

## APPENDIX 1

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# PROCEDURES FOR OBTAINING NOMINATIONS FOR NRC'S ADVISORY COMMITTEES

The NRC has one statutory advisory committee (the Advisory Committee on Reactor Safeguards (ACRS)) established by Section 29 of the Atomic Energy Act of 1954, as amended that reports directly to the Commission. Additional discretionary committees reporting to the Commission or other senior NRC management are established as needed.

At the current time the Commission has two advisory committees in addition to the ACRS. The Advisory Committee on the Medical Uses of Isotopes (ACMUI) reports to the Director of NMSS and the Licensing Support Network Advisory Review Panel (LSNARP) reports to the Chief Judge ASLBP.

For committees reporting to the Commission, the following procedures have been established. (SRM-COMIS-94-003, SRM-COMSECY-94-018, SRM-COMSECY-00-0032, SRM-SECY-06-0028)

1. The Executive Director of the advisory committee with the vacancy should prepare a draft *Federal Register* Notice and a Press Release for Commission approval and a list of the professional societies/technical organizations to which it would be sent for the solicitation of nominations. These documents will indicate what specific expertise/skills are being sought for the opening. The specific expertise/skills will be chosen in consultation with the advisory committee that has the opening. The Executive Director of the advisory committee will ensure that the nomination process considers and is consistent with the NRC's Comprehensive Diversity Management Program.
2. When the *Federal Register* Notice and Press Release are published, notification of the search for nominations will be given to appropriate professional societies/technical organizations. The advisory committee with the opening should be specifically invited to suggest candidates.
3. All nominations and resumes should be sent directly to the committee's Program Management, Policy Development and Analysis (PMDA) Branch contact or the Office of the Chief Human Capital Officer (OCHCO)
4. The committee's Executive Director should convene the appropriate screening panel for review of nominations and provide it with the necessary administrative support. The panel will be composed of:
  - a. a senior OGC attorney acting as Chair selected by the General Counsel;
  - b. the NRC Committee Management Officer; and

## APPENDIX 1

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- c. the Executive Director of the advisory committee, who will also serve as the Secretary of the panel and continue to staff all pertinent functions and activities.
5. Each screening panel will:
  - a. Review and rate the nominations for the selecting official using as benchmarks the specific expertise/skills being sought for the opening, as well as the individual's breadth of knowledge and ability/experience in applying his/her skills to problems outside of their specific field of expertise. The panel's report should list all of the qualified candidates, and it should rank at least the best qualified candidates. A brief narrative should be provided identifying the criteria and rationale for the best qualified rankings.
  - b. In carrying out the provisions of (a) above, the panel may seek the advice of other individuals whose views may be useful to the screening panel. Specifically, the panel should consult with an ethics counselor in the Office of the General Counsel on matters concerning potential conflicts of interest or prohibited financial holdings.
  - c. Submit a copy of the panel's assessment to the appropriate advisory committee for its independent recommendation on the nominees, as well as submit a COMSECY to the Commission (or recommendations to the designated selecting official for the particular advisory committee).
6. The advisory committee should submit its selection recommendations to the screening panel, and/or the Commission (or the designated selecting official) as they see fit.

At the current time the Commission has delegated the responsibility of appointing members of the ACMUI to the Director, NMSS after consultation with the Commission (SRM-SECY-06-0028). Consultation will take the form of an informational memorandum from the Director of NMSS to the Commission prior to appointing a member of the ACMUI. Members of the LSNARP are representatives of the parties and potential parties to the High Level Waste proceeding.

## APPENDIX 2

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# PROCEDURES FOR HANDLING WITHHELD DOCUMENTS IN COMMISSIONERS' OFFICES UNDER FOIA

1. Each Commissioner's office will give SECY copies of all the documents covered by the FOIA request, including the documents to be withheld, with the applicable exemption number for each document to be withheld. The attached standard templates (Attachment 1 or 2) should be used when responding to SECY.
3. When a Commissioner does not want OGC or the FOIA office to see a document to be withheld, the Commissioner's office will provide to SECY, a "certification" (Attachment 2) to be forwarded to OGC. The "certification" will state that the Commissioner's Legal Counsel has reviewed the document and that the document may be withheld under a specific stated FOIA exemption.
4. The FOIA office will maintain the required files of documents that are withheld by the Commission offices. Maintenance of these files will be in accordance with required retention schedules.

Attachments

## APPENDIX 2

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

ATTACHMENT 1  
TO APPENDIX 2

DATE

MEMORANDUM TO: FOIA/PA Caseworker, XXXXXXXX  
FOIA/PA Section

FROM: XXXXXX  
Legal Counsel  
Office of XXXXXX

SUBJECT: FOIA/PA-13-XXXX

- No records subject to the request.
- Records already publicly available. (Appendix )
- Records being released in their entirety. (Appendix )
- Records being withheld in part. (Appendix )\*
- Records being withheld in their entirety. (Appendix )\*
- Records to be referred to other offices/agencies/companies. (Appendix )
- Ongoing investigation - 7A Certification attached.
- Attached is NRC Form 496, "Report of Staff Resources for Processing FOIA Requests."
- Place released records in PDR.
- Do not place released records in PDR.
- This is a partial response to this request.
- This is the final response to this request.
- This response contains sensitive security information. (Appendix )
- This response does not contain sensitive security information.

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\_\_\_ \*Foreseeable harm statement attached for Exemption 5. Provide a statement for Exemptions 1, 3, 4, 6, 7A and 7C only if not obvious.

\_\_\_ A discretionary release of information was not made in a record(s) subject to this request.

\_\_\_ A discretionary release of information was made in a record(s) subject to this request.

Information was released which would have qualified for withholding under:

Exemption 2

Exemption 5

(check all that apply)

\_\_\_

\_\_\_

\_\_\_ OTHER COMMENTS:

Attachment(s):

As stated

## APPENDIX 2

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Re: FOIA/PA-xxxx-xxxx

### APPENDIX RECORDS ALREADY PUBLICLY AVAILABLE

<u>NO.</u>	<u>DATE</u>	<u>ACCESSION NUMBER</u>	<u>DESCRIPTION/ (PAGE COUNT)</u>
1.	10/14/94	9411040082	Enforcement Notification to Commissioners From Office of Enforcement, Subject: Proposed Imposition of Civil Penalty – \$8,000 (1 page) <b>EXAMPLE</b>

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Re: FOIA/PA-xxxx-xxxx

APPENDIX  
RECORDS BEING RELEASED IN THEIR ENTIRETY  
(If copyrighted identify with \*)

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/ (PAGE COUNT)</u>
1.	02/06/93	E-Mail from J Dyer, NRR to S Collins, RI, Subject: Schedule Conference Call (1 Page) <b>EXAMPLE</b>
2.	05/18/95	*Inside NRC (4 pages) <b>EXAMPLE</b>

## APPENDIX 2

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Re: FOIA/PA-xxxx-xxxx

APPENDIX  
RECORDS LOCATED IN ADAMS BEING RELEASED IN THEIR ENTIRETY  
(If copyrighted identify with \*)

<u>NO.</u>	<u>DATE</u>	<u>ACCESSION NUMBER</u>	<u>DESCRIPTION/ (PAGE COUNT)</u>
1.	04/27/04	MLxxxxxxxx	Letter to Congressman Markey from Chairman N. J. Diaz, Subj: Response to Request for the Declassification of Documents relating to the TMI Accident (1 page) <b>EXAMPLE</b>



## APPENDIX 2

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Re: FOIA/PA-xxxx-xxxx

### APPENDIX RECORDS BEING WITHHELD IN PART

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/ (PAGE COUNT)/EXEMPTIONS</u>
1.	08/26/94	Memo to G. Beveridge, NMSS from J. Grobe, RIII, Subject: Voucher for Professional Services (3 pages) EX. 6 <b>EXAMPLE</b>

