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# Transcript of Proceedings

## NUCLEAR REGULATORY COMMISSION

DISCUSSION OF AUTHORIZATION BILL AMENDMENTS

(Open to Public Attendance)

July 16, 1979

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

Discussion of Authorization Bill Amendments

(Open to Public Attendance)

Commissioners' Conference Room  
1717 H Street, N.W.  
Washington, D. C.

Monday, July 16, 1979

The Commission met, pursuant to notice at 9:05 a.m.,  
Joseph Hendrie, Chairman of the Commission, presiding.

PRESENT:

- Chairman Hendrie
- Commissioner Gilinsky
- Commissioner Kennedy
- Commissioner Bradford
- Commissioner Ahearne

ALSO PRESENT:

- S. Chilk
- L. Bickwit
- C. Kammerer
- H. Slapar
- W. Dirckx
- R. Ryan
- S. Trubatch
- R. Mallory

P R O C E E D I N G S

1  
2 CHAIRMAN HENDRIE: The first thing we ought to do  
3 is to join together and vote to hold a meeting on less than  
4 one week's notice, to discuss amendments to the NRC Authorization  
5 Bill, an open meeting.

6 Those in favor?

7 COMMISSIONER KENNEDY: Aye.

8 COMMISSIONER AHEARNE: Aye.

9 CHAIRMAN HENDRIE: Aye. So ordered.

10 COMMISSIONER KENNEDY: Is our Congressional  
11 Relations office with us or not?

12 MR. SHAPAR: I saw him just a minute ago.

13 CHAIRMAN HENDRIE: The meeting was set for 9:00  
14 o'clock, it's 9:06 -- Commissioners ---

15 COMMISSIONER AHEARNE: Well, they came at 9:00.

16 CHAIRMAN HENDRIE: Oh, they did come at 9:00 and  
17 went away again? Boy, how little faith.

18 COMMISSIONER KENNEDY: How realistic in view.

19 MR. BICKWIT: I think they had hoped to meet with  
20 you before this meeting to discuss its structure.

21 CHAIRMAN HENDRIE: What I do have is a collection of  
22 five amendments or, no, it's four, I guess. I have Mr.  
23 Metzenbaum's comments from the Record to go with his amendment,  
24 so I have four that have been around for a while, April 9 --  
25 no. What does it mean when it says, "Legislative day,  
April 9th?"

1           COMMISSIONER AHEARNE: Yes, what is the distinction  
2 between the legislative and the actual date?

3           MR. KAMMERER: They keep a legislative calendar which  
4 doesn't necessarily follow the actual calendar day.

5           COMMISSIONER KENNEDY: Or which, for our purposes,  
6 has no significance.

7           MR. KAMMERER: That's right.

8           COMMISSIONER KENNEDY: Thank you.

9           CHAIRMAN HENDRIE: Well, May 15, June 18, here's one  
10 that doesn't seem to be printed yet, June 19th. Some of these  
11 have been around a while and some haven't. I expect there  
12 are a dozen odd possible amendments that may arise.

13           COMMISSIONER AHEARNE: I think we, at least, have a  
14 description of some of the others, don't we?

15           CHAIRMAN HENDRIE: Yes, I think Congressional is  
16 trying to --

17           And the purpose of our meeting this morning is  
18 in response to Commissioner Ahearne, in particular, his feeling  
19 that we ought to see if we had a collegial view on some of these  
20 so it could be communicated downtown.

21           I expect on a number of amendments that are either  
22 already printed that we have or that are contemplated and that  
23 we will be told about, that the sponsors have absolutely no  
24 interest in what our opinion is at all, but I'm perfectly  
25 willing to try to see if we have an opinion, and to make it

1 known.

2 COMMISSIONER AHEARNE: Well, my point wasn't so much  
3 that I believed that the sponsors were greatly interested  
4 in what our opinion is, but rather, I believe that since many  
5 of the amendments would significantly impact upon the business  
6 that we do, that it was our responsibility to at least attempt  
7 to take a position, and then to communicate that, so that in  
8 the case where the question was raised, "What do we think  
9 about it?" people would have to at least say what our opinion  
10 was, or if they didn't, they would know what our opinion was.  
11 They couldn't say "Well, the NRC just apparently didn't care  
12 to comment."

13 CHAIRMAN HENDRIE: Yes.

14 COMMISSIONER KENNEDY: But it is also true that we  
15 have not been asked to comment.

16 COMMISSIONER AHEARNE: That probably is correct,  
17 although I'm not sure whether -- at least in my mind, I would  
18 still believe that it is our responsibility to attempt to take  
19 a position.

20 CHAIRMAN HENDRIE: Okay, now how shall we attack these?  
21 Shall I call them out, or do you want to run down them, Carl,  
22 Len?

23 MR. KAMMERER: I think Len is prepared to talk to  
24 these amendments.

25 MR. BICKWIT: We have each made contact with the

1 principal staff over the weekend and we have something of a  
2 run down.

3 CHAIRMAN HENDRIE: All right.

4 MR. BICKWIT: The one area of amendment is the  
5 Emergency Plan question on whether licensing should be  
6 conditioned on concurred-in state plans.

7 You have received copies of the Bill, and there  
8 have been ---

9 CHAIRMAN HENDRIE: Oh, yes, the Hart Amendment.

10 MR. BICKWIT: The relevant section is Section 202.

11 Senators Simpson and Hart intend to perfect that  
12 section making the following changes, to change from six to  
13 nine months the period by which plants would have to be  
14 brought down if a concurred-in state plan -- if the plan had  
15 not been concurred in.

16 To make clear that the plans were to be site-  
17 specific. If a plan was adequate with respect to the site but  
18 not adequate with respect to the other sites within the state,  
19 that would not be a disabling feature of the plan for purposes  
20 of determining whether a plant could continue to operate.

