

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

**Title: REACTOR OVERSIGHT PROCESS INITIAL
IMPLEMENTATION EVALUATION PANEL
MEETING**

Location: Rockville, MD

Date: Wednesday, November 1, 2000

Pages: 1 - 191

ANN RILEY & ASSOCIATES, LTD.
1025 Connecticut Avenue, N.W., Suite 1014
Washington, D.C. 20036
(202) 842-0034

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

REACTOR OVERSIGHT PROCESS
INITIAL IMPLEMENTATION EVALUATION PANEL MEETING

PUBLIC MEETING

Office of Nuclear Reactor Regulation
Nuclear Regulatory Commission
Room T-8A1
11545 Rockville Pike
Rockville, Maryland

Wednesday, November 1, 2000

LOREN R. PLISCO, Director, Division of Reactor
Projects, Region II, NRC, Panel Chairman, presiding.

1 STAFF AND PRESENTERS:

2 A. RANDOLPH BLOUGH, Director, Division of Reactor Projects,
3 Region I, NRC

4 R. WILLIAM BORCHARDT, Director, Office of Enforcement, NRC

5 KENNETH E. BROCKMAN, Director, Division of Reactor Projects,
6 Region IV, NRC7 SAM COLLINS, Director, Office of Nuclear Reactor Regulation,
8 NRC9 STEVE FLOYD, Director, Regulatory Reform and Strategy,
10 Nuclear Energy Institute11 RICHARD D. HILL, General Manager, Support, Farley Project,
12 Southern Nuclear Operating Company13 ROD M. KRICH, Vice President, Nuclear Regulatory Services,
14 Commonwealth Edison Company

15 ROBERT A. LAURIE, Commissioner, California Energy Commission

16 DAVID LOCHBAUM, Nuclear Safety Engineer, Union of Concerned
17 Scientists

18 STAFF AND PRESENTERS [Continued]:

19 JAMES H. MOORMAN, III, Senior Resident Inspector, Palo Verde
20 Site, NRC

21 CHRIS NOLAN, Enforcement Specialist, NRC

22 LOREN R. PLISCO, Director, Division of Reactor Projects,
23 Region II, NRC24 STEVEN A. REYNOLDS, Deputy Director, Division of Reactor
25 Projects, Region III, NRCA.E. SCHERER, Manager, Nuclear Oversight and Regulatory
Affairs, Southern California Edison Company

JAMES M. TRAPP, Senior Reactor Analyst, NRC

DR. ANDREW BATES, Office of the Secretary of the Commission,
NRC

FRANCIS X. CAMERON, Special Counsel, NRC

JOHN D. MONNINGER, Office of Nuclear Reactor Regulation, NRC

1 [Designated Federal Official]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

ANN RILEY & ASSOCIATES, LTD.
Court Reporters
1025 Connecticut Avenue, NW, Suite 1014
Washington, D.C. 20036
(202) 842-0034

P R O C E E D I N G S

[1:06 p.m.]

1
2
3 MR. PLISCO: Good afternoon. My name is Loren
4 Plisco. I am the Director of the Division Reactor Projects
5 in Region II and the designated Chairman of this panel.

6 I would like to call our first meeting of the
7 Initial Implementation Evaluation Panel. Just a reminder,
8 this is a public meeting. We will provide opportunities to
9 address any public comments or questions at the end of each
10 day.

11 The meeting is being transcribed and we will also
12 issue a set of minutes following the meeting. As we talk
13 about our business later on during the day we will talk more
14 specifically how we will put the minutes together and how we
15 will get those out to you.

16 Before we start, I think it would be proper for us
17 to go around and introduce ourselves, the panel members.
18 Chip?

19 MR. CAMERON: Hi. I'm Chip Cameron. I am the
20 Special Counsel for Public Liaison here at the Commission
21 and I am going to provide some facilitation assistance to
22 you during the meeting, mainly to try to stay out of your
23 way also, but I will be talking a little bit later on about
24 what my function might be because it really equates to some
25 of the things that you might want to think about in terms of

1 not only having a good meeting but good process and good
2 meetings as you proceed on your journey.

3 MR. KRICH: Rod Krich. I'm the Vice President of
4 Regulatory Services at Commonwealth Edison. We seem to be
5 an excellent generation company and excellent nuclear, but
6 that's a little bit down the road.

7 BROCKMAN: Ken Brockman. I am the Director,
8 Division of Reactor Projects in Region IV and one of the
9 carryover members from the pilot program evaluation panel.

10 MR. HILL: Richard Hill, General Manager, Support,
11 Farley Project, with Southern Nuclear Operating Company.

12 MR. NOLAN: I'm Chris Nolan, Enforcement
13 Specialist, representing Bill Borchardt. He is the Office
14 Director.

15 MR. BLOUGH: And I guess Dave Garchow will be --

16 MR. PLISCO: Yes, I'll mention Dave is not going
17 to be here today but he will be tomorrow morning.

18 MR. BLOUGH: And I am Randy Blough, the Director
19 of Reactor Projects in Region I.

20 MR. FLOYD: I am Steve Floyd, Senior Director,
21 Regulatory Reform and Strategy from Nuclear Energy
22 Institution. I am also a repeat panel member from the first
23 panel.

24 MR. MONNINGER: I am John Monninger. I am the
25 Technical Assistant to the Associate Director for

1 Inspections and Programs within NRR. I will be serving as
2 the Designated Federal Official for the panel.

3 MR. TRAPP: I am Jim Trapp. I am a Senior Reactor
4 Analyst in Region I.

5 MR. SCHERER: I'm Ed Scherer and I am responsible
6 for Nuclear Oversight and Nuclear Regulatory Affairs at
7 Southern California Edison with the San Onofre plant.

8 MR. REYNOLDS: I am Steve Reynolds, the Deputy
9 Director for the Division of Reactor Projects, Region III.

10 MR. LOCHBAUM: I am Dave Lochbaum of Nuclear
11 Safety Staff for the Union of Concerned Scientists.

12 MR. MOORMAN: Jim Moorman, Senior Resident
13 Inspector at the Palo Verde site.

14 MR. LAURIE: Bob Laurie, Commissioner, California
15 Energy Commission and State Liaison to NRC.

16 I would note that although the nametag makes
17 reference to "Dr." I am something worse than that. I am a
18 lawyer so don't ask me any questions about it.

19 [Laughter.]

20 MR. PLISCO: And I would also like to mention
21 there is one other member that couldn't be here today. He
22 had a family emergency he called us about this morning --
23 Jim Setser from the State of Georgia, and we'll get the
24 information from this conference to him afterwards.

25 Well, welcome everyone. The panel charter, which

1 is in your booklets in Tab B, directs us to report our
2 results to the Director of Nuclear Reactor Regulation, Sam
3 Collins, so I have asked Sam to kick off our meeting and
4 provide the vision for our effort.

5 MR. COLLINS: I don't have a chair so I am going
6 to speak from the podium and I am going to take my coat off
7 too, so if you feel so inclined, please do.

8 MR. BLOUGH: That's enough for me.

9 MR. COLLINS: As Loren mentioned, I am Sam
10 Collins. I am the Director of the Office of Nuclear Reactor
11 Regulation and I am pleased to welcome you here and to
12 acknowledge your part in this very important process that we
13 have in place.

14 For me, personally, but also as a representative
15 of the Office of Nuclear Reactor Regulation, to acknowledge
16 that the work that has been put in place previously at the
17 time the revised reactor oversight process clarified those
18 attributes that we are looking towards that define success
19 for this program that were formulated in an environment much
20 like we have here today, with stakeholder involvement, is
21 now at a point in its application where we are now testing
22 for insights to be sure that we are in fact on track as we
23 proceed to complete the first implementation phase of the
24 program.

25 I'm careful with my words there because we are not

1 completing the development of the program. This is an
2 evolutionary program and like what we had in the past
3 perhaps, this program is envisioned and developed with those
4 attributes that are necessary to move the program so that it
5 can be responsive to a number of developmental criteria
6 including the evolving performance of the industry, the
7 continuing need for stakeholder involvement, and
8 sensitivities to thresholds and areas where the NRC and the
9 industry needs to have information to ensure that we
10 maintain safety.

11 I believe that Loren and the way that we conduct
12 the panel will be going through the four performance goals
13 that this process was meant to align with -- maintain
14 safety, improve the efficiency and effectiveness and realism
15 of our decisions and our working processes within NRC,
16 reduce unnecessary regulatory burden, and improve public
17 confidence -- as we improve confidence in the regulator as a
18 strong, credible regulator as opposed to improving public
19 confidence in nuclear power, which is the industry and the
20 Department of Energy, NEI will play a role in that obviously
21 and they are represented on the panel, so that is an
22 important distinction.

23 We are in the initial implementation phase. Many
24 of you are familiar with the first panel, which was composed
25 in the formulation of the revised reactor oversight process.

1 We have been through nine units of the pilot
2 program. We have information and data that is available to
3 us. I believe we will be taking advantage of it during the
4 decision and review making process.

5 I would like to commend yourselves in being here.
6 You are amongst a very august group. The group is
7 independent, however. You will notice that amongst
8 yourselves there is no panel member of the NRR staff.

9 Loren was a member of the NRR staff for a year or
10 so ago --

11 MR. PLISCO: Three years ago.

12 MR. COLLINS: Three years ago? Okay. Loren is
13 now in the region so many of the NRC members have cycled
14 through various stages of their performance down in
15 headquarters but the panel is meant to be independent.

16 The panel also is composed of two Jims -- we have
17 an SRA and Senior Resident Inspector. I am anticipating
18 during the conduct of the panel that with Loren's guidance
19 the panel will be soliciting views of peers and that the
20 information that is brought to the table will be facilitated
21 and leveraged by the members of the panel but not solely in
22 exclusion to the panel.

23 We'll ask you to use your resources as the panel
24 themselves agree in order to be sure that the spectrum of
25 stakeholders out there is represented by your involvement.

1 We have continuity. That was another comment on
2 the formulation of this panel. We have four members of the
3 panel who are familiar with the process and have been
4 involved in the initial panel. We have 11 or so members who
5 have fresh perspectives, so there should be again balance
6 and continuity as a result of those processes.

7 There is a vision for this panel and Loren, I
8 guess I would ask if you want to cover that vision in your
9 remarks?

10 I think it's necessary probably right into the
11 panel business. What is important for me to articulate,
12 however, is that we have defined success for the revised
13 reactor oversight process and we have defined success for
14 the panel as far as the conduct of our business and focus.

15 The information, however, and the deliberations
16 and the results will be at the discretion of the panel
17 themselves, as chaired by Loren and facilitated by John
18 Monninger and Chip.

19 Particularly for the new members as you look
20 through that book and as you hear this process, it's
21 probably a little daunting. How are we ever going to
22 provide for this? What is the result going to be? How can
23 it be done?

24 We all have full-time jobs, some of us more than
25 full-time jobs, some more than one full-time job, perhaps,

1 depending on where you are and where your organization is in
2 transition.

3 As Rod would indicate, sometimes who you work for
4 changes depending on where you are in license transfer.

5 MR. KRICH: That's correct -- only to find out you
6 have someone else working for you.

7 MR. COLLINS: So I would encourage you to be
8 efficient and I know Loren will manage it that way, to be
9 forthright in your views. We have worked with Chip a number
10 of times -- excellent facilitator. Chip will ensure that
11 all views are heard and there's balanced representation on
12 the panel. Draw each other out and try to understand the
13 issues that perhaps are behind some of the positions because
14 those are important.

15 This process will touch us all in one form or
16 another after we roll up this meeting, after we roll up this
17 panel and when we continue after the Commission meeting in
18 June of next year and the revised reactor oversight process
19 will have been influenced by yourselves, and certainly the
20 Commission is very interested in the input from this panel
21 and it will be covered in detail at the Commission meeting
22 as an independent input and as a vector, if you will, on the
23 validity of the program and where it should go in the
24 future.

25 So with that, I will turn the meeting back over to

1 Loren and thank you again for the travel time and the use of
2 your resources and by my way of thinking and I know the
3 Staff would agree with that and John Johnson, who is the
4 Senior Manager who is responsible for the Revised Reactor
5 Oversight Process, we again thank you for your participation
6 and we look forward to the results.

7 If there is any way that we can help, Loren is our
8 contact and our continuity and I think we will be observing
9 the process as we go through it but we will be careful not
10 to influence it and that concludes my remarks.

11 If there's any questions I'll be glad to stay and
12 answer those, otherwise I'll observe for a short period and
13 let you get down to business.

14 No questions? I'll turn the meeting back over to
15 Loren.

16 MR. PLISCO: Thanks, Sam.

17 One thing I'd like to do before we move on is just
18 to walk through a little bit about the agenda just to help
19 you out to see what is going to go on this next day and a
20 half.

21 If you have questions in a specific area you can
22 see if we are going to cover them during this or not.

23 The first thing this afternoon we are going to
24 take care of most of the administrative issues and logistics
25 issues and talk about what the role of the committee is.

1 Andy Bates from the Office of the Secretary is going to go
2 over that next, the John Szabo and Susan Fonner from the
3 Office of General Counsel will talk about the legal
4 requirements of the FACA committees and the conflict of
5 interest issues and then John Monninger will talk a little
6 bit about the administrative support and we will just go
7 through things we can help you out with as we go through
8 this process and information will be available and how we
9 can get that information to you.

10 Then we will talk about the bylaws for the
11 committee and establishing ground rules and how we will do
12 our business and fortunately we have a number of members
13 that were on the panel before and I was hoping they could
14 provide some input on what worked and what didn't work in
15 the previous panel and so we can learn from that effort, and
16 then talk about the objectives of the committee,
17 specifically -- and about 4 o'clock, that's really some of
18 the preliminary business that we need to address before we
19 really get started on the meat of the panel activities.

20 This afternoon Bill Dean from the Inspection
21 Program Branch will give us an introduction to where they
22 are at this point in the process and an overview of their
23 performance measures that they are starting to develop,
24 which we'll cover in detail tomorrow, and that is really the
25 morning tomorrow is to go over the individual metrics and

1 performance measures that they have come up with.

2 In the afternoon, we will really look at those and
3 identify any potential issues that we have, questions,
4 concerns, and as we get into the metrics you will find that
5 they are very detailed and there is a lot to absorb and you
6 are not going to be able to do that in one morning and we
7 recognize that. We will provide some other opportunities in
8 our follow-up meetings to look at that and as they collect
9 data too, we'll see real data because with any performance
10 measure sometimes it looks good on paper and then when you
11 see the information that there may be questions on whether
12 it provides any insight or not, and we will have an
13 opportunity to look at it from both viewpoints.

14 Tomorrow afternoon as we wrap up hopefully we can
15 pick some dates for follow-on meetings to accommodate
16 everyone's schedule and maybe decide on those dates tomorrow
17 and do some agenda planning as far as what information we
18 want as a panel to review to come up with our
19 recommendations and conclusions and if there's any specific
20 stakeholders or groups that we would like to hear from we
21 can start asking that tomorrow too, as far as planning out
22 the next three meetings.

23 Any questions on the agenda?

24 [No response.]

25 MR. PLISCO: The other thing I was going to

1 mention as far as the conduct of doing business is as we
2 send out our Federal Register notices we will solicit if
3 there's any other stakeholder that wants to provide input to
4 the panel, either written or orally, if they will contact us
5 and we will get that information to the panel, especially if
6 that is in the written form. We'll get that to you and then
7 raise those during the follow-on meeting. Yes?

8 MR. LAURIE: I guess I have one question on this
9 list of stuff that is in this booklet, and I guess most of
10 this is available on the NRC website with the exception that
11 I didn't see Staff Development and Performance Measures --
12 that just came out October 16th.

13 MR. PLISCO: Yes, that just came out and it is
14 public information. I am just not sure if it is on the
15 webpage yet or not.

16 MR. MONNINGER: The Staff Development Performance
17 Measures, I can't guarantee it is on the web but it is
18 within ADAMS. It is hopefully available within ADAMS and I
19 can check when Bill Deane is here this afternoon. We will
20 ask him whether it is on the web or not.

21 MR. LOCHBAUM: I guess my recommendation would be
22 since ADAMS just is not acceptable that this information as
23 soon as possible be made available on the NRC website.

24 MR. PLISCO: Yes, that is what I think John was
25 going to talk about in his discussion. We are going to set

1 up a webpage and all the information that we look at we are
2 going to make available. We'll put the transcripts on there
3 and anything we review or -- we will put that on the
4 webpage. That's the point.

5 Did that answer your question?

6 MR. LOCHBAUM: Yes.

7 MR. PLISCO: If there's no other questions, is
8 Andy -- there you are.

9 DR. BATES: Hi. I had just a few comments that I
10 wanted to make about the Federal Advisory Committee process.

11 This panel has been chartered under the GSA and
12 NRC regulations in 10 CFR Part 7 as a Federal Advisory
13 Committee. The Federal Advisory Committee Act goes back to
14 1972 when it was first passed and it is intended to open
15 meetings to the public, especially meetings where agencies
16 are getting advice from outside members of the public or the
17 industry, the regulated industry members, the panels that
18 are formed under FACA are supposed to be balanced and not
19 one-sided.

20 The records of the committees are supposed to be
21 all publicly available. The sessions are generally held in
22 open session. If you close a session you have to close it
23 under very specific guidelines in the Act to consider either
24 proprietary material or classified material

25 If you have closed sessions you can separate out

1 that material that is properly closed and the rest of either
2 the meeting, if the material is intertwined, if you can't
3 separate it you close it. If you can separate it, you open
4 everything you can.

5 With the start of President Clinton's
6 Administration there are a number of executive orders that
7 try to put some cost controls on the number of Federal
8 Advisory Committees and how much money they were spending.

9 At the moment there are approximately 850 Federal
10 Advisory Committees across the Government. HHS has got over
11 200 that they run. NRC has got five. We have got the ACRS,
12 the ACNW, the Licensing Support Network Advisory Review
13 Panel, which is dealing with the licensing of Yucca
14 Mountain, and the ACMUI Committee, the Advisory Committee on
15 the Medical Uses of Isotopes.

16 The other four committees have been fairly
17 long-standing NRC committees and they have been in existence
18 for a number of years. This panel and the pilot program
19 panel before this one are really the first of the really
20 short-term panel advisory committees that the NRC has had
21 where the duration of the panel has been a year or less.

22 My role within the agency has been to serve as the
23 Committee Management Officer. I am the liaison between the
24 NRC committees and the GSA. GSA has got the responsibility
25 each year to maintain control of a number of committees,

1 submit a report to the President on how many committees
2 there are, how many meetings are held. GSA has to approve
3 the charters of all of the committee and so from that
4 perspective in the Agency I have got a coordinating role
5 with the other Government agencies, GSA and then also OMB is
6 involved in the costs on committees.

7 John Szabo and Susan Fonner are here from the
8 General Counsel's Office. They also work with OMB and GSA
9 with regard to conflict of interest and ethics issues that
10 sometimes arise with a variety of the committees here in the
11 NRC and that is one of the issues of GSA that watches quite
12 carefully across the agencies and the rest of the
13 Government.

14 If there are any questions I would be happy to
15 answer them, otherwise I will turn it back to Loren.
16 Thanks.

17 MR. PLISCO: Thanks, Andy.

18 That serves as a lead-in to what Andy mentioned, a
19 discussion of our legal requirements of the FACA committees
20 and conflict of interest issues. John Szabo? Susan?

21 MS. FONNER: I am going to start.

22 We are going to talk first a little bit more about
23 the Federal Advisory Committee Act, which I will refer to as
24 FACA -- do these chairs move in?

25 MR. PLISCO: Yes.

1 [Discussion off the record.]

2 We are going to -- John Szabo and I work for the
3 Office of General Counsel, and we both work on matters
4 relating to the Federal Advisory Committee Act.

5 In addition, John, who will speak after me, also
6 deals with ethics and conflict of interest law.

7 If you'll indulge me for one moment, I want to ask
8 a question of the people who are here as committee members.

9 Would you mind raising your hands if you currently
10 work for the Federal Government or have ever worked for the
11 Federal Government?

12 [Show of hands.]

13 MR. LAURIE: I assume the military doesn't count.

14 MS. FONNER: Other than the military.

15 [Show of hands.]

16 MS. FONNER: And how many of you have ever served
17 on an advisory committee before for the Federal Government?

18 [Show of hands.]

19 MS. FONNER: Okay, fewer. I thought perhaps I
20 would ask that question so that I would not assume that you
21 all know the acronyms that we use commonly, or the rules
22 that are involved.

23 This Committee was established under the Federal
24 Advisory Committee Act, and that makes the rules that are
25 applicable to Federal Advisory Committees, applicable to

1 this Committee.

2 As I understand it, you have all been selected as
3 representatives of an outside entity or of a Federal
4 Government agency, which may also be the NRC, of course.

5 That's important for you to know, only because
6 later that is relevant to the conflict of interest rules
7 which John will talk about.

8 As Andy Bates told you, the Federal Advisory
9 Committee Act was enacted in order to provide more openness,
10 more visibility to who is giving the Federal Government
11 advice and recommendations about what it should do about
12 matters that fall under Federal responsibility.

13 A Federal Advisory Committee can be established by
14 statute, and those of you who are familiar with the Agency,
15 know we have one such. It can also be established by an
16 agency, and in this case, that's what happened. The NRC
17 established this group, and an advisory committee is always
18 made up of at least two people, one of whom is not a
19 regular, full-time federal employee.

20 The function of an advisory group such as this is
21 to provide advice or recommendations to the Agency on
22 matters that fall under the Agency's responsibility.

23 So, as a group, that is your function. It really
24 -- the Advisory Committee Act doesn't deal with what the
25 substance is that you're providing advice on; it simply

1 deals with procedures that have to be followed.

2 As Andy and I have both said now, the importance
3 of this is that the Advisory Committee Act established
4 requirements for openness.

5 There are three salient areas of openness: There
6 have to be notice -- notice has to be given of any meeting
7 that is held. And it has to be public notice, and, in fact,
8 it has to be published in the Federal Register.

9 The Federal Register is an organ of the Federal
10 Government in which several different types of things are
11 published. For example, rules are published in the Federal
12 Register, proposed rules and final rules.

13 And meeting notices are published in the Federal
14 Register, and your meeting notices are supposed to appear 15
15 days in advance of your meetings. That sometimes puts some
16 pressure on, because it means that if something comes up at
17 the last minute, it is difficult to give adequate notice.

18 It's true that in emergency situations, you can
19 give less notice, but if something comes up the day before a
20 meeting, it is really difficult to justify not putting that
21 off unless it is an emergency.

22 Meetings generally have to be open. Now, not
23 every meeting is open. Almost all are open.

24 In order to close a meeting, you have to invoke an
25 exemption that is listed in another act known as the

1 Sunshine Act, the Government in the Sunshine Act, which was
2 not enacted for Advisory Committees, but for agencies that
3 are governed by collegial bodies, such as the NRC is.

4 We are governed by a Commission consisting of five
5 members, a Chairman and four other Commission members. That
6 was really the function of the Government in the Sunshine
7 Act, was to regulate those meetings, and to make them as
8 public as possible.

9 And there are a list of exemptions and Andy
10 mentioned two of them: You can close a meeting -- usually
11 it's a session, because meetings usually have several
12 sessions -- that deals with proprietary information.

13 You can close a session of a meeting where you are
14 dealing with matters that would invade a person's personal
15 privacy. I don't know that you would have that kind of
16 situation arise.

17 You might have a proprietary information
18 situation. Classified information is another area that
19 invites closure.

20 In order to close a meeting, it is required that
21 the Office of General Counsel agrees that there is a legal
22 grounds for closing the meeting.

23 My experience is that there really are not too
24 many situations in which there are legal grounds for closing
25 meetings.

1 MR. BLOUGH: Did our predecessor panel on the
2 pilot program have any closed sessions at all?

3 MS. FONNER: I don't recall any. I do not recall
4 that they did.

5 You may run across a situation. As I said, the
6 proprietary information is one areas where conceivably you
7 might run across that, but all of these areas can be rather
8 tricky.

9 And it does require some experience with the
10 exemptions to be able to determine whether they really
11 apply.

12 There is another area in which openness is
13 required, and that is any documents that are made available
14 to or are prepared by the Committee, are supposed to be open
15 to the public.

16 However, that openness, again, has exemptions
17 applied to it. Those exemptions come from another statute,
18 the Freedom of Information Act, which also was not really
19 written for Advisory Committees, but does apply to the
20 Federal Government as a whole.

21 And it also has a list of exemptions. A number --
22 well, I would say that most of the exemptions in the
23 Sunshine Act, which you remember, applies to openness of
24 meetings, and the Freedom of Information Act, which applies
25 to documents, a number of those are the same, but they're

1 not identical, and that sometimes creates a problem.

2 Hopefully, you won't run into this problem. The
3 reason, by the way, that these two statutes apply in those
4 areas is because that is provided in the Federal Advisory
5 Committee Act.

6 So when it says all documents have to be made
7 publicly available, it basically says, but subject to FOIA
8 exemptions, and when it says all meetings must be open, it
9 says but subject to Sunshine Act exemptions.

10 The area in which there can be a problem is
11 dealing with -- and I'm going to just hit this as quickly as
12 I can, because I know it's confusing, but it's important to
13 know about.

14 Under the Freedom of Information Act, in respect
15 to releasing documents, there is an exemption for
16 pre-decisional documents. In other words, for example, the
17 NRC staff writes something for the Commission. It doesn't
18 have to be for the Commission; it can be for an Office
19 Director; that item deals with an issue that needs
20 resolution, and makes a recommendation.

21 As long as no decision has been made, that's a
22 pre-decisional document. That works under FOIA, which
23 stands for Freedom of Information Act, but under the
24 Sunshine Act, there is no exemption for closing meetings as
25 the result of pre-decisional discussions.

1 That creates a tension between the two, and if you
2 are dealing with a -- if there any consideration being given
3 to this Committee dealing with a pre-decisional document,
4 it's important that you consult our Office first.

