

SPECIAL EVALUATION OF THE ROLE AND
STRUCTURE OF THE NRC'S COMMISSION

OIG/99E-09 December 23, 1999

December 23, 1999

MEMORANDUM TO: Chairman Meserve

FROM: Hubert T. Bell
Inspector General

SUBJECT: SPECIAL EVALUATION OF THE ROLE AND STRUCTURE OF
THE NRC'S COMMISSION

Attached is the Office of the Inspector General's special evaluation of the role and structure of the NRC's Commission. This report contains five matters for consideration to enhance the role and structure of the Commission.

This report does not contain recommendations, therefore, we did not solicit agency comments.

Attachment: As stated

cc: Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield

REPORT SYNOPSIS

The Nuclear Regulatory Commission (NRC) was created in 1974 to ensure the safe use of civilian nuclear materials in the United States. The NRC is an independent agency headed by a five-member Commission. One member is designated by the President to be Chairman.

Five years after NRC's inception, this nation's most serious nuclear accident occurred at the Three Mile Island nuclear power plant. As an aftermath to several independent reviews of the cause for this accident, President Carter proposed, and Congress enacted, the Reorganization Plan No. 1 of 1980 (Plan), as amended. The purpose of the Plan was to strengthen the Chairman's role to clarify where agency responsibility resided while maintaining the collegiality of a commission form of organization. This Plan is the blueprint by which the Commission operates today.

While meeting the agency's mission is a formidable task, the NRC is faced with many current challenges within its nuclear arena. Simultaneously, the NRC has been directed through the Government Performance and Results Act to improve its internal management and program effectiveness. In response, the NRC has several major initiatives underway. For example, the agency contracted with Arthur Andersen and Company in 1998 to perform internal program assessments.

To evaluate the impact of such agency initiatives on the NRC staff, the Office of the Inspector General (OIG) surveyed the staff's perception about the safety culture and climate of the agency. Statistical results of that survey identified a wide disparity regarding the perceptions of staff in the most senior level offices compared to the rest of the agency. As a result of the survey findings, the OIG decided to perform this special evaluation of the role and structure of the NRC's Commission. Our overall objective was to identify ways that the Commission could enhance its effectiveness. To assist us in this effort, we contracted with the National Academy of Public Administration to act as a sounding board during our fieldwork.

Our evaluation identified that Commission members, from time to time, have different interpretations of the Plan, which can adversely affect the Commission's collegiality. We also found that the Commission has not memorialized goals and objectives specific to their role and structure. Furthermore, NRC staff indicated in the OIG survey that higher level managers do not trust their judgment and the agency lacks a clear sense of direction. In addition, we found that new Commission members and their staffs do not receive a customized formal orientation.

In our report, we identify five matters for consideration by the Commission which we believe will enhance the effectiveness of the Commission.

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INTRODUCTION

The U.S. Nuclear Regulatory Commission (NRC) is responsible for ensuring that civilian uses of nuclear materials in the United States are carried out with adequate protection of the public health and safety, the environment, and national security. The scope of NRC's responsibility includes regulation of 104 commercial nuclear power reactors; 39 research, test, and training reactors; and, 8 major fuel fabrication and production facilities. Additionally, the NRC issues approximately 21,000 licenses for medical, academic, and industrial uses of nuclear materials.⁽¹⁾ The NRC also has certain regulatory responsibilities for the transportation, storage, and disposal of nuclear materials and wastes. And, the agency has a role in combating the proliferation of nuclear materials worldwide.

While meeting this mission is a formidable task in and of itself, the agency is faced with a rapidly changing environment as it prepares to enter the 21st century. The NRC's immediate and future focus will be on important issues such as license renewal for aging nuclear power plants, resolution of the disposal of high and low level waste, and the possible regulation of Department of Energy non-weapon nuclear facilities.

Simultaneously, the NRC, like all Federal agencies, has been directed by Congress, through the Government Performance and Results Act (Results Act), to improve its internal management and program effectiveness. The goal is to help restore American public confidence in the Federal government's capability to perform its mission.

In response to these and other factors affecting the agency, the NRC has several major initiatives underway which have the potential for reshaping how the agency accomplishes its mission. For example, NRC contracted with Arthur Andersen and Company to perform internal program assessments. In late 1998, as part of these assessments, the NRC tasked Arthur Andersen to look at the agency's management and support activities. Arthur Andersen focused this study on program offices below the Commission level.

To better assess the evolution of the NRC in meeting its many safety related challenges, the Office of the Inspector General (OIG) sponsored an agency wide survey in 1998. This survey measured NRC staff perceptions regarding the agency's safety culture and climate. Statistical results from that survey identified a wide disparity regarding the perception that staff in the offices of the Chairman, Commissioners, and Executive Director for Operations (EDO) held compared to the rest of the agency. The staff's perception in those offices was close to 20 percent more favorable than the perception of staff in the NRC overall. (Refer to Appendix III for more detailed information regarding the OIG Safety Culture and Climate Survey results.) OIG's contractor administering the survey said that it is generally expected that senior managers will have a more positive view of the organization overall. However, he found the NRC's disparity to be much greater than expected.

¹ U.S. Nuclear Regulatory Commission, *Information Digest*, 1998 Edition.

In addition, 60 percent of the agency staff either did not believe or did not know if higher management levels trust their judgment. Furthermore, employee comments identified that communication at the Commissioner level was not working well, that the agency's operating effectiveness was at the point of being diminished, and, ultimately, that the mission of the agency was suffering.

Given all of these factors, especially the agency's critical safety mission and the survey data which revealed such a wide disparity between the Commissioner and EDO offices and the rest of the agency, we conducted this special evaluation. Our objective was to identify ways that the Commission could improve its effectiveness.