## APPENDIX 2

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Re: FOIA/PA-xxxx-xxxx

### APPENDIX RECORDS BEING WITHHELD IN THEIR ENTIRETY

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/ (PAGE COUNT)/EXEMPTIONS</u>
1.	10/13/94	OGC markup of draft Notice of Violation and Proposed Imposition of Civil Penalty (9 pages) EX. 5 <b>EXAMPLE</b>

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Re: FOIA/PA-xxxx-xxxx

### APPENDIX RECORDS TO BE REFERRED TO OTHER OFFICE/AGENCY/COMPANY

<u>NO.</u>	<u>DATE</u>	<u>ENTITY</u>	<u>DESCRIPTION/ (PAGE COUNT)</u>
1.	09/02/96	OE	Memo to L. Chandler, OGC from J. Lieberman, OE, Subject: NOV with attached draft NOV (4 pages) <b>EXAMPLE</b>
2.	10/22/96	Licensee	Letter to J. Smith, NMSS from M. Jones, DOE Subject: corrosion issues (25 pages) <b>EXAMPLE</b>

**(Note to Legal Counsel: When a record is to be referred to a licensee you need to provide the FOIA office with the appropriate licensee contact information (i.e., name, title, company, address, and telephone number if available).**

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Re: FOIA/PA-xxxx-xxxx

### APPENDIX RECORDS CONTAINING SENSITIVE SECURITY INFORMATION

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/ (PAGE COUNT)</u>
1.	1/8/03	Registry of Radioactive Sealed Sources and Devices, Safety Evaluation of Device, Amended in its Entirety, CA0215D102G (7 pages) <b>EXAMPLE</b>

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ATTACHMENT 2  
TO APPENDIX 2

### CERTIFICATION

Upon review of the records subject to the Freedom of Information Act Request (FOIA)\_\_\_\_\_, the documents listed below, or the indicated portions thereof, should be withheld from release under the above reference FOIA request. The undersigned hereby certifies that each document or portion thereof is exempt from public disclosure for the exemption set forth below.

\_\_\_\_\_  
NAME AND OFFICE

\_\_\_\_\_  
DATE

### WITHHELD DOCUMENTS

### EXEMPTION

- 1.
- 2.
- 3.
- 4.
- 5.

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**APPENDIX 3**

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**NOTATION VOTE**

**RESPONSE SHEET**

**TO:** Annette Vietti-Cook, Secretary  
**FROM:** Chairman Burns  
**SUBJECT:** SECY-15-0010: FINAL PROCEDURES FOR HEARING  
ON CONFORMANCE WITH THE ACCEPTANCE  
CRITERIA IN COMBINED LICENSES

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_

Not Participating \_\_\_\_\_

**COMMENTS:** Below \_\_\_\_\_ Attached \_\_\_\_\_ None \_\_\_\_\_

\_\_\_\_\_  
**SIGNATURE**

\_\_\_\_\_  
**DATE**

Entered in "STARS" Yes \_\_\_\_\_ No \_\_\_\_\_

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## APPENDIX 4

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### BASIS FOR DETERMINING VOTING RESULTS

In determining the outcome of Commission votes, the following rules apply:

1. votes from at least a quorum of 3 Commissioners are required to act;
2. a vote to “abstain” may be counted to constitute a bare quorum if there are less than 3 **yes** votes plus **no** votes;
3. action is based on the majority of those participating (**yes** votes plus **no** votes plus the **abstain** votes used for establishing a quorum of 3 Commissioners).

#### Primary Examples:

	Votes		<u>Abstain</u>	Not <u>Particip.</u>	<u>Quorum</u>	<u>Results</u>
	<u>Yes</u>	<u>No</u>				
Case 1	3	0	0	2	Yes	Passes
Case 2	0	3	2	0	Yes	Fails
Case 3	2	2	0	1	Yes	No Action
Case 4	2	2	1	0	Yes	No Action
Case 5	2	1	2	0	Yes	Passes
Case 6	2	1	1	1	Yes	Passes
Case 7	2	1	0	2	Yes	Passes
Case 8	2	0	1	2	Yes	Passes
Case 9	2	0	0	3	No	No Action
Case 10	2	0	2	1	Yes	Passes
Case 11	1	0	2	2	Yes	No Action
Case 12	1	1	0	3	No	No Action
Case 13	2	0	3	0	Yes	Passes

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## APPENDIX 5

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### RESOLUTION OF 2-2 VOTE

As a general matter requests for Commission action will be denied if the Commission vote is 2-2.<sup>1</sup> Therefore, a 2-2 vote will result in:

- a. denial of staff recommendations, except as noted below;
- b. denial of full power operating licenses;
- c. referral of export license applications to the President;
- d. denial of motions in adjudicatory proceedings;
- e. denial of motions for reconsideration challenging Commission adjudicatory orders or other Commission statements having a legal effect;
- f. denial of review of Licensing Board decisions and Director's Decisions under 2.206, even if staff recommends "review";
- g. denial of requests to close Commission meetings or to hold meetings on short notice; and
- h. denial of requests by members of the public to speak at Commission meetings.

Exceptions to this rule include:

- a. The Commission may alter policy decisions which have not been set forth in an adjudicatory order or policy statement. For example, if the Commission previously took the position that the Commission's export licensing responsibilities should be given to the Executive Branch, a 2-2 vote on this would result in a change of that policy to one of the Commission having no position on the matter. This permits the Commission to provide current views on policy matters before Congressional committees, etc.;
- b. If staff has been delegated authority to act by the Commission but as a matter of discretion seeks Commissioner views before taking action (e.g., an enforcement action), the staff may take its proposed course of action;
- c. Commissioner requests for extension of time to respond to staff papers will be granted because under the Commission's procedures such requests are granted unless a majority objects;

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<sup>1</sup> Reference OGC Memorandum of May 25, 1988.

## **APPENDIX 5**

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- d. Sunshine Act transcripts will be released because a majority of the full Commission must support invocation of an exemption;
- e. FOIA appeals will be granted because a majority must support invoking an exemption.

In some cases rather than taking action on a matter that resulted in a 2-2 vote, the Commission may choose to defer a decision until a fifth Commissioner has been appointed.

## APPENDIX 6

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# SPECIALIZED PROCEDURES WHEN COMMISSION REVIEW TIME FOR ADJUDICATORY ACTIONS IS LIMITED

When Commission review time is limited by NRC rules in adjudicatory actions,<sup>1</sup> the following procedures are applied.

1. Prior to or concurrent with the submission of a SECY adjudicatory paper for the Commission's consideration, the originating office (usually the Office of Commission Appellate Adjudication (OCAA) but in some circumstances the General Counsel (OGC)) may seek an extension of time for research, analysis, and/or Commission review. SECY can grant requests for extensions via SECY order. OCAA (or OGC, as appropriate) will draft a SECY order extending the time for Commission review and will notify the Commission by circulating the draft order to the Commissioner Legal Counsel and SECY via e-mail. The Secretary will issue the order as circulated unless a majority of the Commission instructs otherwise. Notification should be made, and a draft order circulated to the Commissioners' Legal Counsel and Chiefs of Staff, and Commissioners directly, if they so elect, no later than 3 business days in advance of the Secretary's action on the Order. If a shorter time period is specified, SECY will ensure that all Commissioner offices have had an opportunity to review the order by contacting each office in person or by telephone prior to the order's issuance.

Extensions of review time requested by a Commissioner after formulation of a majority position will be granted subject to the approval of a majority of the Commission.

2. The Secretary issues an order informing the appropriate Board and the parties of the extension of time for which the Commission extends its review in accordance with 10 CFR 2.346.