5 Really, it's going to be your Designated Federal
6 Officer who will -- which is John Moninger, who will consult
7 us, but that is an area where people can easily get tripped
8 up.

9 So, even though you may want to discuss a
10 pre-decisional document, remember that there is a little bit
11 more to it, and the other shoe in this case is that if you
12 discuss the context in the context of an open public
13 meeting, a pre-decisional document, it may make it very
14 difficult for the Agency to withhold that document or at
15 least that part that you have provided the contents of in
16 public.

17 That's why this becomes a difficult area to deal
18 with. And since all your meetings are likely to be public,
19 you can see where you can have a clash here of two different
20 statutes, two different rules, and consequences that are
21 easily overlooked, if you don't focus on them.

22 You may also want to ask about just when is a
23 meeting or a getting together of members of the Committee,
24 subject to FACA and when is it not?

25 There are some situations that are not subject to

1 FACA. But before I mention what some of them, the important
2 ones are, you should be aware that meeting in FACA terms
3 does not only mean physically sitting here in a room
4 together; it can be a telephone conference. It can even be
5 on the Internet, which is trickier.

6 And if you ever need to do that and it does turn
7 out to be a FACA meeting, we will help you figure out how
8 you can make that a public meeting.

9 But you have to be aware that if it needs to be
10 public, something has to be done.

11 The situations in which a meeting is not a meeting
12 is when a few members of a committee are tasked to get
13 together to gather some information.

14 And that may happen because they want to do some
15 research, or they want to talk to someone who has
16 information, and if they restrict themselves strictly to
17 gathering information -- and we're talking about objective
18 information here -- that, under the Federal Advisory
19 Committee Act, is not a meeting subject to the Act.

20 In addition, a meeting where you bring in a party,
21 let's say a few members bring in a party because they want
22 to hear -- it's an outside party, nongovernmental -- they
23 want to hear the views of that party expressed, the
24 individual views of that party, also is not covered by the
25 Federal Advisory Committee Act. But that is not the same as

1 getting together with individual parties, outside parties,
2 and letting them express their views and then having a
3 conversation about, well, what's the right thing to be done?
4 Let's try to work it out.

5 If you get to that juncture, you've crossed over
6 the line. So these meetings that aren't meetings under the
7 Act, are ones that you have to follow strictly and gather
8 information, you can allow people to give individual views,
9 but you cannot step over the line into discussions of, well,
10 let's see if we can reach agreement on what we should do
11 now.

12 I don't mean discussions amongst, but with that
13 outside party you brought in. And that also can be tricky,
14 and it happens sometimes that it raises question.

15 MR. LAURIE: Question?

16 MS. FONNER: Yes.

17 MR. LAURIE: Restrictions on communications
18 amongst ourselves outside of noticed public meetings?

19 MS. FONNER: Outside of noticed public meetings?
20 Well, if what you are doing is deliberating together on what
21 a recommendation, say, to the Commission should be, you may
22 have a FACA meeting there.

23 However, there is another exemption that I did not
24 mention. If you have a small group drawn from the Committee
25 that is tasked with writing a draft document for -- a draft

1 issue paper, for example, that is going to be presented to
2 the Committee, and then the Committee takes over from there,
3 you can do that without having a formal FACA meeting.

4 So what you're doing -- sometimes it takes a few
5 people to get together to write such a document, and if you
6 do that, if that's the purpose of a few of you getting
7 together, it's not a problem.

8 MR. LAURIE: But the restrictions do apply only
9 when we're speaking about specific recommendations, so that
10 if I had questions or I wanted to converse with my
11 colleagues on the panel, am I free to speak with two, three,
12 four, eight, nine, or ten of my fellow panel members?

13 MS. FONNER: About what?

14 MR. LAURIE: About something that I would have
15 learned at the last meeting?

16 MS. FONNER: Well, if you're talking to them to
17 find out, say, what happened at the last meeting, I wasn't
18 able to make it; and they're just telling you what happened
19 at the last meeting, that's not a Committee meeting.

20 If you are telling them something that you learned
21 that you think is relevant to Committee deliberations,
22 that's not an Advisory Committee meeting.

23 But if you started -- you know what the issues are
24 before the Committee. If you start -- if you had -- a group
25 of you went out for drinks together and started talking

1 about, hey, you know, on this issue, I really think what we
2 probably should do is A, and somebody else says, well,
3 that's pretty good, but I think it should modified somewhat,
4 now you're stepping over the line.

5 So you've got to be careful. Now all of that
6 said, what I've just told you may change a little bit in the
7 not-too-distant future, and we will, of course, tell your
8 Designated Federal Officer when those changes come about.

9 We're not sure that they're going to be yet. The
10 GSA, the General Services Administration, which Andy Bates
11 mentioned, is working on new FACA regulations.

12 They are the lead agency in the Government on
13 producing such regulations, and then each agency has their
14 own regulations. NRC has FACA regulations, too, but our
15 regulations, like every other agency that has such
16 regulations, are based on the GSA regulations.

17 GSA has for I don't know how long now, been
18 working on --

19 MR. KRICH: This summer.

20 MS. FONNER: Well, I think longer, working on new
21 regulations, and they sent them out to all the agencies for
22 comments to be made. We made comments; other agencies made
23 comments, and it's taking them a long time to come up with
24 the final regulations.

25 I talked to them early in the Summer, and they

1 said by the end of September, they would have them.

2 I really knew they wouldn't, but that's what they
3 told me. And so I don't know that.

4 I think now they're hoping to have them out by the
5 end of the year. We know what the draft regulations look
6 like, but I was informed that we were not -- nobody except
7 the Office of Management and Budget and, I think, the
8 Department of Justice, are going to see the final
9 regulations in advance of their publication.

10 So, they don't want any more comments, obviously,
11 and for that reason, we don't know what will be in the final
12 regulations. It is possible that the question that I just
13 answered, the answer may change a little bit, depending on
14 what they put in these final regulations.

15 I would say that if the change is -- if there is a
16 change, it's likely to be a loosening up, not a tightening
17 up.

18 MR. KRICH: Let me just ask a clarifying question.

19 MS. FONNER: Yes.

20 MR. KRICH: If I were to pick up the phone and
21 call Steve and Dave, and we were to talk about an issue that
22 we wanted to bring before the whole group?

23 MS. FONNER: Well, if you're talking about an
24 issue, if you're just trying to determine, should this issue
25 be raised to the group, I think it's arguable that it's not.

1 But if you start talking about how that -- you go
2 beyond that and you try to reach some conclusion on how that
3 issue should be approached, I think we're having a problem
4 under the current regulations.

5 MR. KRICH: I understand.

6 MS. FONNER: Okay?

7 MR. REYNOLDS: Let me take that one step further,
8 then. I understand, talking to Dave, but every Friday,
9 Randy and I were on a phone call with NRR, talking about the
10 inspection program.

11 And we often discuss ways to make it better.

12 MR. BLOUGH: That's our normal job in
13 implementation of the revised oversight program.

14 MS. FONNER: But you are NRC employees.

15 MR. REYNOLDS: Right.

16 MS. FONNER: Okay, nothing demands that you stop
17 doing your job as NRC employees, however, you are dealing
18 with an issue that you know is before this Committee, I
19 would be very sensitive to trying to deal with your other
20 Committee members, even those who are NRC employees, on
21 trying to, say, develop a separate position on this.

22 But if it's part of your job to give advice, say,
23 to people in the Region, about issues that arise on matters
24 that are related, I don't think that there is anything that
25 prevents you from doing your job. But you should be

1 sensitive to when you folks as a group, you folks -- by that
2 I mean, those of you who are members of this Committee, get
3 together, that you are members of this Committee, if you
4 know there's an issue before the Committee, trying to work
5 up some kind of resolution to that issue.

6 MR. REYNOLDS: Let me give you another scenario:
7 If Dave and I -- well, we all know what the next meeting
8 where we're going to discuss an issue, can Dave e-mail me
9 his positions, if I don't respond? Is that okay?

10 He says it should be X.

11 MR. PLISCO: I think one of the issues we're going
12 to talk about -- I know there was some experience in the
13 previous panel on how to handle the e-mail traffic, and I
14 think that is one of the things we are going to talk about,
15 is that there was an issue, I think, on the previous panel
16 on how to handle that.

17 MS. FONNER: Okay.

18 MR. PLISCO: They made some decisions on which
19 ones become part of the public record on some of those
20 e-mails.

21 MS. FONNER: You're stepping into an area with
22 this last question --

23 MR. REYNOLDS: If you get a phone call, and they
24 say, I think we ought to go X.

25 Can he call me and tell me that?

1 MS. FONNER: Well, it's a problem there, I think.
2 And so I would recommend that you not do that outside of the
3 various contexts that I have described.

4 If you are working together and trying to frame
5 issues, fine; you can work together with a small group to
6 frame something to bring to the Committee.

7 I think that if you start telling people, well,
8 this is my position, the problem with that is that it could
9 be viewed as you telling him your position, he tells you his
10 position, and the ability to stop at the point and say,
11 okay, you told me yours, I told you mine, goodbye, is really
12 difficult.

13 My experience is that it is hard to end a
14 conversation that way.

15 MR. HILL: Let me ask you a question: Are there
16 any limitations on talking to someone who is not a member of
17 the Committee?

18 MS. FONNER: No. I mean, if you, in the normal
19 course of events, would be talking to somebody outside,
20 that's -- it goes for people who are not government
21 employees, just as much as for government employees, that
22 nobody's asking you to stop doing your regular job.

23 MR. HILL: No, I'm talking about specifically
24 talking about something that's coming up, that isn't
25 discussed in the Committee, issues, whatever, going back and

1 talking with someone that I work with.

2 MS. FONNER: Well, that's actually part of why
3 you're here. You are a representative, so you need to know
4 what the people you're representing think.

5 I had mentioned Designated Federal Official. You
6 all know that's John Moninger, and he has certain functions.
7 I don't know whether he's explained them to you as yet.

8 I know they're covered in your bylaws. He is not
9 here to tell you what you should decide. He's not here to
10 tell you whether what you decide is in the NRC's interests
11 or not.

12 He is monitoring that the meetings don't in
13 advertently get into areas that perhaps it would be better
14 not to discuss in public, because they are, for example, as
15 I said, involving proprietary information, or personal
16 privacy rules, pre-decisional documents, that's -- that is
17 part of his job, to kind of watch for those kinds of things.

18 He also will be present at every meeting, or if he
19 can't be, somebody else will be designated to take his
20 place. He will work with the Chairman to make sure that all
21 of the other procedures that are required are complied with.

22 For example, you are required to have detailed
23 minutes or a transcript of every meeting, and the Chairman
24 -- I hope you've been told already -- has to certify that
25 those are accurate.

1 So, that's part of the job, and he will make sure
2 that somehow your notices that are required to be put in the
3 Federal Register are put out, and any other notices that
4 need to be given.

5 I don't know whether it's worthwhile at this
6 point, my going into any more of this. If any of you have
7 any further questions, I'll be glad to answer them.

8 And with that, I'll turn this over to John.

9 MR. SCHERER: Before you leave, I want to see if I
10 can repeat back what I think I heard, very briefly.

11 I'm free to share with one or more other members
12 of this Committee, my perceptions, my questions, what I
13 think I heard, but I step over the line when I start either
14 agreeing, negotiating, or coming to some conclusion for the
15 report that the Committee will write?

16 MS. FONNER: I would say you are pretty close to
17 what I think I've told you.

18 MR. HILL: Then one step further, he and I could
19 talk about something we wanted to bring to the Committee as
20 an issue to have discussed by the Committee?

21 MS. FONNER: I think you could. Normally, that
22 kind of thing is done in subcommittees, but I think we could
23 justify that.

24 Part of what I think about is what could I defend,
25 if it happens and if we're challenged? And I know I just

1 said I was turning this over to John, but I want -- I think
2 there's something further I should tell you:

3 The Federal Advisory Committee Act, itself, has no
4 sanctions contained in it. It doesn't say that you all go
5 to jail if you do things that it says you shouldn't do.

6 MR. LAURIE: Just the Chairman.

7 [Laughter.]

8 MS. FONNER: Well, I was going to get to the
9 Chairman.

10 [Laughter.]

11 MR. BROCKMAN: We need lawyers.

12 MS. FONNER: No, no. It has nothing of this
13 nature in it. It doesn't fine the agency; it doesn't have
14 any compulsion in it.

15 What, however, has happened, is that the courts,
16 at least some of the courts in this country, have fashioned
17 some sanctions, and the main one is that if a group that is
18 an advisory committee or should have been -- and this
19 usually comes in the context of a group that was never
20 chartered, but it can come up in the context of a chartered
21 group -- does something really in violation of the Act.

22 And somebody comes along and challenges that, the
23 conclusions of that group in court, if the court agrees that
24 what happened was a violation of the Federal Advisory
25 Committee Act, there have been instances in which the court

1 has then said, as a result of this, the agency can't use
2 your advice, can't based any actions it takes on your
3 advice.

4 So if the agency feels it needs that advice, by
5 undertaking actions that are in violation of the FACA, there
6 is a risk that all of the work you've done might go for
7 naught.

8 Why do people bring up FACA in court challenges?
9 Well, it's not because they love FACA, but because they
10 don't like the conclusions you've come to.

11 FACA is almost always used in a case because
12 either somebody who hasn't been invited to the table thinks
13 they should have been, and this their way of telling the
14 agency that they made a mistake in not inviting them to the
15 table, or somebody who doesn't like the conclusion that's
16 been arrived at decides to challenge that conclusion, the
17 actions of the agency in court to prevent the agency from
18 taking those actions.

19 And they have to find some legal grounds for their
20 challenge, and sometimes the legal grounds are FACA.

21 MR. LAURIE: Susan? Most state open meeting laws
22 have exemptions for communications among members less than a
23 quorum.

24 MS. FONNER: There's nothing like that in the
25 federal law.

1 MR. SCHERER: Well that would have to do with ex
2 parte, and you indicated that that isn't an issue.

3 MS. FONNER: I'm not sure. I think what he was
4 saying was that in state laws, if you have less than a
5 quorum of the group together, then no matter what you
6 discuss, there can't be -- you're not subject to the Federal
7 Advisory Committee Act.

8 There's no quorum rule under the Federal Advisory
9 Committee Act, okay? Yes?

10 MR. REYNOLDS: I know that at -- they have daily
11 newsletters. Can he go back after a committee meeting and
12 write up an article about what happened, and some of the
13 issues that are going on?

14 MS. FONNER: Well, he certainly can if it's an
15 open meeting. You can have a reporter here doing the same
16 thing.

17 MR. SZABO: I'm John Szabo, and I'm the --

18 MS. FONNER: Do you want to switch?

19 MR. SZABO: Thanks for inviting us here. I will
20 be brief. I'm in the Office of General Counsel, and every
21 agency has something called the Designated Agency Ethics
22 Official.

23 And for the NRC, the General Counsel has been
24 appointed to that position, and the purpose is to administer
25 the ethics program and that includes a number of things,

1 including counselling, and financial disclosure and
2 training.

3 But for the purpose of this group, if you are
4 already a regular member of the NRC, you already know that
5 you're subject to the standards of conduct, the
6 governmentwide standards of conduct.

7 You're subject to the criminal statutes and
8 conflict of interest, the Hatch Act, and similar laws, as
9 well as the Agency's policies on conflict of interest.

10 However, it's my understanding that the members of
11 this Committee who are not NRC employees, were appointed as
12 what is known as a representative of their industry or their
13 organization; that is you are not picked because of your
14 personal expertise, but you are here to represent the views
15 of your group or your company.

16 And that makes a big distinction under the
17 conflict of interest laws, because by being a so-called
18 representative, you are not subject to those standards of
19 conduct or these criminal conflict of interest laws.

20 If you had been appointed in your personal
21 capacity, you would have been appointed as what is known as
22 a special government employee, and that is a legal term for
23 somebody who is a consultant.

24 And if you are appointed as a special government
25 employee, then you are subject to certain of these standards

1 of conduct, and certain of these criminal statutes.

2 And that would mean you'd also have to file a
3 financial disclosure form, and it would restrict your
4 participation if it involved financial interests as well.

5 You still should be aware of certain rules that
6 you may not be subject to, but from a policy standpoint,
7 should be adhered to, such as we mentioned about disclosure
8 of non-public information, use of government resources for
9 other than the Committee business, and not using your
10 position as a member of this Committee for your personal use
11 or personal benefit.

12 Those are standards of conduct that we are not
13 subject to, but from a policy standpoint, I think you should
14 adhere to.

15 Also part of our job is to provide advice to
16 employees of the Agency or others who have questions
17 regarding the standards of conduct or the conflict of
18 interest laws, so if anybody does have questions during the
19 service that you are performing here, you can always call me
20 or someone in my office who is also a counselor.

21 And that's basically what I want to say, unless
22 there are any questions that anybody has.

23 Yes?

24 MR. BLOUGH: I think this relates to the previous
25 discussion, and excuse me for belaboring this, but in a case

1 where we have the four Regional projects folks here, we talk
2 at least on a weekly basis, usually most of four plus a lot
3 of others on call.

4 In a situation where we're trying to manage the
5 program in the initial implementation, and, say, we think
6 some interim change is needed to the way we, say, implement
7 a procedure we're not -- after having done it for several
8 months, we're not happy with the level of detail in the
9 procedure.

10 So we agree on some additional -- we try to agree
11 on some additional interim guidance to give our inspectors,
12 because we think that's what we need to do our jobs of
13 safety inspections at those plants.

14 That's part of our job, and we might do that in a
15 call that includes us and others. And I guess, you know, it
16 would seem to me that that's all right, as long as we don't
17 take the next step and say, hey, let's take this to FACA or
18 let's present this as a unified position to FACA; we just
19 kind of keep these panels informed -- issues out of that
20 discussion, and just focus it on what we think we need to do
21 to get through the rest of this year of initial --

22 MR. SZABO: Your discussions are among NRC people?

23 MR. BLOUGH: Yes. I was speaking of Ken and
24 Warren and Steve and I, who all have similar jobs in each
25 Region, and we're talking all the time about how to

1 implement it.

2 MR. SZABO: I don't see how that would be a
3 problem.

4 MS. FONNER: The only thing that I can think of is
5 that what you would want to -- I'm sorry, I know it's
6 difficult for you to hear me from this position, but what
7 I'm thinking is that what you don't want to give an
8 impression of, is that the NRC has already reached a
9 conclusion about how it's going to do something.

10 So you would want to make it very clear that this
11 is only an interim measure, interim views that are being
12 discussed, and that this is -- does not reflect at all, what
13 kind of advice might come subsequently from this Advisory
14 Committee.

15 I think you'd want to make that very clear so
16 there is no misunderstanding.

17 MR. KRICH: I have one quick question.

18 MR. SZABO: Sure.

19 MR. KRICH: Through no fault of my own, I'm a
20 registered lobbyist for the State of Illinois. Does that
21 create any conflict?

22 MR. SZABO: No, under these circumstances. Any
23 other questions?

24 MR. MOORMAN: Were you going to talk about any
25 special concerns related to e-mail?

1 MR. PLISCO: John is going to talk about e-mail.

2 MR. MONNINGER: I'm sorry, I didn't hear the
3 question.

4 MR. PLISCO: He was asking the question, are there
5 any special concerns with e-mail, and we're going to talk
6 about how we're going to handle e-mail, and I was hoping
7 that the previous members can talk a little bit about how
8 that was handled as far as what is the e-mail? Is it a
9 public document or not?

10 MR. SZABO: That would be part of then business of
11 disclosure of information. You have to be very careful
12 about that.

13 MR. PLISCO: In today's times, we're going to do a
14 lot of that, I'm sure, using a lot of e-mail in conducting
15 some of our -- especially between meetings, I think. We
16 need to make sure we clarify how we're going to do that.

17 MR. SZABO: I think -- would you like me to pick
18 up now?

19 MR. PLISCO: Yes.

20 MR. SZABO: I think while Susan is still here,
21 maybe we'd first touch on the issue of e-mail. It's my
22 understanding from the previous panel, the PPEP, that they
23 actually did a lot of business or communications through
24 e-mail.

25 And the process that was followed was that once

1 you sent out an e-mail, the entire group is on distribution.
2 If you don't put the entire group on distribution, you can
3 send it to me, and then I will forward it to the entire
4 group.

5 And then it's also my understanding that once a
6 month, Frank Gillespie of the group, they would take all
7 e-mails relating to that past -- the preceding month, and
8 they would forward them down to the Public Document Room so
9 that they became part of the record, and were then
10 available.

11 So it sounds like there isn't a problem with
12 e-mail as long as we do not reach consensus or conclusions,
13 or comments on the other views; is that correct, Susan?

14 MS. FONNER: The only thing that you said that I
15 felt that I needed to comment on really was not what makes
16 it FACA driven. It used to be. For many years we did talk
17 about reaching consensus but the court cases have made it
18 clear that whether you actually reach consensus is not what
19 is critical. It is the act of deliberating on issue,
20 deliberating together on issues, so a lot depends on what
21 the content of the e-mails actually is.

22 If you are e-mailing each other trying to reach a
23 decision on an issue that this committee is addressing, that
24 is very difficult, and I would say that you may in that
25 circumstance have a FACA problem and at the very minimum I

1 would get those e-mails into the public document room as
2 quickly as possible.

3 The problem is of course that you haven't given
4 notice to the public. They did not have -- while they have
5 access to the e-mails they didn't have contemporaneous
6 access. I think it becomes very quickly thereafter -- you
7 probably could defend that and people can always provide, if
8 they read these things and they find out it happened, they
9 always provide their written views on the subject if they
10 disagree, but no member of the public has an absolute right
11 to actually participate in a discussion of that subject in
12 FACA.

13 They may attend. They may provide their written
14 comments on the discussion, but they don't have an absolute
15 right to have time set aside for them or space for the
16 purpose of taking part in the discussion.

17 MR. BROCKMAN: Susan, if I were to summarize that,
18 would it be accurate to say it is information-sharing,
19 distribution of facts. By e-mail that would be fine.
20 That's not a problem.

21 MS. FONNER: That's not a problem.

22 MR. BROCKMAN: If we are negotiating or
23 formulating opinions for recommendations as to what we are
24 going to do, that would be a problem and should not be done
25 by e-mail.

1 MS. FONNER: Well, it is a problem doing it by
2 e-mail. If it is done, obviously if it is done without any
3 notice to the public, there can be a potential problem
4 there.

5 MR. BROCKMAN: I can't imagine we are going to
6 send out a 15 day notice that I am going to send an e-mail
7 to somebody.

8 MS. FONNER: I can't either, and that is why
9 e-mails present a problem.

10 I think if that ever happens the best way of
11 handling it is to get those e-mails into the public document
12 room as quickly as you get your hands on them.

13 MR. BROCKMAN: We can deliberate on agenda items
14 but not on real decision or recommendations the group is
15 going to have.

16 MS. FONNER: Well, what you are talking about is
17 determining what the agenda should be. Is that what you are
18 talking about?

19 MR. BROCKMAN: For an upcoming meeting, maybe we
20 would want to invite a special panel or special group of
21 individuals, someone who has certain views.

22 MS. FONNER: I think that you probably could do
23 that. I think you probably could. It's not a question
24 that -- I think that it is something that is probably
25 doable.

1 MR. BROCKMAN: If it has to do with the
2 information that's a different --

3 MS. FONNER: Right.

4 MR. MONNINGER: You had also mentioned a
5 reasonable timeframe for e-mails. I guess the previous
6 panel did it once a month.

7 Is that appropriate?

8 MS. FONNER: That is what I heard you say. Well,
9 if --

10 [Laughter.]

11 MS. FONNER: If these e-mails are simply exchanges
12 of information, then I would say fine, once a month, but if
13 you look at these e-mails and they really amount to an
14 effort to deliberate on issues before this committee, that
15 is not adequate.

16 MR. PLISCO: Do you want to continue with your
17 admin support?

18 MR. MONNINGER: Once again, I am John Monninger.
19 I have the honor and privilege of serving as your Designated
20 Federal Official, and to the best of my abilities will try
21 to make sure we follow all the guidance and advice and laws
22 and regulations that Susan just outlined for us.

23 I guess first off --

24 MR. HILL: Can I ask a question? We had an
25 introduction of committee members. At this meeting or

1 previous -- or future meetings, would it be appropriate to
2 find out who is here from the public, since this is an open
3 meeting? Is that typical or not typical?

4 MR. MONNINGER: I think given that it will
5 probably be limited attendance, I think it would be very
6 appropriate.

7 I would defer to Loren.

8 MR. PLISCO: I think the other thing we'll do is
9 keep track with the sign-in sheet and who attends the
10 meeting because especially the meetings here, at the NRC,
11 I'm sure there will be people coming in and out too, and we
12 had talked about this in preparation for this meeting, and I
13 am not sure it would be appropriate or even comfortable to
14 keep asking people every time they come in who they are.

15 That is something we can talk about as a group on
16 how we want to do that, whether we just use the attendance
17 sheet to monitor that or how you want to do that, because I
18 think there will be a flow of people depending on once we
19 set up the agendas on things individuals may be interested
20 in and come in and out.

21 MR. SCHERER: That just caused me to have a
22 question now.

23 At ACRS meetings for example from time to time
24 with some of the other panels members of the public will
25 approach the chairman and ask for an opportunity to speak,

1 albeit for a limited appearance.

2 Did that come up before in pilot panel and/or if
3 it comes up here, would it be your attention to allow those
4 opportunities?

5 MR. PLISCO: Yes. I think the other panel -- the
6 previous panel members can talk about that.

7 In the Federal Register notice we -- there is a
8 paragraph at the end that says if someone wants to give us
9 either orally or written to contact John or myself and we'll
10 get that to the panel and then looking at the agenda and how
11 many people want to talk, we'll afford time for them to make
12 a presentation.

13 MR. CAMERON: You may want to revisit this but it
14 sounds like this is an appropriate issue for your discussion
15 of bylaws. You may want to put something in there about how
16 the panel wants to address that.