Furthermore, Congress continues to be interested in the views of NRC staff regarding their work environment, the agency's new regulatory approach, and other agency initiatives. In light of their concerns, Congress tasked the General Accounting Office (GAO) to assess the NRC's culture. GAO is currently working on that assessment.

We believe that the timing of our study is opportune because a new Chairman has recently been appointed. During the fieldwork portion of our study, we employed the services of a panel of experts from the National Academy of Public Administration (NAPA) to serve as a sounding board. Appendix I contains additional information on our objectives, scope, and methodology.

BACKGROUND

Congress created the Atomic Energy Commission (AEC) in 1947 to bring about a larger Federal role in atomic energy development. When established, five Commissioners led the AEC and, in accordance with the Atomic Energy Act, a General Manager was appointed as the agency's Chief Executive Officer. The General Manager reported directly to the Commissioners and was responsible for discharging administrative and executive functions as directed by the Commissioners. In 1961, the Commissioners created the post of Director of Regulation and gave it comparable authority to the General Manager. While the Director of Regulation focused on all agency regulatory activities, the General Manager's authority centered on the agency's promotional and operational activities.

Congress enacted the Energy Reorganization Act of 1974, as amended, to reorganize and consolidate the functions of energy research and development and the licensing and regulatory functions associated with nuclear power. This was done to promote more efficient management of the functions. Under this Act, the AEC's regulatory functions were moved to the newly established NRC, an independent agency headed by a five-member Commission.

Five years after NRC's creation, the most serious nuclear accident in U.S. history occurred on March 28, 1979, at the Three Mile Island (TMI) nuclear power plant near Middletown, Pennsylvania. The accident, which resulted in no deaths or injuries to plant workers or members of the nearby community, arose from a series of human and technical errors. The TMI accident was a watershed event that cut across all aspects of nuclear energy and nuclear regulation. After the accident, President Carter established the Kemeny Commission to examine and assess the events that led to the accident. In addition, the NRC organized its own review, known as the Rogovin study. Both the Kemeny Commission and the Rogovin study recommended that a single administrator should head the NRC. However, President Carter decided to maintain a Commission structure.

President Carter noted that it was his desire to strengthen management of the NRC so it could become a strong and effective safety regulator. Therefore, he submitted Reorganization Plan No. 1 of 1980 (Plan) to Congress with the intent to

... improve the effectiveness of the Nuclear Regulatory Commission by giving the Chairman the powers he needs to ensure efficient and coherent management in a manner that preserves, in fact enhances, the commission form of organization.⁽²⁾

President Carter's main goals were to strengthen the Chairman's role to clarify where agency responsibility resided while retaining the diversity that a commission form of organization offers. He envisioned that, through collegial deliberation, the Commission would be responsible for policy formulation, rulemaking, and adjudication functions.

On October 1, 1980, the Plan, as amended, became effective and clarified the duties of the Chairman as the Principal Executive Officer. In addition to directing the day-to-day operations of the agency through the EDO, the Chairman would take charge of the Commission's response to nuclear emergencies and, as Principal Executive Officer, would be guided by Commission policy and subject to Commission oversight.

In 1988 and again in 1989, legislation was proposed in Congress to establish the Nuclear Safety Agency, headed by a single administrator, to replace the NRC. Congress did not pass either piece of legislation. Thus, the regulation of nuclear power and materials remains invested in a Commission, where diversity of opinion and the collegial decision-making process result in actions reflecting the collective judgment of a group rather than an individual.

EVALUATION RESULTS

² This statement was made by President Carter when he presented Reorganization Plan No. 1 of 1980 to Congress on March 27, 1980.

As noted, President Carter's Reorganization Plan strengthened the Chairman's role while seeking to maintain the collegiality of a commission organization to foster safety in all of the NRC's activities. Although collegiality was not explicitly defined in the Plan, for purposes of this evaluation we defined "collegiality" (based on a wide variety of inputs) as the relationship between a group of associates or coworkers, where authority is vested in all of the members, as they work towards a common duty or role. We believe this definition meets President Carter's expectation. Given this goal and the challenges facing the agency, we have identified opportunities in the current Commission structure and role that we believe can enhance the Commission's effectiveness. We also believe this is the opportune time for the Commission to capitalize on the suggestions in this special evaluation and to set a standard for performance that will be the model for the rest of government.

LEAD BY EXAMPLE

President Carter's Reorganization Plan is the blueprint by which the Commission operates. The Plan spells out the role of the Chairman as it relates to executive powers and the Commissioners as it relates to their policy role. Thus, the Commission's interpretation and implementation of the Plan helps set the tone for how well the Commission members work together in a collegial fashion. At times, however, different interpretations of the Plan have proven to be an obstacle to Commission collegiality.

In early 1998, the staff's perception, as expressed through OIG's Safety Culture and Climate Survey results, suggested that the Commission was not operating in a collegial manner. In June 1998, the Commission, after much debate, revised its *Internal Commission Procedures* with the intent to define more specifically the respective roles of the Chairman and the Commissioners. The *Internal Commission Procedures*, which have existed at the NRC since the early 1980s, set forth the procedures governing the conduct of business at the Commission level of the NRC. Commissioners tend to believe that these revisions to the procedures have provided for a more collegial environment.

Nevertheless, ambiguity regarding the Chairman's role and the Commissioners' roles continues. For example, several current and former senior agency officials, including former Commissioners, have noted that when a new Chairman arrives at the agency, he or she is perceived as having a "take charge" attitude. In the past, new Chairmen initially interpreted the Plan in terms of maximizing the power of the Chairman. Conversely, the other Commissioners read the Plan to minimize the executive power and maximize what is policy. These opposing interpretations have led, at times in the past, to less than harmonious interactions.