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<sup>1</sup> In accordance with the requirements of 10 CFR Section 2.341, within 120 calendar days after the date of a decision or action of a presiding officer or within 120 calendar days after a petition for review of a decision of a presiding officer has been served, whichever is greater, the Commission may review the decision or action on its own motion (*sua sponte*), unless the Commission, in its discretion, extends the time for its review.

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# STAFF REQUIREMENTS MEMORANDUM AND COMMISSION VOTING RECORD

February 3, 2016

MEMORANDUM TO: Victor M. McCree  
Executive Director for Operations

FROM: Annette L. Vietti-Cook, Secretary /**RA**/

SUBJECT: STAFF REQUIREMENTS – SECY-15-0129 – COMMISSION  
INVOLVEMENT IN EARLY STAGES OF RULEMAKING

The Commission commends the staff for providing a timely and thorough response to the Commission's direction to provide a proposed plan for enhanced Commission involvement in the early stages of agency rulemaking. The Commission has approved the staff's specific recommendations that were summarized on page 10 of SECY-15-0129, with the exception of recommendation 8, and subject to the changes and comments below. With respect to recommendation 8, the Commission has neither approved nor disapproved reaffirming the current role of the Committee to Review Generic Requirements (CRGR).

During the pendency of the Commission's deliberations on SECY-15-0129, Congress passed and the President signed Public Law 114-113, including Division D, "Energy and Water Development and Related Agencies Appropriations Act, 2016." The Joint Explanatory Statement accompanying the Act stipulates that a rulemaking plan be prepared for all rulemakings except those exempted by the Commission and directs the minimum content of a rulemaking plan. Consistent with this, and upon its own deliberation, the Commission modifies the template and process proposed by the staff in SECY-15-0129, as follows.

### **Recommendation 1:**

The new rulemaking plan requirement should apply to all rulemaking that is not already explicitly delegated to the staff as a staff delegated rulemaking (the modifier "nonroutine" should not be used).

The staff should make the following revisions to the streamlined rulemaking plan template:

- a. In addition to listing a preliminary priority, a brief discussion regarding the basis for the preliminary priority should also be provided.
- b. The "Description and Scope" section of the template should define the regulatory issue, describe the existing regulatory framework, identify regulatory options and alternatives to rulemaking, and discuss why rulemaking is preferable to these other alternatives.
- c. Include, as an enclosure a summary OGC analysis of legal matters.
- d. Include a section containing a preliminary backfit analysis.

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- e. Include a preliminary assessment of the cumulative effects of regulations (CER), to the extent known, including a description of any early stakeholder engagement upon which this assessment is based.
- f. Include a section on Agreement State considerations.
- g. Include an explicit question to the Commission, and recommendation if desired, on whether ACRS review of the proposed rule is warranted.

The staff should provide draft and final regulatory bases to the Commission for all rulemaking that is not already explicitly delegated to the staff via Commissioners Assistants Notes no less than 10 business days before publication to ensure the Commission is provided an opportunity to assess whether additional involvement is warranted. Consistent with the Joint Explanatory Statement accompanying P.L. 114-113, the staff must obtain prior Commission approval if it wishes to prepare a regulatory basis document before the Commission has approved a rulemaking plan.

### **Recommendation 2:**

The staff should explore ways to minimize the resources necessary to discontinue rulemaking, such as not completing a full regulatory analysis once enough information is gained that a cost-benefit test would not be passed.

### **Recommendations 7 & 8:**

The staff should provide the Commission the criteria and guidance it develops for triggering a Committee to Review Generic Requirements (CRGR) review of a proposed rule.

The staff should inform the Commission if it determines that further process enhancements regarding CRGR would be beneficial after it has been able to assess lessons-learned and feedback from the use of the new guidance and criteria.

### **Additional**

The rulemaking process should include explicit guidance for the staff to raise potential policy issues to the Commission as early as practicable in the rulemaking process, especially in those instances where leadership is not able to resolve significant differences in approach.

cc: Chairman Burns  
Commissioner Svinicki  
Commissioner Ostendorff  
Commissioner Baran  
OGC  
CFO  
OCA  
OPA  
ODs, RAs, ACRS, ASLBP (via E-Mail)  
PDR



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

February 3, 2016

COMMISSION VOTING RECORD

DECISION ITEM:       SECY-15-0129  
TITLE:                 COMMISSION INVOLVEMENT IN EARLY STAGES OF  
                              RULEMAKING

The Commission acted on the subject paper as recorded in the Staff Requirements Memorandum (SRM) of February 3, 2016.

This Record contains a summary of voting on this matter together with the individual vote sheets, views and comments of the Commission.

\_\_\_\_\_  
Annette L. Vietti-Cook  
Secretary of the Commission

Enclosures:  
1. Voting Summary  
2. Commissioner Vote Sheets

cc: Chairman Burns  
Commissioner Svinicki  
Commissioner Ostendorff  
Commissioner Baran  
OGC  
EDO  
PDR

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## VOTING SUMMARY - SECY-15-0129

### RECORDED VOTES

	<u>APPROVED</u>	<u>DISAPPROVED</u>	<u>ABSTAINING</u>	<u>N/P*</u>	<u>COMMENTS</u>	<u>DATE</u>
Chrm. Burns	X				X	11/23/15
Comr. Svinicki	X				X	12/16/15
Comr. Ostendorff	X	X			X	10/30/15
Comr. Baran	X				X	12/02/15

\*Not Participating

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## NOTATION VOTE

### RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary  
FROM: Chairman Burns  
SUBJECT: SECY-15-0129: COMMISSION INVOLVEMENT IN  
EARLY STAGES OF RULEMAKING

Approved  Disapproved  Abstain  Not Participating

COMMENTS: Below  Attached  None

Entered in STARS

Yes

No



\_\_\_\_\_  
Signature

23 November 2015

\_\_\_\_\_  
Date

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### Chairman Burns Comments on SECY-15-0129 “Commission Involvement in Early Stages of Rulemaking”

I commend the staff for providing a timely and thorough response to the Commission's direction. I approve the staff's recommendations in full. I support Commissioner Ostendorff's revisions to the staff's proposed streamlined rulemaking plan template, which would provide a more thorough discussion to inform the Commission's consideration of rulemaking plans.

Some stakeholders have expressed concerns about a perceived lack of involvement of the Committee to Review Generic Requirements (CRGR) in rulemaking activities and the level of rigor of the CRGR's review. I am sensitive to these concerns; however, I am not wholly convinced that expanding the CRGR's role will effectively address them. I do believe, however, that the staff's commitment to develop criteria and guidance for CRGR involvement in rulemaking packages will be a positive step. The staff should provide the Commission the CRGR criteria and guidance for information once they are developed. The staff has also committed to examining the need for further process enhancements regarding CRGR after it has been able to assess lessons-learned and feedback from the use of the new guidance and criteria. If the staff determines that further process enhancements would be beneficial, it should inform the Commission. While I am not convinced that expanding the CRGR charter is the most effective approach at this time, I am open to future enhancement of CRGR's role if warranted.

Finally, I support Commissioner Ostendorff's recommendation that the rulemaking process should include explicit guidance for the staff to raise potential policy issues to the Commission as early as practicable in the rulemaking process, especially in those instances where leadership is not able to resolve significant differences in approach.



