

POLICY ISSUE NOTATION VOTE

March 29, 2002

SECY-02-0060

FOR: The Commissioners

FROM: William D. Travers
Executive Director for Operations

SUBJECT: PROPOSED POLICY ON ENHANCING PUBLIC PARTICIPATION
IN NRC MEETINGS

PURPOSE:

The purpose of this paper is to transmit to the Commission, for approval, the revised policy on staff meetings open to the public. The revised policy, "Enhancing Public Participation in NRC Meetings" responds to an SRM dated January 8, 2002, and includes the categorization of meetings and public participation components described in SECY-01-0137. This paper also updates the Commission on other action items related to NRC's public meeting processes that are discussed in the aforementioned SECY paper. Once the Commission approves the policy, a Federal Register notice announcing the policy will be published, implementing guidance will be issued to the staff, and Management Directive 3.5, "Public Attendance at Certain Meetings Involving the NRC Staff," will be updated.

DISCUSSION:

To respond to concerns raised by the public at a meeting held in April, 2001, and to fulfill the NRC's strategic goal of increasing public confidence, this paper proposes a revised policy on enhancing public participation at NRC meetings. The policy brings consistency to NRC public meetings planned by headquarters and regional staff by introducing a categorization system whereby the public can anticipate the level of participation that will be allowed during an upcoming meeting. The public will also be able to access any posted information regarding the meeting at our web site, such as agendas, background documents, and meeting summaries, when available. The policy also includes information on teleconferencing, security, and other issues related to NRC staff-sponsored public meetings.

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Commission Policy Statement on Staff Meetings Open to the Public

A. Purpose

The Nuclear Regulatory Commission has had a formal policy regarding open meetings since 1978 which has been revised periodically, and most recently on September 20, 2000. This paper presents a revised policy that the Nuclear Regulatory Commission (NRC) will follow in opening meetings between the agency staff and one or more outside persons to public observation and participation. The revised policy continues NRC's longstanding practice of providing the public with substantial information on its activities and of conducting business in an open manner, while balancing the need for the NRC staff to exercise its regulatory and safety responsibilities without undue administrative burden. The revised policy also sets forth a plan for categorizing meeting types that will provide a framework for enhancing public participation. The public will be notified of the category of the meeting, and thereby the level of participation to be anticipated, via the NRC's Public Meeting Notice System on its web site. Implementing guidance will be issued to the NRC staff. This meeting policy is a matter of NRC discretion and may be departed from as circumstances warrant.

B. Definition

A public meeting is a planned, formal encounter open to public observation and participation between one or more NRC staff members and one or more external stakeholders, with the expressed intent of discussing substantive issues that are directly associated with the NRC's regulatory and safety responsibilities. An external stakeholder is any individual who is not:

1. An NRC employee;
2. Under contract to the NRC;
3. Acting as an official consultant to the NRC;
4. Acting as an official representative of an agency of the executive, legislative, or judicial branch of the U.S. Government (except on matters where the agency is subject to NRC regulatory oversight);
5. Acting as an official representative of a foreign government;
6. Acting as an official representative of a State or local government or Tribal official (except when specific NRC licensing or regulatory matters are discussed).

C. Applicability and Exemptions

1. This policy applies solely to NRC staff-sponsored and conducted meetings and not to meetings conducted by outside entities in which NRC staff members might attend and participate. It does not apply to Commission meetings or to meetings sponsored by offices that report directly to the Commission. Similarly, it does not apply to meetings between NRC staff and representatives of State government, including Agreement State

representatives, relating to NRC Agreement State activities or to State regulatory actions or to other matters of general interest to the State or to the Commission; that is, matters other than specific NRC licensing or regulatory actions involving specific licensees. Also, the policy is not intended to apply to or supersede any existing law, rule or regulation that addresses public attendance at a specific type of meeting. For example, 10 CFR Part 7 and 10 CFR Part 9 will continue to be applicable to advisory committee meetings and Commission meetings, respectively.

2. This policy covers various types of public "meetings." It does not cover the "hearings" associated with adjudicatory proceedings under the Commission's Rules of Practice in 10 CFR Part 2.

The term "public meeting" is traditionally associated with the Commission's efforts to provide information to the public and to seek public views on various generic and site-specific issues. These meetings are open to a wide variety of people with an interest in the subject matter and a willingness to follow the ground rules established for the conduct of the meeting.

The term "hearings," covered under 10 CFR Part 2, relates primarily to Commission adjudicatory proceedings on various types of licenses and licensing actions (e.g., initial issuance of a license, amendment of an existing license, renewal of a license) or to enforcement actions involving the imposition of civil penalties or orders to modify, suspend or revoke a license or take other appropriate action. This policy also does not cover meetings concerning the settlement of issues pertaining to any proceeding or regarding enforcement matters. Specific requirements regarding participation in and the conduct of such hearings are provided in the Commission's Rules of Practice set out in 10 CFR Part 2.