21 CHAIRMAN HENDRIE: Let's see, Bob, does a  
22 concurred-in state plan have to speak to the particular sites  
23 within the state?

24 MR. RYAN: They usually do, Mr. Chairman.

25 CHAIRMAN HENDRIE: Okay.

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1 MR. RYAN: Most of the states, I guess in the  
2 numerical majority anyway, we only have one site and  
3 everyone else has concurred in it.

4 MR. BICKWIT: A feature of the original proposal  
5 was that the NRC would have to promulgate within six months,  
6 a new regulation, in effect, stepping up the criteria for  
7 planning, and it is proposed that the Senators add a  
8 mandamus provision to make clear that the NRC does not,  
9 within six months, have a rule that would step up those  
10 criteria.

11 COMMISSIONER AHEARNE: Would you mind explaining  
12 that to me. What is a mandamus provision?

13 MR. BICKWIT: A mandamus provision allows a person  
14 to sue to compel an agency to perform a function which it is  
15 required to perform under the law.

16 There is, in the Federal Code, a mandamus statute  
17 that this would -- it is difficult to obtain standing under  
18 that statute, and under this particular proposal the standing  
19 would be easily obtained.

20 COMMISSIONER KENNEDY: And the purpose of this  
21 particular amendment?

22 MR. BICKWIT: The purpose is to insure that the  
23 Commission does what it is required to do under the law.

24 COMMISSIONER KENNEDY: Specifically what?

25 MR. BICKWIT: To, within six months, to promulgate  
a rule which would address the criteria for a state ---



1 COMMISSIONER KENNEDY: Promulgate the rule proposed,  
2 by the legislation.

3 MR. BICKWIT: Yes.

4 CHAIRMAN HENDRIE: Does that mean it is effective,  
5 I assume?

6 MR. BICKWIT: I'm sorry?

7 CHAIRMAN HENDRIE: I assume that means the rule would  
8 have to be effective before six months?

9 MR. BICKWIT: No. It just has to be promulgated by  
10 six months. It is left open to the Commission, a time by which  
11 it would become effective.

12 CHAIRMAN HENDRIE: Is that clear?

13 MR. BICKWIT: Yes.

14 COMMISSIONER AHEARNE: But I thought the first  
15 provision is that within nine months after enactment of the  
16 legislation, the plans in states where there is no  
17 concurred-in plan would come down.

18 MR. BICKWIT: That's true.

19 COMMISSIONER AHEARNE: Now, would that mean that if  
20 there is a new rule out that was effective a year after  
21 promulgation that that concurred-in plan would be the type?

22 MR. BICKWIT: That's right.

23 CHAIRMAN HENDRIE: I assume the thrust then is to  
24 get it back to state plans in places where they are not now  
25 concurred in, on the basis of the present criteria?

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1 MR. RYAN: Yes, I think that's right, Mr. Chairman.  
2 I think, from my discussions with the staff that they are  
3 contemplated to a track system, one that you would go on the  
4 basis of a concurrence as we now understand it, using the  
5 standard that we now employ and simultaneously develop a  
6 regulation and put it into place and then a new track would be  
7 in after it was replaced, and the states would be judged by  
8 the nuclear standards contained in the regulation and there  
9 would be a time certain by which they would be required to come  
10 into conformity with those standards.

11 MR. BICKWIT: Then, another change is that FEMA would  
12 have a consulting role in both the setting of the criteria  
13 and in the concurrence in the plan.

14 COMMISSIONER AHEARNE: A consulting or a concurrence  
15 role?

16 MR. BICKWIT: Consulting.

17 That is essentially their amendment.

18 Senator Johnston, I understand, is considering  
19 proposing an alternative to that. I should add, I have seen  
20 no language on any of these amendments; we have not seen  
21 language on these amendments.

22 COMMISSIONER AHEARNE: Carl, have you?

23 MR. KAMMERER: No, I haven't. It is still in the  
24 drafting stages as they were going up to make it up on Friday.

25 COMMISSIONER AHEARNE: Do you have anything on

1 Johnston's possible ---

2 MR. BICKWIT: Yes, I have the concepts.

3 The central difference between the Johnston  
4 proposal and the Simpson/Hart proposal is that the concurrence  
5 in a plan would not be a condition to new licensing and a  
6 continued licensing.

7 In the event of a failure of a state to adopt a  
8 plan or to receive concurrence, the remedy would be the  
9 promulgation of a plan by the Commission. As to how that  
10 plan would be enforced, I'm not clear. I put that question to  
11 Asselstine and it is his understanding it would be enforced  
12 by federal mandates to the state to enforce the federal plan,  
13 and use of our authority under Section 232 of the Atomic  
14 Energy Act. If that's correct, I think that's unconstitutional.

15 MR. KAMMERER: There is supposed to be an interim  
16 plan until they come up with their own approved plan.

17 MR. BICKWIT: The alternative way of enforcing it  
18 would be for the NRC to enforce it directly, which would be  
19 constitutional, but might present some policy problems.

20 COMMISSIONER AHEARNE: Bob, what do you think about  
21 the feasibility of us constructing a state plan for a state  
22 that is refusing to --

23 MR. RYAN: Well, I haven't run against it, but I  
24 don't think it is a very good idea. I think what Senator  
25 Johnston is aiming at is the idea of avoiding the closure of

1 plants which is a desirable end, but it seems to me that if  
2 this additional three months were provided that concurred-in  
3 plans probably could be achieved within 9 months from  
4 enactment of a section and the problem of closure would be  
5 mooted.

6 MR. SHAPAR: If a state submitted a plan.

7 MR. RYAN: If a state submitted a plan, and the  
8 indication that we have had so far is in states where there  
9 are operating reactors and there are likely to be operating  
10 reactors, they are very interested in doing that.