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Stephen G. Burns  
23 November 2015

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## NOTATION VOTE

### RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary  
FROM: COMMISSIONER SVINICKI  
SUBJECT: SECY-15-0129: COMMISSION INVOLVEMENT IN  
EARLY STAGES OF RULEMAKING

Approved XX Disapproved  Abstain  Not Participating

COMMENTS: Below  Attached XX None

Entered in STARS

Yes XX

No



\_\_\_\_\_  
Signature

12/16 /15

\_\_\_\_\_  
Date

## APPENDIX 7

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### Commissioner Svinicki's Comments on SECY-15-0129 Commission Involvement in Early Stages of Rulemaking

I approve the broad elements of the staff's recommendation contained in the paper, subject to the amendments and exceptions noted in this vote. The staff's proposal is a solid foundation, but if we begin by thinking about what problems or gaps we are trying to address, it is apparent that some aspects of the staff's proposal fall a bit short. I also do not prioritize conducting rulemakings quickly over conducting them well. As Mahatma Gandhi said: "There is more to life than increasing its speed." Time added up front in the process that enhances informed decision making and results in the pursuit of only those rulemakings that are necessary and justified is time well spent.

I approve the institution of a streamlined rulemaking plan requirement in the form of a SECY paper that would request Commission approval to initiate any rulemaking not already explicitly delegated to the staff as a delegated rulemaking activity, but the modifier of "nonroutine" before "nondelegated" in the staff's proposal is not appropriate. This term is both undefined and scopes the requirement too narrowly. Under this rubric, the Commission would not have received a rulemaking plan SECY paper for the "routine" proposed incorporation by reference of IEEE Standard 603-2009, a matter members of the Commission have found so replete with policy issues that the Commission is conducting a public Commission meeting to explore them. The new rulemaking plan requirement should apply to all rulemaking that is not already explicitly delegated to the staff as a staff delegated rulemaking.

I approve the template for the rulemaking plan (Enclosure 2) subject to the addition of the following elements to the template. The template should include a section for a summary OGC analysis of legal matters. The template should include a section containing a preliminary backfit analysis, including a quantitative estimate of safety benefits. The template should include a section on Agreement State considerations. The template should also require, in the discussion or as separate sections, content explicitly addressing the NRC staff's definition of the regulatory issue, identifying why NRC rulemaking action is necessary, outlining alternatives to rulemaking, presenting any differing views that are currently dividing the staff on the issue, and providing the results of early stakeholder engagement. As the staff acknowledges in SECY-15-0129, these elements were historically contained in the rulemaking plans presented to the Commission and will serve to make the Commission's early involvement in the initiation of rulemaking a meaningfully informed deliberative process – not a ministerial ratification or "rubber stamping" of staff's proposed path forward. In this regard, the staff's definition of the regulatory issue (again, defining what problem we are fixing) and the presentation of possible alternatives to rulemaking (e.g., other regulatory instruments such as updating guidance) are essential to the Commission's decision making process. I further approve rescinding the existing delegations described on page 10 of SECY-15-0129, Items 1.b and 1.c of "Recommendations."

I approve the requirements that staff submit a SECY paper to request Commission approval to discontinue any rulemaking and for approval of any petition for rulemaking determination that recommends rulemaking. These elements flow naturally from, and are consistent with, the new requirement for Commission approval of rulemaking, described above.

I do not propose to disturb the list of currently approved agency rulemaking activities (Enclosure 1), which is unnecessary in light of the Commission's vote early next year on a staff proposal rebaselining the agency's entire scope of work, including ongoing rulemakings. However, I will comment on the repeated representation that the Commission has approved all current rulemaking activities "through the budgeting process." As I noted in my vote on COMSGB-15-

## APPENDIX 7

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0003, "I would be surprised if any of my colleagues could attest that the scant information we receive on proposed and ongoing rulemaking activities provided to us in the budget proposal provides anywhere near sufficient information to opine meaningfully on this question." I continue to hold to this view. I am encouraged, however, by the commitment of the NRC Chief Financial Officer to improving the quality of the agency's budget development process. I look forward to supporting her in this endeavor.

The Commission should not reaffirm the Commission's 2006 direction regarding CRGR and ACRS. With respect to review of rulemaking activities by the Advisory Committee on Reactor Safeguards (ACRS) and the Committee to Review Generic Requirements (CRGR), I agree that not all rulemaking activities should be subject to review by these bodies. It is my observation that the ACRS process with respect to rulemaking review is working reasonably well; at least, any modifications to the process beyond what the staff is already working on would not be a priority over addressing the deficiencies in the CRGR.

In the CRGR, the agency purports to have a process of rigorous internal challenge – a kind of "murder board" if you will – to maintain disciplined defense of, and adherence to, the backfit rule. In my observation, nothing of the kind is happening at the CRGR. We must either quit representing the CRGR this way or reform it to achieve this goal. I suspect that the central problem may be one of composition. Are the members of the CRGR appropriately dispassionate about the staff's backfit analyses or, since the members are, for the most part, Deputy Directors of offices with significant rulemaking activity, is the natural posture more one of "If I let hers go through, she will let mine go through"? We do not know the answer to that question but I do observe that the CRGR has not substantively modified a staff work product presented to them in some years. Based on a quick review, I could not find a single instance of the staff electing to recommend CRGR review of any rulemaking package since the waiver process was approved by the Commission in 2007 – not one, ever. To me, this is telling.

The EDO should task a small group to include representatives from among current CRGR members and also NRC staff from non-program offices, perhaps OCAA or technical staff advisors to the ACRS, to examine this question and propose for the Commission's consideration, changes to the CRGR charter, including, if merited, its purpose and composition.

In its recommendations 4 and 5, the staff elevates form over substance. It is hard to believe that in the Project Aim environment, the staff cries "Uncle" on its own self-imposed administrative burden in processing an Information Paper to the Commission and proposes to demote this work product to a Commissioners' Assistants Note. Rather, the staff should undertake a business process improvement on its processing of Information Papers under Project Aim. This should begin immediately. Rulemaking activities are significant and important. If the staff is in jeopardy of being crushed under the administrative burden of sending an information paper to its own Commission, it should fix that problem systematically rather than providing frivolous recommendations that the Commission vote on demoting this work product to a different one, with a different label on the top of the page. I ponder how former EDO Jim Taylor would have reacted to such a recommendation. I am confident that today's NRC is more than capable of holding to and surpassing the high standards he and other agency leaders historically set and achieved.

I also observe that Commissioners' Assistants Notes are not routinely publicly released. Recategorizing agency work product as the staff proposes has the potential to diminish agency transparency on these topics.

## APPENDIX 7

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I approve moving the due date for the annual submission of the Common Prioritization of Rulemaking process to the CFO to May or June, along with the Information Paper to the Commission. I approve inclusion of the ACRS and CRGR on the distribution for the Information Paper conveying the Rulemaking Activity Plan to the Commission and moving the date for the annual submission of the plan to May or June.

We now have nearly ten years of operating experience with the changes to the rulemaking process adopted in 2006. Although well intentioned, those changes were predicated on a forecasted deluge of rulemaking activity arising from a nuclear renaissance that did not materialize in the way predicted. Based on the voting record adopting those 2006 changes, the Commission appeared to worry that its review and approval process could become too much of a bottleneck, gumming up the orderly execution of agency work. In retrospect, however, the Commission's review and approval may have been providing a natural and appropriate restraint on the pacing and prioritization of embarking on new rulemakings and the effect of the removal of that wicket may have been the greater worry. Be that as it may, we have the chance to take corrective action now. The staff's proposal is a good start but the additional items I have proposed here are necessary in building confidence that the changes will result in the Commission's re-establishing itself, meaningfully and centrally, in one of the most significant authorities enshrined to us by the law – rulemaking.