3. Meetings between the NRC staff and external stakeholders will be designated as public meetings unless the NRC staff determines that the subject matter or information to be discussed meets one or more of the following criteria:
 - a. Is specifically authorized by an Executive Order to be withheld in the interests of national defense or foreign policy (classified information) or specifically exempt from public disclosure by statute;
 - b. Contains safeguards or other protected information;
 - c. Contains trade secrets and commercial or financial information (proprietary information);
 - d. Is of a personal nature where such disclosure would constitute a clearly unwarranted invasion of personal privacy;
 - e. Is related to a planned, ongoing, or completed investigation and/or contains information compiled for law enforcement purposes;
 - f. Could result in the inappropriate disclosure and dissemination of preliminary, predecisional or unverified information;

- g. Is a general information exchange having no direct, substantive connection to a specific NRC regulatory decision or action. However, should discussions in a closed meeting approach issues that might lead to a specific regulatory decision or action, the NRC staff may advise the meeting attendees that such matters cannot be discussed in a closed meeting and propose discussing the issues in a future open meeting.
- h. Indicates that the administrative burden associated with public attendance at the meeting could interfere with the staff's execution of its safety and regulatory responsibilities, such as when the meeting is an integral part of the execution of the NRC inspection program.

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

Also note that meetings between staff and licensees or trade groups to discuss technical issues or licensee performance would normally be open because they may lead to a specific regulatory decision or action.

D. Public Participation in NRC Meetings

In order to fulfill the NRC's strategic goal of increasing public confidence, the agency has identified three categories of public meetings the agency convenes and has developed criteria for the level of public participation, information availability and follow-up effort associated with each meeting category. The extent of public interest in the meeting or activity and the objective of the meeting insofar as public involvement is concerned, will be considered by the staff when assigning a meeting to an appropriate category. The description, purpose, and levels of public participation for each category of meeting is described below.

Category 1

Description - Meetings in this category are typically held with one licensee, vendor, applicant or potential applicant or petitioner to discuss particular regulatory issues regarding their specific facility (or facilities), certificate of compliance, license or license application.

Meeting Purpose - The purpose of this type of meeting is to discuss one particular facility or site, or certified system or device, with an applicant or licensee regarding, for example, technical issues in an application, licensee actions, or inspection results. At this type of meeting, NRC anticipates that the public would obtain factual information to assist in their understanding of the applicable regulatory issues and NRC actions.

Examples - Examples of this type of meeting could include: annual public meetings to discuss plant performance, regulatory conferences, predecisional enforcement conferences, meetings held prior to a facility restarting, as well as meetings held on licensing actions (or applications), renewals and amendments, new facilities, away-from-reactor storage sites, large or complex fuel cycle facilities, or waste disposal sites. Certain inspection exit meetings such as those for

Incident Investigation Teams, Augmented Inspection Teams or others as appropriate, would also be included in this category.

Level of Public Participation - The public is invited to observe the meeting consistent with past practice, and the NRC staff will be available to answer questions from the public after the business portion of the meeting, but before the meeting is adjourned. This does not preclude the licensee from responding to questions if they choose to do so.

For Category 1 meetings longer than two hours, one or more opportunities may be provided for the public to ask questions before the end of the meeting, if practicable. In advance of the meeting, members of the public may request, via e-mail or telephone, that the meeting coordinator consider changing the meeting to a Category 2 meeting (discussed below), depending on the level of public interest in the activity being discussed. Meetings that the staff believe will generate high public interest should also contain more than one opportunity for public comments and questions. The decision on whether to change the category of any particular meeting is a matter left to the discretion of the staff on a case-by-case basis.

Types of Information Provided - At a minimum, an agenda or a list of items to be discussed will be entered into the Agencywide Documents Access and Management System (ADAMS). The ADAMS document accession number would be provided in the meeting notice that is posted at our public web site for access to any primary or background documents.

Follow-up - No formal follow-up will be provided beyond the normal period for questions. Informal follow-up (telephone or e-mail) may be appropriate for certain questions that cannot be answered at the meeting. Members of the public are always free to write or e-mail the staff about particular concerns. These concerns will be considered by the staff as it deliberates on the issue. Feedback forms would also be provided at this type of meeting, so that comments can be reviewed and offices can track any planned improvements or resulting actions in their operating plans, as appropriate. Meeting summaries and participant lists will be publicly available in ADAMS.

Category 2

Description - Meetings in this category are typically held with a group of industry representatives, licensees, vendors or non-governmental organizations.