17 MR. PLISCO: Right, and how did you do that in
18 previous panels?

19 MR. BROCKMAN: It really just was a contact -- it
20 didn't wind up being a problem that I can think of in any of
21 the instances. I mean we didn't have a line going out to
22 Rockville Pike wanting to talk. It was usually just a
23 couple of folk and their information was very valuable and
24 quite welcome.

25 We did everything we could to provide them that

1 opportunity.

2 MR. PLISCO: And my preference was we'll set some
3 time aside at the end of each day to do that, depending on
4 how the session plays out and how we have the agenda to pick
5 the appropriate time to do that.

6 For this meeting --

7 MR. SCHERER: Well, the purpose was to encourage
8 it, so --

9 MR. PLISCO: Yes, and for this meeting we didn't
10 get any requests for oral. We did get one e-mail of a
11 written information which we are going to provide to you.
12 We will give you a copy of that. We'll talk about that
13 later but that's I propose -- I mean any other input on
14 that?

15 MR. MONNINGER: I guess I would continue then just
16 to remind any remaining members from the public to sign in.
17 I'll always take care of the attendance and the roster for
18 the panel members so you don't have to worry about signing
19 in.

20 There are handouts available to the public in the
21 back on the left. They are the same handouts that are in
22 your binders. You will be provided with the handouts so you
23 don't have to worry about picking them up, on the back
24 table.

25 Throughout the meetings and other times I'll fill

1 in all the administrative functions. Some of these I just
2 want to go through -- approve or call any meetings for the
3 panel, approve the meeting agendas in advance. I will make
4 sure they are published in the Federal Register notice.

5 We will also issue press releases. We issued a
6 press release for the first one. I have yet to complete it
7 but we will also have a webpage for the IIEP, for our FACA
8 panel. It will be linked to the Reactor Oversight Process
9 webpage.

10 We will have our transcripts, meeting summaries on
11 there and a lot of other pertinent information.

12 I'll attend all meetings. If for some reason
13 Loren had wanted me to chair the meetings I would chair
14 meetings.

15 I'll notify members in advance of the time and
16 place of each meeting.

17 I will maintain the records of all meetings
18 including the development of the meeting summary for
19 approval of Loren.

20 I will arrange for a court reporter. The court
21 reporter will also provide copies of the transcripts,
22 provide all members a copy of that transcript along with the
23 meeting summary.

24 I will maintain all our official records.

25 I will act as our financial agent. If, for

1 example, we decide to have a meeting out of town, I will
2 arrange for the hotel room, whatever, for our conference.
3 In addition to that, as panel members you are entitled to
4 reimbursement for travel expenses. I will authorize your
5 travel forms and approve you vouchers.

6 I believe I have sent out, except for local
7 travel, which would include Dave Lochbaum and Steve Floyd, I
8 have sent out information on the travel process to all
9 members here.

10 Let me see. There was an issue I guess regarding
11 meetings in the future. A lot of people were interested in
12 the Doubletree. If everyone is interested in a certain
13 hotel or lodging arrangements, what I can do is try to book
14 a set of rooms in advance, especially given the Rockville
15 and DC area, lodging at times can be difficult to come by.

16 The NRC works on WordPerfect as our word
17 processing tool. I imagine the majority of everyone else
18 out there works on Word. What I will do is I will send out
19 two versions of documents. We will have a Word version and
20 we will have a WordPerfect version on all our e-mail
21 correspondence.

22 That is basically what I wanted to try to cover
23 but I am here to provide any additional background
24 information you may need or want, any background information
25 that one member requests I will provide it to all members,

1 and also make sure that it is in the official records for
2 our panel.

3 I'm just looking forward to facilitating and
4 assisting. That's about it.

5 MR. PLISCO: Any admin questions or issues we have
6 I guess to date? We have had a number of questions come up
7 early on. I think John has taken care of those.

8 MR. SCHERER: Just another administrative
9 question. If I wanted to contact the other members of the
10 committee with a brilliant thought that I would just have to
11 share, is it better or easier if I just go through you so
12 that I am sure that every member of the committee gets all
13 correspondence or should be just as free to e-mail directly
14 all members of the committee?

15 MR. MONNINGER: I guess that is one thing we can
16 talk about but Attachment J in your binders has all members'
17 fax numbers, phone numbers, and e-mails, so you do have all
18 the members' e-mails.

19 I have e-mail groups set up and mine will be
20 distributed to everyone. If you would like me to forward
21 your ideas, your thoughts, whatever, to all members, you can
22 send it to me and then I will distribute it or you can feel
23 free to set up a group that all members would have including
24 myself as a Designated Federal Official and I would make
25 sure that that is done.

1 MR. FLOYD: There is one correction to the e-mail
2 list. Richard Hill should be RID Hill.x

3 MR. MONNINGER: Thank you.

4 MR. BROCKMAN: I think that would be a good thing
5 to do, everybody just verify it's right.

6 MR. REYNOLDS: Our mailing address has changed.

7 MR. MONNINGER: What I'll do with the list, I'll
8 get Dave's updated mailing address and correct Richard
9 Hill's e-mail address and if there's any other changes that
10 you are aware of, please let me know and we will
11 redistribute this tomorrow morning then.

12 MR. PLISCO: I propose to take a break now.

13 MR. CAMERON: After the discussion of PACA I think
14 that the Reactor Oversight Process seems a little more
15 simpler.

16 [Laughter.]

17 MR. PLISCO: We will take a 15-minute break.

18 [Recess.]

19 MR. CAMERON: I'll just start. The next item on
20 the agenda is a discussion of bylaws and I thought I would
21 just give a little introduction about my role as
22 facilitator.

23 The Staff has asked me to provide some
24 facilitation assistance to all of you at this meeting and
25 possibly future meetings, but I wasn't joking when I said I

1 don't want to get in your way because you were functioning
2 pretty well this morning and -- or at the beginning of the
3 meeting, rather. It seems like we started this morning --

4 [Laughter.]

5 MR. CAMERON: -- and I always react that way.

6 When you do need some help, I will be here to help
7 you out and generally my role as a facilitator is to help
8 all of you have a more effective meeting and process, and if
9 you break that down into specific functions it is sort of
10 good guide to think about when you think about conducting
11 your meetings.

12 One of the things is to assist in helping you
13 maintain your focus. In other words, what are you trying to
14 accomplish in this process, overall what are you trying to
15 accomplish in the particular meeting that you are working
16 on.

17 Another items is relevance and coherence.
18 Relevance -- discussing the same similar ideas at the same
19 time instead of, you know, the typical meeting can be the
20 multi-headed animal that's gone off in all directions at
21 once. Well, a facilitator can help you to maintain some
22 relevance, to follow some discussion threads and have some
23 coherence to the discussion instead of just everybody
24 offering what I call an unrelated monologue and none of it
25 ties together. Well, a facilitator can help you with that.

1 In terms of relevance, there may be items that are
2 brought up that don't fit squarely into the agenda item that
3 we're on and you use what is called a parking lot -- I am
4 sure all of you have seen this -- where you put those items
5 down that you want to come back to some time during the
6 meeting.

7 A good example is how we are going to handle the
8 public comment. That may be an item that you want to put in
9 the bylaws. It may be that you just want to have an
10 informal agreement on it.

11 Timeliness -- trying to keep you relatively on
12 schedule so that -- not just to be on schedule but so that
13 you can accomplish all the work that you need to get done
14 during the meeting.

15 Opportunity for all to participate has a couple of
16 sides to it -- making sure that one person doesn't
17 unnecessarily dominate the conversation. It may be that the
18 one person that's talking all the time has a lot of good
19 information to offer and people want to hear that. The
20 other side of that is perhaps someone is reticent or has not
21 had an opportunity to get their oar in the water and they
22 want to, making sure that person has some space to
23 participate.

24 Dialogue and communication, that goes back to
25 those discussion threads and to listening to what your

1 colleagues are saying and trying to respond to that.

2 The sort of flip side of that is to make sure that
3 the discussions are clear, and that's more than just do you
4 understand what was said. There may be statements made, and
5 people may not understand that, but you may not ask about
6 that. So, I can pick up on some of those things.

7 The other idea is try to provide a rationale for
8 your statements. You may offer a conclusion, but it's
9 helpful to people to hear the reasons behind that.

10 Question assumptions. I mean, don't -- you know,
11 there's always assumptions in any conversation. Those
12 assumptions may not be correct. So, question assumptions.

13 The other things is I can help you with problem
14 solving. If we're stuck on a particular issue and trying to
15 reach agreement on a particular issue, there may be some
16 creative problem solving that we can do that revolves around
17 well, what's the interest or concern that you're trying to
18 meet, and is there a way that everybody's interest or
19 concerns can be met.

20 I'll also do things like try to keep track of
21 action items. John, of course, he has his laptop here, and
22 he's taking all this down, so that will be useful in terms
23 of our minutes.

24 We did have one action item, I think, from a
25 previous conversation today, is don't just put it in Adam's.

1 Put all the information, all the documents on the web site
2 itself.

3 MR. REYNOLDS: I have got to sneak in the back
4 door with a question.

5 MR. CAMERON: With this, I think we can proceed to
6 the discussion of bylaws. I think the way that Loren wants
7 to go through this is to -- he's going to give you a little
8 tee up, so to speak, of each Roman numeral. I think you
9 want to go to a discussion of that Roman numeral right after
10 you tee it up. Then we'll see if anybody has any problems
11 with that or whether you want to make any changes to it.

12 MR. PLISCO: This was constructed -- fortunately,
13 we had a previous panel, so we plagiarized the previous
14 panel's bylaws. Actually, they plagiarized the bylaws from
15 the GSA web site which provides a sample bylaws for a FACA
16 panel.

17 What I propose to do is a walk-through on the
18 sections that if there's any specific area you want to talk
19 about or questions, we'll go through those. John will keep
20 notes on changes or proposed changes, and if you want to
21 look at it some more later, we'll try to do an overview now.
22 If there's other comments, we'll collect those and then try
23 to finalize these tomorrow.

24 The first section, section one, is just the
25 purpose, and that really comes out of our charter in

1 general, just to provide advice and recommendations to the
2 Director of Office and Nuclear Reactor Regulation on the
3 revised oversight process.

4 The second subparagraph in that just gives us the
5 option to form subgroups since we had that discussion a
6 little bit earlier. If there's specific subject that we
7 want a subgroup to collect information on it, bring it back
8 to the panel, that authorizes us to do that.

9 Section two is just the authority, and recognized
10 it's under the Federal Advisory Committee Act and that we
11 have a charter that's been approved and in place, and you
12 have a copy of that. It's under Tab B.

13 Section three is the membership selection. The
14 first paragraph is just that you've been appointed, and
15 you've all gotten the letters that appoint you to the panel
16 and that you serve as representatives of your organization
17 and to provide your views.

18 One of the issues that we should talk about under
19 this paragraph, and I know it was an issue that came up. I
20 talked to Frank Gillespie, who was the previous chairman,
21 was how you want to handle if you can't make the meeting.
22 Do we want a substitute or no substitute, and how do we want
23 to do that. We've talked to the OGC, and their view is that
24 since you represent an organization, someone else can come
25 in your place and represent the organization and substitute

1 for you.

2 I think in the previous panel, my understanding
3 was, I guess, and the previous members can tell me, that I
4 think you agreed not to do that. Is that correct? I'm not
5 sure what the logic for that was, but I know that was your
6 agreement, I guess, in the previous panel, is not to have
7 substitute members. I'd be interested in your views, and I
8 think that's one of the things we do need to decide and how
9 we're going to do that.

10 We have allowed one in this first meeting because
11 we hadn't come to an agreement, because Bill Borchia wasn't
12 here.

13 MR. KRICH: What was the logic from the PICA?

14 MR. PLISCO: Do you know, Steve? Dave?

15 MR. FLOYD: Well we felt for continuity, we didn't
16 want to -- we thought that it was beneficial to get a
17 certain chemistry going in the meeting and not to disrupt
18 that by having new members come in.

19 MR. BROCKMAN: It became much more important as
20 you went further down the line.

21 MR. FLOYD: Yes.

22 MR. BROCKMAN: Whereas as opposed to the first
23 meeting question, something taking you back isn't quite as
24 much for one, but if we get into four or five meetings and
25 you've got the activities going down, I choose a little bit

1 different words. I don't choose the words reach the
2 supported group. I choose the words more we represent a
3 constituency, which is a little bit of a different
4 connotation than an organizational entity. I think some of
5 our members are much more to representing a constituency as
6 opposed to an organization. That becomes a little different
7 as you build up the information to represent.

8 Of course, then the other side is then that
9 constituency has no representation whatsoever. That didn't
10 become a big problem, and really, the critical thing to do
11 is to make sure that we don't miss meetings. Pick times and
12 try not to do that. There's pros and cons.

13 MR. BLOUGH: If I missed the meeting, I wouldn't
14 be that concerned because, you know, Ken and Steve and Loren
15 are here, but you know, if I was sitting in a meeting and
16 Dave and Bob and Dave, you know, weren't here, I'd feel
17 pretty awkward.

18 MR. LAURIE: So, it really doesn't create a
19 problem for me. For example, if I weren't able to attend,
20 my designated staff person could attend, but maybe they're
21 not able to sit at the table. That's okay, because that
22 only becomes dramatically relevant if we go to vote. So,
23 that doesn't bother me a great deal if you inhibit
24 attendance that way.

25 MR. HILL: That's a good point since it's a public

1 meeting. You could always send somebody to listen and find
2 out what was going on.

3 MR. PLISCO: There's going to be a full transcript
4 of that.

5 MR. CAMERON: It seems like what's on the floor
6 now, it seems that we are discussing this particular issue
7 and membership. What's on the floor is do you want to allow
8 for substitutes, is that correct, and Ken also might have
9 been recommending a change from organization to constituency
10 in the terms of the language itself. It seems like what
11 people are saying is that they do not want substitutes so
12 far. Is that correct? Does anybody want to argue the other
13 side, that if someone can't make it, that they can send a
14 designee?

15 MR. BLOUGH: Bob and Dave, I think, are two key
16 voices.

17 MR. PLISCO: Yes, that's my concern, I think. Bob
18 and Jim Setser is not here. I think it's important, I think
19 even when we schedule the meetings, we don't schedule it
20 obviously that -- there are people that need to be here.

21 I mean, as far as the representative of the
22 constituency, you know, if you're not here, there are no
23 other alternate member. I think they can, you know, speak
24 for your constituency, and I think I would be concerned with
25 that.

1 MR. LOCHBAUM: I think I missed the meeting the
2 first time, not intentionally. I mean, there was a conflict
3 in it. The first one worked out okay. We try to minimize
4 that, but you know, if push comes to shove, I think it just
5 has to happen. I don't mind substitutions. I mean, I wish
6 I had that option, but I don't see that being a problem
7 either way.

8 We had the issue last time. It seemed to work
9 fairly well. People at the table have an interest in the
10 issues. It generally is the answers that brings the people
11 to the table. I think the same thing applies this time.

12 MR. CAMERON: Bob, do you want to say anything
13 more? You sort of implied --

14 MR. LAURIE: Well, I think David needs to have his
15 needs satisfied as far as his membership. I think that's a
16 little bit different than a state of participation. So, I'm
17 able to function, if I'm not able to attend, my staff person
18 can, but again, maybe not sit at the table but that is okay
19 with me. I don't know how other members might feel.

20 MR. TRAPP: I would think they could sit at the
21 table and participate. I think for the SRA functions, there
22 are certainly eight of us, and each of us could probably do
23 equally well here and provide insight. So, I mean, I'd
24 recommend it would be up to the chairman to decide who the
25 substitutes are and whether they'd be acceptable.

1 MR. PLISCO: And actually, that's the recommended
2 bylaws.

3 MR. BROCKMAN: My comment was how we did it last
4 time, not necessarily what I was recommending this time.

5 MR. BLOUGH: It sounds like people maybe can live
6 with just what's written there.

7 MR. PLISCO: Right, and these are words out of the
8 generic bylaws. It's just allowed on a case by case basis
9 and work with me, and I will do that.

10 MR. CAMERON: Let's hear from Ed.

11 MR. SHERER: Let me take a little stronger
12 position. I wasn't on the previous one, and this is my
13 first federal panel, but I've attended enough committee
14 meetings where when we allow alternate, the committee
15 changes over time. I know it puts pressure on me and
16 everybody else around this table, and probably everybody
17 around this table has at least three other things they could
18 be doing or should be doing at any given time. I think I'd
19 rather see the pressure on us.

20 We're only talking about a limited number of
21 meetings over a limited period of time. If I decide that
22 it's more important that I have to be somewhere else, then I
23 have to recognize I'm giving up something, which is my seat
24 at the table, and I can have somebody sitting in the
25 audience, and I can read the transcript and try to get

1 caught up at the next meeting, but I think I'd rather put
2 pressure on myself and the other people sitting around this
3 table, with all due respect, to attend the meeting and
4 participate if we're going to make it valuable.

5 Otherwise, I am concerned that at probably the
6 third meeting, half of the members will be off doing
7 something else because they can have an alternate sit at the
8 table.

9 MR. CAMERON: Does anybody disagree with that? I
10 think it probably articulated what a lot of you were saying.
11 Is there anybody who has a strong position otherwise?

12 I put this as a general rule because one of the
13 things you, I think, need to deal with is what I have up
14 here in quotes, which is quorum, not in terms of the number
15 of people, though we were talking about there's a lot of the
16 NRC folks that if they're not -- there's a lot of NRC folks
17 that one or two of them aren't here, the meeting is, you
18 know, you can still get that information out at the meeting.
19 For example, even though we try to schedule these meetings,
20 everybody looks at their calendar. For example, David, Bob,
21 Ed, others unavoidably cannot come to that meeting. In some
22 cases, committees say well, we're just not going to meet.
23 In other cases, they say send a substitute. In other cases,
24 they may say we're just going to go forward.

25 Anybody have any feelings on that? Is there any

1 case where you have a scheduled meeting, everybody thinks
2 that they can come, but someone can't make it, that you
3 would not go forward?

4 MR. BROCKMAN: Maybe it's just my feeling. Loren
5 is the chair. I'm fully comfortable with letting Loren take
6 a peek at that, and if I've got a concern and say well, I
7 really want to be there, I need to be there. Bob, if you
8 felt that way, this one's important. We're going to discuss
9 a lot of state issues on this meeting, and I need to be
10 there. I can't be there. I've got enough faith that Loren
11 is going to get out and try to negotiate a different day.

12 I'm more than willing to delegate that to the
13 chairman as opposed to setting up some hard and fast ground
14 rules on that where Bob may very well say no, I don't need
15 to be there but because of a ground rule we've established
16 today, we're forced to change the meeting, and it's not
17 really an issue that Bob has on his plate.

18 MR. HILL: I have one other thought.

19 MR. CAMERON: Yes.

20 MR. HILL: A potential situation I have is not
21 whether I want to or not, but I, my boss, and one other
22 individual can't all be gone at the same time. So, I may
23 get caught with the fact that my boss has something else.
24 If I know something is coming up, I guess one alternative, I
25 wonder, is can I send comments ahead of time to John or

1 something like that that could be considered or given to
2 everybody at the meeting or, you know, be able to put input
3 that way.

4 MR. CAMERON: I see everybody shaking their head
5 yes. So, that's you can send comments in ahead of time.
6 Just don't violate PACA.

7 MR. PLISCO: We'll make them part of the record.

8 MR. CAMERON: Anybody else have a thought?

9 MR. NOLAN: The only view I would have is the
10 Office of Enforcement is one of the areas that doesn't have
11 redundancy in its representation on the panel. Bill
12 Borchardt's intention is to attend all of the meetings, but
13 because of his position, he has frequent travel commitments.
14 I will be attending every meeting, so really what you're
15 deciding is in his absence, would I be able to participate
16 to provide the Office of Enforcement's views.

17 Your concerns about consistency, you know, I will
18 be attending every meeting, but really what you're deciding
19 is is if he's out, he could provide his views in writing or
20 he could send a representative. Really, that's one of the
21 things you may want to consider in terms of what you're
22 gaining or losing. I don't think OE feels strongly one way
23 or the other, but that was at least our vision of how we
24 would fully support the panel.

25 MR. HILL: It sort of looks like that could fit

1 into this sentence here, about requesting replacement of a
2 new representative who's unable to fully participate. If
3 you're already expecting going in he's not going to be able
4 to fully participate, maybe the wrong person's on that
5 panel.

6 MR. PLISCO: Yes, I think what he was saying is
7 that this meeting he missed, but he is going to be at the
8 other meetings. He's just saying no matter if Bill's here
9 or not, he's going to be here, I think is what you meant,
10 correct?

11 MR. NOLAN: Let me characterize it. We feel this
12 is very important and we want to fully support it. We don't
13 want any meeting where the Office of Enforcement isn't
14 supported. So, we're building redundancy into it. He plans
15 to be at all meetings.

16 MR. CAMERON: Okay. It seems like we're saying
17 general rule, no substitutes, but in specific situations,
18 whether to go ahead with the meeting or to allow a
19 substitute for someone who unavoidable can't make it, where'
20 going to leave that to the discretion of the chairman?

21 MR. BROCKMAN: Yes.

22 MR. CAMERON: Okay, and what we'll do is we'll
23 revise the charter as necessary tonight, or the bylaws,
24 rather. I'm using the, you know, the royal we, because
25 everybody looks over at John.

1 We'll have a redraft of this for tomorrow morning,
2 and maybe that's the first -- we, yes, we will have it.

3 MR. SHERER: I guess I have just a administrative
4 question. I notice in paragraph, in the earlier paragraphs,
5 the chairman is designated by his NRC title as opposed to as
6 an individual. Is that the intent? Is the position that is
7 chair or you that is chair?

8 MR. PLISCO: I think it was intended to be me as
9 the chair.

10 MR. SHERER: Yes.

11 MR. PLISCO: We can put my name in there.

12 MR. SHERER: If you get promoted to Director, NRR,
13 do you remain chairman, and was the new director, division
14 of reactor project Region II.

15 MR. PLISCO: I'm in until our conclusion.

16 MR. CAMERON: So then the understanding is under
17 purpose is where this designation of chairman was, and I
18 don't know if we need to change the language there, but the
19 understanding that we're working under is that Loren is
20 going to remain as chairman through the entire process. Do
21 we need to change anything there?

22 MR. SHERER: It's just my understanding.

23 MR. CAMERON: Okay. Is there anything else before
24 we move further down? Is there any other comments on what's
25 in the purpose section or what's in the authority section?

1 MR. KRICH: Just one question, I guess. The
2 purpose section says that we will independently monitor.
3 What are we independent of?

4 MR. PLISCO: Independent of the program office, I
5 think is what the intent is.

6 MR. KRICH: Okay, because we didn't know that
7 we're really independent.

8 MR. PLISCO: Yes, the Office of Nuclear
9 Regulation, we're going to hear about that this afternoon
10 when Bill Dean comes in, is developing a process to assess
11 the program and what's going on. We're really going to look
12 at how they're doing that and look at the results. They're
13 going to come to their conclusion, and we may come to a
14 different conclusion, looking at the same information. So,
15 it's really independent.

16 MR. BROCKMAN: As a point of clarification, we
17 just might want to put independently, paren, from the
18 program office, and if anybody else who's not even as close
19 to us would have that question, it would clear up the
20 answers.

21 MR. CAMERON: Isn't it broader than program
22 office? I mean, this group is supposed to provide
23 independent advice to the Commission. Okay, in other words,
24 the Commission isn't here. The Commission representatives
25 or NRC representatives are on the committee to give their

1 viewpoint, but the idea is that the panel would provide an
2 independent report. It wouldn't be -- the report wouldn't
3 be dictated in any way by NRC. So, is independence a
4 broader idea than just program office?

5 MR. REYNOLDS: Part of it is to provide advice and
6 recommendations to the director of NRR, not to the
7 Commission. I think it's the opening remarks who said the
8 purpose for this is to, you know, provide, be independent of
9 NRR. It's kind of hard to be independent of the Commission.

10 MR. LAURIE: No, it's not.

11 MR. CAMERON: Does that take care of your
12 question, and is there a concern here that you want to add
13 some language in about, to modify or to be more precise on
14 independent/

15 MR. KRICH: Yes, that was my concern, just to be
16 precise in here about who are we independent from.

17 MR. SHERER: I agree with Ron. It's the
18 Commission or the NRR.

19 MR. BLOUGH: The Federal Register notice says that
20 we provide advice and recommendations to the Director of
21 NRR.

22 MR. PLISCO: That was words taken directly out of
23 the charter.

24 MR. CAMERON: And he said independent to -- I
25 don't know how you would change the language, but if you

1 said independent instead of NRR, would it be NRC, or do you
2 really want to use NRR? Do you want to use anything?

3 MR. LAURIE: I question how a panel that is
4 substantially made up of NRC employees can be independent of
5 the NRC. There is a majority of NRC employees slash utility
6 membership on this panel. So, either it's the regulator and
7 the regulated plus a few others. Neither the regulator nor
8 the regulated are independent of the regulatory.

9 So, if the definition of independent is capable of
10 being more specific, I would urge that you do that.
11 Otherwise, other people are going to make the same inquiry
12 that I have.

13 MR. KRICH: I think Sam said in his opening
14 remarks also, said you'll notice that there's no one here
15 from -- I think he said the program office? He said the
16 program office?

17 MR. PLISCO: Yes, the same place.

18 MR. CAMERON: Do you need to put a finer point on
19 independent, or do you need the word -- how important is the
20 use of the word independent in here? If you didn't have
21 independently in there, what would it say to people? What
22 would your fears be?

23 MR. LAURIE: Well, my concern is you do have the
24 word independent, which causes people to ask is this the
25 correct description. Then it's appropriate to ask what are

1 you independent from. Well, if you define yourself as
2 independent of the NRC and then you look at the membership
3 of the panel, somebody is going to have to make then
4 secondary or tertiary inquiries in order to establish that
5 such a panel is, in fact, independent. I don't think you
6 necessarily want to have to do that.

7 So, it may serve a valid purpose by being more
8 specific up front. If you're going to claim to be
9 independent, I guess the regs require you to do so, then you
10 may want to consider it.

