant technical documents which support licensing actions described above in section b. (e.g., topical reports and the associated safety evaluation reports prepared by the staff)

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

DRAFT ACRS – EDO MOU REVISIONApril 21, 2017

- Prioritization and resolution of generic safety issues
- Risk-informed and performance-based regulation
- NRC-sponsored research (including annual quality review and biennial program review)
- Transient and accident analysis code certification
- Reactor licensee performance assessment and the analysis of plant operating experience
- Regulatory burden reduction initiatives
- Development of regulatory requirements associated with the use of new technology
- Issues associated with nuclear materials and waste management, including matters related to waste management, radiation health effects, and health physics as they pertain to the disposal of nuclear waste (including transportation issues), and the processing of nuclear materials.

2. **COORDINATION BETWEEN THE NRC PROGRAM OFFICES, REGIONS, AND THE ACRS**^[LC13]

a. **NRC Program Office ACRS Coordinator**^[LC14]

An NRC Program Office ACRS Coordinator will be established in each NRC Program Office that have matters for ACRS review (NRR, NRO, RES, NSIR, and NMSS). These office coordinators will implement the provisions of this MOU for their Program Office. Upon request from the ACRS, the office coordinators will collect and provide to the ACRS information regarding licensing, regulatory, and technical matters which should be reviewed by the ACRS. ^[VA15]

b. **ACRS Technical Support Branch Chief**

~~The Chief of the ACRS Technical Support Branch will i~~ Implements the provisions of this MOU for the ACRS. The Branch Chief ~~will be~~ is responsible for:

- ~~m~~ Maintaining the information on matters proposed for review by the ACRS in the ACRS Office's data management system.
- Assigning an ACRS staff member from the Technical Support Branch with the responsibility for the proposed review.
- ~~The Branch Chief will p~~ Preparing reports from the data management system as necessary that show upcoming schedules of ACRS Subcommittee and Full Committee meetings. ~~The Branch Chief will d~~
- Distributing these reports to the NRC Program Office ~~ACRS Coordinator~~s on a monthly basis.

b. **ACRS Staff Contact**

~~The ACRS Technical Support Branch Chief will assign an ACRS staff member from the Technical Support Branch with the responsibility for the review of a licensing, regulatory, or technical matter. This ACRS staff contact will s~~ Serves as the ACRS contact for the ~~conduct of~~

DRAFT ACRS – EDO MOU REVISIONApril 21, 2017

~~all activities under this MOU and day-to-day interactions on that matter~~ with the NRC Program Office Technical Contact (and other Program Office staff, when appropriate) on the assigned topics to support the ACRS review as described in the subsequent sections of this MOU.

c. ~~NRC~~ Program Office Technical Contact

~~The NRC Program Office Technical Contact for a licensing, regulatory, or technical matter should be the staff member who h~~H~~as the day-to-day responsibility for the item under ACRS consideration and is. The NRC Program Office technical contact will be~~ responsible for:

- ~~e~~Coordination with other HQ or Regional staff, NRC contractors, licensee, and vendor staff, and any other persons who should be involved in the ACRS review ~~on a licensing, regulatory, or technical matter. The NRC Program Office technical contact will be responsible for~~
- ~~e~~Cognizant Program Office management review and coordination of the ~~ACRS review matter item~~ in accordance with the Office's practices and procedures.

d. ACRS Staff and ~~NRC~~ Program Office Technical Contact Coordination

The cognizant ACRS staff and Program Office Technical Contact will meet periodically and communicate frequently to ensure mutual understanding of the project progress and to make any necessary scope and scheduling adjustment accordingly (See Section 4). Schedule and administrative details for a licensing, regulatory, or technical matter under ACRS review should be coordinated between the NRC Program Office technical contact and the ACRS staff contact. The NRC Program Office technical contact for a technical matter should strive to keep the cognizant ACRS staff contact up to date on NRC progress on the matter. This should include communication and the transmittal of documents that provide the ACRS staff contact with an understanding^[LC16] of the licensing, regulatory, or technical issues associated with the matter under review, as well as information that could impact the schedule of the ACRS review. The NRC Program Office technical contact is also responsible for transmittal of the documents to the ACRS for review, and the cognizant ACRS staff is responsible for dissemination of the documents within the Committee (See Section 5a).