Furthermore, several current and former agency officials and nuclear industry representatives expressed their belief that the Commission is also affected by different personalities. And, each of these different personalities can affect how the Commissioners interact and ultimately their ability to work in a collegial manner.

Therefore, in the absence of collegiality, one Commissioner can nullify the work of another. Several former Commission members noted that the clearer the Commissioners' and Chairman's roles and responsibilities are defined, the more the emphasis is on working together, collectively, in support of the agency's mission.

On May 7, 1998, the EDO submitted SECY-98-104 to the Commission. The document's purpose was to provide the Commission with criteria for evaluating internal organizations to determine the most effective and efficient alignment for carrying out the agency's Strategic Plan. Through the SECY paper, the agency deems an organizational alignment successful if it meets the twin goals of effectiveness and efficiency.

The Commission's ability to work together in a collegial manner not only achieves greater effectiveness, it moreover sets the example for the rest of NRC's managers. Arthur Andersen and Company's recent study of NRC's management and support activities points out the impact and need for leading by example. The study found that "leaders across the NRC work more as a group of individuals . . . than as a team."⁽³⁾

VALUE IN ESTABLISHING COMMISSION GOALS AND OBJECTIVES

Through the Results Act, Congress has tasked Federal agencies to bring business principles to government by setting clear goals, measuring the results, and demanding accountability. With its Strategic Plan, the NRC has identified overall goals and objectives and each program office has specific performance measures to meet those goals. However, the Chairman and Commissioners do not have memorialized goals and objectives specific to their role and structure. There is also a perception, shared by several intervener groups and former agency officials, that the Commission members have differing priorities which, at times, may cause the Commissioners to work at cross purposes. Furthermore, OIG Safety Culture and Climate Survey results show that NRC staff believe that higher level managers do not trust their judgment and that the agency lacks a clear sense of direction. Whether these perceptions are wholly accurate or not, they do affect the climate and culture of the agency.

DIFFERENT PRIORITIES

As stated, one of President Carter's principal goals of the Reorganization Plan was to retain the diversity that a commission form of organization offers. Commissioners' different viewpoints are an integral part of that collegial decision making process. However, in pursuing different, competing priorities, the collegial process can suffer.

³ Arthur Andersen Government Services, Final Report: *Assessment of NRC Support Activities*, October 15, 1999.

A current Commissioner told us that priorities need to be set because there are so many issues facing a Commissioner. This Commissioner also believes that the Commission needs to work together better. In fact, at times, the Commission has been perceived as lacking a common purpose. This perception can be heightened by the lack of Commission interactions. For example, prior to presenting speeches, the Commissioners do not share their speeches with the Chairman. The Chairman's speeches are, however, reviewed by the other Commissioners prior to presentation. Also, we learned that Commission members do not coordinate their travel schedules and, therefore, they have less time together resulting in fewer meetings. A current Commission member identified "sporadic" agenda sessions as a weakness for the Commission.

In addition, the Commission's interactions are mostly limited to public meetings due to the agency's initially strict interpretation of the Government in the Sunshine Act. That is, other than exemptions allowed by the Act, a quorum of the Commission cannot meet in private. In 1985, without advance notice, the NRC issued an immediately effective rule with a more liberal interpretation of the Act. Under the 1985 rule, a quorum of the Commissioners could have casual, general, informational, or preliminary discussions in private -- as long as those discussions did not effectively predetermine a final agency action. The Commission never implemented the rule due to criticism, particularly from NRC's Congressional oversight committees. In November 1998, the Commission revisited the 1985 rule. Again, however, the Commission is facing Congressional criticism regarding implementation of the rule. It is clear that the Commission has to maintain a fine balancing act of keeping the NRC's business transparent, which is essential to maintaining the public's trust, while interacting as a group to foster collegiality.

We note that other Commission organizations that we talked with essentially conduct all meetings in the public in accordance with the Sunshine Act. However, representatives from two of those agencies told us that, occasionally, the Commissioners do get together in a more private setting to discuss administrative issues such as scheduling. Generally, their General Counsels attend these discussion sessions as well.

On July 30, 1999, the Inspector General (IG) sent a memorandum to the Chairman (with copies to each Commissioner) regarding the proposed implementation of the 1985 rule. (A copy of the memorandum is provided at Appendix IV.) While the IG did not take a position for or against the rule's implementation, he did encourage the Commission, should they implement the rule, to approach it in a conservative manner on a case-by-case basis. Additionally, the IG suggested that the General Counsel or his/her qualified designee attend the non-Sunshine Act discussions to advise the Commission when their discussions might be straying into non-compliance with the Act.

LACK OF TRUST

The Chairman and Commissioners are supported by personal staffs which may include scientists, engineers, lawyers, and administrative staff. Each Commission

member has the authority to appoint, remove, and supervise the personnel in his or her immediate office. Commission members are accorded wide latitude in their selections of support staff, and there is not a prescription for the size or grade structure for their personal staffs. According to various sources we interviewed, including the NAPA advisory panel, there is a perception that the Chairman and Commissioners offices are too large. This perception can be a demotivator in that it suggests a lack of trust of the agency staff. In fact, the NAPA panel unanimously agreed, not only that it betrays a lack of trust in agency staff, but that such large numbers of special assistants, each of whom is working to protect and enhance his/her Commissioner, are likely to interfere with the effective functioning of the agency.