11 I think it would be very difficult for NRC to  
12 revise and then propose an emergency plan for a state. I think  
13 we ought to stay away from that if possible.

14 COMMISSIONER KENNEDY: Are you suggesting that unless  
15 we had a -- are also empowered by the proposed statute to  
16 establish our own state police establishment it will be rather  
17 difficult for us to enforce it, even if we imposed it.

18 We might have a grand piece of paper, and probably  
19 buckra bound. I suggest Morocco might be a start.

20 MR. RYAN: The problem is that plans ought to be tailored  
21 to the circumstances where the reactors are and the states know  
22 about those circumstances, the localities know about them too.  
23 In the NRC, there is a less wholesome knowledge of those  
24 circumstances.

25 MR. BICKWIT: Let me just run you through what we

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1 have by way of detail on this.

2 Some sort of regulations would be required and would  
3 be promulgated by the NRC within four months. I assume that  
4 means criteria for plans.

5 CHAIRMAN HENDRIE: What is this, now you are talking  
6 about?

7 MR. BICKWIT: I'm talking about the Johnston amendment.

8 Six months after that the state would have to submit  
9 a plan under the new criteria to the Commission, three months  
10 after that, the Commission would make a decision on review and  
11 concur or not, and if it decided not to concur, then it would  
12 establish an interim plan within three months. And that plan  
13 would go into effect unless the state corrected the deficiencies  
14 found in the state plan before then.

15 (Commissioner Gilinsky arrived at the meeting, 9:20.)

16 MR. BICKWIT: The idea would be the Commission would  
17 use as much of the state plan as possible in constructing its  
18 own plan.

19 This amendment, if offered, would be co-sponsored by  
20 Senator McClure and perhaps by Senator Jackson.

21 Then, a third alternative which may be offered by  
22 Senator Glenn would be -- would go back to the conditional  
23 approach, making concurred-in state plans a condition to the  
24 issuance of new licenses and operating under existing license.

25 It would extent the period for shutdown from nine

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1 months to one year. With respect to new licenses, they would  
2 be treated virtually the same way as existing licenses.  
3 Licenses would be issued, even if there were no concurred-in  
4 state plan, but a year after the issuance, if the issuance took  
5 place right after enactment, if that plan were not concurred  
6 in, then the plant would have to come down.

7 As I understand it there are no other significant  
8 changes from Simpson/Hart in that amendment.

9 Asselstine mentioned that it is conceivable that  
10 Senator Johnston would offer Senator Glenn's -- the amendment  
11 that has been described as Senator Glenn's amendment. We are  
12 unclear exactly on who is going to offer what and as a  
13 substitute to what, but those seemed to be the three concepts  
14 kicking around.

15 COMMISSIONER AHEARNE: Carl, do you have any ---

16 MR. KAMMERER: Well, there are a number of amendments  
17 that we are aware of but don't have any language.

18 COMMISSIONER AHEARNE: On emergency ---?

19 MR. KAMMERER: No. Nothing on emergency.

20 COMMISSIONER AHEARNE: So those are the three ---

21 MR. BICKWIT: I think our information is going to  
22 be the same as that. It comes from the same source.

23 CHAIRMAN HENDRIE: Bob, what states are going to be  
24 a problem in getting emergency plans concurred in?

25 MR. RYAN: We have always said that Illinois would

1 likely to be -- to continue to be a problem, but we have had  
2 some recent developments there which I think are heartening.

3           The State Legislature has passed a bill, and the  
4 Governor is going to sign it within the next month or so which  
5 would assess the utilities -- the franchise utilities  
6 operating within Illinois, I guess, a one-time shot of  
7 \$350,000 for planning. It would revise the organization for  
8 planning within the State of Illinois and put them on a more --  
9 a quicker timetable.

10           I think, that if this bill is enacted and if the  
11 state agencies get their act together, we can look for  
12 a concurrence in the State of Illinois, certainly in time to  
13 meet any nine-month deadline, nine months from the date of  
14 enactment in the Hart bill.

15           We have some problems in Georgia, organizational  
16 problems. We have some problems in Oregon. On the plus side,  
17 though, we have had in recent weeks submission of plans for  
18 Virginia, North Carolina, Wisconsin, and they are getting  
19 their act together in Michigan.

20           I think the idea of a cutoff, threat of a cutoff has  
21 inspired the states and state agencies to move more swiftly  
22 than they have ever done in the area of emergency preparedness.  
23 Iowa is another good example, where the governor has met with  
24 representatives from our office and in effect told his  
25 environmental protection director to move it and get the plan

1 submitted, and we expect to have that plan within the next  
2 couple of days.

3 I stand by, Mr. Chairman, what I told you about a  
4 month and a half ago, and that is if three conditions are  
5 met, I think we can achieve the concurrence in all of the states  
6 in which there are reactors with no concurred-in plans by the  
7 15th of May.

8 You will recall that the conditions, I said were:

9 One, that we had the cooperation of the states and  
10 the other federal agencies, and I think we have that. I'm going  
11 to send some letters forward this week, by the way, which would  
12 I hope go out over your signature, which would reinforce the  
13 other federal agencies in this transaction.

14 The need for some urgency and commitment of some  
15 resources and some modest travel funds between now and next  
16 spring to assist us in this effort.

17 The second condition was that we get some help in  
18 our own office, which I think we have gotten, to a large  
19 extent, and the third was that we don't change the drill  
20 while we are going down the road. In other words, that we  
21 continue to look at the submissions by the states against the  
22 standards by which we judge the other concurred-in states.  
23 If all those conditions are present, I think that we can  
24 achieve concurrence in the plans of states where there are  
25 reactors but no concurred-in plans, by the 15th of May next year.