e. Coordination with NRC Regional Offices and Personnel

Periodically, the ACRS visits NRC Regional Offices and/or licensee facilities. Before arranging such visits, the ACRS staff contact assigned responsibility for the visit will work with the appropriate NRC Regional office to make the necessary arrangements for the visit to the Regional office and/or licensee facility. ~~When Regional Office staff are needed to support an ACRS review of a specific licensing, regulatory, or technical matter, the NRC Program Office technical contact should request this support and coordinate with the Regional Office as appropriate.~~

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

The cognizant ~~NRC~~ Program Office Director, with guidance from the EDO or Commission, as appropriate, will identify matters requiring ACRS consideration to allow sufficient time to permit effective and efficient review by the ACRS. Following discussions between the NRC Program Office coordinators, the Technical Support Branch Chief, and cognizant ACRS staff, if

applicable, the proposed matter will be included in the list of scheduled and planned ACRS agenda items^{[LC17][VA18]} which is located in the data management system maintained by the Technical Support Branch Chief. Discussions will be focused on ensuring that the information in the ACRS data management system is accurate and up-to-date. Reports^[LC19] that are generated by the ACRS Technical Branch Chief will be distributed to each NRC Office coordinator.^[VA20] The ACRS staff^[LC21] will inform the cognizant NRC Program Office and the EDO's office whether the ACRS will review a specific matter. Decisions on whether to review a matter will be made in accordance with Commission guidance, as determined by the needs of the EDO and Program Office Directors, the recommendation of the responsible ACRS Subcommittee Chairman, and the ACRS Planning and Procedures Subcommittee.

Matters identified for possible ACRS consideration should include all risk-significant^[LC22] Commission papers being developed by staff. Early coordination on these Commission papers will minimize delays in their completion that could occur if the matters are not reviewed by the ACRS and the Commission decides late in their development that such a review is warranted. The Commission should have the ACRS views on ~~major risk~~-significant regulatory matters when it receives the staff views and recommendations, if possible. Section 4 of this MOU provides guidance to facilitate the review of ~~major risk~~-significant regulatory matters consistent with staff schedules.

Consistent with guidance contained in SECY-15-0129, "Commission Involvement in Early Stages of Rulemaking," the ACRS focuses on significant proposed and final rules that address technical issues. Currently, rulemaking packages in the earliest stage of development come to the ACRS under three circumstances: (1) ACRS review is required by law (e.g., reactor design certification rules), (2) the Commission directs the review, or (3) the Committee uses its own discretion to review. For significant rules, the "earliest stage of development," should include the draft regulatory basis, if directed by the Commission or the NRC Program Office Director.

The ACRS will occasionally take up a matter for review on its own initiative. The ACRS will inform^{[LC23][VA24]} the EDO and the cognizant Program Office when these activities are initiated and will coordinate these activities with the responsible ~~NRC~~-Program Office ACRS coordinators and staff, as appropriate. The ~~NRC~~-Program Office staff should work with the ACRS to enable the ACRS to identify its review interests.

4. ESTABLISHING A SCHEDULE FOR THE ACRS REVIEW

Once a matter has been determined to be of interest to the Committee, the assigned ACRS staff contact will work with the ~~NRC~~ Program Office technical contact to arrange a Subcommittee Meeting, a Full Committee meeting, if needed, and any informal meetings, as needed. (Section 5d defines the meanings of Subcommittee, Full Committee, and informal meetings)

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

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

5. CONDUCT OF ACRS REVIEWS AND MEETINGS

The ACRS will generally ~~conduct~~ perform a review ~~of a licensing, regulatory, or technical matter~~ by conducting Subcommittee meetings and Full Committee meetings in accordance with the requirements in 10 CFR Part 7 and the "Procedures for Meetings" that is published on an annual basis in the *Federal Register*.

