

REQUEST REPLY BY 12/19/99



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

RELEASED TO THE PDR

December 2, 1999

COMSECY-99-037

SECRETARY

2/23/00

RS

date

initials

Approved with attached edits.

Richard A. Meserve

12/22/99

Richard A. Meserve

Date

MEMORANDUM TO:

- Chairman Meserve
- Commissioner Dicus
- Commissioner Diaz
- Commissioner McGaffigan
- Commissioner Merrifield

FROM:

Annette Vietti-Cook, Secretary

Annette Vietti-Cook

SUBJECT:

INTERNAL COMMISSION PROCEDURES

Attached is a proposed revision to Chapter IV "Commission Meetings" of the Commission's Internal Procedures. Chapter IV has been revised to include a process for stakeholder participation in Commission meetings and to include reference to Non-Sunshine Act discussions. May I please have your comments by c.o.b. December 17, 1999.

Attachment:
As Stated

- cc: OGC
- EDO
- CIO
- CFO

DF03

CHAPTER IV

COMMISSION MEETINGS

GOVERNMENT IN THE SUNSHINE ACT

The Government in the Sunshine Act (PL 94-409) requires the collegial agencies of the Federal Government, including the NRC, to open meetings of their Commissioners to public observation except where the subject matter falls within one of the specific categories of exemption. The law is based on the premise that "the public is entitled to the fullest practicable information regarding the decision-making process of the Federal Government." The Government in the Sunshine Act applies to meetings of at least a quorum of Commissioners where deliberations determine or result in the joint conduct or disposition of official Commission business. This Chapter ~~primarily~~ describes procedures ~~only~~ for Commission meetings which are governed by the Sunshine Act, and ~~briefly covers the scope of Non-Sunshine Act discussions.~~ J

The Act favors open meetings. An agency, however, is allowed to close a meeting or portions of a meeting or to withhold information about a meeting or portions of a meeting if the agency determines that the meeting or portions thereof, if opened, or the information, if released, would likely disclose exempted information protected from disclosure under one or more of the 10 exemptions authorized by the Act. A list of these exemptions is contained in 10 CFR Part 9. Determinations to close a meeting require a recorded majority vote of the entire Commission membership.

The Act further requires NRC and similar agencies to publicly announce, at least one week prior to each meeting, its time, place, and subject matter, and whether it is to be open or closed. The agency can provide less than 7 calendar days notice of a meeting, provided a majority of the Commission membership determines by recorded vote "that agency business requires" less notice.

DEVELOPMENT OF COMMISSION SCHEDULE

1. SECY prepares weekly a schedule of Commission meetings from an assessment of the following considerations:
 - a. a projection of anticipated meeting subjects from the EDO;

CHAPTER IV – COMMISSION MEETINGS

Headquarters and Regional Offices. A summary of the schedule for a 6 week period is also released to the *Federal Register* for publication and posted to the NRC Home Page on the World Wide Web.

6. In addition, the Secretary includes in the Commission's agenda scheduling package a listing of projected future meetings, projected and completed Commissioner visits to nuclear power plants and other facilities, schedules of emergency planning exercises, and a 12 month projection of Commissioners' travel and leave.

7. Guidelines for stakeholder participation in Commission meetings:

- (a) In planning Commission meetings, the Office of the Secretary, in coordination with the staff, will identify particular meetings where stakeholders could be invited to speak at a Commission meeting. Emphasis will be given to meeting topics where a decision by the Commission on the topic is required (e.g. a notation vote paper is or will be before the Commission for action).

→ The COMMISSION MAY also schedule, in its discretion, meetings with stakeholders covering a broad range of issues.

- (b) The Office of the Secretary, in coordination with the staff, will prepare a list of stakeholders that could be considered for invitation to brief the Commission. The staff should identify to the Office of the Secretary the stakeholders that have shown interest in the particular meeting topic, along with its views for participation that could assist the Commission in making its decision (e.g. particularly active stakeholders). The list will be distributed to the Commission and discussed as part of Agenda Planning.