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1 COMMISSIONER AHEARNE: So you don't really see any  
2 problem -- large problem with the Simpson/Hart ---

3 MR. RYAN: I see problems, but I don't think they are  
4 insurmountable. I think it is managable.

5 But I do think the idea of some sanction out there  
6 at the end of the road is a desirable one to spur the intentions  
7 of the states and keep them interested in the problems.

8 COMMISSIONER AHEARNE: Len, is there any difference  
9 between the Simpson/Hart and Glenn other than 12 months?

10 MR. BICKWIT: Well, there is a very big difference  
11 with respect to new plants. If you were to include that in  
12 your 12 months, then there isn't any.

13 COMMISSIONER AHEARNE: Simpson/Hart - treats new plants  
14 how?

15 MR. BICKWIT: As of the date of enactment under  
16 Simpson/Hart, no new license can be issued unless there is a  
17 concurred-in state plan. Under the Glenn amendment that goes  
18 into effect a year after enactment.

19 COMMISSIONER AHEARNE: Anybody know what particular  
20 plants might get caught in that?

21 MR. RYAN: Yes, one in Virginia where we have a  
22 concurrence. We have a concurrence staring us in the face  
23 which ---

24 COMMISSIONER GILINSKY: Let's see, you are saying it  
25 would get caught or would not get caught?

1 MR. RYAN: It probably would not get caught, because  
2 the submission for the State of Virginia is on our desks and  
3 it looks good from the Regional Advisory Committee and all we  
4 have to do is test it.

5 New Jersey where we have a concurred-in plan,  
6 California where we have a concurred-in plan and Tennessee is  
7 the next big one, and Tennessee looks very good at this point.  
8 I don't know that we are going to get decisions. We might  
9 get jammed up on that even if the Simpson/Hart amendment were  
10 inacted.

11 COMMISSIONER KENNEDY: On submission to first response  
12 to the states by NRC, how long has the time elapsed?

13 MR. RYAN: It depends. You know, you can't make  
14 a generalization because ---

15 COMMISSIONER KENNEDY: Well, let's try. Make a guess.

16 MR. RYAN: Well, first of all, it is not a response  
17 from NRC. Usually the first cut of the response is usually  
18 from the Regional Advisory Committee which consists of other  
19 federal agencies.

20 COMMISSIONER KENNEDY: How long does that take,  
21 usually?

22 MR. RYAN: When we get a plan, our Regional Advisory  
23 Committee immediately sends it out to the other federal  
24 agencies and we would get it by turnaround, a fast turnaround  
25 in a couple of weeks. We get a look at it then we find out

1 where the problem areas are then we look for a meeting to  
2 resolve these. That varies from region-to-region, because  
3 there are more plans in Region I than there are in Region IV.  
4 So it's a fast turnaround.

5 COMMISSIONER KENNEDY: So it ranges from "X" to "Y".  
6 What's "X" and what's "Y"?

7 MR. RYAN: I can't give it to you off the top of my  
8 head, but it is fairly swift.

9 COMMISSIONER KENNEDY: Could you call me and let me  
10 know?

11 MR. RYAN: Sure.

12 COMMISSIONER KENNEDY: Thank you.

13 COMMISSIONER GILINSKY: But let me understand what  
14 you are saying. Are you saying that even with the Simpson/Hart  
15 proposal, no plants would be caught -- New plants, assuming  
16 they continue on the present schedule and things continue to  
17 look the way ---

18 MR. RYAN: Taking that assumption, I think that there  
19 would be not any difficulty in the Simpson/Hart language as it  
20 applies to the issuance of operating licenses.

21 CHAIRMAN HENDRIE: When would you expect to see a  
22 Virginia plan in place?

23 MR. RYAN: The problem is the exercise of the plan.  
24 Our word from the Regional Advisory Committee is that the  
25 plan as submitted, about two weeks ago, looks very good. It

1 looks as though all of the essential elements are in place.  
2 It is a question about exercise and the timing of it. I would  
3 think that we could have a concurrence in the State of Virginia  
4 plan before the end of August.

5 CHAIRMAN HENDRIE: And in Tennessee?

6 MR. RYAN: I can't give you that off the top of my  
7 head, but it looks good.

8 CHAIRMAN HENDRIE: What does Simpson/Hart say about  
9 construction permits?

10 MR. BICKWIT: Nothing.

11 (Commissioner Bradford arrived at the meeting, 9:30.)

12 COMMISSIONER AHEARNE: It sounds to me like we really  
13 don't have any problems with Simpson/Hart.

14 CHAIRMAN HENDRIE: I much prefer the Glenn approach.  
15 It gives you a shade more time and treats the near-in operating  
16 plants like the -- the near-in operating licenses like the  
17 operating plants. If we have to have an amendment, it is not  
18 clear to me that it is either needed or particularly useful.

19 COMMISSIONER GILINSKY: What do these proposals say  
20 about revising NRC requirements for these plants?

21 MR. BICKWIT: In each case -- I think in the case of  
22 all three, within six months the NRC is to have a rule in  
23 place revising those requirements.

24 COMMISSIONER AHEARNE: Six months from enactment.

25 MR. BICKWIT: Six months from enactment.

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1 CHAIRMAN HENDRIE: You just said a rule in place  
2 six months from enactment. Ten minutes ago when I asked, it  
3 was six months from enactment, all we have got to do is to get  
4 one on the street, saying, "What do you think of this?"