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

a. Submittal of Documents for ACRS Review

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

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

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

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

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

For the handling of Sensitive Unclassified Non-Safeguards Information (SUNSI) documents submitted to the ACRS for review, see Appendix A to this MOU.

b. Subcommittee Meetings

The first step in the ACRS review of a licensing, regulatory, or technical matter will usually be a meeting held by a Subcommittee of the ACRS. ACRS Subcommittees are ~~composed~~ comprised primarily of ACRS members who are most cognizant of the technical details of issues brought to the Committee for review. The current memberships of the ACRS Subcommittees, including the members designated as the Subcommittee Chair, are on the ACRS webpage (See Section 9).

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

ACRS Subcommittee meetings are conducted under the rules of FACA as an NRC policy only. FACA does not require that Subcommittee meetings of a federal advisory committee be held in accordance with the rules of FACA. Therefore, an ACRS Subcommittee meeting will be open to the public, unless an exception consistent with those listed in the regulations which implement FACA is met to allow the meeting to be closed to the public,. Normally, the review of classified, proprietary, or foreign government-owned information will require the closure of a Subcommittee meeting. Other circumstances may also warrant the closure of a Subcommittee meeting.

ACRS Subcommittee meetings are for information gathering purposes and for determining if a matter should and ready to be presented to the Full Committee for review and comment. Comments made by ACRS Subcommittee members represent the opinion of the individual member and are not to be interpreted as the official position of the ACRS. Section 6a. discusses responding to comments and questions made by ACRS members at Subcommittee

meetings. It is generally a good practice to allow several weeks between the Subcommittee discussion and the Full Committee presentation of the topic to allow sufficient time for the Program Office to incorporate any changes as a result of the Subcommittee interactions.

c. Full Committee Meetings

If recommended by the Subcommittee at its meeting described above in 5b, the Full Committee will review the ~~licensing, regulatory, or technical matter at a regular Full Committee meeting of the ACRS topic~~. The Full Committee session on a matter will usually be one to three hours long and is normally an abbreviated version of the presentations and discussions held on the matter at the Subcommittee meeting. Usually, the Subcommittee which reviewed the matter will provide guidance on what issues to concentrate on when the matter is brought to the Full Committee. ACRS Full Committee meetings are for development of formal reports to the Commission or the EDO, whichever is appropriate, on matters brought to the Committee for review. These formal reports, voted by the Committee, represent the official comments of the ACRS

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

d. Informal Meetings

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

e. Meeting Agendas and Speakers

Meeting agendas for ACRS Subcommittee Meetings and Full Committee sessions on specific licensing, regulatory, and technical matters are prepared and posted on the ACRS webpage (see Section 9) of the NRC website. The ~~NRC~~ Program Office technical contact and the ACRS staff contact should work together to prepare the meeting agenda. The ~~NRC~~ Program Office technical contact is responsible for identifying presenters from NRC licensees, vendors, and applicants for Agenda items, and securing commitments from these presenters to attend and present at the ACRS meeting. The ACRS staff contact is responsible for identifying other speakers from federal agencies, outside interested groups, or as specified by ACRS members, and securing commitments from these speakers to attend and present at the ACRS meeting.

f. Presentation Material

The Program Office technical contact is responsible for providing all presentation material electronically and in hard copies^[LC25] to the ACRS staff contact in advance of the ACRS meetings. The material should be appropriately marked for proper handling and storage.

6. ACRS REVIEWS AND COMMENTS

ACRS reviews ~~of licensing, regulatory, or technical matters~~ may result in comments from individual ACRS members, both at Subcommittee and Full Committee meetings, as well as formal reports from the Committee.

a. Comments by ACRS Members at Meetings

As described in Section 5 above, ACRS Subcommittee meetings are for information gathering purposes and for determining if a matter should be presented to the Full Committee for review and comment. Comments made by ACRS Subcommittee members represent the opinion of the individual member and are not to be interpreted as the official position of the ACRS. The NRC Program Office staff is encouraged to consider the ACRS comments for improving the document under review, the presentation of the information contained in the document in future discussions, and/or for the understanding of the document if it is presented to the Full Committee. No formal responses to any comments made at Subcommittee meetings is ~~required~~sought.