Meeting Purpose - The purpose of this type of meeting is for NRC to obtain feedback from the regulated community and other external stakeholders on issues that could potentially affect more than one licensee. At this type of meeting, NRC anticipates that the public would obtain factual information and provide the agency with feedback on the analysis of the issues, alternatives and/or decisions.

Examples - This type of meeting includes task force groups, industry groups (such as the Nuclear Energy Institute or owners groups), or public interest and citizen group discussions that focus on issues that could apply to several facilities, such as plant system aging, license renewal, decommissioning, or spent fuel storage.

Level of Public Participation - The public will be invited to discuss regulatory issues with the agency at designated points identified on the agenda. Generally, there will be more opportunities provided for the public to ask questions and provide comments at a meeting of this type than at a Category 1 meeting.

Types of Information - An agenda, names of participants, and background documents will be entered into ADAMS, and the ADAMS package accession number will be provided in the meeting notice. A web page with links to other appropriate background information will be made available at NRC discretion. The ADAMS package accession number and any link to a web page will be posted to the public web site.

Follow-up - Staff will provide answers to questions as appropriate during the meeting. Questions that cannot be answered at the meeting will be assigned to a designated staff person as an action item. Meeting summaries or any transcripts and participant lists would be provided in ADAMS and on the web, if a web site is established. Feedback forms will be provided as they are in Category 1 meetings, so that comments can be reviewed and offices can track any planned improvements or resulting actions in their operating plans, as appropriate.

Category 3

Description - This type of meeting would be held with representatives of non-government organizations, private citizens or interested parties, or various businesses or industries (other than those covered under Category 2) to fully engage them in a discussion on regulatory issues.

Meeting Purpose - The purpose of this type of meeting is to maximize discussions with the public to ensure that their issues and concerns are presented, understood and considered by the NRC. The NRC anticipates that the public would work with the agency to facilitate the widest exchange of information, views, concerns and suggestions with regard to license-specific or generic regulatory issues.

Examples - Examples might include town hall or roundtable discussions, Environmental Impact Statement scoping meetings, workshops, the Regulatory Information Conference, the Nuclear Safety Research Conference, or proposed rulemaking meetings.

Level of Public Participation - Public participation is actively sought at this type of meeting, which has the widest participation opportunities and is specifically tailored for the public to comment and ask questions throughout the meeting.

Types of Information - An agenda, names of participants and background documents will be entered into ADAMS, and the accession number will be provided in the meeting notice. In addition, a web page will be created where all relevant documents for the meeting will be posted. The ADAMS accession number and a link to the required web page will be posted to the public web site.

Follow-up - Staff follow-up is similar to Category 2, but meeting summaries or transcripts and participant lists will be provided in ADAMS and linked to the web site. Feedback forms will also be provided at this level meeting.

E. Notice to the Public

Meeting announcement information is to be provided to the public as soon as the staff is certain that a meeting will be held and firm date, time and facility arrangements have been made, but generally no fewer than 10 calendar days before the meeting. Where a meeting must be scheduled but cannot be announced 10 calendar days in advance, the staff will provide as much advance notice as possible. Public notice of meetings will be made via the internet on the NRC web site. Meeting changes or cancellations will also be announced promptly on the NRC web site. Members of the public who cannot access the NRC web site can contact the NRC Public Document Room staff via a toll-free number (1-800-397-4209) or by e-mail (pdr@nrc.gov) for information on scheduled NRC meetings. Some meetings having very high public interest will also be noticed via a press release or paid advertisement in local newspapers, or both.

The assigned category level of the meeting, agenda, background documents, Commission papers, or other material that could be helpful to attendees at the meeting will be entered into the agency's document management system, ADAMS, and made available through the public meeting notice system.

Teleconferencing may be requested by participants to the extent that travel to a meeting is considered difficult for interested citizens. Requests for teleconferencing should be made directly to the meeting contact listed on the public meeting web site. Such requests may be granted to the extent budget resources are available and technical factors can be accommodated.

F. Visitors and Security

1. Registration, Badging, and Sign-in Procedures

All visitors to the NRC's White Flint North (WFN) complex in Rockville, Maryland are screened through metal detectors and their packages are x-rayed. All visitors over the age of 18 must present a picture identification.

During normal security access hours (6 a.m. – 6 p.m. Monday through Friday), NRC employees must register their visitors (visitor's name, organization, time, place and purpose of visit, and whether the visit involves classified information) with the guard force.

Visitors who have been registered in advance are issued a visitor badge by a guard and may move about freely without an escort in the public spaces. The public spaces in One White Flint North are the Public Document Room, the Commission Meeting Room (when open for a meeting), and the NUREG Café. In Two White Flint North, the public spaces are the Exhibit Area, Cafeteria, Snack 'n Go, and the Credit Union. Public restrooms are public spaces in both building complexes.