5 MR. BICKWIT: No, no. Six months, it must be  
6 promulgated within six months.

7 CHAIRMAN HENDRIE: Effective.

8 MR. BICKWIT: No, it doesn't have to be effective  
9 within six months.

10 CHAIRMAN HENDRIE: Oh, I see. It has to be final.

11 MR. BICKWIT: It has to be final.

12 CHAIRMAN HENDRIE: I'm using the wrong words.

13 COMMISSIONER AHEARNE: Did we get our rule-making  
14 notice up?

15 MR. BICKWIT: Yes.

16 CHAIRMAN HENDRIE: What do we project for that?

17 MR. BICKWIT: We projected six months from the time  
18 the proposed rule is submitted.

19 CHAIRMAN HENDRIE: Which is some time down the line.

20 MR. BICKWIT: That's right. That would be after  
21 comments are received.

22 CHAIRMAN HENDRIE: How much time did we allow for  
23 that first round of comments?

24 MR. BICKWIT: Forty five days.

25 CHAIRMAN HENDRIE: Okay, the notice isn't published

1 yet, so ---

2 COMMISSIONER AHEARNE: It should get out when, next  
3 week?

4 MR. BICKWIT: Published Tuesday.

5 CHAIRMAN HENDRIE: Tomorrow. So comments won't be  
6 back for 45 days after that, and it will take another two to  
7 four weeks to round a rule out of the staff's deliberations,  
8 in the meantime, plus the comments.

9 COMMISSIONER AHEARNE: I thought we were trying  
10 six months from the date of publication of notice.

11 MR. BICKWIT: The advanced notice?

12 COMMISSIONER AHEARNE: Yes.

13 MR. BICKWIT: I didn't read the advanced notice  
14 that way. It is not entirely clear, but I don't read it that  
15 way.

16 COMMISSIONER AHEARNE: I do.

17 CHAIRMAN HENDRIE: Well, let's see. Suppose you got  
18 a rule back up to the Commission after the comment period,  
19 a proposed rule two and a half months from now. How long is  
20 the Commission going to decide what it is to put out to settle  
21 on the rule? Let's be self-congratulatory and say two weeks.  
22 Three months. Then it is going to take a week to publish it  
23 and how much time are we going to allow for comment? Forty  
24 five days.

25 COMMISSIONER AHEARNE: Thirty.

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1           CHAIRMAN HENDRIE: Well, since you have got a rule  
2 that deals with the role of the states, and you have got a  
3 batch of states and so on, why I think you are going to be  
4 inclined toward more time, rather than less time. I think  
5 the comment period, plus the publication period and so on,  
6 you are talking about two months more. Six months is  
7 possible but doubtful.

8           COMMISSIONER AHEARNE: But possible.

9           CHAIRMAN HENDRIE: Well, it's possible. It depends  
10 on how -- the other comments are going to range all over the  
11 map, and I think reduction of the comment. to give reasonable  
12 consideration or at least minimal acceptable consideration to  
13 the various things that are proposed, it is going to be a  
14 rather long, agonizing process.

15           I'm really not confident about being able to get on  
16 the street with six months with the thing.

17           COMMISSIONER AHEARNE: But you start your six months  
18 from when we first published the notice.

19           CHAIRMAN HENDRIE: I guess that's what I was looking  
20 at.

21           COMMISSIONER AHEARNE: Right. And this is six months  
22 from the date of enactment.

23           CHAIRMAN HENDRIE: -- From enactment, which may be  
24 some time down the line, another month.

25           COMMISSIONER KENNEDY: This?

1 CHAIRMAN HENDRIE: Yes.

2 MR. KAMMERER: It has always been beyond October.

3 CHAIRMAN HENDRIE: Yes. That's a good point.

4 Let's see, was there something else in there bothering  
5 me?

6 What does Simpson/Hart say about the concurred-in  
7 plan route? In the Glenn amendment it is clear. The great  
8 rush to get state plans concurred in is on the basis of present  
9 standards and guidelines, and you upgrade as a separate step.  
10 Is that clear on the Hart/Simpson side?

11 MR. BICKWIT: In both cases you would go with the  
12 current requirements until you modify them by rule. And as  
13 I mentioned, as to when you have to apply the new criteria,  
14 and that is not clear, although those criteria must be  
15 final.

16 COMMISSIONER GILINSKY: And the idea is that you would  
17 then backfit those on all the plants.

18 MR. BICKWIT: That's right. And that is true both  
19 with the Simpson/Hart and with respect to Glenn.

20 COMMISSIONER BRADFORD: Now, are there deadlines on  
21 the backfitting process?

22 MR. BICKWIT: No, no. That would be left to the  
23 discretion of the Commission.

24 MR. RYAN: My understanding was that they wanted to put  
25 in the deadline on it, perhaps a year from the time the rule is

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1 promulgated, but that's on the basis of conversations and  
2 I gather they haven't reached that.

3 MR. BICKWIT: I gather they haven't. That may be  
4 their inclination and these amendments are subject to change  
5 at anytime before being offered.

6 COMMISSIONER AHEARNE: Well, I guess I would still  
7 prefer Simpson/Hart. Glenn is fine, but I would be against  
8 Johnston. The idea of us generating our own plan with the  
9 state is something I don't think is a good idea.

10 CHAIRMAN HENDRIE: Dick, do you have a preference in  
11 these things?

12 COMMISSIONER KENNEDY: Well, I think I share the view  
13 that you expressed earlier that I don't think anything is  
14 necessary to get the job done. I think the states, when  
15 motivated, and I see no evidence that they are not, tend to  
16 conduct their business in pretty efficient ways, and indeed,  
17 a hell of a lot more efficiently than the Federal Government  
18 has now or will in the future. And I think coercion on the  
19 part of the Federal Government is a grand thing, it is even  
20 constitutionally possible in certain circumstances, I think  
21 it is undesirable in most, and I think that's the case here.  
22 You are talking about the health and safety of people and that  
23 goes to the responsibility of the local governments, that's  
24 exactly what they exist for and I think they should be  
25 encouraged and assisted, not driven.