NRC Management Directive 10.38 states that “[e]ach NRC organizational component will be staffed with the minimum number and levels of employees essential for effective performance of its mission.” Furthermore, as stated, SECY-98-104 provides that among other things, to be efficient, an organizational alignment makes maximum use of available expertise; retains and motivates staff; sizes staff to mission objectives; and, reflects best practices in government and in the private sector.

In comparison to other Federal government commissions (see Appendix V), NRC's Commissioners, particularly the Chairman, tend to have larger personal staffs. On average, the other Commissions that we looked at had about seven full-time equivalencies (FTE) in the Chairman's office while the NRC's Chairman had more than twice that average on staff.

While agency office directors are required to submit yearly staffing plans, there are no criteria for staffing of the Commission offices. President Carter's Reorganization Plan requires that the NRC budget must be presented to the Commission for consideration, and presumably, it is through the Commission-approved budget that the number of Commission staff positions in each Commissioner's office is reflected. However, Commissioners have commented on the increased size of the Chairman's staff in recent years (see Appendix VI). A former senior agency official, who had extensive dealings with the Commission staff, noted that the more people in the Commission offices, the more work there is for the agency staff. A current Commissioner also noted that Commission staff members spend too much time “putting out fires.”

The Commission staff grade structure has also gradually increased over time. In 1985, in an internal report, the agency identified “immediate and long-term problems” regarding the control of Commission staff office grade levels. The agency's review disclosed a lack of control over the grade structure, inconsistencies in titling and grades of similar positions within the Commissioners' offices, and the impression of rivalry among Commissioners. However, the agency's findings were never forwarded to the Commission and, as best we can determine, no actions were taken to change the situation.

NAPA panel members believe that the large Commission staff can be viewed as a lack of reliance on and trust of the agency staff. The issue of management trust was of particular concern to NRC staff as evidenced by the OIG Safety Culture and Climate Survey results which showed employees believe that higher management levels may not trust their judgment (see Appendix III for details). Further indications that agency staff are not being relied upon are that 52 percent of survey respondents believe that the agency does not develop its people to their full potential and 53 percent believe that the management style at the NRC does not encourage employees to give their best.

STABILITY AND A CLEAR SENSE OF DIRECTION NEEDED

Stability is one of the benefits a commission form of organization provides. In fact, some former and current Commissioners believe that while the Commission structure may not be the most efficient way to operate, it works well for nuclear regulation because the Commission offers stability. However, for the last several years the NRC has been experiencing a less than stable environment with senior management changes and major, internal reorganizations. The agency is also in the process of changing its regulatory philosophy. A potential contributing factor to this state of change is that the Chairman and Commissioners have not effectively defined their collective vision and expectations for the agency. This belief is supported by the OIG Safety Culture and Climate Survey results which reported that 50 percent of the respondents believe that senior management does not provide a clear sense of direction.

As it is true for all organizations, the NRC needs effective leaders at the most senior level. Effective leaders generate trust and, thus, a willingness on the part of followers to embrace - rather than resist - change. Most important, they are successful in accomplishing that change because their actions are responsive to the true and long-term needs of all constituencies.

Over the past two years the agency has experienced a significant state of change. It has undergone numerous changes to its senior management, including three different individuals serving as EDO. The EDO is a key position at the NRC in that President Carter's Plan requires the Chairman to delegate to the EDO the authority to appoint staff and the responsibility for the day-to-day administration of the agency. The Plan's intent is also for the EDO, through the Chairman, to be responsible for insuring that the Commission is fully and currently informed.

Additionally, during the same period, the agency has undergone 15 major reorganizations including the creation and subsequent abolishment of the Deputy Executive Director for Regulatory Effectiveness within the EDO's office. One, rather significant change, was the Commission's creation of the Executive Council (EC). The EC is made up of the EDO (who serves as the Chairman of the EC), the Chief Information Officer, and the Chief Financial Officer. According to a former Chairman, the EC was created for the strategic implementation of the Commission's

policies and programs while taking an agency-wide view of information technology and financial management.

Along with the Chairman, the Commissioners announced the creation of the EC in December 1996. However, several current Commissioners do not believe that the EC structure is appropriate for the NRC and feel that it needs to be changed. One Commissioner expressed a belief that there is the potential for contention and inefficiency with the EC structure. Others commented that the EC structure diminishes or splinters the power of the EDO as originally intended by President Carter's Reorganization Plan. Based on these comments, the effectiveness and value of the EC, therefore, is unclear.

The agency's regulatory philosophy is also evolving. The Commission is advocating certain changes to the development and implementation of its regulations through the use of risk-informed, and ultimately, performance-based approaches. The Commission formally announced its commitment to a new regulatory approach through the Probabilistic Risk Assessment Policy Statement on August 16, 1995. However, according to the 1998 OIG Safety Culture and Climate Survey results, respondents were concerned about the changes in the agency's regulatory methodology and 67 percent did not know if or did not believe that increased focus on the new methodology was improving the NRC's regulatory effectiveness. Furthermore, in February 1999, when GAO testified before Congress⁽⁴⁾ GAO noted, among other things, that the NRC had not developed a comprehensive strategy that would move its regulation to an approach that focuses on risk. Additionally, GAO noted that the NRC had not defined such central regulatory concepts as "important to safety" and "risk significant." In March 1999, the Commission issued a "White Paper" on risk-informed and performance-based regulation in an effort to improve the staff's commonality and understanding of the regulatory approach. However, in a report⁽⁵⁾ issued by the Center for Strategic & International Studies (CSIS) in August 1999, CSIS noted that the NRC, as a first priority, still needs to define the term "important to safety." The CSIS report concluded that the NRC needs clear, concise definitions.