11 MR. CAMERON: Randy, do you have a suggestion?

12 MR. BLOUGH: I was just thinking we could just say
13 the purpose of our group is cross -- after the word group,
14 to monitor and evaluate, comma, independently of NRR, the
15 results of the first year of the ROP and provide
16 recommendations. So, just make it more precise.

17 MR. PLISCO: That sounds good. I think that was
18 clean.

19 MR. HILL: While we're changing that, is
20 monitoring even appropriate? We're really not going to
21 monitor. We're evaluating, aren't we? Monitoring is kind
22 of an ongoing process evaluation. Are we really going to be
23 doing that?

24 MR. CAMERON: That's a good point that was perhaps
25 raised in my mind when I heard the PACA discussion about

1 response to Randy's question about the four of them talking
2 in terms of doing their job. I mean, is this committee
3 really -- is monitor the right term?

4 Before we go to monitor, whatever we decide on
5 function, is this independent of NRR language that was
6 proposed, however we eventually put that in there, is that
7 suitable for everybody? Does anybody have a problem with
8 that? It may not be a big deal to some of you.

9 MR. BROCKMAN: It is accurate.

10 MR. SHERER: I like the way John has it written.

11 MR. HILL: Technically, is it really ours to
12 change? I mean, what part of it, I mean, we didn't set it
13 up.

14 MR. CAMERON: These bylaws are your bylaws. The
15 one thing you can't change is the charter, and perhaps there
16 would be something that you might do and the bylaws are
17 further down the line that would conflict with the charter,
18 and you'd have to ask yourself if you could do that.

19 The way I understand it, Loren, is that this is a
20 straw man draft for the benefit of all of you around the
21 table to be able to change, you know, delete, add, whatever
22 way you want to do it.

23 MR. HILL: Well, since you bring that up, these
24 exact words are in the charter.

25 MR. PLISCO: Yes.

1 MR. MONNINGER: I think it's consistent with the
2 intent of the charter, though.

3 MR. PLISCO: It is. Well, I don't have a problem
4 with the way it's written, but I mean, for us to say we want
5 to go change that, the purpose of the committee, it doesn't
6 seem like that's within our power to go change what the
7 charter or the purpose of the committee is.

8 MR. HILL: Well, I think we're just clarifying to
9 make sure we understand the intent. I think that's really
10 what the purpose of the discussion was, to do that. I don't
11 think we're in conflict with the charter and what was
12 intended by the charter.

13 MR. PLISCO: By providing that clarification
14 because I think that was --

15 MR. CAMERON: Oh, you mean independent of NRR. I
16 think that's right, but if you went to monitor and, as
17 Richard points out, monitor is in the charter, when you guys
18 get to the next section about what's the scope of your work,
19 you may want to think about, are you really going to be
20 doing anything. We wouldn't change monitor, but are you
21 going to be doing anything that really is monitor?

22 MR. BROCKMAN: And I think that really depends on
23 what we determine monitoring means. If it's going to be
24 maintaining cognizance over the program throughout the next
25 four to six months gathering information that's temporally

1 current and as it's ongoing, and then reaching an assessment
2 at the end, I would propose that that meets, in my opinion,
3 a great many of the tenets that I associated to finding
4 monitor.

5 MR. PLISCO: We are going to get reports from the
6 staff as far as the status of the program and where they are
7 in their self assessment process.

8 MR. CAMERON: Can we defer this, then, and you
9 know, it may be that we don't need to worry about it, but
10 when we get to the committee's scope and objectives, define
11 monitor because as Ken points out, that could be one
12 legitimate way of doing it.

13 MR. PLISCO: Right.

14 MR. CAMERON: Anything -- I guess that either
15 section one, section two, or section three are sort of up
16 for grabs at this point.

17 MR. SHERER: Nowhere do I see a due date for the
18 report.

19 MR. CAMERON: Now, in the charter, the charter
20 says that the committee will function for nine months, and
21 it has three meetings. I know that you may be thinking
22 about more meetings, but is that a point where you want to
23 get to -- you want to probably discuss that when we get to
24 scope, again?

25 MR. PLISCO: Yes, I'm going to talk about

1 scheduling milestones.

2 MR. CAMERON: You're going to open up with that
3 when you get to the objectives and scope?

4 MR. PLISCO: Yes.

5 MR. CAMERON: So, Ed, can we put that up here in a
6 parking lot for when we get there is how long -- the target
7 date for the report, right?

8 MR. PLISCO: Yes.

9 MR. CAMERON: Okay. Anything else on one, two, or
10 three at this point?

11 MR. MONNINGER: I think we have the open issue of
12 a group versus constituency.

13 MR. BROCKMAN: No, we have an open issue of
14 organization versus constituency, and I can live with
15 groups.

16 MR. MONNINGER: It says groups, yes.

17 MR. CAMERON: Yes, and example would be that David
18 represents more than just the organization you knew
19 concerned scientists, but a constituency of groups in the
20 public concerned about nuclear safety. I mean, does anybody
21 want to broaden it to constituency? I mean, David, do you
22 have any --

23 MR. LAURIE: We can issue memberships like that.

24 MR. CAMERON: That's right.

25 MR. LAURIE: It doesn't effect us.

1 [Laughter.]

2 MR. BROCKMAN: I think I'd like to make one
3 comment on Ed's point earlier, though, when we were talking
4 about alternative memberships. The concern that he raised
5 is sometimes these things can get to the point where all of
6 a sudden you look up at the table one meeting and you go, I
7 don't know anybody here. I don't see the need to address
8 that in our bylaws, but I would certainly hope that every
9 person that is here is approaching it with exactly the
10 dedication that he said, I will be here for every meeting
11 unless there is something that isn't, you know, that really
12 precludes me from doing it. If anybody personally questions
13 their capability to do that, then they ought to question
14 whether they should be on this panel, and if that's true,
15 then they ought to recommend a change. I'm done with my
16 speech.

17 MR. PLISCO: And that's what this last sentence in
18 this section really says. It addresses if someone has an
19 issue and they can't, then we need to re-evaluate that if
20 they think they can't support, you know, something comes up
21 and they can't support it, we'll look into it.

22 MR. SHERER: I just want to make the argument for
23 keeping it in here. We're in an outage right now. I had to
24 go into my boss and say I wanted to go to this meeting. If
25 he knew that, which he believed, that there would be an

1 empty chair here, he said okay, go. If he said well, we can
2 find somebody else in Region IV to fill that chair, then it
3 would be a different decision.

4 I want to make it that the harder decision -- I
5 certainly want to give the chairman some flexibility to make
6 sure the right people are sitting around the table, but it
7 is a different context if it's easy for my boss to say well,
8 I want you there for the outage. We're not giving up a
9 chair at the table. We will be able to find somebody in
10 Region IV to fill that spot.

11 MR. CAMERON: In light of that, do you want to say
12 substitutions in extraordinary or unusual circumstances?

13 MR. SHERER: Only with the permission or with the
14 agreement of the chairman.

15 MR. CAMERON: And we already have the discretion
16 of the chairman, but do you want to sort of emphasize?

17 MR. SHERER: I want to emphasize that I'm a
18 representative, and if I don't come, essentially I'm leaving
19 an empty seat unless in special circumstances, I want to
20 give the chairman the right to make a decision, but I want
21 it to be a special circumstance, and the chairman ought to
22 be able to make that decision.

23 MR. CAMERON: Do you want to say for unforeseen or
24 for extraordinary circumstances?

25 MR. BROCKMAN: I don't think you need to define

1 it.

2 MR. HILL: Yes, I think you leave that to his
3 discretion, and that's going to cover everything.

4 MR. CAMERON: And there were terms in the reactor
5 oversight program like this, don't you believe it? I guess
6 we wouldn't want to put anything like that in there. Do you
7 just want to -- I think the philosophy, the understanding
8 that's being expressed here, everybody understands, is a
9 question of whether you want to put anything that sort of
10 shores that up in the charter rather than, or in the bylaws,
11 sorry, other than what's already there?

12 MR. BROCKMAN: I might change one word, which all
13 of us are very legalistic in reading tech specs, if you
14 changed will to may. A lot of way the people just see that,
15 it will read differently as opposed to it's a right for him
16 to allow it. No, it's his option to do it, and just a
17 little thing there my provide the emphasis that you need,
18 Ed.

19 MR. CAMERON: Okay. Anybody else on that
20 sentence? It's not like going, going, gone forever because
21 tomorrow morning, I think you might want to just quickly
22 revisit this.

23 Does anybody have any additions that they want to
24 put into that highlighted sentence that John has up there?

25 MR. HILL: I don't have anything on that sentence,

1 but in the vein we're talking about, the ideal is the
2 further out we can schedule these meetings, the easier it's
3 going to be for us to meet them. I mean, there's no sense
4 in waiting and say well, let's wait and then a month from
5 now, we'll pick our next meeting. If we could go ahead and
6 pick our meetings, you know, all the way out, you know, we
7 would definitely be better off.

8 MR. PLISCO: We're going to try to do that
9 tomorrow.

10 MR. CAMERON: We'll do tomorrow afternoon's agenda
11 planning, schedule several meetings on in advance. Anybody
12 else on the highlighted sentence?

13 MR. KRICH: Can you read that for those of us who
14 are sight impaired? Visually challenged?

15 MR. CAMERON: Do we have a request on the floor?
16 Oh, read what I wrote here? Oh, up there.

17 Membership includes a responsibility to attend the
18 IIEEP meetings personally. Here's the highlighted,
19 substitutions for panel member attendance may be allowed at
20 the discretion of the IIEEP chairman. Anything else on
21 that?

22 All right. Are we ready to move to section four,
23 meeting procedures?

24 MR. LAURIE: I have a question. Looking at the
25 third sentence, items for the agenda may be submitted to DFO

1 for any member. Is that intended to provide discretionary
2 or discretioning the chairman or DFO to add? I would like
3 to see any member have the right to add by submission
4 through the chairman or DFO, even if it may be somewhat
5 inconvenient. I would suggest that it is more appropriate
6 that all of you have a right to be heard. I don't know if
7 that was what the intent of that sentence is, with all due
8 respect to the chairman.

9 MR. CAMERON: Everybody understand what Bob's
10 recommendation is?

11 MR. REYNOLDS: You're saying you may submit it and
12 it will be included?

13 MR. LAURIE: Yes, I would suggest the language be
14 something like any member may submit an agenda item for
15 discussion to be placed on the agenda. Then if you want to
16 add, it has to be submitted through the DFO and/or chairman
17 for administrative purposes, that's okay.

18 MR. CAMERON: Okay, so in other words, if someone,
19 one of the members of the panel thinks that some issue
20 should be discussed as part of the agenda for the next
21 meeting, that they should be able to propose -- not propose
22 it, but they should be able to put that on the table, and it
23 goes on the agenda?

24 MR. LAURIE: Even if such is inconvenient to the
25 rest of the panel, I think any member should have a right to

1 do that.

2 MR. SHERER: Does inconvenient also mean out of
3 scope?

4 MR. HILL: It seems like we should have some check
5 and balance somewhere without just having an open ended, any
6 member can put anything that they want on the agenda.

7 MR. LAURIE: Yes, but the chairman could limit the
8 time discussion to five seconds on anything.

9 MR. HILL: Well, maybe that's the check and
10 balance.

11 MR. BLOUGH: That's how you deal with it. Anyone
12 can bring something, but you know, if it --

13 MR. PLISCO: My understanding of the previous
14 panel is there was a consensus process on the agenda where
15 it was sent out to all the members. Is that how it was
16 done?

17 MR. LAURIE: It might have. I don't remember
18 that. I don't disagree.

19 MR. BROCKMAN: I never remember anything getting
20 scratched. I'm going to get back on my soap box. We need
21 to have trust within the panel. I've got no problem with
22 those words being in there, and believing that everybody
23 here is going to keep the topics focused on what we need to
24 talk about and don't bring up an improper topic. So, I
25 think from the aspects of putting that in there, I support

1 Bob. I'm not worried about somebody bringing something out
2 of the torque.

3 The converse of that is, I'm also not worried
4 about the language not being in there and you being told
5 that you can't put an item on the agenda.

6 MR. CAMERON: Does anybody have a serious
7 disagreement or counterpoint to Bob's suggestion that would
8 basically allow any member of the panel to put an item on
9 the agenda?

10 MR. PLISCO: I think Dave's are the two.
11 Obviously John and I are going to have to work time-wise to
12 make sure the meeting is efficient. We'll have to make some
13 judgments on how much time we provide, depending on how many
14 suggestions we get.

15 MR. SHERER: I would agree with Ken. I think it's
16 a matter of trust, and I would be happy to discuss any
17 subject. I would expect that the DFO and the chairman would
18 look at whether, in fact, a proposed agenda item is outside
19 the scope of this -- the NRC should or should not be
20 disbanded -- we get an opinion before the discussion as to
21 whether that's within or outside the scope of what we would
22 be debating, and then we can move on.

23 MR. LAURIE: That raises a good question. Are
24 there like rules of order? Does Roberts Rule of Order apply
25 so that if somebody wanted to demand that their item be

1 heard and the chairman says no, ordinarily then that's up to
2 the body. So, it can be handled that way.

3 But that leads you to the question of do federal
4 agencies follow procedural rules, likes Roberts Rules?

5 MR. CAMERON: Well some people might say that we
6 don't follow procedural rules, but yes. These committees
7 don't usually operate by firm Roberts Rules of Order, but
8 one of the things that you're trying to do in the bylaws is
9 to anticipate situations that might come up so that you can
10 deal with those. The situation you're talking about here
11 now is what's the authority of the chairman, vis-a-vis
12 individual panel members. I would imagine, if you wanted to
13 put an item on the agenda, if your colleagues -- and you've
14 discussed that and your colleagues didn't think it would be
15 on there and it should be on there, then I imagine that that
16 would be -- there wouldn't be much discussion on that.

17 MR. LAURIE: Well, I don't want to belabor it. Up
18 to this point in my lifetime, I've been a Republican, and I
19 don't necessarily like to see written rules. If they're not
20 necessary, then don't do it. If we don't have to add
21 written rules, then you shouldn't do it.

22 MR. CAMERON: Okay, and we are going to get down
23 later on in the bylaws to the issue of consensus. I think
24 that you're engaged in a collaborative process here, and
25 you're going to be trying to reach a consensus, but we may

1 have to consider several options on how you define
2 consensus, and that definition, I would imagine, would apply
3 to anything the group is doing, including whether a
4 particular item was going to be on the agenda. So, maybe
5 that will take care of it.

6 MR. FLOYD: My recollection, and correct me, but I
7 seem to recall that the last chairman of the PPEP, what they
8 did was typically tried at the end of each meeting kind of
9 sketch out what are the topics for the next meeting, you
10 know, in outline fashion and then ask any of the members of
11 the panel if there's anything that they wanted to add to
12 that. Then if somebody wanted to add something, there was a
13 discussion of whether or not that would be useful or not.
14 It was sort of consensus process for setting the agenda for
15 the next meeting, not that it couldn't change. At least
16 there was a stab at it so when you left one meeting, before
17 you got to the next meeting, which was typically at least a
18 month away, you had some sense of what was going to be
19 discussed.

20 MR. CAMERON: Do you want to say any -- I don't
21 know how John will, how you want to phrase this, but is it
22 any panel member can add agenda items or any panel member
23 can propose agenda items for panel consideration? Bob, you
24 seem to be on this list, so --

25 MR. LAURIE: Yes. I don't think it's add agenda

1 items because well, you tell us. Once the notice is
2 published of the agenda, do federal rules allow you to add
3 items after the notice of the agenda is published?

4 MR. CAMERON: Yes, yes, I think they do.

5 MR. BROCKMAN: Yes, there's open items at the end,
6 open discussion at the end of the meeting for the cats and
7 dogs.

8 MR. CAMERON: It's not that you don't have to
9 rigidly adhere to that agenda, particularly for this panel.
10 I think you have that flexibility.

11 MR. LAURIE: Well, again, if the rest of the
12 members don't see the need to have them add the ability to
13 require an agenda item be added at their request, I
14 certainly don't need it.

15 MR. CAMERON: Go ahead, John.

16 MR. MONNINGER: I guess a point of information, I
17 was reading through the regs here. This is Part 7 of 10
18 C.F.R. They're the NRC's regulations. Basically, it's
19 under DFO designated federal official 7.11. All meetings of
20 an NRC advisory committee must be convened or approved by
21 the committee's DFO, and the agenda for each committee
22 meeting must be approved by that individual. So, that's
23 according to our regulations, that the agenda for the
24 meeting would have to be approved.

25 Now, I guess it's a question of submitting topics,

1 and what would the DFO do not to approve a topic that was
2 submitted by a committee member. So, I'm not sure if that
3 helps or not.

4 MR. CAMERON: It didn't seem to help.

5 MR. BLOUGH: It seems to me that the group feels
6 that we're going to try to set the agenda, you know, before
7 we adjourn from the previous one. If we can't and someone
8 submits one before the notice is made, it seems like the
9 intent of the group is that would be put on there unless in
10 your view it's clearly outside the scope.

11 MR. MONNINGER: Right.

12 MR. PLISCO: And I think the previous members can
13 correct me, I think the agenda topics themselves are general
14 enough anyway that if there's a specific issue that you want
15 to discuss, it will fall under one of those agenda items. I
16 think, just looking at today's agenda and tomorrow's,
17 they're very general topics. That's probably how we'll have
18 similar agendas, to leave it open so many issues, I think,
19 would fall under those titles. It's not going to be that
20 specific.

21 MR. BROCKMAN: I think Bob's concern is an
22 extremely good concern. The dynamics that I saw in the last
23 panel was such, though, that everybody valued everybody
24 else's opinion. I can't think of anybody who did not get to
25 bring an issue to the table they wanted to talk about from

1 the last meeting, and I would not anticipate any type of --
2 I'll choose the word censorship, like that with this group
3 either.

4 MR. CAMERON: Let's ask Bob. Bob, when you look
5 at the, after hearing the discussion and you look at the
6 phrase in the existing bylaws, is that satisfactory to you,
7 or would you like to change it?

8 MR. LAURIE: No, my concern is not really for
9 myself individually. It's in order to convention the
10 dynamics, in order to insure ourselves that we're all equals
11 here. If I or others don't like the decision of the DFO,
12 then I think we have the right to say something about it,
13 regardless of what the Federal Rules think they say. So,
14 just be prepared.

15 So, yes, I'm satisfied. Changes are not necessary
16 in my view.

17 MR. CAMERON: Okay. All right. Anything more in
18 section 1(a) on agenda?

19 How about Section B, Minutes and Records?

20 MR. LAURIE: Personally, I would just as soon not
21 receive copies of all this stuff, and if it's made publicly
22 available, that would be good enough for me, as far as the
23 meeting minutes and transcript stuff. I don't need to see
24 all that stuff.

25 MR. CAMERON: I thought you had a comment on what

1 David said.

2 MR. BROCKMAN: I want to stand in defense of
3 David, though, because I'm not sure at the moment, how
4 quickly we are able -- our process allows us to get things
5 on the Web.

6 MR. LAURIE: That's why I test it.

7 MR. SCHERER: Do you require that they be sent to
8 everybody?

9 MR. CAMERON: That they be sent to everybody?

10 MR. SCHERER: Yes.

11 MR. CAMERON: I don't know that they be sent to
12 everybody, or whether it's satisfactory to put it on the
13 Web, but, Steve, do you want to --

14 MR. FLOYD: Well, just a comment: Does it have to
15 be hard copy, or can it be electronic copy? I would much
16 prefer to receive the meeting minutes in an electronic
17 version and then choose not to want to open it up and -- you
18 can always have that option.

19 But it's usually faster and more convenience. I
20 don't know if it's allowed. Does the regulation say in hard
21 copy?

22 MR. MONNINGER: We're going to receive both,
23 electronic and a hard copy. The intent was to give you hard
24 copy, but that can be changed.

25 The electronic copy would be migrated to the Web

1 for other purposes, but it was meant to be helpful, the hard
2 copies.

3 MR. CAMERON: As a point of convenience, I mean,
4 you can specify -- could you say that anybody -- and you
5 don't have to memorialize this in the bylaws, but if there
6 is any member of the committee who would just as soon use
7 the Web and not have them mailed to them, then don't mail
8 them; don't send them to them, either electronically or in
9 hard copy.

10 In other words, if David doesn't want them, you
11 know, don't send them. He'll go to the Web page.

12 But you may want to say how you will send, what
13 form you send your minutes out in, and also that they will
14 be put up -- I mean, do you want to explicitly say that they
15 will be posted on the Web page, so that David makes sure
16 that he gets them?

17 Any comments on that? Steve?

18 MR. FLOYD: I would prefer to receive an e-mail if
19 you're going to send electronically. That way I don't have
20 to search the Web every day, wondering when they might be
21 available and when they actually get posted.

22 With e-mail, it just gives you a nice reminder
23 that they are available.

24 MR. CAMERON: Maybe that's something that people
25 could give their preferences to John. He can send them out

1 and you could leave it at "distribute." But I think -- do
2 you also want to explicitly say that it will be also posted
3 on the Website?

4 MR. TRAPP: I think that's one detail that needs
5 to be made in the bylaws.

6 MR. PLISCO: Yes, I agree with that. It's
7 standard practice. I think that if you just let John know,
8 and I think this is generic enough where it says copies, to
9 cover either way, and let John know what your preference is,
10 and --

11 MR. CAMERON: I'm going to put an action item for
12 Committee members, is, notify John and -- preference for
13 receiving transcripts and minutes.

14 MR. SCHERER: Or we could do it now by a show of
15 hands and we'd be done?

16 MR. CAMERON: Sure. John, have you got your list
17 and are you ready to record?

18 MR. PLISCO: Actually, it may be simpler to ask
19 who wants a hard copy?

20 MR. BROCKMAN: Does anybody want a hard copy?

21 MR. PLISCO: It looks like zero.

22 MR. CAMERON: We're talking about transcripts now.

23 MR. TRAPP: And meeting minutes.

24 MR. CAMERON: So no one wants a hard copy; is that
25 right?

1 MR. PLISCO: It sounded like David just wants
2 notification that it's available?

3 MR. LAURIE: I want what everybody else wants.
4 Whatever you do, two hard copies, whatever, stone tablets,
5 whatever.

6 MR. PLISCO: It sounds like electronic. Do we
7 have everyone's e-mail address?

8 MR. MONNINGER: Is that for all information, or
9 just -- I mean, it can be a report developed out of Bill
10 Dean's group. It can be something submitted by a member on
11 the street.

12 MR. CAMERON: You're working all electronically
13 here.

14 MR. HILL: Unless it's impractical to do it, for
15 some reason.

16 MR. LAURIE: I'd probably scan it. I'd rather
17 scan it than go through 15 letters.

18 MR. CAMERON: We'll send you the images, too.

19 MR. SCHERER: We're trying to give you the ability
20 to be efficient.

21 MR. CAMERON: Okay.

22 MR. SCHERER: I would certainly give you that
23 discretion, but wherever it's possible and already
24 available, I'd rather get it electronically.

25 MR. CAMERON: Okay. How about C, Open Meetings?

1 I think we're ready to move on to that, unless somebody has
2 something else on minutes and records.

3 MR. SCHERER: I just was going to suggest that we
4 allow time at the end of every meeting at the Chairman's
5 discretion to take comments.

6 I would go so far as to add that to the agenda.

7 MR. BLOUGH: Comments from the public, yes, I
8 think we ought to bend over backwards if someone makes the
9 effort to be there, to hear them, maybe not even at the end
10 of the day, you know.

11 MR. PLISCO: There may be better opportunities
12 during the course of the day to do that.

13 MR. SCHERER: So I leave that to the Chairman, but
14 I'm simply suggesting that, A, that we take those subjects
15 through you, and, B, that we go so far as to add that to the
16 public agenda so that the public has advance notice that
17 they can approach you and ask for the opportunity to provide
18 input.

19 MR. CAMERON: So this time will be made available
20 during the course of the meeting for public comment. That
21 would be something like that for the bylaws, and then it
22 would be the Committee's, the panel's understanding that in
23 each agenda, that at least at the end of the first day and
24 of the second day or after each major discussion item, that
25 you would program public comment in there.

1 MR. SCHERER: My personal view is that it should
2 be at the discretion of the Chairman, and the Chairman would
3 decide whether he's going to allow it, because there are ten
4 people waiting to do only five minutes, when to do it.

5 MR. CAMERON: Okay.

6 MR. SCHERER: I'm perfectly comfortable with it.
7 The only reason I'm bringing it up here is because I would
8 like to put in our agenda items, advance notice that we are
9 soliciting and would encourage, through the Chair --

10 MR. BROCKMAN: Maybe I'm reading it wrong, but it
11 seems that that's in there, since we've got in the second
12 paragraph, all this thing that says we have to put in our
13 notice, all these words, if we're not going to allow them to
14 comment.

15 MR. SCHERER: I'd rather do it on the positive,
16 because it's to the exclusion of other -- my intent is to
17 encourage, and in the public notices, encourage.

18 MR. PLISCO: We have some words, if you want to
19 use them, that in the Federal Notice for this meeting, that
20 we can use some of the same words.

21 MR. CAMERON: Okay, the idea here is that in the
22 second full paragraph under Open Meeting, that we would
23 revise that to make a positive statement that public comment
24 is going to be -- that there is going to be a provision for
25 public comment during the panel meeting.

1 If you're not sure about where you want to put
2 that in, each specific agenda item, you could do your agenda
3 and at the bottom of the agenda, say that something to the
4 effect that public comment -- that an opportunity for public
5 comment will be offered at the meeting, and the Chairman
6 could then at his discretion, decide how many times when,
7 where.

8 I think Ed's point is that let's make this a
9 positive statement.

10 MR. MONNINGER: The current statements within the
11 Federal Register state meetings of the panel are open to
12 members of the public. Skip a little bit, and persons
13 desiring to make oral statements should notify the Chairman
14 or the DFO, five days prior to the meeting date, if
15 possible, so that appropriate arrangements can be made to
16 allow necessary time during the meeting for such statements.