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Kristine L. Svinicki 16 December 2015



# APPENDIX 7

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## NOTATION VOTE

### RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary  
FROM: COMMISSIONER OSTENDORFF  
SUBJECT: SECY-15-0129: COMMISSION INVOLVEMENT IN  
EARLY STAGES OF RULEMAKING


Approved  Disapproved  Abstain  Not Participating

COMMENTS: Below  Attached  None

#### Entered in STARS

Yes

No

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## APPENDIX 7

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### Commissioner Ostendorff's Comments on SECY-15-0129, "Commission Involvement in Early Stages of Rulemaking"

I want to thank the staff for its thorough assessment of the rulemaking process in response to the SRM for COMSGB-15-0003, also titled "Commission Involvement in Early Stages of Rulemaking." In my vote on COMSGB-15-0003, I applauded the Chairman for initiating this proposal and I believe the staff has proposed a set of reasonable and pragmatic recommendations that, if implemented properly, will better ensure that we are applying our resources judiciously in the rulemaking arena and are only implementing new requirements when appropriately justified. My specific responses to each of the recommendations are provided below.

**Recommendation 1:** *Approve the institution of a streamlined rulemaking plan requirement in the form of a SECY paper that would request Commission approval to initiate any nonroutine, nondelegated rulemaking.*

- a. *Approve the template for the streamlined rulemaking plan.*
- b. *Rescind the delegation of authority in the SRM on COMNJD-06-0004/COMEXM-06-0006, "Streamlining the NRR Rulemaking Process," dated May 31, 2006 (ADAMS Accession No. ML061510316), that gave the Director of NRR the discretion to waive (in consultation with the General Counsel) the development and submission of rulemaking plans.*
- c. *Rescind the delegation of authority in the SRM on SECY-07-0134, "Evaluation of the Overall Effectiveness of the Rulemaking Process Improvement Implementation Plan," dated October 25, 2007 (ADAMS Accession No. ML072980427), that gave the Director of FSME (now merged with NMSS) the discretion to waive (in consultation with the General Counsel) the development and submission of rulemaking plans.*

**I approve Recommendation 1** as it provides a well-understood process to obtain Commission approval for non-routine, non-delegated rulemakings with minimal resource expenditure. However, the staff should revise the template to not only list a preliminary priority, but to also provide a brief discussion regarding the basis for the preliminary priority. Additionally, the "Description and Scope" section of the template should also discuss why rulemaking is preferable to other alternatives such as guidance revisions. I have also proposed additions to the template in my response to Recommendation 7. Additionally, the staff should provide draft and final regulatory bases to the Commission via Commissioners Assistants Notes no less than 10 days before publication to ensure the Commission is provided an opportunity to assess whether additional involvement is warranted.

**Recommendation 2:** *Approve the requirement that staff submit a SECY paper to request Commission approval to discontinue any rulemaking.*

**I approve Recommendation 2**, however, the staff should explore ways to minimize the resources necessary to discontinue rulemaking, such as not completing a full regulatory analysis once enough information is gained that a cost-benefit test would not be passed.

**Recommendation 3:** *Approve the requirement that staff submit to the Commission for approval any PRM determination that recommends rulemaking.*

**I approve Recommendation 3**, however, my approval of this recommendation is separate and distinct from the Commission direction needed for low or medium priority proposed rulemakings to be funded. Separately, as the majority of rulemakings proposed as a result of PRMs are low or medium priority, and are thus likely not to be funded, I do not believe the public is served by "granting" these PRMs. The staff should re-evaluate the process for

## APPENDIX 7

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PRM review to reconcile the granting of a PRM for which the associated rulemaking would likely never come to fruition.

**Recommendation 4:** *Approve submittal of the updated RAP as an enclosure to a CA note (W201100275) and move the due date for the annual submission of the RAP to November (W199500048).*

**Recommendation 5:** *Approve the inclusion of ACRS and CRGR on the distribution for the CA note submitting the RAP to the Commission.*

**Recommendation 6:** *Move the due date for the annual submission of the CPR process to the CFO in May, along with a CA Note to the Commission.*

I approve **Recommendations 4, 5 and 6**, as they represent simple changes to improve efficiency and effectiveness through better communication.

**Recommendation 7:** *Reaffirm the Commission's 2006 Direction that CRGR and ACRS not expand their roles to routinely review proposed rules.*

I approve **Recommendation 7 relative to ACRS review** and note the staff's statement that the Commission can direct the ACRS to review individual proposed rules at their discretion. The staff should include in its RAP template an explicit question to the Commission, and recommendation if desired, whether ACRS review of the proposed rule is warranted.

I approve **Recommendation 7 relative to CRGR review subject to Commission review and approval of criteria for CRGR review of proposed rules as discussed in SECY-15-0129**. I believe CRGR review of proposed rules would provide additional assurance that proposed rules are adhering to Commission expectations regarding backfitting and the use of qualitative factors, but am receptive to the use of a set of well-defined criteria that would provide this assurance while also minimizing expending resources unnecessarily.

**Recommendation 8:** *Determine that the CRGR not expand its role to become involved in resource allocation and rule prioritization.*

I **neither approve nor disapprove Recommendation 8**. In the SRM to SECY-15-0050, "Cumulative Effects of Regulation Process Enhancements and Risk Prioritization Initiative," the Commission expressed its support for the consideration of risk-insights in existing agency processes. While SECY-15-0129 mentions the use of risk insights in the rulemaking prioritization process, it does not explicitly discuss how such insights are used. The staff should inform the Commission of how risk insights are explicitly used in the rulemaking prioritization process, and evaluate whether CRGR review of their use would be beneficial.

Separate from the recommendations provided in SECY-15-0128, I offer for Commission consideration an additional recommendation that the rulemaking process should include explicit guidance for the staff to raise potential policy issues to the Commission as early as practicable in the rulemaking process, especially in those instances where leadership is not able to resolve significant differences of approach. Two recent examples have raised my concern in this area, SECY-15-0065 (Mitigation of Beyond Design Basis Events) and SECY-15-0106 (Incorporation by reference of IEEE-603), both of which were proposed rules for Commission consideration that proposed different requirements for new reactors and operating reactors. In each case, the proposal for different requirements to apply to new and operating reactors should have been provided to the Commission for direction on how to proceed well before the proposed rule stage and perhaps could be raised as a proposed revision to the simplified rulemaking plan.

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## NOTATION VOTE

### RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary  
FROM: Commissioner Baran  
SUBJECT: SECY-15-0129: COMMISSION INVOLVEMENT IN  
EARLY STAGES OF RULEMAKING


Approved XX Disapproved  Abstain  Not Participating

COMMENTS: Below  Attached XX None

#### Entered in STARS

Yes XX

No

  
\_\_\_\_\_  
Signature

12/2/15  
\_\_\_\_\_  
Date

## APPENDIX 7

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### Commissioner Baran's Comments on SECY-15-0129, "Commission Involvement in Early Stages of Rulemaking"

In this paper, the NRC staff provides eight recommendations for enhanced Commission involvement in the early stages of agency rulemaking. I appreciate the staff's thoughtful, thorough, and timely recommendations and approve them all subject to a few clarifications.

Currently, the staff typically submits a brief notation vote paper to the Commission seeking authorization to initiate any non-routine rulemaking. I agree with the staff that standardizing this familiar and effective process makes sense. As the staff emphasizes in the paper, these streamlined rulemaking plans should not become overly time consuming or resource intensive. Lengthy rulemaking plans would delay the rulemaking process and undermine the goal of preventing the significant expenditure of agency resources on rulemakings prior to Commission approval. Therefore, I approve the streamlined rulemaking plan template subject to the following edits: (1) because the Background section will summarize the reason to pursue rulemaking, the Description and Scope section should briefly describe "how the current regulation needs to change" rather than "why", and (2) the template should note that the Costs and Benefits section should not be included if the staff expects that the rule will be necessary for adequate protection.