- (c) The Commission will decide as part of Agenda Planning who will participate in the Commission meeting. Priority consideration will be given to other Federal Agencies, States, elected officials, tribal governments, organizations that represent a broad spectrum of views that have specific interest in the meeting topic and bring a unique perspective to the briefing, and experts on the subject matter. To the extent practical, the Commission will attempt to balance the interests of the groups represented at the meeting. The Commission's goal of including stakeholders in Commission meetings is to give the Commission information on a cross section of views on a given topic. It is not the intent, nor is it realistic, to try to have every different view on a given topic represented at a meeting. Other organizations and individuals who wish to speak will be encouraged to coordinate common interests with presenters who have agreed to participate, and/or submit written comments for Commission consideration, which will be included as part of the record. The Commission will not normally reconsider a decision

express an interest in speaking

CHAPTER IV -- COMMISSION MEETINGS

on not to invite a stakeholder, assuming that the stakeholder was identified and previously considered in the Commission's deliberations on participation. Should a stakeholder who was not considered ask to speak, the Commission reserves the option to consider whether their addition to the meeting would be helpful to the Commission. Such a request should be made in writing to the Secretary of the Commission 3 weeks in advance of the announced briefing. The written request should be clear on who is being represented and the unique perspective that would be provided at the briefing. Normally, the Commission will finalize the participants for a Commission briefing at least 2 weeks in advance of the meeting.

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(d) The Office of the Secretary will arrange the briefings and invite the participants that have been agreed to by the Commission. Only one speaker will be permitted per party unless the Commission determines that broader participation is desirable and necessary. The length of the meeting will be extended to 2 hours. Outside participants will be grouped into panels as appropriate. The letter of invitation from the Secretary will state that participants should submit written material no later than 5 business days in advance of the meeting and should summarize their key points at the Commission meeting in 5-10 minutes. The amount of time for each speaker will be determined in the context of Agenda Planning. The letter will clearly state if any different deadlines apply. The Commission reserves the right to withdraw an invitation to speak if the written material on the presentation is not provided 5 business days in advance of the meeting date.

(e) NRC staff will submit to the Commission pertinent SECY Papers, or other documents 15 business days in advance of the scheduled Commission meeting. The Commission will be given at least 2 business days to review the staff's meeting materials to determine if they should be released to the outside meeting participants and the public. It is the goal of the Commission to make these documents available to meeting participants and placed in the Public Document Room at least 2 weeks in advance of the Commission meeting. If meeting materials are not received in a timely manner, the Commission meeting may need to be rescheduled.

FORMAT FOR COMMISSION MEETINGS

The Commission has conducted business in both open and closed meetings and in several different meeting formats over the years. Adjustments in style, format, and conduct are


CHAPTER IV -- COMMISSION MEETINGS

classification and sensitivity of the meeting. These records may be released to the public following review and approval by the Commission. The reviews are conducted by the originators, other agencies if involved, Division of Security as needed, OGC, and Commissioners. SECY coordinates the review.

Long-hand minutes are used occasionally to record closed, adjudicatory meetings as permitted by the Government in the Sunshine Act. Minutes are prepared by SECY.

3. Non-Sunshine Act Meetings

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.



CONDUCT OF COMMISSION MEETINGS

1. The Commission desires to start its meetings promptly at the time scheduled. The Chairman or the designated Commissioner can begin a decision meeting as soon as a quorum of Commissioners is present.
2. The Chairman or designated Commissioner may begin non-decision meetings at the time scheduled but not later than 5 minutes after the scheduled start time unless a Commissioner has requested that the meeting be delayed.
3. Meetings are generally informal in nature; the Chairman or the designated Commissioner presides at all meetings and assures equal opportunity for participation and questions by all Commissioners present.
4. On occasion the Commission conducts formal sessions at which representatives of the parties in a particular adjudicatory proceeding are invited to present their positions in an Oral Argument before the Commission. Procedural arrangements are established in advance to determine the issues for discussion and to specify time limits for each Party's presentation.
5. A Commissioner who is unavoidably absent, such as because of medical leave or