17 And then you can use motion pictures, cameras, et
18 cetera. So the only limitation there is please give us give
19 days, so we allow proper time.

20 MR. SCHERER: But even that is not a limitation.
21 The Chairman can still accept comments if somebody
22 approaches him.

23 MR. MONNINGER: Right.

24 MR. CAMERON: And I think that what you are and
25 what Ed is suggesting is that even if there's not five days

1 notice, people walk in here to this meeting or the next
2 meeting, they may not have come in here with the intent of
3 making a comment, but they've listened to the discussion,
4 and they want to offer something at the end of the meeting,
5 that they should be permitted to offer that.

6 And I think that sounds like the recommendation is
7 to make that statement right in the bylaws.

8 MR. PLISCO: And we go as far as even if we don't
9 get a request, we reserve time on our agenda for that.

10 MR. SCHERER: I'm very comfortable with if
11 somebody comes and gives you a comment at the break, and you
12 say, well, I think that ought to be held to the end of the
13 day or I think we'll allow time right after this agenda item
14 to give those comments, I think that certainly is within
15 your discretion, and I would encourage you to make those
16 decisions on a case-by-case basis.

17 MR. CAMERON: Okay, and, John, I guess you're
18 going to have to figure out how you want to change that, but
19 you get that.

20 Does anybody have any disagreement with the
21 concept that Ed put forward?

22 [No response.]

23 MR. CAMERON: Okay, well, John will figure out how
24 to write that up, and we'll go with that.

25 Any further comments on the open meeting section?

1 MR. LAURIE: Let me go back to B for a second.
2 What did we decide to do about putting the minutes on the
3 Web? Do we have an understanding of that the summarized
4 minutes are going to be on the Web?

5 MR. CAMERON: Yes. Let's close on that, because
6 there was some feeling that while they're going to be on the
7 -- we decided, I think, that they are going to be on the
8 Web.

9 It's a question of whether you want to memorialize
10 that in the bylaws.

11 MR. LAURIE: If it's not necessary to do so, I
12 don't think so.

13 MR. CAMERON: Okay. Then I think we're in
14 agreement on that then.

15 MR. PLISCO: I think our general practice is --
16 and we stated this earlier -- any document we look at,
17 anything that's submitted, we're going to put that on the
18 website so it's all upheld.

19 MR. SCHERER: Out of curiosity, is that website
20 going to be linked to the reactor oversight process?

21 MR. PLISCO: Yes.

22 MR. CAMERON: How about -- there is a whole
23 section here for closed meetings. You've heard the
24 discussion of from the representative of the General Counsel
25 that that would be -- that that, in general, is rarely used,

1 I guess.

2 But any comments on closed meetings?

3 MR. PLISCO: In practice, I don't foresee us doing
4 this at all. And we only included this paragraph because it
5 was in the original PPEP's bylaws and it's in the GSA
6 recommended bylaws, so we did put it here.

7 But I can't think of any reason why we would do
8 that. Even in normal NRC practice, the only meetings we
9 typically do that for are safeguards, and this panel is not
10 going to talk about safeguards.

11 And proprietary, I don't foresee us going there,
12 either, so I can't think of any circumstances where that's
13 going to happen. But the flip side is that I hate to take
14 it out. If for some reason, it's been --

15 MR. CAMERON: Let's hear from David, and then
16 we'll go over to Randy. David, what's your take on this?

17 MR. LAURIE: You know, we had the same words in
18 the PPEP, and the understanding was that we wouldn't have
19 any closed meetings, and I just want to emphasize that if it
20 is a closed meeting, I'll be on the other side of the door.
21 I don't care what the reason is for it being closed, because
22 we don't attend closed meetings for any reason.

23 So, if you want to have them, that's fine, but
24 going back to Section 3, Membership Selection, I won't
25 attend those portions. So I just want to make sure that's

1 clear.

2 MR. CAMERON: Okay. Randy, what did you want to
3 offer on this?

4 MR. BLOUGH: I was just wondering if we wanted to
5 add a statement before what's there that just says the panel
6 does not intend or anticipate holding closed meetings, just
7 a statement that we have no intent.

8 MR. SCHERER: Or it's not expected that we will.

9 MR. BLOUGH: Yes.

10 MR. KRICH: I think I understand your remark,
11 Dave. Your remark is that you can't sanction any closed
12 meetings, I think, is what you're saying.

13 At the same time, I don't know if we can foreclose
14 on the need to have any ever closed. I don't know if we can
15 anticipate all possible situations, going forward.

16 All the provisions are laid out here for it, but I
17 don't see any reason to do anything more with it.

18 MR. BLOUGH: No, I think you have to maintain the
19 option. There's applicable law that says you could do that,
20 if needed, to complete your scope. But right now, we have
21 no intent, we don't anticipate any need for -- we don't
22 anticipate any need for any closed meetings, and just in
23 terms of a public confidence thing.

24 I don't know, there might be one or two members of
25 the public who get this far in reading what we're doing, but

1 maybe more. But just for public confidence, whether it
2 would be useful to add a sentence that says the meeting does
3 not anticipate any need to hold any closed meetings, or
4 words to that effect.

5 MR. CAMERON: And guess that that's --

6 MR. PLISCO: That is sort of implied in the first
7 sentence under open meetings where it says -- and, again,
8 it's sort of written in the negative -- is all meetings will
9 be open to the public.

10 MR. TRAPP: It says that closed meetings will be
11 limited to limited circumstances. And then it says in
12 accordance with applicable law, which probably is
13 impossible.

14 MR. CAMERON: Okay, let's hear from others, and
15 then we'll see where we are in this. Ed, did you have
16 something?

17 MR. SCHERER: Yes. To capture the thoughts that I
18 hear here, and personally, I wouldn't mind it saying while
19 it's not intended to have any closed meetings, meetings of
20 the IIEEP could be closed only in limited circumstances, and
21 in accordance with law, which is true. I mean, it's only
22 limited circumstances, and we'd only do it in accordance
23 with law, and it would have to be approved 30 days in
24 advance, and I don't see an advantage to having the next
25 paragraph, which goes into details about meetings we're not

1 planning to have.

2 MR. CAMERON: So we change the first paragraph and
3 we eliminate the second paragraph.

4 MR. SCHERER: We're not planning to do it, but we
5 have the option to do it in those circumstances. I
6 personally can't think of a case in this scope where we
7 would close the meeting.

8 MR. CAMERON: Okay.

9 MR. HILL: I can agree with that, and I think we
10 ought to add the second -- leave the second paragraph
11 because it tells what will happen if you have one.

12 MR. CAMERON: Okay, so you agree with Ed's
13 suggestion for the first paragraph, but you'd say keep the
14 second paragraph.

15 Does anybody have any heartburn, either with Ed's
16 suggestion, or with keeping the second paragraph?

17 MR. REYNOLDS: I don't have heartburn, but I think
18 there are only two types of closed meetings on safeguards,
19 and I'm not sure half the people in here -- are on a
20 need-to-know basis, regardless.

21 And for proprietary information, I'm not sure that
22 utilities would want other people in here. So I'm not sure
23 why we would have any closed meeting.

24 That said, I don't want to preclude that option,
25 but I can't ever see us having one.

1 MR. BROCKMAN: I think we're in violent agreement.

2 MR. CAMERON: Richard originally said he was
3 questioning, well, why we want to add that? And I think
4 that Ed's addition is to send a message to the public about
5 we're going to do business in the open.

6 So, if you're all in agreement, we'll add in Ed's
7 phrase, okay? And, John, you may want to check with Ed in
8 terms of what --

9 MR. MONNINGER: I put it up front there. While it
10 is not anticipated that the panel will have any closed
11 meetings, meetings will only be closed in limited
12 circumstances and in accordance with applicable law.

13 MR. CAMERON: Ed, does that capture what you had?

14 MR. SCHERER: Yes.

15 MR. CAMERON: Okay. Does anybody have any
16 problems with that sentence?

17 [No response.]

18 MR. CAMERON: Okay. Consensus? Now, we talked
19 about we're going to -- it's a collaborative process, and
20 several people have mentioned that. We're going to try to
21 achieve consensus.

22 This says that there will be majority and minority
23 views when consensus isn't achieved, so there is that for
24 your consideration.

25 But there is also the question of what is

1 consensus. And from my experience, there are at least three
2 ways that it's defined.

3 One is majority and minority, okay, basically it's
4 majority vote.

5 The second is all agree, and the third is, no one
6 disagrees. So, in other words, there may be an issue that
7 someone doesn't want to stand up and say, hey, I think
8 that's great, but I won't disavow it; I won't veto it.

9 So there is a sort of subtle, but perhaps
10 important difference there. And there may be other ways to
11 do this.

12 But I open it up to the floor on how you want to
13 do it. Ken?

14 MR. BROCKMAN: Let me throw a word out, I think
15 out of the last panel, for everybody else. And it was more
16 along the combination of the last two.

17 We did not put in the report or anything like
18 that, by a 12 to 4 opinion, it went along this way. And I
19 think that would be very damaging to do that in that area.

20 You didn't try to say, well, this was one person's
21 opinion or this was four persons' opinions out of the 10.
22 It was presented as a minority aspect on something.

23 And I think that was very important to keeping a
24 proper spirit within the group, and not establishing a
25 we/they type of atmosphere.

1 I would believe I would figure the last
2 description was great. We said it was consensus view unless
3 an individual said, no, I want to go on the record and take
4 a stand against it.

5 So if there was an abstention that did not say
6 that was not characterized as with some abstentions or
7 something, it was characterized as a consensus view.

8 MR. CAMERON: So it's basically no one disagrees
9 with the position?

10 MR. BROCKMAN: But also if anyone had a position
11 of disagreement, that was included in the report. There was
12 no preclusion of a dissenting viewpoint. And that was on
13 some very subtle points, too. It was allowed to be fully
14 brought in there in the report.

15 MR. REYNOLDS: I'd like to add slightly to that.
16 Sometimes you may disagree but you can live with the issue.

17 I know that with things we've done in Region III,
18 we said can we live with an issue?

19 Ken would make a proposal, and I would disagree
20 with that, but I can go along with it, I can live with it.

21 I still disagree with it, but I can live with it.

22 MR. CAMERON: And that's an important point, I
23 guess, that what I was trying to suggest is that disagrees
24 may be too -- you may disagree with it, but you don't want
25 to offer a veto, basically, a dissent.

1 MR. REYNOLDS: That's what I mean by "I can live
2 with it."

3 MR. CAMERON: Okay. Does anybody have any
4 problems with that?

5 [No response.]

6 MR. CAMERON: I'm going to put dissent, rather
7 than veto. No one dissents from the position? And we can
8 try to wordsmith to try to get the best words for it, but
9 does everybody understand that concept? Does anybody have a
10 problem with using that as the definition of consensus?

11 [No response.]

12 MR. HILL: Do we need to go on record with the
13 definition here?

14 MR. CAMERON: Well, you might get -- I mean, if
15 you're -- if the existing bylaws, the draft bylaws, don't
16 have a definition in there, whether you need it or not, do
17 you want to anticipate that you might have a problem with
18 whether the committee reached consensus?

19 . And so do you want to have a discussion of that
20 each time you want to decide whether the committee has
21 actually reached consensus?

22 That's the value of putting it in.

23 MR. SCHERER: I see the value of something like
24 that, not for the charter but for the discussion here. And
25 I think it is valuable to have a discussion here as to what

1 is consensus, because my view is that I would like to see us
2 work to try to reach a level of agreement where nobody
3 dissents from the final position, instead of the easier
4 path, earlier path of, okay, well, I'll give a concurring
5 opinion, but for different reasons, I agree with the
6 conclusion, and we end up with 12 opinions, which there but
7 for a lack of a few hours worth of discussion and a few
8 hours additional agreement, we can all find some words in
9 positions that we could all live with, which would make it
10 more valuable to NRR in terms of the recommendation.

11 So, I think this discussion is less for the
12 charter, and more for setting our own expectations for the
13 output, is a valuable discussion.

14 I, for one, would like to see consensus positions,
15 even if I have to -- well, okay, I can live with that, as an
16 outcome, rather than have 12 different opinions, some
17 concurring for different reasons, and some disagreeing for
18 other reasons.

19 I think it's a more valuable outcome.

20 MR. CAMERON: David?

21 MR. LOCHBAUM: I agree with you.

22 One thing we discussed on a prior panel was that
23 we all had other channels for getting views before the
24 Staff. So that you could reach a consensus on this panel I
25 need to have the organization's views conveyed before the

1 Staff so it's not like they are lost, if you have to
2 compromise or agree, and that seemed to work with everybody
3 on the first panel and it seems like it is a workable thing
4 this time.

5 MR. CAMERON: So where are we in terms of are we
6 adding anything? I mean the spirit I think of what you all
7 want comes through loud and clear.

8 Do you want to add anything to what is in the
9 bylaws now in terms of definition of consensus or anything
10 else?

11 MR. LAURIE: We need something similar to what
12 John has up there.

13 MR. CAMERON: Does anybody have any problem with
14 no one dissents -- I guess it would be from but I mean I
15 think you dissent. No one dissents either from or with the
16 position.

17 Does anybody have any problem with putting that in
18 in parens?

19 MR. FLOYD: I think it is useful.

20 MR. CAMERON: Okay. All right.

21 MR. HILL: One thing on that last sentence, did I
22 hear a discussion basically that we shouldn't -- that we
23 should always come up to some kind of consensus? This
24 allows not having a consensus.

25 Should it be our goal to have a consensus or --

1 MR. BROCKMAN: I think it is our goal but it won't
2 occur.

3 MR. PLISCO: I think that's what the bylaws --
4 that's the first sentence I think is intended to mean, that
5 we will attempt to achieve a consensus.

6 MR. CAMERON: Do you want to make that stronger,
7 Richard, the first sentence stronger?

8 MR. FLOYD: One way I think you could do it --
9 going back to what happened on the first panel, I think we
10 tried to characterize every position as largely a consensus
11 view with a minority opinion where it was appropriate. I
12 think that's as far as we got but I think we still
13 characterize the major position as a consensus position but
14 somebody may have had a minority view.

15 MR. HILL: I can understand that. This --

16 MR. FLOYD: -- a majority and a minority. That
17 would be my comment. I wonder if we can live with consensus
18 position with a minority view if necessary.

19 MR. CAMERON: That then implies that consensus is
20 not represented by no one dissents but it is a majority and
21 minority and I think people may have trouble, but I would
22 let the panel members speak to that, if it was an 8-7
23 decision. I am not saying there would be a vote but 8 of
24 you want to go ahead with something. People might have
25 trouble characterizing that as a consensus opinion.

1 In other words you have got consensus opinions.
2 If there is no consensus then you would have a majority and
3 minority position that would be offered.

4 It would not be offered as a consensus opinion. I
5 mean any --

6 MR. REYNOLDS: What I have trouble with, I think I
7 agree with you, if we say something upfront similar to what
8 we did for closed meetings and our intention is to always
9 reach a consensus or to work toward consensus, I think that
10 is a valuable statement to make in there.

11 MR. BROCKMAN: The previous panel -- the consensus
12 was reached by that definition, reported conclusions and
13 recommendations. If consensus was not reached by that
14 definition it was reported as a majority conclusion and a
15 minority conclusion.

16 MR. CAMERON: Okay. Well, that fits.

17 MR. BROCKMAN: There was even one that had a
18 second minority comment.

19 MR. CAMERON: That fits and I think to perhaps
20 close this off because I guess we are running behind
21 schedule, but Steve is recommending that we beef up this
22 thing that the panel will attempt to achieve consensus, to
23 beef that up and say something to the effect that he
24 offered, that the panel will --

25 MR. SCHERER: Work to achieve consensus or attempt

1 it.

2 MR. FLOYD: That's what it says. Will attempt to
3 achieve consensus.

4 MR. TRAPP: It does say that, yes.

5 MR. BLOUGH: You could beef it up a little bit but
6 you know, this isn't like we are going to be the same
7 management team that goes out and tries to do all this and
8 so we really have to be completely hammering everything out.

9 There are cases at the end where there are a few
10 things where we just can't come to consensus and our job is
11 to provide advice and recommendations and it would be better
12 to go forward than to not do anything if there are still
13 some things we didn't get consensus, so I would say we could
14 beef it up a little bit but, you know, it would be maybe
15 overly optimistic to think we'll come to consensus on
16 everything.

17 MR. HILL: Well, I think looking at the "what are
18 we here for" I think that even if you don't reach consensus
19 it would be valuable information to NRR to tell them here's
20 where we came down to, with the majority feeling this way,
21 minority feeling this way versus not doing nothing on
22 anything, so I can see a purpose for where you may not reach
23 a consensus but you still want to give message.

24 MR. CAMERON: I don't hear a real -- I hear some
25 suggestions that maybe we could beef that first sentence up,

1 but I hear agreement around the table that our operating
2 principle is that we are going to try to reach consensus on
3 everything.

4 Maybe, unless there is strong feelings or a strong
5 suggestion, maybe leave it the way it is drafted now and we
6 come back and revisit it in the morning and see if someone
7 wants to add some words that if the committee believes that
8 if consensus is -- whatever.

9 MR. SCHERER: I feel pretty strongly that even the
10 attempt to get to consensus is of value.

11 For example, in your hypothetical 8 to 7 position,
12 I would much rather spend the time, even if it only gets us
13 to a 12 to 3, then I think a 12 to 3 is a more valuable
14 position than an 8 to 7 where everything is written up as
15 starkly as opposed to trying to see where consensus can be
16 reached.

17 It would be great to be 15-0 or nobody feeling so
18 strongly that they dissent, but the debate itself is
19 probably worthwhile and in some cases just switching some
20 words around might make a difference.

21 MR. CAMERON: This might suggest or what Ed is
22 saying might suggest that you come to loggerheads on a
23 particular issue at one meeting, okay? Well, you might want
24 to just throw in the towel and say we are going with, you
25 know, 12-5 or 12-3, but why not think about that over the

1 next month, think about what you might be able to live with
2 by changing positions and come back and try to reach a
3 consensus.

4 It means going that extra yard or mile to achieve
5 consensus, and I guess maybe we want to leave that thought
6 with you and think about that overnight about whether you
7 need to say anything more in the bylaws or whether there's
8 sort of an understanding on that among the committee.

9 Steve?

10 MR. FLOYD: With that comment, and I agree with
11 it, instead of saying the panel attempted to achieve
12 consensus, would "strive" be a better word?

13 That implies a more aggressive attempt than just
14 attempt. I mean one attempt is an attempt but if you
15 continue to try to resolve it then you are really striving
16 for consensus.

17 MR. CAMERON: That seems to match what people are
18 saying. Okay, good.

19 We have got two more or three more sections here
20 and then there's still a discussion of objectives that Loren
21 has to do, but Loren, as the chair, you need to exercise
22 your discretion about how you want to work our guest in.

23 MR. PLISCO: Yes. I talked to Bill. What I would
24 like to do is if we can finish up, I think these other
25 sections are really more purely administrative. I am hoping

1 there isn't a lot of discussion on these.

2 It's really just talking about the roles of what
3 John is going to do and what I have to do and how we will
4 handle the expenses.

5 MR. CAMERON: Well, then let's run through the
6 rest of these and then --

7 MR. PLISCO: I want to briefly talk about
8 objectives and not really close that discussion. I just
9 want to introduce some thoughts on our objectives and we can
10 hit on those again a little bit tomorrow when we talk about
11 the agenda and give -- I told Bill what we would do is do a
12 half-hour introduction of the current status of the program
13 and then wrap up for the day, and then really get to the
14 performance measures first thing in the morning.

15 MR. CAMERON: Okay. How about section -- do you
16 want to see if we have any comments on Section 6, 7, and 8
17 here and then go to you for a discussion of objectives?

18 Yes, David?

19 MR. LOCHBAUM: Nothing personal against John, but
20 in the first section if we still say independent of NRR, if
21 the DFO can chair the meetings and set the agenda, somehow
22 "independent of NRR" seems to lose some of its significance.

23 MR. CAMERON: Okay. This sort of came up before
24 when we were talking about agenda as the DFO does what we
25 tell him to do versus the DFO is, you know, and of course

1 that is something from the NRC FACA regulations, as a
2 general rule, but --

3 MR. MONNINGER: Basically Government-wide. You
4 have got your FACA rules and we basically just adopt them
5 and put them in a room.

6 MR. CAMERON: Dave brought it up in the context of
7 independent of NRR but I mean even if that wasn't in the
8 first paragraph he would still --

9 MR. LOCHBAUM: He added it. It wasn't in the
10 original.

11 MR. CAMERON: Right, but I mean you are not, your
12 issue is --

13 MR. LOCHBAUM: Take it out of that first paragraph
14 because it implies something that we don't have.

15 MR. HILL: So your issue is not that we have a DFO
16 but that the DFO is from NRR?

17 MR. LOCHBAUM: The DFO is from the agency we said
18 we are independent of in the first part, which the first
19 part needs to go out.

20 MR. TRAPP: That's a good point because it even
21 says here he can chair the meeting.

22 MR. LOCHBAUM: Right. You have given a lot of
23 discretionary authority to the chair.

24 MR. KRICH: Then you go back to what are we
25 independent of.

1 MR. LOCHBAUM: The who are we independent of.

2 MR. BROCKMAN: Well, you could change the Chair --

3 MR. FLOYD: Or you could change NRR to Program
4 Office because that is who is actually charged by NRR to do
5 the monitoring and evaluation and provide a report to the
6 Director of NRR on the effectiveness of the program.

7 SPEAKER: John is not Section Program Office.

8 MR. BLOUGH: Well, the Program Office is NRR. If
9 you get down further, below the Office level, you know,
10 there is a program branch and they're in a division and an
11 associate directorship or something. What is your job when
12 you are not doing this?

13 MR. MONNINGER: Tech Assistant to a John Johnson.
14 He has Inspections and Programs under him. He has
15 division --

16 MR. CAMERON: I think you guys are talking about
17 two different but related issues here.

18 One is what does independence mean, and secondly,
19 the role of the DFO.

20 I mean the role of the DFO under the bylaws and
21 the Commission regulations and I don't know what discretion
22 we have to deviate but we may have, is that people feel --
23 do people feel uncomfortable with the DFO's role? Forget
24 about the independence thing for a minute.

25 [No response.]

1 MR. CAMERON: Everybody is willing to -- I think
2 that everybody understands that we would find some way to
3 get you, John -- John, the committee is going to be sort of
4 directing things here.

5 MR. BLOUGH: I think if John chaired a meeting
6 then there would be a question --

7 MR. CAMERON: On the independence?

8 MR. PLISCO: Yes. I was just going to make a
9 suggestion -- leave to I'll designate a chairman from the
10 membership themselves, because technically John is not
11 really a member of the panel.

12 MR. CAMERON: David, does that solve your problem,
13 if they change it?

14 MR. LOCHBAUM: -- the agenda --

15 MR. MONNINGER: I think we would have to consult
16 back with Susan and OGC on that to take that stipulation
17 out, even though I sincerely doubt it would ever be
18 exercised. It is within our rules.

19 MR. BROCKMAN: I recommend we take this to our
20 good friends in --

21 MR. CAMERON: Put an action item in here, check
22 with OGC on this, DFO acting as chairman --

23 MR. LOCHBAUM: It would also be the DFO approving
24 the agendas, is that correct?

25 MR. BROCKMAN: Working with the chair, approving

1 the agenda in fact just means we send it out.

2 MR. BLOUGH: I think we are stuck with those words
3 somewhere, you know, in a law that says approve agendas when
4 I know that if there is something I want to bring up and it
5 doesn't get in the agenda that I will come and bring it up.

6 MR. HILL: Where are we at on taking out the
7 "independent of NRR" -- which I think was David's question.

8 MR. CAMERON: I was just going to ask that.
9 David's problem I think is fixed if we fix the DFO roles and
10 authorities. Is there still an issue even if we fix the
11 DFO's role and authority, is there still a problem with the
12 independent of NRR?

13 I mean do you want to revisit that issue?

14 I mean what does independent mean to people on the
15 panel? Does it mean that no one is going to tell this panel
16 that -- say that you have reached consensus on all these
17 issues and someone comes in, the EDO or whomever, and says,
18 panel, you have to change that, we don't want that report
19 going forward with that.

20 I mean that -- something like that is not going to
21 happen but isn't that what independent is? Independent of
22 some outside influence?

23 MR. LOCHBAUM: It is also the perception of
24 independence.

25 I mean if you say you are independent of NRR and

1 then there's indications that you are not, it doesn't matter
2 if you are independent or not if the perception gets out
3 then you are sunk.

4 MR. HILL: The question I have is who created the
5 charter, because that's where the independence comes from
6 and it seems like they have to be the ones that have to
7 defend whether we are independent or not, not us.

8 MR. PLISCO: Yes, I was just going to make that
9 comment. I think the independent is in the charter and at
10 this point I don't think that's going to go back and be
11 changed, so if we can change what is in the bylaws but that
12 charter is -- those words are in there --

13 MR. REYNOLDS: I also think the Federal Advisory
14 Act Committee Act talks about having it independent. That
15 is why you have a Federal Advisory Committee -- a Federal
16 Advisory Committee is independent.

17 MR. CAMERON: As opposed to just saying, hey,
18 we're independent. That means that no one outside of this
19 committee is going to come in and tell this committee you
20 have to report out in such and such a manner. Do you really
21 need to modify "independent" as opposed to, hey, we're
22 independent?

