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FROM: James H. Sniezek
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SUBJECT: GUIDANCE ON PUBLIC MEETINGS

Enclosed is the interim guidance on the definition of a public meeting that you may find useful in helping to determine whether or not a meeting should be opened to the public. This guidance will be formalized in NRC Management Directive 3.5 which is currently under development.

This interim guidance contains several examples of how to determine whether or not a meeting should be open or closed. It is not intended to be all inclusive but to establish a thought process that can be used to make decisions on any meeting scenario.

Original signed by
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Enclosure:
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DEFINITION OF A PUBLIC MEETING

This paper is intended to define what constitutes a public meeting* between the NRC staff and outside persons.** It is also intended to reaffirm the NRC staff's longstanding practice of providing the public with the fullest practicable information on its activities and conducting its business in an open manner, while also balancing the need for the NRC staff to exercise its regulatory and safety responsibilities without undue administrative burden.

The definition as developed below applies to meetings between the NRC staff and outside persons. It does not apply to the Commission or offices that report directly to the Commission. Also, the definition of a public meeting is not intended to apply to or supercede any existing law, rule, or regulation that addresses public attendance at a specific type of meeting. For example, 10 CFR Part 7 specifically addresses public attendance at advisory committee meetings, 10 CFR Part 2, Appendix C addresses public attendance at enforcement conferences, and 10 CFR Part 9, Subpart C addresses public attendance at Commission meetings.

In general, meetings between the NRC staff and outside parties will be public meetings unless the NRC staff determines that:

- o The subject matter to be discussed:
 - Is specifically authorized by an Executive order to be kept secret in the interests of national defense or foreign policy (classified information),
 - Contains trade secrets and commercial or financial information (proprietary information),

(*) A planned, formal encounter between one or more NRC staff and one or more outside persons with the expressed intent of discussing substantive issues that are directly associated with NRC's regulatory and safety responsibilities.

(**) An outside person is any individual who is not:

- o An NRC employee,
- o Under contract to the NRC,
- o Acting in an official capacity as a consultant to the NRC,
- o Acting in an official capacity as a representative of an agency of the Executive, Legislative, or Judicial Branch of the United States Government (except where the agency is subject to NRC regulatory oversight), or
- o Acting in an official capacity as a representative of a foreign government.

- Contains safeguards information,
 - Is of a personal nature where such disclosure would constitute a clearly unwarranted invasion of personal privacy,
 - Is related to a planned, ongoing, or completed investigation and/or contains information compiled for law enforcement purposes,
 - Could result in the inappropriate disclosure and dissemination of predecisional information,
 - Is a general exchange of information only and has no direct, substantive connection to a specific NRC regulatory decision or action, or
 - Could result in the inappropriate disclosure and dissemination of unverified or inaccurate information.
- o The administrative burden associated with public attendance at the meeting could result in substantially interfering with the NRC staff's execution of its safety and regulatory responsibilities.

It is important to note that whether or not a meeting should be open for public attendance is dependant primarily on the subject matter to be discussed, not on who within the NRC staff is participating (e.g., staff level versus senior management).

EXAMPLES

The Senior Resident Inspector and the Resident Inspector at a nuclear power plant hold a short meeting every morning with the plant manager to discuss activities at the facility. Arranging for public attendance at this type of meeting would place an undue administrative burden (for example, establishing access authorization to the protected area for members of the public) on the Senior Resident Inspector and the Resident Inspector and could result in substantially interfering with their performing their safety and regulatory responsibilities; therefore, this morning meeting would not need to be a public meeting.

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

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

Senior executives of a utility licensed to operate a nuclear power plant request the opportunity to conduct a "drop-in" visit with senior managers of the regional office in which their facility is located. "Drop-in" visits typically consist of a general exchange of information only and have no direct, substantive connection to a specific NRC regulatory decision or action; therefore, "drop-in" visits would not typically need to be public meetings.

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

1. c Officials from the Office of Management and Budget (OMB) desire to meet with NRC officials to discuss the NRC's proposed budget for the next fiscal year. The OMB officials are acting in their

official capacities as representatives of the Executive Branch, and the subject matter to be discussed (NRC's proposed budget for the next fiscal year) is considered by NRC to be predecisional information; therefore, this meeting would not need to be a public meeting.

1. C Several NRC staff desire to meet with a nuclear steam supply system vendor at the vendor's office to discuss the vendor's application for design certification under 10 CFR Part 52. The NRC staff desires to discuss the timeframe and schedule for submission of certain portions of the application, as well as the impact that the vendor's not meeting these deadlines would have on the NRC staff's review of the application. The NRC staff does not desire to discuss any technical or safety issues associated with the application. These discussions are a general exchange of information only and have no direct, substantive connection to an NRC regulatory decision or action; therefore, this meeting would not need to be a public meeting.

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

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

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

1. C Upon conclusion of an inspection NRC inspectors meet and discuss with the licensee of a nuclear power plant the preliminary results of their inspection activities (an exit meeting). The discussions are essentially an extension of the inspection. The resultant administrative burden associated with arranging public attendance could substantially interfere with the staff's execution of its safety responsibility and therefore would not need to be a public meeting. However, attendance at the exit meeting by

representatives of agreement or adjacent states (for example) would be governed by the NRC's policy concerning attendance by such representatives.1/

1.2 NRC officials desire to meet with representatives of a utility licensed to operate a nuclear power plant to discuss information regarding the fitness-for-duty of a specific licensed reactor operator. The meeting would not need to be a public meeting because it could result in the inappropriate disclosure and dissemination of unverified or inaccurate information.

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

1.1 A team of NRC inspectors is responding to a significant event at a nuclear power plant. The team desires to meet with licensee representatives when they arrive onsite to obtain updated plant status information. Arranging for public attendance at this meeting would place an undue administrative burden on the inspectors and could result in substantially interfering with their performing their safety and regulatory responsibilities; therefore, this meeting would not need to be a public meeting.

An NRC inspector is conducting an inspection at a research reactor/a nuclear power plant/a vendor facility. Arranging for public attendance on the inspection could place an undue administrative burden on the inspector and would result in substantially interfering with the performance of the inspector's safety and regulatory responsibility; therefore, public participation is not necessary.1/

1.1 An NRR reviewer is going to the utility corporate office to examine design calculations prior to writing the SER. As a followup, the reviewer goes to the site the following week to review the in-plant design implementation. Arranging for public attendance at either of these inspections would place an undue administrative burden on the reviewer and could substantially interfere with the performance of the reviewer's safety and regulatory responsibility; therefore, public participation is not necessary.1/

1/In certain significant high public interest cases, the Regional Administrator or Office Director, in consultation with the Director Public Affairs, may decide it is appropriate to allow public attendance or have a separate public meeting to discuss the results of the inspection or review.

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