The Commissioners share information on policy issues with the agency staff and other stakeholders in a variety of ways. For example, in their speeches individual Commissioners can and do publicly state their different views and opinions on topics while the Commission, as a whole, is deliberating the issue. A former Chairman believes that once the Commission comes to an official decision, there should be only one agency position articulated by all members of the Commission. And, some Commissioners tend not to talk about their personal beliefs on an issue after a vote

⁴ GAO Testimony, *Systematic Approach Needed to Regulate Risk-Significant Issues*, before the Subcommittee on Clean Air, Wetlands, Private Property, and Nuclear Safety, Committee on Environment and Public Works, U.S. Senate, on February 4, 1999.

⁵ *The Regulatory Process for Nuclear Power Reactors, A Review*. A report of the CSIS Nuclear Regulatory Process Review Steering Committee, dated August 1999.

has been taken. Conversely, some Commission members believe, as long as they are clear that it is their personal opinion, they can express their differing views after the Commission has come to an official agency position. The reality is that while it may be unintentional, Commission members can and do give staff and other stakeholders mixed messages when they continue to express their differing views after an official agency position has been taken.

Furthermore, while the agency has a strategic plan, we were unable to identify a document containing goals and objectives specific to the Commission's role and structure. Moreover, as evidenced by the OIG Safety Culture and Climate Survey results, the Commission has not been able to effectively communicate its shared vision or define its expectations for the agency. Fifty percent of the survey respondents believe that NRC senior management does not provide a clear sense of direction and another 17 percent do not know if they do or not (see Appendix III for details). Responses from the offices of the Chairman, Commissioners, and EDO represented contradictory results. Sixty-five percent of the respondents from those offices believe that they are providing a clear sense of direction. As a specific example, during the February 1999 Congressional testimony, GAO stated that NRC does not have a means to link its day-to-day activities of program managers and staff and its overall goals to move to a risk-informed approach.

In OIG's Safety Culture and Climate Survey, agency employees also expressed concern about the agency's loss of experienced managers and technical expertise while indicating they are frequently concerned about changes in management. Only 14 percent of the employees think the NRC will change for the better in the next year or so, while 23 percent indicated that it will change for the worse. Furthermore, from the 1998 OIG Safety Culture and Climate Survey results, our contractor, who administered the survey, concluded the following:

The cause for concern here is that NRC employees have indicated they need more from their leaders, and they may not be patient much longer. Based on the results as a whole, without significant and meaningful improvement in management leadership, employee involvement, and communication, the NRC's current climate could eventually erode the employees' outlook, and eventually their commitment to doing their job[s].

FORMAL ORIENTATION NEEDED AT THE COMMISSION LEVEL

After a Commission member is confirmed by the Senate and joins the NRC, he or she must be ready to hit the ground running. In preparation, NRC staff provide new Commission members information through ad hoc briefings prior to and after confirmation hearings. However, we could not identify a singular agency source responsible for ensuring that each Commission member receives all of the

information needed to successfully fulfill his or her role at the agency. Nor could we identify a customized orientation program for their personal staffs.

Commission members come to the NRC with a diverse background in both the technical and administrative areas of the agency. However, regardless of an individual's experiences or expertise, the agency does not provide formal orientation to Commission members upon their arrival at the NRC. Through ad hoc briefings generally coordinated through the Commission's administrative staffs, new Commission members are provided information mostly from senior agency officials.

The information presented to the Commission members is mostly dependent on the interests expressed by the new member. As related by a senior agency official, the premise under which the agency operates is that, since new Commission members are Presidential appointees, Commissioners know what information they need. Unfortunately, new Commission members do not always know what information to request. For example, on a personal note, one former Commissioner said that when he came to the NRC he did not know what benefits existed or were available to him.

Several Commissioners told us that they gained experience while doing the job, but they struggled with the process when they first came to the agency. A former senior agency official found it to be a disruption when a new Commissioner came on board because there was a significant learning curve. NAPA panel members and several former Commissioners believe that a more formalized, comprehensive, and consistent orientation program for new Commission members would be beneficial, not only for the Commission, but for the entire agency.

Additionally, as we stated, Commission members have personal staffs who support them. When these individuals are selected, it is generally expected that they know the role of the Commissioners' offices. However, this may not always be the case and they may not understand how the Commission offices work in relation to the rest of the agency. Therefore, a customized orientation program would also be beneficial to Commissioners' assistants.

CONCLUSION

The actions of the Commission members greatly influence the agency's climate and culture. As the agency's leaders, they set the example for how the agency's managers and staff should work together to carry out the NRC's critical safety mission. It is essential, therefore, that the Commission strive to be the best in government. The current Commission has the opportunity to enhance the way it operates and become a model for the rest of government as it enters a new millennium. Enhancements to the Commission are not simple, one time actions. Rather, they are more of an evolution. This special evaluation suggests cultural

changes that become ingrained in the way the entire agency operates. These changes must start at the top of the agency.

MATTERS FOR CONSIDERATION

It is clear that the Commission must lead by example, in a collegial manner, to assure the agency's effectiveness in carrying out its critical mission of protecting public health and safety. With that in mind, we offer the following suggestions which we believe would enhance collegiality and ultimately improve trust in the agency.

- < The roles and responsibilities of the Chairman and Commissioners should be clearly defined. For example, the Commission should decide when members can or cannot state their differing views on issues after the agency has announced an official position. Commissioners should also consider developing processes to ensure that they share speeches among each other and coordinate their travel schedules. An excellent opportunity for the Commission members to get together and define their roles and responsibilities would be at an off site retreat, similar to the annual retreat in which the agency's senior managers participate.