23 MR. HILL: And I guess that's my suggestion is you
24 leave it like it originally was, as in the charter --

25 MR. CAMERON: All right.

1 MR. HILL: -- whoever wrote the charter, approved
2 the charter could defend that if it ever comes up.

3 MR. CAMERON: Okay, that's a proposal on there.
4 Bob, do you want to --

5 MR. LAURIE: Yes. I understand and my position
6 is -- almost all of you with the exception of the
7 representative from Georgia who isn't here works within the
8 nuclear community and as opposed to, I would say, dealing
9 with either the public or in my case the legislature the
10 Governor directed, and so in most of your cases there's not
11 a lot of explanation that needs to be done because everybody
12 understands, but I think the people I feel responsible to,
13 my constituency or the Energy Commission's constituency, to
14 the extent they are interested and many are, we'll look at
15 the word "independence" and they will look at that closely
16 and they will believe that the intent is to be independent
17 of the NRC, because it is an NRC panel and, as noted
18 previously, the majority of this panel is made up of either
19 NRC employees or those utilities that are regulated by the
20 NRC, thus, to me, providing a perception of lack of
21 independence, and to me that's obvious, but I am looking
22 more so as a spectator than one involved in the industry, so
23 to me it's a problem.

24 MR. KRICH: On what Bob said, I am the one who
25 raised the question in the first place and I apologize. I

1 didn't mean to get into such a long discussion here but, you
2 know, in our business at least when we say something will
3 have an independent review the word "independent" has a very
4 specific meaning and it basically puts an imprimatur on
5 something.

6 My only point in raising the question was I just
7 want to understand as a member of the panel who am I
8 independent of in doing this function so that I am sure to
9 fulfill that role.

10 If it is unclear, then maybe we just need to take
11 out the word "independent" and we will have to go back to
12 the charter, I guess, get the charter fixed up, but Rich, I
13 didn't hear your point and maybe I missed something there.

14 MR. HILL: Well, it goes back one more step.

15 In the Federal Register it says the same words,
16 "it will function -- as an oversight group to independently
17 monitor and evaluate" but the Federal Register also goes and
18 says who the panel membership is, so in the context of
19 independent it also says it's going to have somebody from
20 NRC Headquarters, Regional offices, states, governments and
21 so on, and the Union of Concerned Scientists, so the makeup
22 of the committee is defined in the same context that it
23 operates independently, so --

24 MR. KRICH: Does the rule give any explanation of
25 independent?

1 MR. HILL: No, not in the Federal Register notice,
2 but I guess again, going back to -- it is in the Federal
3 Register so we can't just go take that word out or "monitor"
4 out -- you know, it is already out there, but I think the
5 idea of what is independent is somewhat in the context of
6 the Federal Register notice of who is in the committee and
7 so on, so the panel is independent or not based upon the
8 very nature of who the panel appointees are.

9 MR. BROCKMAN: Can I bring up the point again -- I
10 think once again when we are reaching agreement the question
11 again would be -- I think that was my question -- as a panel
12 and per se if John is performing the function of the
13 Designated Federal Official, I have people expressing
14 concern about his -- about being independent if he were
15 acting as the Chair. I have heard that said by numerous
16 people and a certain perception of that really calls into
17 question, so if got with OGC and found out that as our
18 independent panel rules we determined we were going to have
19 someone else act as the Chair or if we couldn't do that then
20 we won't have a meeting unless Loren can be here, if we
21 establish that, then do we as a panel feel that we are still
22 meeting within our hearts the concept of being independent,
23 knowing that John's providing all the other functions of DFO
24 even though he is a member of the NRR organization.

25 I do. I have no problems with that personally. I

1 think it meets that concept.

2 MR. LOCHBAUM: I think -- I don't have a problem
3 with John being the Chair unless our bylaws says it's
4 independent of NRR. That was the conflict I had. If we
5 take that out I don't have any problem with John being the
6 Chair.

7 MR. BROCKMAN: I'm with you there but if we kept
8 the NRR part in there, then I think you have got the problem
9 with the Chair.

10 MR. CAMERON: Let me suggest something to you --

11 MR. MONNINGER: Your bylaws could probably be more
12 stricter than the regulations so even though the regulations
13 would allow the DFO to be the Chair, why don't you cut him
14 out of your bylaws?

15 MR. PLISCO: I'd be happy with that.

16 MR. HILL: I guess representing someone being
17 regulated, it doesn't matter to me. I am not going to feel
18 like I have got one advantage, one over the other, if it is
19 NRR or not NRR in the committee.

20 MR. TRAPP: It doesn't really make sense to me to
21 have someone who works for John Johnson, who is the group we
22 are kind of evaluating, being the Chair of a committee that
23 is supposed to independently evaluating. It just doesn't
24 make sense

25 MR. PLISCO: I think we talked of that earlier --

1 MR. TRAPP: It's nothing against John. I mean I
2 would like John to be the Chairman, however, just that
3 position makes no sense.

4 MR. CAMERON: One issue is John in his position
5 being DFO.

6 The second issue is thinking of independence as
7 independent from some external body -- NRR, NRC.

8 Then there is the third aspect which Bob brings up
9 which goes to the committee composition, about can you
10 really say you are independent of NRC when there's all these
11 NRC people on there?

12 I think one could argue that especially in view of
13 we are going to try to achieve consensus that even though
14 Randy and Jim and everybody are going to give their view
15 from of course their NRC perspective that that doesn't mean
16 that, necessarily mean that the panel isn't independent of
17 NRC, for example.

18 I don't know -- how much more do you want to focus
19 on this other than fixing the DFO?

20 MR. BROCKMAN: That is the key thing, I think. If
21 there's any one document that we must have total consensus
22 on it is this one.

23 We cannot have a minority and majority opinion on
24 our business rules. We have to have consensus on this
25 document and I appreciate Bob's concept, his problem, so if

1 he says I need that definition of independent in there,
2 independent of the Office of Nuclear Regulation, then the
3 other conflict we come up with then is John having the
4 authority to be the Chair, which if we fix that then we have
5 still got the problem fixed and we can move to a consensus.

6 MR. CAMERON: Bob, does that fix the problem?

7 MR. LAURIE: I will withdraw any request I have to
8 provide greater specificity to the definition of
9 independence.

10 I think Richard's point is well-taken.

11 My personal problem is that I don't have a good
12 enough sense of who you all work for, who all your bosses
13 are, I don't have one of those so I don't have to worry
14 about it, but you all do, and if most of your bosses point
15 to the same guy, well, that creates a problem for your
16 ultimate judgment call, but I have the greatest respect for
17 the individuals in this room and if there's an independence
18 problem, well, it may end up being your personal problems
19 and not a panel problem, so out of deference to the will of
20 the majority I think and a rational argument I have no need
21 to provide greater specificity to the definition.

22 MR. BLOUGH: Would there be any value if someone
23 gave us the charter and asks them to be independent?

24 As Chip said, it was just kind of -- in the
25 general term, or, you know, independent on some level of NRC

1 management, as we suggested there.

2 Would there be any value going back -- who gave us
3 the charter?

4 MR. MONNINGER: You know, based on the PPEP
5 charter, I guess there was a group of us involved in the
6 development of the charter, and the charter was then signed
7 out by a Sam Collins.

8 So the charter was developed by NRR with
9 consultation of --

10 I think one of the things you have realize is, to
11 a large extent, you know, you know, the staff has their
12 performance -- the staff, meaning NRR, Bill Dean's group,
13 has their set of performance measures that they're going to
14 go forward with to the Commission.

15 There's a large body of stakeholders which are the
16 Regional Offices that are here that have, you know, have
17 held strong views regarding that. So I think the
18 independence, you know, includes the Regional views which is
19 a part of the NRC.

20 MR. PLISCO: And I think that really was the
21 intent. I think, as we talked earlier, it was really an
22 independent -- of the Program Office.

23 Because if you go back and look at the previous
24 panel, it had the same words, independent, and it was
25 chaired by NRR.

1 MR. CAMERON: Yes, and I think if you go back into
2 the legislative history of whoever wrote the original
3 charter, is that independent sounds like, you know, a great
4 word.

5 I'm not sure how finely you can parse that out
6 about what they were thinking about, but, you know, it's a
7 good concept.

8 Richard?

9 MR. HILL: Two thoughts: One is, I can appreciate
10 what he said, Bob said, about not knowing how all reports to
11 who. And the one thing that I have gathered from the whole
12 discussion is, the only tie back to the person we're going
13 to be responding to would be John, and if he was chairman
14 and chaired the meeting, then that might be the only
15 potential conflict there.

16 And if we had kind of understanding that we won't
17 have a meeting unless Loren chairs it, that could tend to
18 solve that problem.

19 The other part of it is, particularly in light of
20 what you said about the previous committee that was chaired
21 by NRR, another way of looking independent is, we're just
22 going to be set aside, and without doing the work, you're
23 just going to be set aside, and you're going to go look at
24 it.

25 And that's one view of independent that's almost

1 just -- you know, we're coming together as a group, to
2 discuss it outside of the program itself.

3 And so that's a view of independent.

4 MR. TRAPP: A lot of it is pretty well involved in
5 the program.

6 MR. BROCKMAN: There's another way, I think,
7 really, that comes with independence. The group is going to
8 get its conclusions and its recommendations, and it's going
9 to submit them, not through a concurrence chain, not through
10 an approval chain. They're submitted, they're dealt with.

11 You don't have an editing -- and that's really the
12 classic --

13 MR. CAMERON: That's sort of a classic
14 independence, is that this group, when it gets done with its
15 report, sends that in.

16 It doesn't have to send it to the Office of
17 General Counsel for review or anybody else. It's submitted.

18 The Committee has full power over what's in that
19 report. And I think that's usually what's meant by
20 independence in this situation.

21 Does that, does Ken's sort of definition -- does
22 that definition of independence strike everybody as a pretty
23 good idea and an acceptable understanding of it? And if it
24 does, do you need to say anything more than just
25 independent? Do you modify it any way with NRR?

1 MR. HILL: Let me ask you a question: Does the
2 discussion we're having now, is that going to be part of the
3 public record?

4 MR. MONNINGER: It will be on the transcript.

5 MR. HILL: So, in effect, our concept of
6 independence will be recorded, whether we modify those words
7 there or not.

8 MR. CAMERON: Okay, does anybody want to modify?

9 MR. KRICH: I want to modify Ken's a little bit.
10 I'm okay if you take out the modified in the actual bylaws.

11 MR. CAMERON: All right.

12 MR. KRICH: I think independent, to me, means not
13 only that we don't submit it to somebody for review and
14 concurrence prior to submitting it to the ultimate body that
15 asked for it, but that there is no influence exerted by
16 people who have a stake in the outcome.

17 That's to me, what independent means.

18 MR. HILL: What do you mean by influence? My boss
19 is going to try to influence me.

20 And sure that various people here will have input
21 given to them. So, just to say there's no influence --

22 MR. KRICH: Well, with consensus part of the
23 activities that prevents one influence from having
24 domination over everyone else. All of us have influence; we
25 try to exert influence.

1 But we have to reach a consensus, and that's what,
2 to my mind, keeps meeting the sense of the word,
3 independent.

4 Just for purposes of the record, I earlier
5 commented that I was prepared to withdraw my request for
6 greater specificity. I think, clearly -- is correct, it was
7 his idea and not mine, so it wasn't mine to withdraw.

8 MR. CAMERON: So it's not going to change --

9 MR. LAURIE: I want to yield to my distinguished
10 colleague.

11 MR. CAMERON: All right, where are we? We're not
12 going to change, we're not going to modify independent in
13 any way in the bylaws, right?

14 Do we need to put a finer point on what we think
15 independence means? One thing I think everybody agrees with
16 is that there's not going to be any concurrence by anybody
17 on the Committee report. There's not going to be any review
18 before it's sent to Sam Collins.

19 No one is going to be in here overruling anything
20 the Committee says? That's one aspect. And then we heard
21 Rod talk about not influence, and then we heard some, well,
22 influence is sort of a fuzzy word.

23 You might have meant it in the term of influence
24 where someone comes into the meeting, gives us a subtle hint
25 that we're really not going to like it if you recommend

1 something.

2 MR. KRICH: Undue influence, outside the consensus
3 process.

4 MR. CAMERON: Does anybody -- I think it may be
5 important to have on the transcript, at least, the sense of
6 the panel in terms of what independence means.

7 Does anybody have a problem with stating what you
8 think independence is? I'm sorry, but this may be hard to
9 read and it may be sort of inarticulately expressed, but no
10 concurrence review, overrule of committee report.

11 And what did you say, Rod, no undue influence
12 outside of the consensus process.

13 Can everybody read that, or should I write it in
14 more than a scribble?

15 MR. SCHERER: I'm having trouble getting focused
16 on the importance of this debate. In my mind, there is no
17 question that the members of this panel are independent of
18 those people that are -- the recommendations through the
19 normal concurrence chain on the reactor oversight process,
20 nobody here -- if half of this committee and the chair were
21 part of NRR, I would still consider this an independent
22 group, because it's going to come up with its consensus
23 which we will give to the Office Director.

24 If no -- you're into how we define at our plant,
25 independent safety boards, and independent reviews, and you

1 can't even know the analyst or have any contact with him, or
2 have him or her part of your management chain.

3 To me, what we're talking about here is not having
4 a committee made up of the people that wrote the SECY on the
5 reactor oversight process, do a review of the oversight
6 process.

7 This is a group which, in my mind, is made up of
8 people from the Region, and from the licensees and from
9 other stakeholders, the states and other stakeholders. It
10 will come up with its recommendations.

11 If members of NRR were part of this committee, I
12 wouldn't feel that it was any less independent, unless I was
13 being invited to sit in with the group that wrote the
14 evaluation and the group that had wrote the consensus paper
15 that went up the management chain, then I would feel it
16 wasn't independent, it was the same people that wrote the --
17 that did the actual implementation and evaluation.

18 So, this debate, I guess, is getting into a
19 subtlety of words that I'm concerned has reached the point
20 of being a distinction without a difference. In my mind, I
21 have always been comfortable, and nothing I've heard makes
22 me uncomfortable that we're independent of the process of
23 doing the normal line evaluation of the oversight process.

24 MR. CAMERON: With that, and with the change that
25 we took out the modifier on independent, does anybody feel

1 the need to say anything further about it at this point?

2 Rod, are you okay?

3 MR. KRICH: Yes.

4 MR. CAMERON: Richard?

5 MR. HILL: I guess my impression was that I don't
6 think anybody here had a concern of whether it was more of
7 outside people, is there enough there to tell them it's
8 independent?

9 MR. CAMERON: Okay.

10 MR. MONNINGER: Is there a need to clarify
11 anything with the DFO's duties, still, or not?

12 MR. CAMERON: We have an action item up here to
13 clarify if the DFO's responsibilities can be changed so that
14 the DFO doesn't control the agenda and sit in as chairman.

15 Regardless of this independence discussion, do you
16 want to --

17 MR. TRAPP: Actually, my thought was to ask OGC
18 whether that's acceptable independence.

19 MR. CAMERON: Do we still want to proceed with
20 that?

21 MR. SCHERER: We have no intention of having the
22 DFO be the chair, right? It says or Chair. It doesn't say
23 he has to chair or in the absence of the chairman. He will
24 chair -- it says, or chair.

25 As far as I'm concerned, as long as we don't

1 intend to have the DFO chair the meetings, what's the issue?

2 MR. LOCHBAUM: I agree with that, because the OGC
3 can only -- the answer is that it's a problem, and we did it
4 the first on the PPEP, and then what do you?

5 The Chairman was NRR rep. So it's a problem this
6 time, why wasn't it a problem last time?

7 MR. SCHERER: We're just adding conservatism if we
8 say we're not going to have him chair.

9 MR. LOCHBAUM: The question goes to OGC, and they
10 rule it's improper.

11 MR. CAMERON: Is it the sense of the panel that we
12 not approach -- we don't have an issue that we need to
13 resolve with OGC?

14 All right.

15 MR. HILL: I guess one thing there that is
16 written, as I understand it, though, is that we can't have a
17 meeting if he's not present.

18 It says that by law, he must attend.

19 MR. CAMERON: I guess that question -- we don't
20 have to necessarily make a big deal, but for planning
21 purposes, he might want to ask what happens, and we might
22 have to ask what happens if the DFO can't be there? Can
23 there be a designation?

24 At any rate, seven reimbursement expenses,
25 reimbursement, additional information and then I'll turn the

1 floor over to you all again.

2 MR. SCHERER: I still had one question.

3 MR. CAMERON: Ed had a little bit of a quizzical
4 look.

5 MR. SCHERER: I still have my issue that I brought
6 up earlier, which is one of the issues to me is, when is the
7 report due to the Office Director if it's going to be
8 meaningful?

9 MR. CAMERON: And that's something you're going to
10 cover in the next thing.

11 MR. SCHERER: Okay.

12 MR. CAMERON: Okay, we've discussed one parking
13 lot item which is bylaws public comment. I think these two
14 things are in Loren's next presentation or your discussion
15 about objectives, scope, schedule, all of that sort of
16 thing.

17 And then we have one for tomorrow afternoon, which
18 Richard brought up, which is let's try to schedule as many
19 meetings in advance as possible.

20 MR. HILL: And while you're on that, I would also
21 suggest you don't wait till the last thing. If we did it
22 earlier, people could call back and make sure there's not a
23 conflict with somebody else.

24 I mean, I might have my calendar and it's okay,
25 but if you pick a date, I probably ought to go look and see

1 if I've got a conflict with my boss that I wasn't aware of.

2 MR. BROCKMAN: That's a good point.

3 MR. CAMERON: How about -- Loren, there's a
4 suggestion that we do our scheduling of meetings, don't save
5 that till the last thing tomorrow.

6 MR. PLISCO: I'm gong to cover it in the next
7 section in general, and then --

8 MR. CAMERON: Well, we can do some scheduling
9 today.

10 MR. PLISCO: I was going to give the ball park
11 that I'm looking for for the meetings, and then some people
12 can check their calendars and then we can finalize.

13 MR. CAMERON: Okay, good, well, then we'll cover
14 all of that during your next presentation.

15 Did you have something you wanted to add on the
16 bylaws?

17 MR. PLISCO: It's really for my own information.
18 We have a title and a phone number, and I wondered who that
19 person was.

20 The Assistant General Counsel for Legal Counsel Legislation
21 and Special Projects.

22 MR. CAMERON: That probably is Tripp Rothschild,
23 who is the --

24 MR. PLISCO: Well, I just thought that it might be
25 beneficial for the panel members to have the person's name,

1 so that if they wanted to call, they'd know who they're
2 talking to.

3 MR. CAMERON: Yes. Do you want to -- what's our
4 agenda for the rest of the day?

5 MR. PLISCO: Well, I just sent Bill Dean home. I
6 thought it's important that we do go through and cover the
7 objectives and at least get that discussion started. And
8 then I'll have Bill Dean come the first thing tomorrow at
9 8:00 and we'll start in with the session on the status of
10 the program and the performance measures.

11 Why don't we take a quick break, just try to keep
12 it to five minutes, and then I'll finish the objectives
13 discussion and that will finish it up for today.

14 MR. CAMERON: I guess we are going to try to make
15 this fast push here. Where Mark is going to talk about
16 objectives, and we're going to try to get to these three
17 parking lot issues, too, in terms of both issues and
18 scheduling and target dates for a report. So, Loren, I'll
19 just leave it to you.

20 MR. PLISCO: Okay. I'll cut down on what I was
21 really going to talk about and get to the meat. And really
22 focus on what's the expectation for the results of the panel
23 and how are we going to do it, are the two things I want to
24 talk about.

25 And what's expected from the panel. I see as

1 answering three basic questions.

2 The first is, is the reactor oversight process
3 achieving the agency's goals. And how those goals are
4 defined, and it's similar to how the previous panel
5 evaluated the process, is there's four agency goals, which
6 are maintain safety, reduce unnecessary regulatory burden,
7 improve public confidence, and obtain effectiveness and
8 efficiency in the operation.

9 And then there were a number of goals that the
10 Commission had spelled out specifically for the oversight
11 process, which were being objective, risk informed,
12 understandable and predictable. And, as we were going to
13 find out this afternoon, but now we'll find out tomorrow, it
14 is the staff is building their performance metrics and their
15 assessment program on those eight goals. And I think you
16 used the same eight goals when the PPEP panel evaluated the
17 process, too, as your structure. And I'm proposing we
18 continue to use that same outline on how we answer that
19 first question. Is it what -- is it meeting the agency's
20 goals.

21 The second question is what problem areas need to
22 be addressed in the short-term and in the long-term in the
23 program. And that's a broader question than the first. And
24 what issues have come up in the actual implementation of the
25 program, and the value this panel has over the first panel

1 is that the -- during the pilot process there were only nine
2 plants, and now the all 103 plants are now under this
3 process. There's a lot more information, a lot more data,
4 and practical experience on how this process is working.

5 And I think we can focus more time than the first
6 panel on specific problem areas that have come up, and what
7 areas need immediate attention and which ones are things
8 that do need attention but be can handled on the long term
9 as far as development and resolution to this.

10 The third question is, is a sound self-assessment
11 process in place by the staff for the long haul. These
12 metrics you're going to hear about tomorrow from Bill Dean
13 are not only intended to look at this first year, but to
14 provide a foundation for how the agency is going to evaluate
15 the program on the long term. And we're going to provide
16 our insight and recommendations on that process for the long
17 term is whether the right metrics are in there, the right
18 questions are being asked, to make a judgement on how the
19 program is operating.

20 MR. HILL: Excuse me, could I make one comment
21 that might -- should go on the parking lot. I don't know.
22 But when you bring up the fact of this committee being able
23 to look at things that the pilot didn't, some of the areas
24 that I think we'll talk about as far as problem areas I
25 think came up as a result of definitions that were created

1 after the pilot was over or towards the end of it, and so
2 the pilot didn't test it. And I think that fits in good
3 with your next one about the self-assessment process of what
4 about new things that come up and that aren't really tested
5 as a pilot, you know, it just kind of happens and create
6 problems of what's the ongoing process for that.

7 MR. CAMERON: And, Loren, can you -- can you just
8 run through those eight goals again, and is -- are these
9 three questions in the materials anywhere for people?

10 MR. PLISCO: No.

11 MR. CAMERON: I put them up here.

12 MR. PLISCO: They're not. And I think we want to
13 document them, I mean, obviously in the minutes as we go
14 along. And because what I was hoping is in the -- we'd
15 provide some discussion on these, and then if we want to get
16 some clarification or narrow down definitions on what these
17 questions mean, this is a starting point to do that.
18 Obviously, this isn't the end.

19 MR. CAMERON: You had safety. These are the four
20 -- these are from the strategic plan: safety, effectiveness,
21 public confidence, and--

22 MR. FLOYD: Unnecessary burden reduction.

23 MR. PLISCO: Unnecessary regulatory burden.

24 MR. CAMERON: I know you'd figure any -- he would
25 know that one. And what were the other, and, John, are you

1 going to -- is that?

2 MR. MONNINGER: Yes, I am doing it now.

3 MR. CAMERON: Then I'll move this out of the way.

4 MR. PLISCO: It's objective.

5 MR. CAMERON: And then you had is the -- is it the
6 process?

7 MR. PLISCO: Objective.

8 MR. CAMERON: Objective. Is it?

9 MR. PLISCO: Risk informed.

10 MR. CAMERON: Is it risk informed?

11 MR. PLISCO: Is it understandable and is it
12 predictable? And those were goals from the Commission.

13 MR. CAMERON: And what was the last one, the last
14 one under understandable was?

15 MR. PLISCO: Predictable.

16 MR. CAMERON: Predictable. Okay. Alright.

17 MR. PLISCO: And as far as -- well, let's see if
18 there's any questions on those. Objective. Risk--

19 MR. KRICH: Oh, I'm sorry. I'm back on the
20 original--

21 MR. PLISCO: Oh, back on the original questions?

22 MR. KRICH: Right.

23 MR. PLISCO: There's three questions.

24 MR. KRICH: Okay. I thought it was four.

25 MR. PLISCO: There's three. Is it achieving the

1 agency's goals?

2 MR. CAMERON: That's one.

3 MR. PLISCO: What problem areas need to be
4 addressed, and that's -- there's really two questions on the
5 short term and in the long term. And is a sound
6 self-assessment process in place?

7 And that's really what the three questions the
8 panel needs to answer. And obviously, there's a lot of
9 sub-questions under those. But those are the three big
10 questions.

11 MR. BLOUGH: Where did you get the three
12 questions?

13 MR. PLISCO: I got them from discussions with Sam
14 Collins, myself, looking at the charter, going back through
15 the previous panel and look at what issues they raised, and
16 that they -- they developed a list of I think short-term, I
17 don't think they used those terms, but they were somewhat
18 short-term and long-term issues that needed to be addressed.

19 MR. MOORMAN: Process and implementation
20 questions?

21 MR. PLISCO: Right.

22 MR. HILL: And when you say what problem areas
23 need to be addressed, would that include unintended
24 consequences, those type things?

25 MR. PLISCO: Yeah, and that this question is a

1 wide open question. It's -- is -- you know, as a panel, as
2 we reach consensus what issues do we think need to get
3 addressed with the implementation of the new process. And I
4 don't think right now there's any soap on that at all.

5 MR. HILL: Would as part of our process, whenever
6 for instance we might get into problem areas and starting
7 talking about purposes or reasons of something, would you
8 see then it would be bringing people in that would then
9 explain to us this is what I intended and then we could look
10 at, okay, you intended that, here's what we got. Or here's
11 how it's happening?

12 MR. PLISCO: Yes, that's one way. And that's what
13 I was going to talk about next, is how we're going to answer
14 the questions.

15 MR. LAURIE: I have a question on your on your --
16 whether ROP is achieving agency goals. In your own view, to
17 what extent are there parameters around that question? In
18 other words, if this panel were to determine that the answer
19 is no, is this panel free to address the question to the
20 whole issue of the ROP being revisited. Or is that
21 something that clearly in everybody's mind is a done deal,
22 and the purpose of this panel is to examine the
23 implementation of it rather than the creation of it. Does
24 that question need clarification?

25 MR. PLISCO: No, I think I understand it. The --

1 in my understanding of the first panel is their
2 recommendation or the question they were asked is should we
3 proceed with initial implementation or not. And then if
4 things needed to be addressed before or after implementation
5 then that they provide those recommendations.