1                   Having said that, if the question is between Hart/  
2 Simpson and Glenn, I would prefer Glenn. I don't believe that  
3 the Johnston motion is motivated well, in my view, is  
4 disacceptable to reasonable implementation on the part of the  
5 Commission. I don't think the plan itself would be a useful  
6 device in most circumstances, at least as useful as visualized,  
7 the purpose for doing that, Mr. Johnston has, I sympathize  
8 with and hope there will be some other way to get at it.

9                   COMMISSIONER GILINSKY: I guess I would prefer  
10 the Simpson/Hart proposal. I think the distinction between  
11 new plants and existing plants is a good idea. That no plant  
12 should be licensed without meeting the standards of public  
13 protection beyond reactors.

14                  CHAIRMAN HENDRIE: You do recognize that it has  
15 certain -- that there are certain anomalies. I will give  
16 you one in particular, although because there is a state  
17 plan which is concurred in in the area, why it wouldn't be  
18 an operative example.

19                  New Jersey, for instances, if it were a state  
20 in which there was not a concurred-in plan, Salem Unit 1 under  
21 the amendment would operate -- continue to operate. Salem  
22 Unit 2, an essentially identical unit except slightly upgraded,  
23 as unit twos always are, would sit there unable to operate.  
24 And I think one would be hard put to separate out precisely why  
25 it was that Unit 2 was more hazardous than Unit 1. So it does

1 lead to that kind of an anomaly, but in the particular case  
2 New Jersey does have a plan, so we won't have that displayed.

3 And that's why I have argued that for these plants  
4 that are essentially at the end of construction now, treat them  
5 like operating plants for many of these backfitting propositions  
6 and applications of new requirements.

7 Now, as you go back the timeframe and say, "Well, how  
8 about a plant that is six months away from completion?"  
9 Better still, "How about a plant that's two years away," or  
10 something like that. Obviously you can't stretch that way back  
11 down the line, six months, several months, I don't know, would  
12 be, for me, a cutoff. But Simpson/Hart.

13 Peter?

14 COMMISSIONER BRADFORD: Well, it seems to me what  
15 we can most usefully do is the best we can, lay out for the  
16 Congress the impacts of the various provisions as we see  
17 them.

18 I don't know that our endorsement of one or another  
19 of these adds a lot to their consideration of them, that is,  
20 it is really their appraisal of what the public is demanding  
21 and in turn, what the public health and safety require that  
22 will presumably dictate whichever one they adopt. So my  
23 first concern would be that we communicate with them  
24 accurately, just what the effects of the different ways of  
25 doing it would be. If we are asked or feel compelled to

1 indicate a preference, I suppose I would prefer Simpson/Hart.  
2 but it seems to me that we are addressing this problem one  
3 way, their perception may be that they want to put a code of  
4 some sort in the legislation, and I would really say it is them,  
5 rather than us who should appraise what kind of a code they  
6 feel is needed.

7 COMMISSIONER KENNEDY: I think that's correct,  
8 Peter. Let me sort of note that we sort of opened the meeting  
9 with that note.

10 COMMISSIONER BRADFORD: Yes, I was committing an  
11 act of patriotism, just a little energy conservation and  
12 I haven't mastered the buses as yet.

13 COMMISSIONER AHEARNE: I would be glad to give you  
14 advice.

15 COMMISSIONER BRADFORD: I don't think you and I  
16 take the same line.

17 CHAIRMAN HENDRIE: I don't know whether to invite  
18 John to repeat his admonition that we ---

19 COMMISSIONER AHEARNE: No.

20 CHAIRMAN HENDRIE: -- That we have some responsibility  
21 to indicate what we think about these various amendments.

22 It seems to me that the effects, to the extent that  
23 there has been communications between the Congressional staffs  
24 and our own staffs, why various estimates of the effects have  
25 been traded back and forth, and in many of these areas, why one

1 speculates and it, indeed will be down the line some months  
2 after enactment before we really know the effects, but the  
3 estimates, I guess, have been traced in a number of cases.

4 COMMISSIONER KENNEDY: Let me note that when you are  
5 talking about the Simpson/Hart bill and amendments to it, we  
6 are talking about a great many other things as well. We are  
7 talking about assessments of their impacts. Those things ought  
8 to be taken account of as well, it seems to me.

9 CHAIRMAN HENDRIE: Which are the other things?

10 COMMISSIONER KENNEDY: Well, communications systems,  
11 internal arrangements of the Commission, response to ---

12 MR. BICKWIT: This is the bill that our discussion  
13 is centralized on, the Simpson/Hart amendment which doesn't  
14 deal with those issues.

15 COMMISSIONER KENNEDY: But all of those things are  
16 there, and it seems to me somehow or other we have not been  
17 asked to comment on those either, have we?

18 So while we are talking about amendments to this  
19 bill, we have never really expressed ourselves as to the bill  
20 itself. So there are a whole lot of questions that are ---

21 COMMISSIONER GILINSKY: Well, let me say that I would  
22 have preferred to have this entirely handled by the Commission  
23 and let's promulgate requirements on a much shorter time  
24 schedule than we seem to be on.

25 COMMISSIONER AHEARNE: Six months?

1 COMMISSIONER GILINSKY: Yes.

2 COMMISSIONER AHEARNE: Why don't we schedule our own.

3 COMMISSIONER GILINSKY: And I think that somehow  
4 in the circumstances it seems to me that given the choice  
5 among these proposals ---

6 CHAIRMAN HENDRIE: I'm sorry, I missed the first  
7 sentence of your comment.

8 COMMISSIONER GILINSKY: Well, I think that one of the  
9 real problems is that I think that the present state plans don't  
10 address all the problems that need to be addressed and what  
11 one really needs to do is get an up-graded set of rules to  
12 apply to all the plants.