ACRS Subcommittee members may ask for additional information about the documents under review that were not supplied prior to the meetings. The ~~NRG~~-Program Office technical contact and other program office staff supporting the ACRS meeting should endeavor to provide the additional information if it is reasonably available after the Subcommittee meeting to the ACRS staff contact. The ACRS staff contact will distribute the additional information to the Subcommittee members.

b. Official ACRS Comments

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

ACRS office procedures call for official ACRS comments in an approved report to be provided to the Chairman or the EDO within two weeks following the conclusion of the Full Committee meeting at which the report was voted final. Only in rare circumstances should a report be delayed such that more than two weeks will be required to provide the report. In those circumstances, the ACRS Executive Director will keep the cognizant Program Office Director apprised of the schedule for delivery of the report.

7. RESPONDING TO OFFICIAL ACRS COMMENTS

DRAFT ACRS – EDO MOU REVISIONApril 21, 2017

Official ACRS comments will be transmitted in a report as discussed in section 6b. above, addressed to the Commission Chairman or to the EDO, as appropriate, signed by the ACRS Chairman, with copies to the cognizant Office Director, ~~NRC~~ Program Office coordinator, and Program Office technical contact. The ~~NRC~~ Program Office contact will ensure that copies are provided, as necessary, to other staff members.

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

8. CONFLICT OF INTEREST OF ACRS MEMBERS

Potential conflicts of interest (COIs) of ACRS members and consultants are addressed in accordance with the ACRS Bylaws. The ACRS Office maintains up-to-date information regarding current ACRS member and consultant COIs. If an ~~NRC~~ Program Office staff member or other interested party has a concern about a potential COI of an ACRS member or consultant with respect to an item under ACRS review, he/she should bring this concern to the attention of the ACRS Executive Director prior to any ACRS meeting on the matter. The issue will be reviewed and, if warranted, mitigated~~addressed~~ using the COI procedures in the ACRS Bylaws.

9. ACRS WEBPAGE

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

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

10. DEVIATIONS FROM THIS MOU

These procedures are established to facilitate staff and ACRS interactions. Deviations from these procedures may at times be needed to carry out the NRC's mission. When this occurs,

the procedures can be altered consistent with the needs of the NRC and the ACRS. Such changes will be implemented after being mutually agreed upon by the EDO and the ACRS Executive Director.

11. REFERENCES

- 10 CFR Part 7, “Advisory Committees”
- “Charter, Advisory Committee on Reactor Safeguards”
- “Advisory Committee on Reactor Safeguards (ACRS) Bylaws”
- EDO Procedure No. 0210, “OEDO Procedure for Coordination with ACRS” (ML13051A757)
- “Advisory Committee on Reactor Safeguards; Procedures for Meetings”
- ACRS Memorandum, Subject: “Procedure for ACRS Review of Regulatory Guides,” August 10, 2011 (ML11216A100)
- ACRS Memorandum, Subject: “ACRS Review of Interim Staff Guidance”, September 9, 2014 (ML14247A641)
- SECY-15-0129, “Commission Involvement in Early Stages of Rulemaking,” October 19, 2015 (ML15267A759)

(Date)

Victor M. McCree
Executive Director for Operations

(Date)

Andrea D. Veil
Executive Director for ACRS

APPENDIX A HANDLING OF SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION DOCUMENTS DURING ACRS REVIEWS

When the ACRS and the NRC staff have discussions on matters that involve SUNSI the following guidelines will be used:

Subcommittee Meetings

- ACRS Subcommittee meetings may be closed to public participation to protect SUNSI since the ACRS follows the restrictions of FACA for conduct of Subcommittee meetings as a policy only. The transmitted documents will be appropriately marked to facilitate their proper storage and handling. Infrequently, the ACRS requires access to Classified and Safeguards information in conjunction with activities within its scope of responsibility. ACRS member and staff access to this information will be authorized on the basis of the individual's need to know in accordance with NRC security-related Management Directives.