Visitors to the Public Document Room, the Commission Meeting Room or Credit Union are not normally registered in advance and their access to the public spaces is restricted.

2. Parking Procedures

Visitors to the NRC are encouraged to use Metro because parking availability is limited. Vehicles driven by visitors are subject to inspection (undercarriage, trunk, hood, and

inside), before being allowed to enter the complex. Visitors must have prior approval (arranged by an NRC employee) to park inside the garage or in the outside visitor parking area behind the buildings. Visitors who want to park in the garage must have an NRC escort before driving into the garage. The NRC escort must accompany the visitor from the garage to a receptionist area on the lobby level for screening, registration, and badging. Visitors pre-approved to park in the outside visitor parking area are directed by a guard to park their vehicles in the visitor parking area and proceed to the lobby of either building to meet their escorts and go through screening, registration, and badging.

3. Recording Devices and Cameras

Portable electronic devices are allowed into NRC buildings and public meetings. These include cellular telephones, pagers, palm-size computing devices, two-way radios, and portable computers.

Visitors may bring recording devices into public meetings held in NRC headquarters spaces on the lobby levels designated as a "public access area." Cameras are permitted in public meetings on a case-by-case basis, with the approval of the Director, Office of Public Affairs or the Director, Division of Facilities and Security.

Any article that could cause property damage or personal injury is prohibited in NRC buildings. Prohibited articles include firearms, explosives, and incendiary devices. Members of the public going to NRC "controlled spaces" inside the buildings above the lobby levels are allowed access with recording devices with the approval of the sponsoring office and under the escort of an NRC employee.

4. Restrictions on Signs and Banners

Signs, banners, posters, and displays not larger than 18"x18" are permitted at NRC public meetings, but cannot be waved, held over one's head, or generally moved about in the meeting room because they are distracting to the participants and audience. Signs, banners, posters, and displays affixed to sticks, poles, etc., are not permitted in the meeting rooms.

5. Escort Requirements

All visitors going to locations above the first floor lobby level must display an NRC visitor badge and must be escorted by an NRC employee - one employee may escort up to five visitors.

6. Use of NRC Copiers, Telephones, and Fax Machines

Visitors may not use NRC copiers and fax machines without the approval and supervision of an NRC employee. Visitors may use building lobby level telephones to make brief in-house and local calls. Those visiting the PDR or attending public meetings are also prohibited from bringing copying or imaging devices, including scanners, CD-ROM writers, photocopy machines, or other devices which permit the duplication of NRC documents.

7. Other Locations or Regions

Visitor controls and related security procedures are established for public meetings held in NRC regional offices or other remote locations based on an overall assessment by the Physical Security Branch relative to potential security concerns. Security requirements nationwide may differ based on various factors and therefore meetings are evaluated on a case-by-case basis.

G. Contact

The primary point of contact in the agency for general issues related to this policy will be the Assistant for Communications, Deputy Executive Director for Management Services, Office of the Executive Director for Operations. The Office of Public Affairs is also available to receive questions and suggestions. There are also opportunities for comment on our public participation policies, or on any of our programs, at the link on the public involvement page of our web site.

Other Action Items Related to NRC's Public Meeting Policy

A. Training

The training for NRC employees emphasizes certain areas of concern that were raised by members of the public at a meeting in April of 2001 that was held to engage the public on these issues. These areas include: use of plain language in slides, attitude and presentation styles of NRC staff, choice of local moderators, balancing types of invited participants groups, seating arrangements, and timing and location of meetings. The training has been used extensively in headquarters and the regions with a high level of success and has resulted in positive feedback by the staff. This policy will be provided to participants as part of their standard training material.

B. Public Participation Primer

A primer targeted to the public explaining this policy is being prepared by the Office of Public Affairs. The primer will be included in training materials and made available at various public meetings.

C. Meeting Notification Methods

The OCIO staff will develop a "checklist" for NRC staff to follow when planning for a public meeting. The checklist will be housed on the internal web site and will indicate how the staff should reserve meeting rooms, create and submit meeting notices to the public meeting notice system coordinator, handle requests for teleconferencing, and other items that will assist in planning and conducting an effective and successful public meeting.

RECOMMENDATION

The staff recommends the Commission approve the revised version of the public meeting policy and intends to publish the policy once approval is received. The staff will begin implementing the guidance that will cover other actions described in this paper and will seek public comment on the proposed policy after one year of implementation.

COORDINATION

This paper has been coordinated with the Office of Public Affairs, the Office of the Secretary, the Advisory Committees on Reactor Safety and Nuclear Waste, and the Atomic Safety and Licensing Board Panel. The Office of the Chief Financial Officer has reviewed this paper for resource implications and has no objection. The Office of the General Counsel has no legal objection to this paper.

/RA/ by William F. Kane

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*SEE PREVIOUS CONCURRENCE

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