- < All NRC policies and programs, including the roles and responsibilities of the Chairman and Commissioners, should be shared with new Commission members during a formalized orientation program. One agency source needs to be responsible for ensuring that all new Commission members and their staffs consistently receive the appropriate information so they can effectively and efficiently do their jobs in support of the agency's mission. New Commission members need a variety of information ranging from topics such as nuclear power plants to personal benefits.

- < Like the agency's strategic plan, the Commission should establish goals and objectives specific to their role and structure. Also, as the agency has done for its operations, the Commission should establish performance measures for itself. These measures could, for example, respond to the recent CSIS report which identified high priority issues that NRC needs to address. By establishing goals and objectives, the Commission can define its expectations for the agency.

- < The Commission should develop agreed upon staffing plans to provide consistency in the sizes, titles, and grades of their immediate offices. In developing such staffing plans, the Commission might also find ways to streamline their personal staff sizes and give agency staff greater involvement. This could result in an increased level of trust across organizational levels. For example, Commissioners at another agency have smaller personal staffs and depend on an agency staff person from each office to serve as a Commission liaison to encourage information flow. Commissioners should also consider more short-term appointments for their

professional staff members. A greater use of rotational assignments would provide developmental experiences for a larger number of NRC staff, thus increasing staff involvement.

- < To enhance communication (up, down, and across organizational lines) a clearly defined focal point for agency management is needed. As currently structured, this responsibility is divided between the three members of the Executive Council, rather than invested solely in the EDO as intended by President Carter's Reorganization Plan.

OBJECTIVES, SCOPE, AND METHODOLOGY

The main objective of our special evaluation was to identify ways that the Commission could improve its effectiveness as it carries out the agency's mission. Our study focused on communication and relationships within and around the Commission.

We reviewed enacted and proposed legislation affecting the U.S. Nuclear Regulatory Commission (NRC). Specifically, we studied the Reorganization Plan No. 1 of 1980 (Plan), documents from President Carter's library regarding the Plan, and we received clarification regarding the Plan directly from President Carter. We also looked at the current Commission's processes and procedures pertaining to areas such as communication, operations, and voting.

We reviewed related historical data and current trends. We looked at the Three Mile Island investigative reports, General Accounting Office reports, and information from the recent Arthur Andersen studies. In addition, we interviewed former and current Commissioners and Chairmen, various former and current NRC senior staff members, and other stakeholders.

Furthermore, we drew upon the expert services of the National Academy of Public Administration (NAPA). NAPA convened an advisory panel of members with experience and backgrounds in the fields of government organization, government commissions, and regulatory matters to serve as a sounding board for us. (Biographical sketches for each of the advisory panel members are available at Appendix II.) NAPA has a Congressional charter which distinguishes it as a national institution dedicated to the public good and recognizes its capacity to provide advice and expertise to Congress, Federal agencies, state and local governments, and other public institutions. It exists solely to help government achieve excellence.

We provided the NAPA advisory panel members with background materials, contractor studies, and other relevant information, and then presented our tentative ideas to them. We met with the panel three times, during which our positions were thoroughly analyzed and debated. While the positions expressed in our report are from a variety of sources, including the NAPA advisory panel, the opinions do not necessarily reflect the views of NAPA or its Fellows.

Our special evaluation was conducted from December 1998 to September 1999.

NATIONAL ACADEMY OF PUBLIC ADMINISTRATION ADVISORY PANEL BIOGRAPHICAL SKETCHES

Murray Comarow, *Advisory Panel Chairman* - Attorney. Former Distinguished Adjunct Professor in Residence, School of Public Affairs, American University; Executive Director, President's Advisory Commission on Executive Organization; Partner, Booz, Allen and Hamilton; Of Counsel, Seyfarth, Shaw, Fairweather & Geraldson; Executive Director, President's Commission on Postal Organization; Senior Assistant Postmaster General; Executive Director, Federal Power Commission; Acting Deputy General Counsel, Office of the Secretary of the Air Force.

Alan L. Dean - Consultant. Former Vice President for Administration, U.S. Railway Association; Deputy Assistant Director, U.S. Office of Management and Budget; Assistant Secretary for Administration, U.S. Department of Transportation; Associate Administrator for Administration, Federal Aviation Administration.

Dwight A. Ink - President Emeritus, and former President of the Institute of Public Administration. Former positions: Assistant Administrator, Bureau for Latin America and the Caribbean, Agency for International Development; Acting Administrator, U.S. General Services Administration; Director, U.S. Community Services Administration; Assistant Director for Executive Management, U.S. Office of Management and Budget; Assistant General Manager, Atomic Energy Commission.

Thomas Stanton - Chair, NAPA Standing Panel on Executive Organization and Management; Fellow, Center for the Study of American Government, Johns Hopkins University; Financial and Legal Policy Consultant; Former Partner, Wellford, Wegman and Hoff. Associate General Counsel, Federal National Mortgage Association; Acting Director and Deputy Director, Office of Policy and Planning, U.S. Federal Trade Commission.

Charles W. Washington - Professor of Public Administration, Florida Atlantic University. Former Stennis Chair and Director, John C. Stennis Institute of Government, Mississippi State University; Associate Dean and Professor, School of Government and Business Administration, George Washington University.

Eugene Zuckert - Partner, Zuckert, Scutt, Rasenberger & Johnson. Former Secretary of the Air Force; Member, Atomic Energy Commission; Faculty Member, Graduate School of Business Administration, Harvard University.