Full Committee Meetings

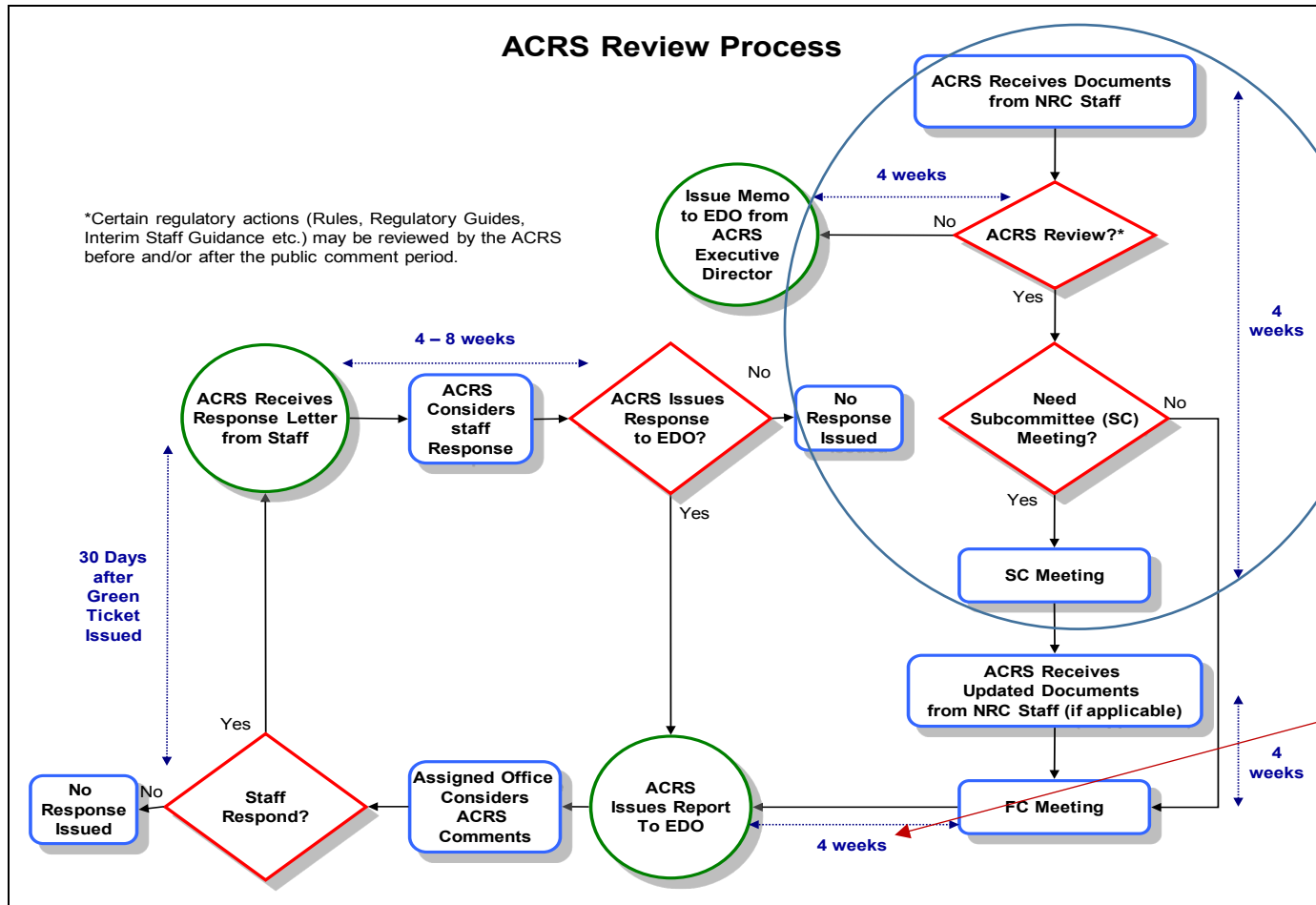
- ACRS Full Committee meetings will be open to the public, unless a FACA exemption applies.² Open discussion of agency matters facilitates external stakeholder input and provides an opportunity for the public to better understand Agency decisions.
- ACRS Full Committee meeting sessions can be closed on such grounds as discussion of proprietary material, under exemptions allowed by FACA. Members of the public may request a closed meeting if they believe an exemption applicable to them authorizes closure. The staff may also request closure of a meeting, under the exemptions allowed by FACA. Requests by members of the public and staff to close meetings will be considered under applicable law. The closing of ACRS meetings requires a written request to the Chairman of the Commission, or the Chairman's designee, and review by the Office of the General Counsel, in accordance with 10 CFR 7.15. When requests for closure are received by the ACRS, the ACRS staff may need the assistance of the Office of the General Counsel (OGC) and NRC staff technical experts on an expedited basis to make accurate judgments as to what information should be protected.
- When the ACRS wishes to discuss all or part of a predecisional document at an open meeting, cognizant staff will participate if prior approval has been obtained from the Commission or its designee (when the Commission itself is to make the final decision on the matter addressed in the paper), or from the EDO (for other predecisional documents originating from the staff).
- In those cases where the Commission or the EDO (as applicable) has approved discussion of all or part of a predecisional document at an open meeting of the ACRS, the document may be transmitted to the ACRS staff by the cognizant NRC Program