13 It seems to me that is something that should be done,  
14 really, I think on a shorter time schedule than six months.  
15 I really don't think it is an elaborate a question as it  
16 seems made out to be, and -- well ---

17 CHAIRMAN HENDRIE: Let's see, with regard -- let  
18 me see if I can make some kind of a summary with regard to  
19 emergency planning, and see what you would prefer to add --  
20 what you would like to add to it, and then either as it stands  
21 or suitably amended, we can ask the congressional staff to  
22 pass the word.

23 It seems to me with regard to emergency planning  
24 that with the changes which you have related to us this  
25 morning, the Simpson/Hart provisions on emergency planning are,

1 at least, how should I put it, favored by or at least  
2 agreeable to a majority of the Commission. The minority of  
3 the Commission think that the slightly greater time and  
4 slightly different treatment of new operating licenses in the  
5 Glenn amendment would be preferable, and at least two of us  
6 also voice the view that I think we can get along perfectly  
7 well with regard to the public health and safety without the  
8 legislation.

9 I would also -- Well, does just that much run  
10 outside anybody's view?

11 I just wanted to add a personal comment and that was  
12 that the original provisions in the bill, six months and so  
13 on, were just going to shutdown substantial generating capacity  
14 quite straight forward.

15 I'll make or continue the personal remark and say  
16 that I certainly hope Bob is able to make his May 15th  
17 commitment on all of these plans. One of the reasons I would  
18 prefer a little more time in a law is that it is my own guess  
19 that we won't quite make it on some states. I bet you a cookie  
20 that within a year, why we have gotten agonized letters  
21 from some governor or other saying, "For Christ sake, just  
22 because the last of 32 discussion items on a state plan,  
23 some fairly insignificant point about whether the director  
24 or the deputy director of the county Civil Defense called  
25 Smith in the case of an emergency, you are going to shut down

1 a plant and cost us \$10 million odd dollars or whatever  
2 the current number is a month for differential." I think we  
3 are going to be sitting here shrugging and say, "Well, the  
4 Congress passed this great law and we agreed that it was a  
5 great idea and we are sorry."

6 That is a personal comment and I would not ascribe  
7 it to the Commission. I think others will disagree.

8 COMMISSIONER BRADFORD: Well, there may be a variant  
9 of it, but I would agree with -- Bob, what would happen if in  
10 December the Commission promulgates a set of conditions called  
11 "Package A" for concurrence which is different from the mode  
12 that you now work on, presumably "Package B". You will then  
13 have from December to May to concur in ---

14 MR. RYAN: The Simpson/Hart says that you use the  
15 deck you have got now. Use the standards that you have now.

16 COMMISSIONER BRADFORD: No, I understand that. You  
17 will now have from then until May to comparing using "Package B"  
18 even though as far as the Commission is concerned, "B" isn't  
19 what we want anymore, so that there will be a lot of, what I  
20 assume, will be sort of wasted effort, because then sometime  
21 after May you will have to turn right back to those same  
22 states and say, "Okay, now we have got to do it according to  
23 Group A, as well."

24 MR. RYAN: Yes, presumably, but you would have a  
25 different timeframe in which the regulations would go into



1 effect and in which the states could conform to those  
2 regulations.

3 I don't see any circumstances under which the  
4 Commission would throw out all of the elements which are now  
5 considered in concurrence and start with something less than  
6 that. So the concurrence contemplated under the present  
7 scheme and the approval contemplated under the regulatory  
8 scheme would have certain common features.

9 COMMISSIONER BRADFORD: Yes, but one could imagine  
10 a situation in which you said to a particular state, "All right,  
11 if we can't get concurred in your plan by mid-May, you will  
12 have to shutdown." Then sometime after that, depending on  
13 what we decide in the rulemaking, after you say to them three  
14 or four months later, "and now, we can't achieve the following  
15 by another period of time within probably the same calendar  
16 year, we will have to shut you down again."

17 MR. RYAN: It probably wouldn't be in the same  
18 calendar year, because my understanding from Asselstine is  
19 that they are contemplating a year after the rules are formally  
20 in place and promulgated in which the states can achieve  
21 conformity.

22 COMMISSIONER BRADFORD: Right, but that might be  
23 December.

24 MR. RYAN: It couldn't be, I don't think if you are  
25 talking having the bill enacted in, say September. It would be

1 from four to six months you would get the rules into place  
2 and that would bring you in to the spring of next year, and  
3 then a year from that would be the spring of '82.

4 COMMISSIONER GILINSKY: Let me ask you something  
5 else.

6 What happens if there are several sites in the  
7 state and the plan as you have laid out, the guidelines and  
8 so on don't really deal specifically with individual sites,  
9 do they?

10 MR. RYAN: No. What we usually do is incorporate a  
11 plan to deal with a particular site as part of the state  
12 plan. And so far, we have been able to do that without great  
13 difficulty.

14 I don't have much -- it is not upsetting to me, the  
15 idea that the plan should be site specific as in law. I think  
16 that we now have the attention of the states and the local  
17 government, and they understand this problem and if there is,  
18 indeed, a sanction attached to the bill, then it is likely  
19 that that attention will translate itself into plans and actions  
20 by the states and local governments. If the object is to get  
21 emergency plans out there by states and by local governments,  
22 this is a reasonable way of going about it.