OIG Safety Culture and Climate 1998 Survey Data (Figures 1 - 3)

International Survey Research (ISR), the independent contractor that assisted OIG with the survey, developed the following categories from the overriding themes they heard in the one-on-one interviews and focus group sessions conducted between October 23 and November 12, 1997, with a cross-section of NRC managers and staff members. More information regarding the survey design, development, administration, and results is available through the NRC's Internet Home Page at <http://www.nrc.gov/NRC/OIG/SURVEY/index.html>

Figure 1 - Office Comparison

This chart illustrates how the offices of the Chairman, Commissioners, and Executive Director for Operations, at the category-level, compared with the NRC overall. The first line is the alphabetic representation for each of the categories. The data in the second and third lines represents the percent of favorable scores for each group.⁽¹⁾

- | | |
|-----------------------------|--------------------------|
| A. Work Organization | I. Future of NRC |
| B. Operating Effectiveness | J. Job Satisfaction |
| C. Management Leadership | K. Employee Commitment |
| D. Supervision | L. NRC Mission |
| E. Working Relationships | M. NRC Image |
| F. Employee Involvement | N. Organizational Change |
| G. Communication | O. NRC Safety Commitment |
| H. Training and Development | |

Category	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
NRC Overall 1998 (N=1,696)	61	52	46	67	63	50	58	49	42	73	60	52	38	50	44
Offices of the Chairman, Commissioners, & Executive Director for Operations (N=40)	76	76	69	83	77	70	79	63	51	96	89	74	51	64	56

Shaded bars indicate a statistically significant difference. The statistical test that produced the shaded bars indicates that there are only five chances in a hundred that a difference that great could occur by chance.

¹ These category scores are averages of the favorable responses to a number of items about aspects of the working environment. The category averages give a "bird's eye" view of the higher and lower-scoring areas in the survey.

July 30, 1999

MEMORANDUM TO: Chairman Dicus

FROM: [original signed by]
Hubert T. Bell
Inspector General

SUBJECT: IMPLEMENTATION OF THE 1985 RULE INTERPRETING THE
GOVERNMENT IN THE SUNSHINE ACT

As you know, my office currently is doing a Special Evaluation of the Role and Structure of the NRC's Commission. The issue of communication among and between the Commissioners is of particular relevance to the study. Therefore, we have sought perspectives on how NRC can best address the challenges brought on by the Government in the Sunshine Act. It is clear that the Act has posed a significant challenge for the Commission to achieve timely communication.

We are aware of the agency's current plan to implement the 1985 Rule interpreting the Sunshine Act. While we do not take a position for or against the Rule's implementation, we do want to share with you the benefit of our work to date. We have talked with a variety of sources including former and current Commissioners and Chairpersons and affected special interest groups. In addition, we had in-depth discussions with the National Academy of Public Administration (NAPA). As you may know, NAPA has a congressional charter which distinguishes it as a national institution dedicated to the public good and recognizes its capacity to provide advice and expertise to Congress, federal agencies, state and local governments, and other public institutions.

We found, not unexpectedly, a wide range of views on the advisability of implementing the 1985 Rule. Those who opposed it cited the need for transparency while those who advocated the Rule argued the need for Commission members to effectively and efficiently communicate with each other.

As a result of these discussions, the overall message suggests that NRC should approach the implementation of the 1985 Rule in a cautious, conservative manner and on a case-by-case basis. The agency's goal should be two-fold: enhancing the Commission's ability to effectively communicate while at the same time reassuring the public that its health and safety will not be jeopardized. Therefore, we suggest that as you implement the 1985 Rule, you might consider doing so in an incremental fashion, beginning with straightforward, noncontroversial issues. We believe this approach will help the agency's stakeholders become comfortable, over time, with this new concept.