6 And I really haven't heard. Or you wanted to add?

7 MR. REYNOLDS: Yeah, I think it -- the question
8 Bob is asking is a good one, but I think I'd rather leave it
9 off to another day to argue our way through. For example,
10 you know, are we achieving the goals? Well, compared to
11 what? Compared to SALP? Compared to perfection? In my
12 mind, those are two different answers, and we'll probably
13 struggle our way through that, and I think if we had an
14 interesting time defining independent, we're going to have
15 an even more interesting time if we work our way through
16 these areas as to what the standard is, because I think
17 probably everybody would agree that we're not at perfection,
18 and that's probably not going to be the standard we'll meet;
19 that this is perfect, there's no improvement. There's
20 nothing better that we could ever think of, and the
21 Commission has now reached Valhalla.

22 MR. BROCKMAN: I heard a different question. I
23 heard Bob say that he's -- if we saw that this program had a
24 fatal flaw, should we bring that up. This program has a
25 fatal flaw. Yes, we should.

1 MR. LAURIE: Given the decision of the earlier
2 panel, to implement, do you consider that your starting
3 point or are you free to, do you consider yourselves free to
4 find a fatal flaw if such exists?

5 MR. BROCKMAN: Having been on the first panel, the
6 panel was there was enough information available from the
7 line that did not show a fatal flaw, but we said we needed
8 to proceed with the larger data bite, but if the larger data
9 bite would identify a fatal flaw, I think about it, my
10 opinion this panel should, without a doubt, bring that
11 forward.

12 MR. REYNOLDS: A fatal flaw in whole?

13 MR. BROCKMAN: Or in part. Yeah, it could be in a
14 area.

15 MR. REYNOLDS: Right.

16 MR. BROCKMAN: It could be holistically.

17 MR. FLOYD: Yeah, I think -- I think an important
18 aspect of the evaluation that we do is passing -- I don't
19 know whether this is within our charter now, but passing
20 some judgement as to -- I mean, we know we're going to
21 identify problem areas. I think that's a given, but I think
22 what we have to ask ourselves is with the problems that
23 we've identified is this still a better process than the
24 previous process, or if it isn't, what should we do.

25 MR. PLISCO: Right. That's why I think these

1 first two questions sort of go together. I mean, we'll look
2 at these and make our judgements on whether it's achieving
3 the agency goals or not. And I think a lot of those problem
4 areas are going to fall out of that discussion. And whether
5 there is -- what we perceive as a group -- is a simple fix
6 or -- you know, conceivably, it could be that there's a very
7 difficult situation that may be difficult to resolve or may
8 be a fatal flaw.

9 MR. BROCKMAN: The two questions that I hear
10 coming, though, is there -- is there a question zero.
11 Proceed or stop? I could be proceed with some short-term,
12 long-term things to do, but I mean that's probably one thing
13 that I think the panel should be willing to say is, yeah, we
14 don't -- there is or there is not a reason to come stopping
15 right where you're at, right where you look at the whole
16 thing, and these questions I believe in their totality will
17 answer that.

18 MR. KRICH: I'm sorry when you say proceed or
19 stop, do you mean the new oversight process?

20 MR. BROCKMAN: Yes.

21 MR. KRICH: I guess I'm not sure I understand
22 that. I take it that we are on the new oversight process --
23 done -- that that's not to go backwards. Now, if it's not
24 being effective, then we need to figure out what has to be
25 done to make it effective. But I don't think -- at least I

1 took it as this is not the time to go back and say stop the
2 oversight process and go back to the old process.

3 MR. BROCKMAN: I'm not saying go back to the old
4 process, but, I mean, it could be just saying we need to
5 stop on this current process while they are significant
6 flaws which cause us to be challenged, major things that
7 need to be fixed. I'm not presupposing that the answer
8 would be go back to the old thing.

9 MR. KRICH: Okay.

10 MR. BROCKMAN: But I think an overall statement
11 of, yeah, this is on the right path. We're moving in the
12 right direction. Here -- we'll have to come up with some
13 type of a holistic point on that, and the level of problems
14 that we could identify maybe on an issue, maybe on a topic,
15 maybe on a procedure, or much -- may be of a much bigger
16 issue, depending on the data we receive, and subsequently we
17 go through.

18 MR. PLISCO: And I think if you look at it, Jerry,
19 we haven't been asked that direct question.

20 MR. BROCKMAN: Yeah.

21 MR. PLISCO: As the first panel was. The first
22 panel was asked a direct question. Proceed or not. Ours is
23 more a general question, but I think you could, based on our
24 results, you obviously, you could get to that point.

25 MR. BLOUGH: But I think if you read the charter

1 that Sam wrote for us, you go to talk to revising and
2 reforming--

3 MR. PLISCO: Right.

4 MR. BLOUGH: So, and I take reforming as the
5 bigger thing. So we think that there is major changes,
6 major flaws. We have -- we're supposed to do that as
7 opposed, in addition to, revising--

8 MR. PLISCO: Richard?

9 MR. HILL: I took the charter the same way. It
10 says reforming and revising the ROP.

11 MR. PLISCO: Right.

12 MR. HILL: And ROP simply means reactor oversight
13 program. And we've got to be in some. We're the
14 regulators. NRC is the regulator, so we've got to be in
15 some oversight program. At the end of the pilot, we're in a
16 crossroads. We're adding some in a pilot. We had the rest
17 in another one. You know, if it turns out reforming, yet
18 we're recommending something radically different as opposed
19 to, you know, evolutionary or tweaking on that. Yeah, that
20 would be reforming the reactor oversight program.

21 I thought I understood the question that was asked
22 to start all this discussion differently. I thought the
23 question was being asked was if we find that somehow or
24 another we're not meeting the goals, do you just report that
25 or do we report-- and determine and report how to fix it.

1 That's what I thought I heard the question. I may not,
2 but--

3 MR. LAURIE: Well, the intent of the question was
4 answered by the discussion. I was really asking what our
5 starting point is. Whether our results will, in fact,
6 confirm or not confirm the decisions of the preceding panel.
7 And it sounds to me like this panel is willing to make a
8 determination that there might be very substantial or even
9 fatal flaws in the current program, and offer findings
10 inconsistent with that or the preceding panel.

11 MR. CAMERON: Does anybody -- let's maybe just
12 check around the table here to see if anybody disagrees with
13 Bob's characterization after hearing, revising, reforming.
14 Does anybody have any problems with the way he characterized
15 that? He used the term fatal flaws. Rod, are you
16 comfortable with that?

17 MR. KRICH: Well, I agree. I think the term "form
18 applies" in a much broader view, and I agree with that. I
19 just want you to be clear that we want to talk about
20 recommending that we stop and go -- that one option was to
21 stop this and go back to the old process. I don't think we
22 can go back to the old process at this point.

23 MR. CAMERON: Is that, David, do you have any
24 comment on?

25 MR. LOCHBAUM: I think it will come up later. I'm

1 real sure.

2 MR. CAMERON: Okay.

3 MR. HILL: Can I ask a question?

4 MR. PLISCO: Yeah.

5 MR. HILL: On our objectives, maybe it's covered I
6 don't know. And maybe it's covered because we have four
7 people from the original panel. But in the panel report,
8 there's recommendations. Would we be looking at whether
9 anybody really did anything with those recommendations or
10 the results of those recommendations in reviewing all this?

11 MR. PLISCO: I think we should would be my
12 proposal.

13 MR. HILL: That would be my recommendation.

14 MR. PLISCO: And look at what the status of those
15 are. The short-term and the long-term issues and what was
16 done, and where are they, especially the long term on where
17 are they today. And I think we'll find some of those
18 issues. Some of those issues are going to come up again, I
19 would bet, in our discussion because there is more
20 information available.

21 MR. FLOYD: One other question for our scope.
22 There is a staff requirement memorandum issued March 28th
23 that's under Tab E, I guess it is. Should we also have that
24 as something we're going to look at or?

25 MR. PLISCO: Yes, this is the SRM that said to

1 convene another panel.

2 MR. FLOYD: Between D and E.

3 MR. PLISCO: Again, I think we'll find some of the
4 issues that the Commission asked the staff to look at that
5 weren't resolved at the end are going to be -- in other
6 words, there are similar issues I think that we're going to
7 discuss in detail. But I think this would be a good
8 reference for us to go back and relook at some of these, and
9 -- but, yeah, I glanced at these, and I suspected some of
10 these same issues are going to come up.

11 MR. FLOYD: I don't know if they're going to be
12 embedded in the proposed metrics that the staff has to --
13 some of them are not, I don't think.

14 MR. PLISCO: And it might even be a question when
15 Bill Bane is here we can ask where the staff is on these
16 issues.

17 Any more on objectives? And, again, that's -- I
18 really want to introduce that. We can talk about it some
19 more as we go along. But my hopes were is that we define at
20 least these objectives as far as the envelope to try to
21 provide an envelope of our discussions to keep it within the
22 bounds of those, trying to answer those three questions for
23 efficiency purposes.

24 MR. HILL: I guess the only reaction is to do all
25 this seems like it will take a lot more than just three

1 meetings unless we have a lot of subcommittee meetings or
2 something?

3 MR. PLISCO: Well, my next discussion was how.

4 MR. MONNINGER: I guess maybe to go back. I
5 wasn't sure if there's a question zero. You had the one,
6 two, and three, but then it seemed like people were going
7 back to the question zero whether you should do that major
8 substantial flaw first and then you got the three under
9 that, so.

10 MR. PLISCO: Yes. I mean, I would say that the
11 fatal flaw comes in what problem areas exist and how can
12 they be addressed. And, I mean, the one end of the spectrum
13 could be it can't be addressed. You know, you got to reform
14 the program.

15 MR. SCHERER: Well, certainly if it is a major
16 flaw, we won't be defining that it's meeting the NRC's
17 goals.

18 MR. PLISCO: Right.

19 MR. SCHERER: Whether it's a four- or an
20 eight-part test of goals.

21 MR. PLISCO: Exactly.

22 MR. SCHERER: So I would say -- assume that it
23 would be part of that, subsumed in that question.

24 MR. BROCKMAN: If we looked at the end goal in
25 mind, with the product we're going to deliver I've always

1 found to be of value in looking for that. But we anticipate
2 that our final report would include a summary statement in
3 it to say, yes, this program is moving in the right
4 direction and continue to work, and there's some current
5 concerns and what have you and here they are all--
6 short-term and long-term et cetera, et cetera. Or have a
7 statement in there that says this program has very serious
8 problem at the moment, and needs to -- we really need to
9 slow things down, maybe kind of stop, relook at where we're
10 going to go in that area. I think that's question zero that
11 John just mentioned. And I would anticipate that probably
12 the lead-in sentence to the executive summary of the report.

13 MR. SCHERER: Well, but I don't see it as a
14 separate question.

15 MR. PLISCO: Yeah.

16 MR. SCHERER: But I'm just trying to answer his
17 question. It's really not a question. It really is the
18 question zero, but it will be developed by one, two, and
19 three.

20 MR. CAMERON: And you can have -- and just to do a
21 check-in with you on the process for your future work, and
22 you're going to have to think about this tomorrow when you
23 do agenda planning. You have these three objectives, okay,
24 and you just had a little bit of a discussion -- indicated
25 that if you -- you know, I'm thinking where are you going to

1 start, how are you going to start to do your work. You have
2 a whole session tomorrow on the individual performance
3 indicators, okay. And you're going to be perhaps getting
4 some of the answers to these three questions when you go
5 through that. And I guess I just wanted to put on the table
6 for you, how are you going to organize your work to answer
7 these three questions, and is that the format that you
8 wanted to use to present the work of the panel in the
9 report, not just leave it there, but I think you need to
10 think about how are you going to do it.

11 MR. SCHERER: Well, now is the time to be asking
12 that question.

13 MR. CAMERON: Yeah.

14 MR. SCHERER: For example, one of the
15 opportunities we have is when listening to a presentation,
16 we could be asking people to say, well, tell us about the
17 program, and in particular tell us if, for example, about
18 how it meets these eight goals. And then they could be
19 asking questions that are focused on those eight goals. If
20 we think there's a ninth, then we might want to identify
21 that up front, and have presentations that speak to these
22 points, if that's going to be the points that we put in our
23 report.

24 As an example, and if we want to make that happen
25 that would be something we would be discussing up front.

1 MR. PLISCO: And that's a good lead in. I was
2 going to talk about this how we go about this is the -- the
3 first part, I think, of how we're going to answer some of
4 these questions is looking at what the staff has developed
5 as the self-assessment metrics internally. Look at the
6 metrics they've developed. When they collect the data, look
7 at the actual data that's collected, and look at their
8 evaluation of the data and make some judgement about what we
9 think about that evaluation or final results.

10 If we find out tomorrow that those metrics are
11 being designed to answer those eight questions. They had
12 those eight questions and very similar to how they did the
13 PPEP. As far as the structure in answering those eight
14 questions, and they're attempting to put together metrics
15 that answer those questions. Some are actual measurements.
16 Some are -- you'll find out tomorrow -- some are surveys and
17 trying to get other input to answer the questions.

18 So I think the first part of what we need to do is
19 look at what they developed, make our own assessment whether
20 they think they're measuring the right things, and asking
21 the right questions so they -- when they do surveys, are
22 they asking the right people. And that's -- we'll see the
23 metrics tomorrow, but no data, because the data is just
24 starting to get collected.

25 The second meeting and this gets to the part of

1 the schedule that we're talking about I foresee happening in
2 January when they have the first set of data. So we'll see
3 the actual data on the metrics and really get another look.
4 As I was mentioning earlier, I think a lot of times,
5 sometimes metrics look great on paper, and then we see the
6 numbers they don't tell you anything. And I think we need
7 to be cautious of that, too. When we look -- we'll first
8 hear about the metrics tomorrow, but we won't see any data.

9 In the January meeting, we'll see some data. The
10 results from the survey they don't expect to be ready for us
11 to take a look at until March, when I figure that will be
12 our third meeting. The survey results, and I think that
13 would be a good opportunity also to get some other
14 stakeholder input. I think we've talked as we went along
15 about asking other groups in, and I know the PPEP panel had
16 good success with that. I got a lot of good insight, and
17 they brought in some inspectors from the field. And
18 actually, we're lucky enough to actually have an inspector
19 and a survey on the panel this time at the direction of the
20 Commission, but provide some opportunities if we want to get
21 some other input. And I think we can decide on that after
22 we see the metrics and what surveys are going to be done, we
23 can decide on what other voices do we want to hear, what
24 other input do we want to hear.

25 MR. FLOYD: Yeah, on that point, I think that's

1 absolutely critical, especially if we're going to be
2 independent, we shouldn't rely on just information that's
3 given to us from the program branch on how effective they
4 think the program is. We've got to get outside input. I
5 don't know whether you're aware of all these dates coming
6 up. I'm sure you're aware of some of them, but we might
7 look for opportunities for getting feedback from some forums
8 that are scheduled outside of just program branch input.
9 You've had a Region III stakeholder meeting on the oversight
10 process. There's a Region IV and II one coming up in the
11 middle of November, and I guess Region I's in December. The
12 industry is planning on having an internal meeting January
13 17th and 18th to try to gather feedback and lessons learned
14 from the program. I understand from a meeting at the NRC
15 yesterday that Bill Dean is planning on having an internal
16 NRC feedback meeting around the end of January, so those
17 might dictate when we might want to have some our meetings
18 to get independent reports, not from the perspective of what
19 the program branch here, but it might be good to get a
20 representative maybe from the regional meetings, of both a
21 regional rep and maybe a industry rep who was at the meeting
22 could come in and give a report; well, this is -- these are
23 the issues I think we heard that are problematic that need
24 to be addressed from each of those sessions.

25 MR. PLISCO: Right. And actually, I was going to

1 -- that was the next thing I was going to mention to
2 highlight those. The Region III meeting has already
3 occurred, but the other three regions are going to have
4 meetings coming up. Region II's is November 16th. Region
5 IV's is November 15th, and I'm not sure when that Region--

6 MR. BLOUGH: December 13th.

7 MR. PLISCO: December 13th. And those will be
8 good forums to get information and feedback from.

9 MR. CAMERON: Would it be useful to -- before you
10 all left tomorrow to have a compilation of all of the
11 meetings--NRC, industry, whatever--that are going to be
12 happening? So we should maybe do that as an action item.

13 MR. HILL: Excuse me. What survey results you
14 said are going to be available in March. What are -- what
15 survey?

16 MR. PLISCO: What Bill Dean is going to talk about
17 tomorrow is built within their metrics, there are number of
18 questions. They came to the conclusion that they can't get
19 it from the data. They're going to need to go out and ask
20 people their opinions on certain issues. And so they're
21 putting together some survey tools to answer some of these
22 questions on these goals, these agency goals, to try to get
23 an answer to those questions. And he'll talk about that
24 tomorrow. But those surveys, and I don't know what the
25 status of those are, and he can tell us about that tomorrow

1 and where they are and when they're planning to send them
2 out. But the last time I talked to him, they expect results
3 from those to be available in I guess late February. That's
4 why I was looking at March to schedule a meeting so we could
5 see the results of that, those surveys.

6 I mean, some of them I think go to inspectors,
7 and, you know, as far as the quality of the procedures and
8 this is some internal efficiency and technical type
9 questions, and then there's external surveys too that
10 they're proposing.

11 MR. HILL: One question I would have is what we're
12 talking about January getting results from the first year
13 and March getting survey results. There's an awful lot of
14 information that we could have at our disposal right of the
15 current problems and issues that we wouldn't have to wait
16 for any of that.

17 MR. PLISCO: Right.

18 MR. HILL: But I didn't really understand when
19 you'd be talking about input that we might have from
20 inspectors or, you know, plants and so on from
21 implementation.

22 MR. PLISCO: The -- one of the meetings, this
23 third meeting I was mentioning in March, I think, is a good
24 opportunity to get external stakeholder input only because
25 we'll be getting the survey results, and I just thought as

1 far as our discussion, it would be good to get all that at
2 the same time. But I think we'll have plenty of time in the
3 second meeting also in January to do that, too.

4 And once we decide what -- you know, who we want
5 to hear from, and what we want to focus on in the
6 discussions, we can do that in January also.

7 MR. BLOUGH: Richard, you know that individual
8 inspectors are putting in feedback all the time so basically
9 anytime we want it, we could ask Bill Dean's group, you
10 know, what they've got and what they make of it so far.

11 MR. HILL: And I would think that Steve has an
12 awful lot of input through NEI as well, and all the
13 questions being asked. I mean, I guess my point was we
14 don't have to wait until January or March to get some of
15 that into it if we wanted to do any further in discussion
16 earlier than that. Potential issues or problems and things
17 that might, you know -- I guess I want to do more than just
18 evaluate the results against the performance measures that
19 are created by the people responsible for it. In other
20 words, if we're only looking at what they tell us to look at
21 on the matrix, with we kind of just doing what they think is
22 important, then, you know, you've addressed it here. We
23 ought to look at other problem areas.

24 MR. PLISCO: Yes, and we need to do both. And, as
25 I said, we, because we want to answer that third question

1 too is we need to provide some kind of conclusion or
2 recommendation on the metrics themselves. You know, on the
3 long -- in the long term, after this panel goes away, are
4 they going to have a good tool to continue to assess the
5 program.

6 MR. BLOUGH: And one judge of that is if we go
7 find a lot of issues or problems, and you then bounce
8 against the metrics, and it doesn't show those, then that
9 says there was a discontinuity there.

10 MR. HILL: Yes, I think just the collective wisdom
11 around this table from familiarity with the program we can
12 probably come up with a fairly good list of what the
13 heavy-hitting issues are, and if we identify those, that
14 might give us some clue as to maybe some detailed
15 presentations that we'd want to see either from the staff or
16 other stakeholders addressing those topics to get a better
17 understanding of it.

18 MR. SCHERER: There is one data source that I can
19 see discussed, and that is the frequently asked question.
20 But this is something different than the maintenance rule
21 had. And it provides an opportunity for people to have a
22 lot of input. And it would be interesting for me to go back
23 and look at the frequently asked questions and see what they
24 were telling us in terms of implementation issues, both from
25 the industry and from the NRC side.

1 MR. HILL: Two hundred and twenty-two of them so
2 far.

3 MR. SCHERER: And to me that would be one of the
4 things that I would be interested in seeing if it isn't
5 already part of the plan under item two. The source of
6 information.

7 MR. LOCHBAUM: We could put that under three,
8 because, you know, the public didn't have the same thing.
9 That's an industry tool. The public asked a lot of
10 questions, but there's no feedback mechanism or tracking
11 mechanism for it in that was recommended in the first panel.

12 MR. SCHERER: Yeah.

13 MR. LAURIE: A technical question.

14 MR. PLISCO: Go ahead.

15 MR. LAURIE: To what extent are the inspections by
16 the operators standardized nationwide. So, if I were an
17 employee of Southern, and my job was to do the inspections,
18 I then got a better from the SCE, and I flew out to
19 California to work for them. Would I be doing exactly the
20 same work, working off the same check list, 90% the same,
21 75% the same. What is?

22 MR. BROCKMAN: What are you? I'm not with you,
23 Bob. What inspections--

24 MR. LAURIE: Okay.

25 MR. BROCKMAN: Are you talking about. I've got

1 the transfer, but I'm not--

2 MR. LAURIE: The work previously done by NRC's
3 field inspectors. That work that is now being done by
4 utility employees, is that work standardized?

5 MR. BLOUGH: The performance indicators--

6 MR. LAURIE: Yeah.

7 MR. BLOUGH: That the utility submits the data for
8 are standardized to a large degree. It's a fact -- you
9 know, right now. Pardon?

10 MR. BROCKMAN: It's pretty well -- I'd say it's
11 standardized.

12 MR. BLOUGH: Fairly standardized, although there
13 are some plant designs where the design is unique, so you
14 need kind of a unique performance indicator. And that's --
15 the performance indicators that the licensees submits the
16 data for is the only thing that's really kind of taking the
17 place of NRC inspection between the old and the new
18 programs. So, in that context, I think it's fairly
19 standardized, and that -- there are a lot of questions
20 evolving and that's -- someone just mentioned all the
21 frequency asked questions. You know, there are questions on
22 how to interpret these standardized performance indicators.
23 Now below that, the things that the utility has done all
24 along--you know, what the operators do and what tests they
25 do on the equipment. You know, the degree of

1 standardization on those depends, as generally less. Yeah.

2 MR. LAURIE: I think that was the question. Where
3 are we?

4 MR. CAMERON: Do you -- let me just -- let me do a
5 check here. You started talking a lot about how you're
6 going to do your jobs, sources of information, and you may
7 need to figure out exactly where you're going to start, and
8 Steve said we could probably just start going around the
9 table and talking identifying issues. But are you all
10 comfortable with these three objectives as to these are the
11 right questions to be asking, and I guess, by right, does
12 that lead you to fulfilling what's in your charter? I mean,
13 I haven't heard any disagreement about that, but I think
14 what Loren -- it's important I think to at least have a
15 sense that this is -- these are the right questions
16 basically, because, you know, that's basically going to be
17 the framework for your starting point it seems for what
18 you're going to be doing. And you don't need to, you know,
19 answer it now, but I think it's something to think about.

20 MR. HILL: I think with the understanding that
21 question two is a broad-based, I mean, very open-ended
22 question that covers an awful lot.

23 MR. CAMERON: Yes, it sure does. And I guess
24 that, Loren, your idea was that this would be fairly
25 broad-based.

1 MR. PLISCO: Right. And I think a lot of it will
2 fall out naturally as we answer number one. I think it will
3 fall out of that.

4 MR. SCHERER: I guess I agree with those three to
5 the extent that three implies not only a self-assessment,
6 but a self-corrective process. In other words, it's a
7 closed loop.

8 MR. PLISCO: And that question is not specifically
9 in the charter, but one -- you know, I've had discussions
10 with Sam, but that's an important question to have is a year
11 from now, you know, with the assumption that if we did
12 continue with the program, is there -- is there something in
13 place that's going to identify issues and get it resolved.

14 MR. CAMERON: Any other caveats, questions on
15 these three? Number one covers a lot of -- covers a lot of
16 territory.

17 MR. KRICH: I may have missed this, and I
18 apologize if I did. The charter says the IE -- the IIEP
19 will evaluate the ROP results against performance
20 measurements. And I'm not clear, and maybe I'm the only one
21 who missed that, but I'm not clear what those performance
22 measures are. Are they these or is there something else
23 that we should be looking at?

24 MR. CAMERON: That's a good question, because I
25 think at -- I don't know if it was -- maybe -- this may be

1 my ignorance, but someone said a little while ago is don't
2 just look at the staff metrics. And by metrics, are we
3 using metrics synonymously with performance measures, is
4 that?

5 MR. KRICH: I don't know.

6 MR. PLISCO: Yeah.

7 MR. CAMERON: Is that the same thing?

8 MR. PLISCO: Yeah, that was the intent.

9 MR. CAMERON: So to go back to how would you
10 answer, Loren, would, did you understand what Rod was
11 saying?

12 MR. PLISCO: Well, this might be a good point. I
13 think the individuals who are on the PPEP panel I think went
14 through this discussion, and we may want to talk about that.

15 MR. FLOYD: Well, the way it was done under the
16 PPEP was the staff proposed a set of criteria for judging
17 the effectiveness of the oversight process. This -- the
18 PPEP panel passed judgement as to whether or not they had
19 the right metrics that would give the confidence that they
20 were measuring the right things. And then, once we agreed
21 upon the metrics, then the staff came back to the PPEP with
22 periodic reports on what were the metrics showing. Were
23 they meeting the objectives that the metrics were supposed
24 to measure and what were the results of those, and then we
25 would pass judgement on whether or not we thought the

1 results that they were portraying meant that they were
2 meeting the objectives. So, and I assume that's how we're
3 going to set this one up as well.

4 MR. PLISCO: Yes.

5 MR. BLOUGH: But did the staff, then, revise the
6 metrics based on comments?

7 MR. FLOYD: Yes, they did.

8 MR. BLOUGH: From the PPEP?

9 MR. FLOYD: Yes, they did. Yeah.

10 MR. BLOUGH: And that was without any report to
11 call on or anything like that. They just did it based on
12 the interaction?