² Under the FACA, meetings of advisory committees are generally required to be open and documents provided to or prepared by advisory committees are generally required to be made available for public inspection and copying. However, FACA also provides that portions of advisory committee meetings may be closed to the public if they fall within exemptions contained in the Government in the Sunshine Act. Similarly, documents made available to or prepared for or by an advisory committee may be withheld from the public if they fall within an exemption contained in the Freedom of Information Act. There are a number of exemptions listed in the Sunshine Act and the Freedom of Information Act and assistance in their interpretation may be obtained from the Office of the General Counsel.

Office for review by the Committee. The transmitted documents will be clearly marked as predecisional. Other applicable restrictions (e.g., proprietary information) on the release to the public of documents submitted to the ACRS should also be clearly marked on the documents to facilitate their proper storage and handling.

- In those cases where the ACRS will discuss issues addressed in a predecisional document, but will not disclose the contents of the document, the document may be transmitted to the ACRS staff by the cognizant NRC Program Office for transmittal to individual Committee members as background information. As long as any discussion of the issues that may also be addressed in such a document does not disclose the contents of the document in a meeting open to the public, the withholding of the document under FOIA is not likely to be compromised. However, the use of the document itself in the Committee's deliberations will result in the document becoming part of the Committee's FACA record. This will result in the document being retained for the life of the Committee and may affect the ability to withhold the document under FOIA. As noted above, FOIA requests for such documents will be discussed with OGC to determine the status of the documents under FOIA exemptions.
- Infrequently, the ACRS requires access to Classified and Safeguards information in conjunction with activities within its scope of responsibility. ACRS member and staff access to this information will be authorized on the basis of the individual's need to know in accordance with NRC security-related Management Directives.
- All documents used by the Committee in its deliberations are required to be retained by the Committee as part of its FACA records and will be retained for the life of the Committee. Requests for such documents by members of the public will be discussed with OGC to determine the status of the documents under Freedom of Information Act exemptions.

Something is not quite right here. As a starting point, we usually get a request on a topic for review, not the documents. Either the “Documents” in the first box is not right, the decision diamond on “Need SC Meeting” is out of place and/or the “4 weeks” on the side of this part of the diagram is not right (or at least not my experience here). Am I missing something?



Probably should clarify the time is after the letter is voted final