In addition, the staff paper and draft template do not account for situations in which a notation vote paper presents multiple policy options, including rulemaking and non-rulemaking options. In this common situation, the staff should meet the requirement for a streamlined rulemaking plan by either: (1) including the necessary rulemaking plan information in the body of the options paper or (2) attaching a separate streamlined rulemaking plan to the options paper. Under either approach, the Commission will benefit from the information outlined in the template in its deliberations on the available options without the need for a cumbersome two-step process.

I also agree with the staff that it is unnecessary to expand the role of the Committee to Review Generic Requirements (CRGR) to routinely review proposed rules. As the staff paper explains, CRGR review of draft proposed rules would be duplicative because each of the individual offices represented on the CRGR already concurs on rulemaking packages. Deferring CRGR review until the draft final rule stage also reduces potential delays in the rulemaking process while allowing CRGR to assess any backfit questions with the advantage of public comments received on the proposed rule. I support Chairman Burns' suggestion that the criteria and guidance being developed by the staff for triggering CRGR review of a proposed rule should be provided to the Commission for information.

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## APPENDIX 8

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# PROCEDURES FOR STAFF PRESENTATIONS AT COMMISSION MEETINGS

In the interest of conserving time the following procedures apply to all staff members presenting information at Commission meetings.

1. The presentation should be based on the assumption that Commissioners have read the background paper(s) and are familiar with its content(s).
2. Briefings should cover approximately one-half of the allotted meeting time; the remainder should be reserved for Commission questions and answers.
3. At the outset, briefers should clearly identify the focus of the briefing, should indicate whether there are any safety, security, or emergency preparedness implications, and describe any potential new resource requirements (both personnel and financial).
4. Briefers should summarize background history through emphasis on only the important events.
5. Briefers should not read slides and handouts verbatim and should discuss only the high points on which they wish to focus the Commission's attention.
6. The briefing should be completed within the allotted time.
7. Briefers should follow the Web-based guidance provided by SECY for the preparation of briefing materials; see

[http://www.internal.nrc.gov/SECY/pdf/briefing\\_guidance.pdf](http://www.internal.nrc.gov/SECY/pdf/briefing_guidance.pdf) or

<http://www.internal.nrc.gov/ADM/branding/presentations.html>

A slide template for incorporating the NRC branding logo is also available on this website.

8. A sufficient number of copies of the slides or other relevant written information should be placed in the Commission briefing room 30 minutes before the start of the briefing for the public. See above guidance document for details.
9. The amount of material permitted on a slide is limited due to media streaming and live captioning but the material provided should have substantial content related to the topic. The Commission encourages the use of pictures, video, figures and charts, where relevant, but they should be explained by the presenter.

## **APPENDIX 8**

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10. As a recommended best practice, presenters should minimize the overuse of acronyms. If acronyms are used, they should be included in a list of acronyms in the presenter's slides and explained when first used.



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### NUCLEAR REGULATORY COMMISSION ISSUANCES

The following types of significant Commission adjudicatory decisions are published in NUREG-750, "Nuclear Regulatory Commission Issuances" (NRCI).

1. Orders addressing a significant issue of law or policy, including but not limited to:
  - a. those which apply established rule of law to factual situations significantly different from those in earlier published orders;
  - b. those useful for the historical record;
  - c. those where the Licensing Board decision is modified or reversed by the Commission;
  - d. those not accepting the rationale of previously published decisions.
2. Licensing and enforcement orders issued by the Boards and the Commission that may not address significant legal or policy questions, but are nonetheless significant because of their content (e.g., suspension of licenses, imposition of civil penalties, results of immediate effectiveness reviews, action in cases likely to result in judicial review).
3. Orders applying legal theories or administrative policies in cases not significant by themselves but that contain issues capable of arising again where precedent would be useful (e.g., Seabrook low power operation order addressing financial qualification of applicants for low power operation license CLI-88-10, 28 NRC 573 (1988)).
4. Grants or denials of significant stay motions.

Ordinarily, less significant orders (e.g., orders under 10 CFR 2.346) and minor procedural orders (e.g., extensions of time and scheduling matters) are not published in NRCI.

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## APPENDIX 10

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# SECURITY PROCEDURES FOR CONDUCTING CLASSIFIED MEETINGS/HEARINGS

General --The following guidance is applicable to classified meetings held within NRC space where information up Secret Restricted Data (S-RD) is discussed. Except as noted, all actions are the responsibility of the organization hosting the meeting.

Meetings where Sensitive Compartmented Information (SCI) or Top Secret (TS) Information will be discussed are restricted to a Sensitive Compartmented Information Facility (SCIF) and other special conditions may apply. Please coordinate with Special Security Officer (SSO), Information Security Branch, Office of Nuclear Security and Incident Response (NSIR).

1. Complete Form 876A and indicate that a classified meeting will be held. The Division of Facilities and Security (DFS) in the Office of Administration will provide guidance on locations that meet the classification and size requirements.
2. Obtain an advance list of attendees. Verify NRC staff attendees and non-NRC personnel have appropriate security clearances through the Personnel Security Branch (PSB)/DFS and/or the SSO, as appropriate. Security clearances for non-NRC personnel must be certified (i.e., faxed) to the PSB, at least 5 business days (if possible) before the meeting. The sponsoring office shall verify that all attendees have a need to know for meeting attendance.
3. The level of classified information discussed in any meeting shall not exceed S-RD except when conducted in the SCIFs.
4. DFS will determine whether a survey is required.
5. Cell phones, two-way pagers, and other portable electronic devices shall not be permitted into the meeting room. An office representative should be available prior to the start of the meeting to collect these items.
6. The person conducting the meeting shall advise all attendees of the classification level of the meeting at the beginning of the meeting and each time the meeting reconvenes. Explain to the meeting participants that they should not take notes because of the possibility that these notes might be classified. If notes are necessary, they must be handled as classified until they can be reviewed by an authorized NRC classifier. If someone from outside the NRC has classified notes, they can carry them back to their organization only if they have a courier card, otherwise the NRC will mail or secure-fax the notes to their classified address.
7. The person conducting the meeting must announce, prior to starting, that the following items/articles are prohibited in the room during the meeting/hearing: any electronic equipment that transmits or records such as cell phones, smart phones,

## APPENDIX 10

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tablets, personal computers not accredited by the NRC to process either classified or safeguards information, unclassified agency computers, cameras, personal fitness tracking devices, and items that send or receive a Bluetooth signal. Only a transcription service authorized by DFS may record the meeting.

8. Monitor entrances and exits to the meeting room and note individuals arriving and leaving, making additions or deletions to the attendance list as required. (In the case of additions, verify that the individual is appropriately cleared with the assistance of the PSB, DFS, or NRC SSO, as applicable.)
9. Ensure that no unauthorized personnel enter the meeting room. If urgent messages must be passed to anyone in the meeting, ensure that only an individual with an appropriate level of clearance, and need to know, delivers the message.
10. At the conclusion of the meeting, the person conducting the meeting should:
  - a. Remind attendees of their responsibility to protect the classified information that was discussed during the meeting.
  - b. Be prepared to receive any classified notes taken that may require review for classification, storage, or destruction. Assume control and secure any classified material that will be sent to meeting attendees and ensure that any classified material sent to meeting attendees is sent by secure means.
  - c. Recover all extra copies of classified or sensitive unclassified information handed out during the meeting, as well as all copies not intended for retention by the attendees.
  - d. Ensure that no classified information has been left behind prior to leaving the room. (Check tables, chairs, chalk boards, floors, etc.)
11. If a cleared court reporter has recorded the meeting, ensure that all materials used by the reporter are properly secured in approved NRC space and that subsequent transcription is performed under NRC control.
12. Ensure that all transcription and/or audio tapes are properly classified, marked, protected, and stored. Audio tapes and transcripts being removed from NRC property must be transported by an individual with a courier card and the proper clearance in a locked courier bag.