13 MR. FLOYD: Correct. Yeah.

14 MR. HILL: I thought the performance measures were
15 going to be defined by what's in section I. I thought
16 that's what you were saying that this memo written October
17 16th provides the performance measures we compare against.

18 MR. PLISCO: Correct. And that's one in the same.
19 I think what were Steve was talking about. It's those -
20 those are the proposed metrics the staff has put -- to
21 answer those eight questions.

22 MR. CAMERON: So people can look at the October
23 16th memo, and they will at least -- they'll see what
24 performance measures that we're going to be talking about.

25 MR. PLISCO: Right. Well, that's exactly what

1 Bill Dean is going to go over tomorrow. He's going to walk
2 through those metrics. The rationale, how they're
3 structure, and why they developed the way they did.

4 MR. FLOYD: And we will have an opportunity to
5 comment on those, and say, gee, I think if you added this
6 one to this set, we think that would give you a better
7 picture.

8 MR. PLISCO: Yes.

9 MR. FLOYD: And make some recommendations.

10 MR. PLISCO: And I made the assumption, it may be
11 wrong, that we're not going to have all those collections
12 tomorrow, because I think once you see them, there is a lot
13 of them and they're complicated, and it would be difficult
14 to absorb them in the four hours he's got. And I think
15 we'll revisit them. And that's really why I was trying to
16 bring them up again at the second meeting, not only to look
17 at the data, but to go back and look at those metrics again
18 once everyone's had a time to look at them and think about
19 them.

20 MR. CAMERON: David, did you have a comment on
21 this?

22 MR. LOCHBAUM: I haven't had the benefit of Bill
23 Dean's presentation. In looking through this, you know, I
24 didn't know until Steve Floyd told me what these big M and
25 the little M stood for. I mean, this isn't a very clear

1 document. My concern is this is going out for public
2 comment as well. It's not a plain English document at all.
3 Maybe looking at this document and reading the transcript of
4 Bill Dean talking tomorrow would allow somebody to have a
5 hope for understanding what's going on. But if this is the
6 metrics, I don't know. It looks on the weak side.

7 MR. HILL: Are you talking about the October 16th
8 memo?

9 MR. LOCHBAUM: Yes. It flat out doesn't work.

10 MR. BROCKMAN: Yes, there's one other thing I
11 think we ought to realize from the input that happened is,
12 when we got, we had the metrics that were provided from us,
13 the measures, but if my memory serves me right, we got about
14 to the two-thirds of the way through it and realized this
15 really isn't measuring what we thought it was going to
16 measure at all. And one was wanting for a little bit. So
17 the time spent right now in really trying for us to get a
18 handle on these metrics I think is very important. We
19 brought up another concept is, do I think that Bill Dean
20 right now will change these self-assessment metrics or this
21 IIEP. That's an interesting question to ask tomorrow. He
22 is down the path to a self-assessment. Now, whether he -- I
23 think we could very well negotiate maybe data. If we don't
24 see enough data there, getting additional stuff being
25 captured for the IIEP's use. I don't know what his dynamics

1 will be in this arrangement right now. Two months from now,
2 we've said -- we think this one needs to get changed, but
3 that die may already be cast to a degree with respect to
4 what he's doing. I think we could negotiate getting
5 additional data that we see needed to reach our independent
6 assessment.

7 MR. LOCHBAUM: If those are the objectives we're
8 trying to, as a panel, to reach some conclusion on, then
9 this would be an input, but not the sole input. If this is
10 the sole criterion, this isn't an adequate document in my
11 mind. Those criteria would be. I mean, if we -- somehow
12 maybe as part of the note. I mean, basically, you could do
13 anything you wanted to with this. This is very hard to
14 understand.

15 MR. HILL: What do you mean by publicly available?
16 Because I -- we're discussing them in this meeting which is
17 a big part of the public record. I mean, he's defining them
18 here. I'm not sure what else you want.

19 MR. LOCHBAUM: I mean just post it on the Web.
20 Here are the criteria that the panel is going to be using to
21 reach some ultimate decision. These eight -- three
22 questions broken into things like whatever next.

23 MR. FLOYD: I presume these will be, these
24 objectives that we're agreeing on, will be in the meeting
25 minutes, and those will be posted.

1 MR. LOCHBAUM: Yes.

2 MR. REYNOLDS: No, I think what David mean is I go
3 the Web site on the IEP, you know, hey here's a hot link for
4 the by-laws, a hot link for the charter, a hot link for
5 objectives. That's what you mean, right?

6 MR. LOCHBAUM: Yes.

7 MR. REYNOLDS: That's what I envision that what
8 we've talked about. As opposed to going through four and a
9 half hours worth of transcript to find out where it is.

10 MR. CAMERON: And that's -- that's -- it's
11 important, then, that you all agree on that these are the
12 criteria that you're going to be using for evaluation. And
13 I don't see any, with a couple of caveats that we added in
14 there, I don't see -- didn't see any disagreement.

15 MR. HILL: I wouldn't call that criteria.

16 MR. CAMERON: But, Ed, what would you?

17 MR. HILL: Well, I mean, it's objectives.

18 MR. CAMERON: Objectives. Objectives.

19 MR. HILL: In fact, I don't think we've defined
20 the criteria exactly.

21 MR. CAMERON: Okay. And, David, your comment went
22 to two -- I just wanted to clarify your comments went to the
23 fact that the existing performance measures are not being
24 communicated clearly in terms of that document, but also
25 that there may be other performance measures that need to be

1 added to those that are in there?

2 MR. LOCHBAUM: This -- my comment was if this is
3 the document that the staff or the NRC wants to communicate
4 with the public on the success of this oversight project, it
5 doesn't work. This is not the right vehicle for that.
6 That's better.

7 MR. CAMERON: Okay.

8 MR. LOCHBAUM: And so, you know, it depends -- I
9 don't know at the point whether we're using this or using
10 that. And the outcome depended on what that decision was.

11 MR. HILL: But in light of what you're saying, are
12 you talking about from now on, because these three
13 objectives aren't going to be from now on. They're for this
14 committee, and then what I understand is this document here
15 is what to be communicated from now on.

16 MR. LOCHBAUM: Well, the third question is, is a
17 sound self-assessment process in place?

18 MR. HILL: Dave?

19 MR. LOCHBAUM: Then my comment would be this is
20 not clear enough.

21 MR. TRAPP: But you're answering one of our
22 objectives already. You've come to a conclusion on that
23 question.

24 MR. LOCHBAUM: I'm trying to save a lot of time.

25 MR. BLOUGH: Well, but the other thing is if

1 they're slow hanging through that, meaning if there's stuff
2 that we get -- that we look at tonight and we talk about
3 tomorrow, and it seems like it's way off, then we're in
4 consensus that there's something off. I guess we know now,
5 but the worry, but we can't provide that feedback. And if
6 the staff chooses, they can make changes to address our
7 comments as they go along, right, because they did that
8 during the pilot. Was that -- that's what happened in the
9 pilot is what I thought you described.

10 MR. FLOYD: Right.

11 MR. HILL: And if they choose not to change along
12 the way, and we feel strongly about it, we can put that in
13 our recommendations.

14 MR. SCHERER: Is there going to be a need or an
15 opportunity to look at global issues that go beyond. I
16 can't think of anything outside of these three that I would
17 recommend as objectives, except the things like the global
18 issue, for example. These did okay. If every plant in the
19 country were green on every PI, is that an okay process or
20 is it unacceptable to have everybody be green on every PI;
21 therefore, you know, the thresholds are set long, and we
22 have to go back and reset the threshold.

23 MR. BROCKMAN: That's an interesting question, and
24 if you have to look, part of what the definitions of PIs
25 are.

1 MR. SCHERER: Yes, I could easily see that being a
2 subset of item 1 or we could be -- we could spend all our
3 time going through, meticulously items 1, 2, and 3 and never
4 discuss that subject. And I would think that we probably
5 would want some time to discuss that subject.

6 MR. BROCKMAN: It's one worth talking about. You
7 know, I think most of us have a pretty good ideas of what
8 the definitions are. Personally, the definitions as
9 written, I would say it's totally inappropriate for every
10 plant to called green, because white is not a risk-informed
11 characterization. It is an outlier characterization. And
12 until you get into the yellow and red, you're not in the
13 risk implication. I can't imagine the entire industry is
14 going to be this type. I may have somebody that's in a band
15 where I'm going to get some outliers. That's the purpose of
16 white is currently written there. Now, maybe an insight of
17 this group is to say it is right for them all to be green,
18 and we need to change some of those definitions, because
19 they're sending the wrong message, communicating an improper
20 insight to the public. I don't know. I think some of those
21 discussions are very appropriate for this group, and is this
22 program meeting all of its goals?

23 MR. PLISCO: And I'm hopeful we get to those --
24 some of those questions by looking at these goals that are
25 going to fall out, and not necessarily from the metrics, but

1 the discussions we're getting from the other groups and
2 stakeholder input. I'm sure some of those kinds of issues.

3 MR. SCHERER: I just want to encourage us in going
4 through this not to do it compartment by compartment and
5 miss the issue, because, otherwise, we'll be drawn back to
6 that at the end of the process, because, for example, the
7 process Ken outlines talks -- would then have to have a
8 self-assessment process, which we resets the 95-5 green
9 light, if, in fact, the performance of the plant moves such
10 that, you know, what gets measured gets managed and
11 everybody is green, you would have to reset that threshold.

12 MR. FLOYD: Yes, but that's absolutely contrary to
13 the second?

14 MR. SCHERER: Exactly. Exactly. So that's why we
15 would want to discuss that here, and not have that become an
16 inadvertent consequence of what we're doing.

17 MR. FLOYD: Right.

18 MR. SCHERER: My only point was I agree -- I'm
19 trying to agree with the 1, 2, and 3, as outlined. I think
20 it's pretty complete and pretty good. I just don't want to
21 miss the bigger issues as we, for the sake of efficiency,
22 address each of the sub-comments, and it's time to have
23 those discussions.

24 MR. CAMERON: Do you think that those -- will
25 people identify as we're going through this. Will people

1 identify those global issues as they come up.

2 MR. SCHERER: My expectation would be that I would
3 hope that people would identify them and probably put them
4 in parking lot.

5 MR. CAMERON: Okay.

6 MR. SCHERER: Later discussion as we go through
7 it, recognizing that we've hit on a bigger issue and
8 probably closer to the end of the process want to discuss
9 those, because adding up all the findings we will want to be
10 comfortable, at least I would want to be comfortable, that
11 not only are the findings supportable, but the overall
12 conclusion of those findings are -- would not have an
13 unintended consequence.

14 MR. CAMERON: So you're--

15 And you are just sort of charging your colleagues
16 and yourselves if there is a global issue that strikes you
17 when we are doing this discussion of the individual
18 performance measures, whatever, just note it and we will put
19 it in a global parking lot for coming back to, all right?

20 MR. HILL: And I guess, to bring up a concern I
21 have, as long as we have discussed today, I think the
22 discussions have been fruitful, I am just very concerned we
23 are going to have enough time to have fruitful discussions
24 to be able to answer these questions in just a couple of
25 meetings. I just don't know how we are going to be able to

1 get there.

2 MR. CAMERON: Maybe we should go to schedule a
3 number of meetings and all that stuff. Now I don't know how
4 long you wanted to run --

5 [Laughter.]

6 MR. HILL: I guess my own concern is at the end I
7 don't want to feel like I got rushed into having an output
8 at the end without adequate discussion.

9 MR. PLISCO: The previous panel didn't have that
10 problem.

11 MR. FLOYD: Not really. I'll tell you what I
12 think -- I mean people may disagree with this but I think
13 what really happened in the previous discussion was we very
14 quickly focused on what were the burning issues.

15 Sure, there will be a lot of issues. I mean Item
16 Number 2 -- we can have everything from soup to nuts in
17 there but there's probably half a dozen or eight or so large
18 issues and if the committee focuses on those there probably
19 is enough time in three or so more meetings to deal with the
20 larger issues.

21 We can't solve every little nuance and nit of
22 discrepancy in the problem but we can certainly focus on the
23 big issues.

24 MR. TRAPP: I think another benefit is a lot of
25 those big issues are already well identified by NRR, being

1 worked on -- you know, performance indicators there's a
2 whole group of people out there trying to do risk-based and
3 performance indicators.

4 I think there would be some benefit maybe to have
5 Dean kind of give us a synopsis of what they think the big
6 problems are and what they are already working on, in a
7 brief synopsis so we are not just recreating what they are
8 already doing because I think we're going to do a lot of
9 that if we don't hear what they are up to.

10 MR. PLISCO: And as many public meetings as we
11 have already had I know a lot of the issues are already on
12 the table and everyone is well aware.

13 MR. TRAPP: But I think all the members might not
14 be --

15 MR. PLISCO: Right.

16 MR. TRAPP: We are because we deal with it on a
17 daily basis, but I don't think everybody is as aware.

18 MR. REYNOLDS: I have to agree with Rich a little
19 bit. If this is an indication of how quickly we move --

20 MR. PLISCO: I had four in my plan and a question
21 mark next to five.

22 MR. FLOYD: Could you repeat what you have?

23 MR. PLISCO: Yes. I gave you the start -- the
24 going-in position here is first meeting topic, which you
25 will hear tomorrow, is just an introduction of what the

1 Staff has developed, those metrics to answer the Question
2 Number 1, where they are on that, and us to hear their
3 presentation and hopefully we will get to it in the
4 afternoon. There's time for us to talk about it as far as
5 first impressions and what we think about this.

6 The second meeting is to see the initial set of
7 data and our first opportunity to really internally discuss
8 issues and if there's external groups, there are specific
9 groups we want to solicit input from we can do it at that
10 meeting, in January.

11 The third, in March -- I said the survey results
12 will be available by then, and again to get other external
13 input at that meeting.

14 In the fourth, in April, we'll really get down to
15 our consensus building and deciding what our recommendations
16 are and conclusions, and based on my discussions with the
17 previous Chairman the potential for a fifth to essentially
18 finalize the report, and I think the last panel did a lot of
19 it by e-mail and one of his lessons learned, he thought it
20 may be beneficial to have a one-day meeting. They'd bring
21 everyone back and go over that final report, just one
22 last -- that one time, after you have had time to work
23 through some of the issues.

24 He thought that was probably something that could
25 have worked out better than trying to do all this

1 negotiation by e-mail.

2 MR. FLOYD: I agree with that, although I think
3 the process of the e-mails was a very efficient way not to
4 have to have three or four meetings on the final report.

5 MR. SCHERER: When is the final report due?

6 MR. BROCKMAN: The Commission meeting is in June.

7 MR. PLISCO: Right. We don't have a specific date.
8 but the Commission meeting is in June and Bill could
9 probably tell us tomorrow.

10 He has a due date when he has to send his report
11 in and what Sam would like us to do is get our report in
12 before the Staff has to send in their final because let's
13 give them the opportunity to try to address some of the
14 issues and recommendations we have.

15 MR. SCHERER: If we back up from the Commission
16 meeting in June there's a SECY that will go to the
17 Commission. I assume --

18 MR. PLISCO: End of April is what we are shooting
19 for.

20 MR. SCHERER: So we should, the goal is to have a
21 final report out by the end of April?

22 MR. PLISCO: Isn't that what we said, John?

23 MR. MONNINGER: Yes.

24 MR. PLISCO: We laid out sort of a draft timeline
25 looking at when the Commission wanted their results and it

1 was near, I think it was the last week in April some time.

2 MR. MONNINGER: Yes.

3 MR. PLISCO: Like I say, if we have to have that
4 fifth meeting is what I see as a one-day, kind of our final
5 stand -- I mean everyone will have seen the final draft and
6 we'll decide or not any leftover issues.

7 MR. REYNOLDS: Could weather be a problem here in
8 January?

9 [Laughter.]

10 MR. PLISCO: When I talk about this I think
11 there's only two members in the D.C. area -- Dave and Steve,
12 right? So there's no reason we have to meet here other than
13 the ease of logistics. It's just easier for John to run the
14 logistics from here.

15 MR. LOCHBAUM: It's a consensus decision,
16 obviously.

17 MR. SCHERER: If we have an April report due, this
18 seems pretty back-end loaded to me. I mean it would appear
19 more logical to be having December and January and February
20 meetings than March and two April meetings for an April
21 report, because if in fact the Commission is going to
22 meeting and the SECY is going to go up in May then, you
23 know, being a day late to that input is not going to be
24 valuable.

25 MR. BROCKMAN: Might I suggest that we see what

1 steps are scheduled for gathering data because I think a lot
2 of our meeting times are going to be driven by when the data
3 is available.

4 MR. PLISCO: I've talked to Bill and that is why
5 the January date is -- I mean the data collection is going
6 on now for the first set of those metrics.

7 MR. BROCKMAN: So the March date needs to be where
8 it is too, because when that survey and external input data
9 is available --

10 MR. PLISCO: Right, but there's no reason we
11 couldn't have a December meeting in order to get external
12 input and have our own discussion.

13 MR. FLOYD: Yes, and that is what I was going to
14 recommend is that the December meeting have external input,
15 some external input, as well as our own identification of
16 what do we see from our perspectives, the major issues that
17 are likely to be raised when we get into subsequent
18 meetings.

19 The other thing we did on the PPEP that was I
20 thought very valuable was to agree in one of the earlier
21 meetings what was the likely format of our final report and
22 not wait until the last month and then try to write it but
23 start building the framework for it and leaving blanks for
24 conclusions and insights or whatever, but if we know we have
25 some burning issues, for example, we could start identifying

1 those and then we could fill in the blanks if we get
2 insights that they are going to be resolved and we can agree
3 or not agree with the resolution.

4 That was a good start I thought was to go ahead
5 and get that outline laid out.

6 MR. LAURIE: Who actually authored the previous
7 report? Was it a member of the panel?

8 MR. FLOYD: It was the Chairman that actually took
9 the responsibility of writing the report.

10 MR. LAURIE: Is that our intent?

11 MR. PLISCO: Yes, with John's help. We will
12 solicit input. I think everyone provided input.

13 MR. MONNINGER: Yes, everyone provided inputs.
14 Inputs were provided verbatim as an attachment to the
15 report. I guess the DFO and the Chairman tried to summarize
16 it but then it went through the consensus process to make
17 sure that summarization was reflective.

18 MR. PLISCO: And that's why I think when I talked
19 to Frank Gillespie this last day meeting, really to sit down
20 with that report to do it one more time he thought would
21 probably be worthwhile.

22 MR. HILL: I have a question. On the previous
23 panel was there use of subcommittees? This talks about
24 subcommittees but I haven't heard us talk about using them
25 in any way.

1 MR. PLISCO: It's my understanding that there
2 weren't any.

3 MR. BROCKMAN: We talked about it early-on, but it
4 just never came back.

5 MR. HILL: Somehow or another I guess I could see
6 how at least in the issues, problem areas, that
7 subcommittees might be helpful but maybe not. I could just
8 see us talking a long time on what is the purpose of
9 something and what is happening and is it really working,
10 and what would be recommendations.

11 I could see that taking a lot of discussion,
12 whereas, you know, a small committees might be able to
13 handle a portion of that, but I don't know.

14 MR. PLISCO: I mean specifically did you have any
15 issues that you considered and just decided not to or?

16 MR. BROCKMAN: I mean we had talked about
17 early-on, we talked about having different committees going
18 out and soliciting inputs from different parts of the
19 country and the logistics -- it just fell under its own
20 weight, and the driving factor for that, I would believe, is
21 early-on sit together and put out your plan.

22 Probably at the second meeting, if we had it in
23 December, we could put together a plan for the things we saw
24 to attack, and then you could probably assign
25 responsibilities and subcommittees and get some use out of

1 that, but the benefit of subcommittees is going to be
2 getting it planned out early on and getting agreement for
3 those responsibilities and then coming back and reporting
4 in.

5 It could work and we have just got to capture, let
6 the process capture it --

7 MR. PLISCO: To me, and not having been on the
8 first one I don't know, but it seems like the nature of this
9 committee is going to be a lot different from the first one.

10 The first one, you know, you are trying to create
11 what do you want to do. Here we have some actual "this is
12 what has happened -- these are issues -- now what is being
13 done about it and what do you recommend" so I may be wrong
14 but it seems like it could be different, the nature of this
15 committee versus the first. Maybe not.

16 MR. LAURIE: Committees work on those issues where
17 the full body is prepared to give a great deal of discretion
18 to the committees' recommendations and therefore not debate
19 the conclusions.

20 I don't know if our issues will allow for that.
21 If so, then a committee or subcommittee structure could
22 work, so maybe it depends on the issues that the committee
23 is being asked to review.

24 MR. BROCKMAN: Subcommittees could be very
25 valuable in gathering data as we see the need to do

1 independent data-gathering or independent confirmation, then
2 I think that could be very worthwhile.

3 I don't think we are to the point yet where we
4 know we are going to have to pursue data like that.

5 MR. PLISCO: It sounds like we agree we probably
6 ought to have a December meeting if we can find a date to
7 work that.

8 SPEAKER: The 25th is free.

9 [Laughter.]

10 MR. CAMERON: There were two items for a December
11 meeting that I heard. One was that would be a good meeting
12 to get outside input on these performance measures on the
13 ROP, and then Ken's idea about use that meeting also as a
14 planning meeting to set out specific tasks and until you
15 have that planned you wouldn't know whether subcommittees
16 were going to be useful --

17 MR. PLISCO: And the report format I think was the
18 other thing.

19 MR. FLOYD: The other thing you might do in
20 December, it depends on when the meeting is but by December
21 you will have at least had the Region III, the Region II and
22 the Region IV stakeholder meetings on the process.

23 You could perhaps get a report from NRC and a
24 stakeholder perspective on what did they hear at that
25 meeting that needs to be addressed.

1 MR. HILL: When is the Region I meeting?

2 MR. FLOYD: December 13th.

3 MR. HILL: Would it be possible to get some
4 information sent out ahead of time?

5 I mean if we come here and we get hit cold at the
6 meeting we are not going to get a lot of worthwhileness out
7 of it versus if people already knew issues they wanted to
8 discuss, somehow or another funnel them to John and let him
9 distribute them to everybody so ahead of time you would know
10 what issues people had or what there is to be thrown out or
11 what feedback there is from meetings and that kind of stuff,
12 and come prepared.

13 MR. PLISCO: Yes, we can decide on that once we
14 decide what we want the agenda to be and get that
15 information out.

16 MR. SCHERER: I heard a comment that was very
17 good. In the December meeting we might start with an
18 outline of what the final report would look like, and try to
19 draw the conclusions -- what elements do we as a group
20 believe should be in that report.

21 I think doing that early has several advantages
22 including what Steve evidently was outlining the previous
23 committee wanted to do, but also that everybody can reach a
24 consensus on what things we need to address.

25 We would have the benefit of tomorrow's

1 presentation and frankly give some thought to what are the
2 key elements, and that way it would tend to support making
3 sure that the next few meetings would be developing a record
4 to support that report, so I would encourage some time in
5 the December meeting to talk about the outline of a report
6 even if it is just a straw man.

7 MR. CAMERON: Can I -- and I have December
8 meeting, external input, work plan about how you are going
9 to proceed, tasks, schedules, subcommittees, outline of
10 final report.

11 There was one other thing, Loren, that you
12 mentioned, that I missed. Is there anything -- I am trying
13 to figure out if I did miss anything there. I thought I
14 did.

15 MR. TRAPP: It would be a good time to get a
16 problem ID from the program group, you know, to tell us what
17 they are working on, what the known problems are.

18 We ought to do that early in the process.

19 MR. HILL: Isn't that tomorrow?

20 MR. LOCHBAUM: We're planning an introduction to
21 cover big picture what some of the issues are.

22 MR. PLISCO: Yes.

23 MR. LOCHBAUM: I need to be somewhere, so I have
24 to leave.

25 MR. PLISCO: Okay. I think we are close to being

1 finished.

2 MR. BLOUGH: What are we going to hear? Are we
3 going to hear some of what the issues are and we are going
4 to hear everything that NRR is doing to assess the program,
5 not just what is in the October 16th memo, because they are
6 doing all these other things.

7 We mentioned they are visiting every region. They
8 are visiting six sites in every region. They are talking
9 with licensees. They are getting feedback from all the
10 inspectors. They are having these workshops and then there
11 will be some series of activities after New Years to try to
12 start getting our hands around it, so they are going to tell
13 us all of that --

14 MR. PLISCO: He is going to give a status of the
15 program, which will include some of the activities that are
16 ongoing right now and then walk through the metrics.

17 MR. CAMERON: Since David has to leave, should we
18 all come with our calendars tomorrow morning, first thing,
19 see when you could schedule a December meeting?

20 MR. PLISCO: Yes, and let's do the January also.

21 MR. CAMERON: And the January.

22 MR. BROCKMAN: Early in the morning then we are
23 going to try -- we are going to come up with what we think
24 are dates available. We will agree with those and do that
25 in the morning and then that will let everybody -- at noon

1 they can make quick calls and say, okay, I have committed
2 for this, have I made a faux pas?

3 MR. CAMERON: Okay, and what time do you want to
4 start?

5 MR. PLISCO: Eight o'clock.

6 MR. CAMERON: Eight o'clock.

7 [Whereupon, at 6:11 p.m., the hearing was
8 recessed, to reconvene at 8:00 a.m., Thursday, November 2,
9 2000.]

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

REPORTER'S CERTIFICATE

This is to certify that the attached proceedings before the United States Nuclear Regulatory Commission in the matter of:

NAME OF PROCEEDING: REACTOR OVERSIGHT PROCESS INITIAL
IMPLEMENTATION EVALUATION PANEL
PUBLIC MEETING

PLACE OF PROCEEDING: Rockville, MD

were held as herein appears, and that this is the original transcript thereof for the file of the United States Nuclear Regulatory Commission taken by me and thereafter reduced to typewriting by me or under the direction of the court reporting company, and that the transcript is a true and accurate record of the foregoing proceedings.



John Rankin

Official Reporter

Ann Riley & Associates, Ltd.