- 2 -

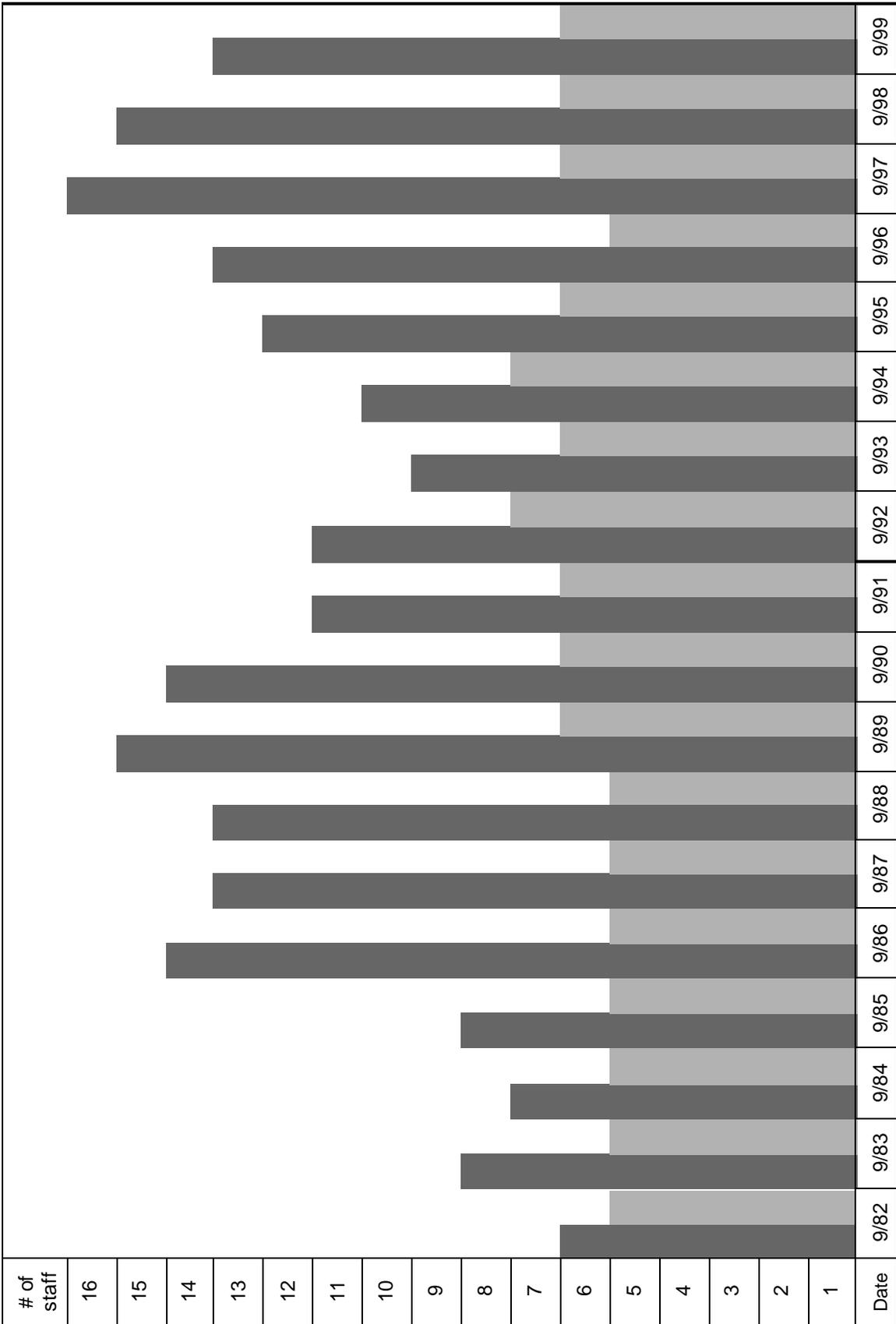
Furthermore, because the agency has elected not to keep minutes of the non-Sunshine Act discussions, we suggest that there needs to be some assurance that the discussions do not violate the Act and that the public's interests are well served. For example, in a Congressional hearing on May 21, 1985, the NRC testified that the General Counsel or his/her qualified designee would also attend the non-Sunshine Act discussions to ensure that the discussions do not violate the Act. However, we note that in the July 22, 1999, Federal Register Notice the agency reported that, during non-Sunshine Act discussions, the Commissioners will monitor themselves and cut off discussions that threaten to stray into impermissible areas.

We encourage you to reconsider the latter approach. Again, based on feedback from our discussions, we believe that the presence of the General Counsel or his/her qualified designee would help in dispelling the perception that the public's interests are not being well served.

As we have done in the past, we will keep you informed of key issues as they arise so they may be addressed as quickly as possible. If you have any questions regarding this issue, please feel free to call Tom Barchi (415-5915) or Russ Irish (415-5972) of my staff.

cc: Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield

**Size of Personal Staffs for NRC Chairmen and Commissioners
 1982 - 1999**



(Historical data only available at end of each fiscal year.)

	Commissioners*
Chairman	

Note: Number of staff members does not include the Chairman or Commissioners

*Average number of staff members in Commissioners' offices

NRC ORGANIZATIONAL CHART

MAJOR CONTRIBUTORS TO THIS REPORT

Russell Irish
Staff Assistant for Planning and Reporting

Cheryl A. Miotla
Management Analyst

Erin N. Gannon
Administrative Intern

OFFICE OF THE INSPECTOR GENERAL PRODUCTS

INVESTIGATIVE

1. *INVESTIGATIVE REPORT - WHITE COVER*

An Investigative Report documents pertinent facts of a case and describes available evidence relevant to allegations against individuals, including aspects of an allegation not substantiated. Investigative reports do not recommend disciplinary action against individual employees. Investigative reports are sensitive documents and contain information subject to the Privacy Act restrictions. Reports are given to officials and managers who have a need to know in order to properly determine whether administrative action is warranted. The agency is expected to advise the OIG within 90 days of receiving the investigative report as to what disciplinary or other action has been taken in response to investigative report findings.

2. *EVENT INQUIRY - GREEN COVER*

The Event Inquiry is an investigative product that documents the examination of events or agency actions that do not focus specifically on individual misconduct. These reports identify institutional weaknesses that led to or allowed a problem to occur. The agency is requested to advise the OIG of managerial initiatives taken in response to issues identified in these reports but tracking its recommendations is not required.

3. *MANAGEMENT IMPLICATIONS REPORT (MIR) - MEMORANDUM*

MIRs provide a "ROOT CAUSE" analysis sufficient for managers to facilitate correction of problems and to avoid similar issues in the future. Agency tracking of recommendations is not required.

AUDIT

4. *AUDIT REPORT - BLUE COVER*

An Audit Report is the documentation of the review, recommendations, and findings resulting from an objective assessment of a program, function, or activity. Audits follow a defined procedure that allows for agency review and comment on draft audit reports. The audit results are also reported in the OIG's "Semiannual Report" to the Congress. Tracking of audit report recommendations and agency response is required.

5. *SPECIAL EVALUATION REPORT - BURGUNDY COVER*

A Special Evaluation Report documents the results of short-term, limited assessments. It provides an initial, quick response to a question or issue, and data to determine whether an in-depth independent audit should be planned. Agency tracking of recommendations is not required.

REGULATORY

6. *REGULATORY COMMENTARY - BROWN COVER*

Regulatory Commentary is the review of existing and proposed legislation, regulations, and policies so as to assist the agency in preventing and detecting fraud, waste, and abuse in programs and operations. Commentaries cite the IG Act as authority for the review, state the specific law, regulation or policy examined, pertinent background information considered and identifies OIG concerns, observations, and objections. Significant observations regarding action or inaction by the agency are reported in the OIG Semiannual Report to Congress. Each report indicates whether a response is required.