### **CLASSIFIED MEETINGS THAT IMMEDIATELY FOLLOW UNCLASSIFIED MEETING**

In the event that a classified meeting immediately follows an unclassified meeting in the same room, all in attendance who are not authorized to attend the classified meeting must vacate the room. A list of the attendees authorized to remain for the classified meeting

## **APPENDIX 10**

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must be verified. It is the responsibility of the organization sponsoring the meeting to ensure that only authorized and appropriately cleared persons are in attendance before starting the classified meeting.

## APPENDIX 10

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### **STATEMENT FOR USE AT ALL COMMISSION MEETINGS IN WHICH CLASSIFIED INFORMATION IS TO BE DISCUSSED (E.G. TOP SECRET, SECRET, OR CONFIDENTIAL)**

#### **STATEMENT TO BE READ PRIOR TO THE START OF THE MEETING:**

Today's meeting may include the discussion of (select one) TOP SECRET, SECRET-RD, SECRET, OR CONFIDENTIAL material.

This is a closed meeting under the provisions of the Sunshine Act. Please be advised of the following security considerations in effect for this briefing:

- Classified information may not be shared with others for whom access has not been authorized.
- It is recommended that notes not be taken during the meeting. However, if notes must be taken on information discussed at the meeting, they should be considered as classified and must be appropriately marked and protected.
- Any questions regarding classification of notes taken at this meeting should be referred to the office sponsoring the meeting. The notes will then be returned to the note taker.
- The following items are prohibited in the room during the meeting: any electronic equipment that transmits or records such as cell phones, smart phones, tablets, personal computers not accredited by the NRC to process either classified or safeguards information, unclassified agency computers, cameras, personal fitness tracking devices, and items that send or receive a Bluetooth signal.

#### **STATEMENT TO BE READ AT THE CONCLUSION OF THE MEETING:**

You are reminded that the information discussed at this meeting was (select one) TOP SECRET, SECRET-RD, SECRET, OR CONFIDENTIAL information and of the special handling requirements associated with that information.

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### **STATEMENT FOR USE AT ALL COMMISSION MEETINGS IN WHICH SAFEGUARDS INFORMATION (SGI) IS TO BE DISCUSSED**

#### **STATEMENT TO BE READ PRIOR TO THE START OF THE MEETING:**

This is a meeting in which Safeguards Information will be discussed. Safeguards Information is established under Section 147 of the AEA, and is subject to special protection requirements.

Please be advised of the following security considerations that are in effect for this meeting.

- Safeguards Information may not be shared with others for whom the “need-to-know” has not been established.
- It is recommended that notes not be taken during the meeting. However, if notes must be taken on information discussed at the meeting, they should be considered as SGI and must be appropriately marked and protected.
- Any questions regarding SGI designation of notes taken at the meeting may be referred to the office sponsoring the meeting. The notes will then be returned to the note taker.
- The following items are prohibited in the room during the meeting: any electronic equipment that transmits or records such as cell phones, smart phones, tablets, personal computers not accredited by the NRC to process either classified or safeguards information, unclassified agency computers, cameras, personal fitness tracking devices, and items that send or receive a Bluetooth signal.

#### **STATEMENT TO BE READ AT THE CONCLUSION OF THE MEETING:**

You are reminded that the information discussed at this meeting contained Safeguards Information and of the special handling requirements associated with that information.

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### **STATEMENT FOR USE AT ALL COMMISSION INTERNATIONAL VISITOR MEETINGS IN WHICH SAFEGUARDS INFORMATION (SGI) IS TO BE DISCUSSED**

#### **STATEMENT TO BE READ PRIOR TO THE START OF THE MEETING:**

This is a meeting in which Safeguards Information will be discussed. Safeguards Information is established under Section 147 of the AEA, and is subject to special protection requirements.

Please be advised of the following security considerations that are in effect for this meeting.

- Safeguards Information may not be shared with other foreign nationals for whom the need to know has not been established.
- It is recommended that notes not be taken during the meeting. However, if notes must be taken on information discussed at the meeting, they should be considered as SGI and must be appropriately marked and protected.

Any questions regarding SGI designation of notes taken at the meeting may be referred to the office sponsoring the meeting. The notes will then be returned to the note taker.

- The following items are prohibited in the room during the meeting: any electronic equipment that transmits or records such as cell phones, smart phones, tablets, personal computers not accredited by the NRC to process either classified or safeguards information, unclassified agency computers, cameras, personal fitness tracking devices, and items that send or receive a Bluetooth signal.

#### **STATEMENT TO BE READ AT THE CONCLUSION OF THE MEETING:**

You are reminded that the information discussed at this meeting contained Safeguards Information and of the special handling requirements associated with that information.



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### **STATEMENT FOR USE AT ALL COMMISSION AND INTERNATIONAL VISITOR MEETINGS IN WHICH CLASSIFIED NATIONAL SECURITY INFORMATION IS TO BE DISCUSSED**

#### **STATEMENT TO BE READ PRIOR TO THE START OF THE MEETING:**

This meeting may include a discussion of [select one] SECRET or CONFIDENTIAL National Security Information.

Please be advised of the following security considerations that are in effect for this meeting.

- Restricted Data will not be discussed in this meeting
- Classified National Security Information may not be shared with other foreign nationals for whom access has not been authorized.
- It is recommended that notes not be taken during the meeting. However, if notes must be taken on information discussed at this meeting, they should be considered as classified and must be appropriately marked and protected.
- Any questions regarding classification of notes taken at the meeting may be referred to the office sponsoring the meeting. The notes will then be returned to the note taker.
- The following items are prohibited in the room during the meeting: any electronic equipment that transmits or records such as cell phones, smart phones, tablets, personal computers not accredited by the NRC to process either classified or safeguards information, unclassified agency computers, cameras, personal fitness tracking devices, and items that send or receive a Bluetooth signal.

#### **STATEMENT TO BE READ AT THE CONCLUSION OF THE MEETING:**

You are reminded that the information discussed at this meeting contained [select one] SECRET or CONFIDENTIAL National Security Information and of the special handling requirements associated with that information.

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# APPENDIX 11

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## RECORD OF NON-SUNSHINE ACT DISCUSSIONS

***Caution to Participants: As the Commission explained in its Federal Register notices announcing its intention to implement its 1985 rule change regarding the Sunshine Act, non-Sunshine Act discussions among three or more Commissioners are appropriate and legally permissible only when discussions are preliminary, informal, informational, or "big picture." If such a discussion begins to focus on discrete proposals or issues, such as to cause or be likely to cause individual participating members to form reasonably firm positions regarding matters pending or likely to arise before the agency, the discussion should be halted, and continued only in the context of a Sunshine Act meeting, scheduled in accordance with the requirements of that statute.***

Date: \_\_\_\_\_ Time begun: \_\_\_\_\_ Time ended: \_\_\_\_\_

Topic(s) discussed: \_\_\_\_\_

---

Commissioners present:

Chairman XXXX	<input type="checkbox"/>
Commissioner AAAA	<input type="checkbox"/>
Commissioner BBBB	<input type="checkbox"/>
Commissioner CCCC	<input type="checkbox"/>
Commissioner DDDD	<input type="checkbox"/>

Other Attendees:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

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**CORRESPONDENCE RESPONSE SHEETS**

**CORR:** 15-0074

**CORR:** 15-0074

**COMMISSION CORRESPONDENCE**

**Correspondence Response Sheet**

**Date:** September 25, 2015

**To:** Chairman Burns  
Commissioner Svinicki  
Commissioner Ostendorff  
Commissioner Baran

**From:** Annette Vietti-Cook, Secretary

**Subject:** Letter to Marvin S. Fertel, President and Chief Executive Officer, Nuclear Energy Institute, responds to his letter regarding the Nuclear Regulatory Commission's contingency plan in the event of a lapse of appropriations

**ACTION:** Please comment/concur and respond to the Office of the Secretary by:

**Time:** 5:00 P.M.  
**Day:** Friday,  
**Date:** October 2, 2015

**Comment:**

**Contact:** Michael Norris, OGC  
(301) 415-5441

Entered in STARS Tracking System Yes No

## APPENDIX 12

CORR: 16-0009

CORR: 16-0009

### COMMISSION CORRESPONDENCE

#### Correspondence Response Sheet

**Date:** February 5, 2016

**To:** Chairman Burns  
Commissioner Svinicki  
Commissioner Ostendorff  
Commissioner Baran

**From:** Annette Vietti-Cook, Secretary

**Subject:** Letter to the Honorable Thad Cochran and Harold Rogers submits the NRC's print strategy in response to a request in the Senate Appropriations Committee's Report

**ACTION:** Please comment/concur and respond to the Office of the Secretary by:

**Time:** 5:00 P.M.

**Day:** Friday,

**Date:** February 12, 2016

**Comment:** SRM-PL114-113-7  
Response is due to Congress by 02/16/16.

**Contact:** Darren Ash, OCIO  
(301) 415-7443

Entered in STARS Tracking System Yes No

## APPENDIX 13

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# COMMISSION OFFICE AND STAFF INSTRUCTIONS FOR PROCESSING CONGRESSIONAL REQUESTS FOR DOCUMENTS

### COMMISSION OFFICE AND STAFF INSTRUCTIONS FOR PROCESSING CONGRESSIONAL REQUESTS FOR DOCUMENTS

#### Congressional Association

- Chairman, Oversight Committee
- Member, Oversight Committee
- Individual Member of Congress
- Committee Staff

#### Documents to be released:

- Un-redacted Release
- Redacted Release (based on FOIA/Privacy Act procedures)
- Only publicly available documents

#### Provide documents with the following listing:

- Classified National Security Information
  - Safeguards Information
  - Proprietary Information
  - Privacy Information
  - Sensitive Investigatory Information
  - Sensitive Adjudicatory Information or Attorney-Client Information
  - Sensitive Pre-decisional Information
  - Not Publicly Available, but not of concern if publicly released
  - Publicly Available

#### Cover Letter

- If documents are to be provided and are not to be made public by the requester, please include a statement in the cover letter that documents are sensitive and not to be publicly released. Mark each page of sensitive documents to be provided with "Not for Public Disclosure".

Due Date for Completion of Staff Review: \_\_\_\_\_

OCA Contact: \_\_\_\_\_

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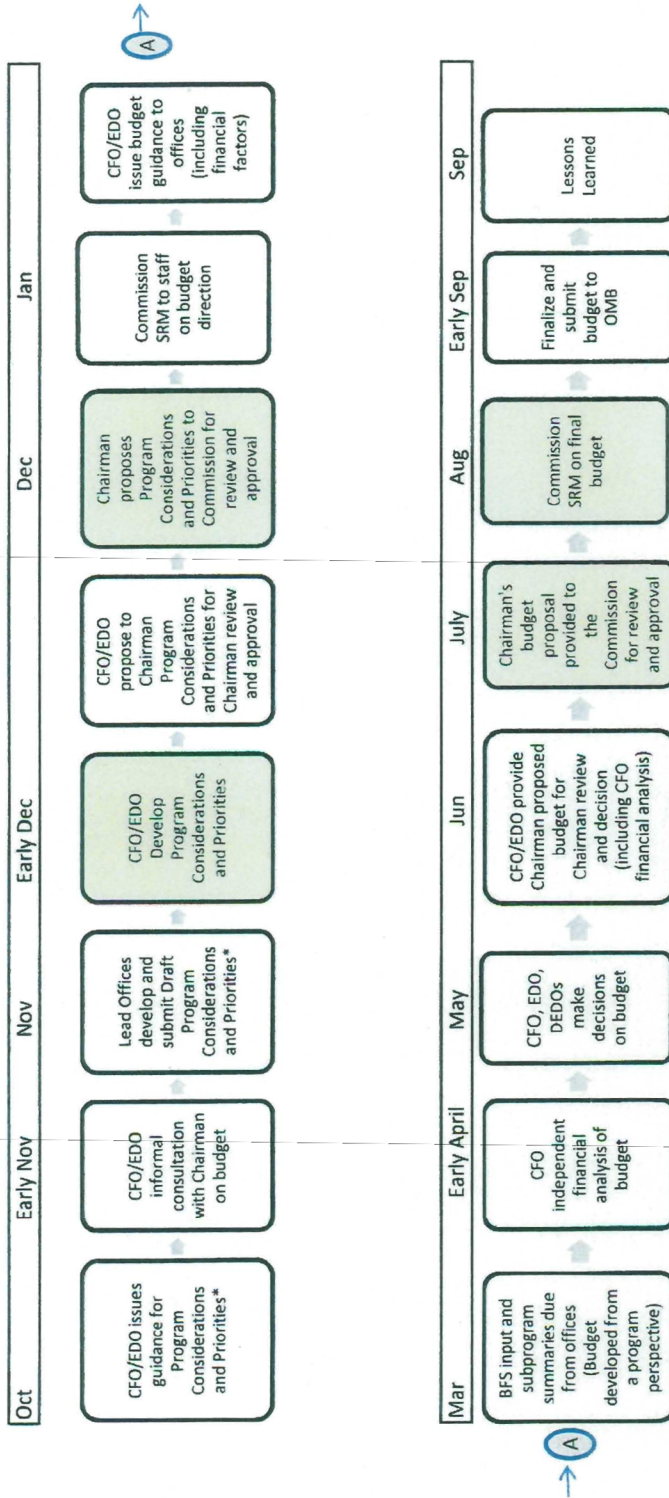
### THE BUDGET PROCESS

As part of the collegial functions, the Commission revises budget estimates and determines the distribution of appropriated funds according to major programs and purposes. As a best practice, the initial step in this process at the Commission level is for the Chairman to provide high-level planning objectives for budget development and prioritization of planned activities to the Commission for review and approval and to provide any other documents used to inform the high-level planning objectives to the Commission for review. This is done prior to the start of the annual budget formulation process. The Chairman is also responsible for initiating the update of the agency Strategic Plan and the Commission's annual review of the Performance Budget; presenting the Strategic Plan, Performance Budget, and Congressional Budget Justification to the Commission for its review and approval; and proposing to the Commission the distribution of appropriated funds according to the agency's major programs and purposes. Upon request of a Commissioner after submission of the Chairman's budget proposal, the Commission shall be provided all budgetary input provided to the Chairman or otherwise used for the purpose of formulating the Chairman's budget proposal.

The following flow chart depicts a budget formulation process that the Commission has found very useful and recommends as a best practice

# APPENDIX 14

## Recommended Budget Formulation Process



\*Program Considerations and Priorities include workload analysis and planning assumptions.

Green shaded cells represent Major Deliverables

## APPENDIX 15

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# LIST OF POSITIONS FOR WHICH THE COMMISSION IS THE AWARDING AUTHORITY FOR PERFORMANCE AWARDS

Specific positions for which the Commission is the awarding authority for performance awards are listed below:

Executive Director for Operations

General Counsel

Secretary of the Commission

Director, Office of International Programs

Director, Office of Commission Appellate Adjudication

Chief Financial Officer

Deputy Chief Financial Officer

Director, Office of Nuclear Reactor Regulation

Director, Office of Nuclear Material Safety and Safeguard

Director, Office of Nuclear Regulatory Research

Director, Office of New Reactor Programs

Director, Office of Nuclear Security and Incident Response