23 CHAIRMAN HENDRIE: Okay, Carl, do you understand the  
24 comment?

25 MR. KAMMERER: Yes.

1 CHAIRMAN HENDRIE: Why don't we turn to whatever the  
2 next one of these objects is.

3 MR. BICKWIT: Okay, I think the next important area  
4 is ---

5 CHAIRMAN HENDRIE: By the way, before we leave that  
6 one, Peter was saying that we ought to get some indication of  
7 impact, and I guess, would it be -- could I gather enough  
8 support from the Commission so that an additional comment after  
9 the main one that Carl could make to our friends in the  
10 Congress, the Senate at any rate is that in order to carry  
11 out these kinds of things, emergency planning is the particular  
12 issue at hand, but there are other areas. We can't indefinitely  
13 go down the line with a Commission each year proposing some  
14 modest increases of these support offices which come under  
15 the heading of program technical support or program development  
16 administration, and year after year, having the Congress knock  
17 those people out.

18 Pretty soon we are going to have an agency of mighty  
19 line battalions and nobody to bring them food and water. They  
20 are going to starve, and damn it, the agency needs -- would you  
21 object if that kind of a note were added on. I have it by way  
22 of impact in terms of thinking about it from our side. I  
23 think Peter's comment was more broadly based, but as an  
24 impact ---

25 COMMISSIONER AHEARNE: I certainly agree with the  
sense of it. I'm not sure whether the ---

1 CHAIRMAN HENDRIE: Precise language ---

2 COMMISSIONER AHEARNE: Yes.

3 CHAIRMAN HENDRIE: Okay.

4 MR. RYAN: Mr. Chairman, may I say something in that  
5 connection?

6 CHAIRMAN HENDRIE: I guess so.

7 MR. RYAN: There was a cut by the House  
8 Appropriations Committee which in terms of our office means  
9 \$700,000 which, if sustained will mean that we will have to  
10 cancel our training program in the Nevada test grounds.

11 CHAIRMAN HENDRIE: Well ---

12 COMMISSIONER KENNEDY: What was the purpose of the  
13 \$700,000 and ---

14 MR. RYAN: To mount this program.

15 COMMISSIONER KENNEDY: That was the amount of the  
16 program? And the appropriations?

17 CHAIRMAN HENDRIE: No, the \$700,000 was the on-going  
18 school out there for state radiological health offices, and  
19 my view is we will make suitable provision. I doubt that we  
20 will want it in the overall scale of agency priorities, I doubt  
21 that we will want it run that way.

22 Shall we try the next item on that list.

23 COMMISSIONER KENNEDY: Wait a minute. I didn't  
24 understand what you were saying.

25 CHAIRMAN HENDRIE: Well, in a very veiled way, I was

1 saying I'm trying to make some impression on the collective ---

2 COMMISSIONER KENNEDY: About the \$700,000 program?

3 CHAIRMAN HENDRIE: Yes, yes.

4 What I was implying, in a veiled way, is that I'm doing  
5 my best to the appropriations committees to not leave us without  
6 those funds, and if we are left without the explicit appropriation  
7 to avoid some kind of straight-jacket language in the  
8 appropriation which would prevent us from considering this  
9 need against the other agency needs and see if, indeed, it  
10 doesn't rank up into the funding level. I'm inclined to think ---

11 COMMISSIONER KENNEDY: I 100 percent support you.

12 CHAIRMAN HENDRIE: So that's the thrust there.

13 How about the next one, whatever it may be.

14 MR. BICKWIT: Before we go on, I guess I ought to  
15 tell you that as the original bill is drafted to which the  
16 Simpson/Hart will be offered to perfecting the amendment, it  
17 does not actually say that compliance with the new requirements  
18 is necessary to keep an existing plant up if the plant complied  
19 with the existing requirements within the six month period.  
20 Everything that the staff members and the senators have said  
21 about the bill suggests that that's what they intend, but  
22 it does not actually say and I don't know if there will be  
23 an effort to clarify that or not.

24 The next area relates to construction permits.

25 Senator Kennedy has an amendment to impose a six-month

1 moratorium on construction permits, starting with the  
2 beginning of the next fiscal year and going for six months  
3 into the year.

4 CHAIRMAN HENDRIE: What would that be, October 1st  
5 to something or other?

6 MR. BICKWIT: Yes.

7 CHAIRMAN HENDRIE: Is there one like that from  
8 Senator Percy?

9 MR. BICKWIT: Not to my knowledge.

10 Senator Hart is folding an amendment into the  
11 Kennedy amendment which would require within six months, and  
12 I don't know whether it is six months from enactment or the same  
13 six-month period that Senator Kennedy is talking about. I  
14 think it is the same six-month period Senator Kennedy is talking  
15 about, that would require the Commission to propose some new  
16 siting -- to promulgate some new siting regulations. And  
17 again, the mandamus feature would apply.

18 So what will happen, as I understand it, Senators  
19 Kennedy and Hart will offer this combined amendment, and  
20 Senator Simpson opposes this amendment and would probably move  
21 to table it.

22 COMMISSIONER AHEARNE: The purpose the Kennedy  
23 amendment, is that similar to the Markey amendment that had  
24 been in the House?

25 MR. BICKWIT: Yes.

1                   COMMISSIONER AHEARNE: So it is a six-month stop  
2 without any conditions if that's to be done in that six months,  
3 and the Hart is in the condition. Now, is the Hart the  
4 condition that this must be done to lift the moratorium  
5 or is it an additional feature that must be done in that  
6 six month ---

7                   MR. BICKWIT: I don't believe it must be done to  
8 lift the moratorium, but there is a mandamus provision that  
9 would require that it be done.

10                   COMMISSIONER AHEARNE: Anything specific about what  
11 these siting provisions are supposed to be?

12                   MR. BICKWIT: Yes.

13                   "They shall address to the maximum extent  
14 practical the following:

15                   "Extend a maximum ---"

16                   COMMISSIONER KENNEDY: Is that the way it prefaces?

17                   MR. BICKWIT: Yes.

18                   "To extend the maximum population density of the  
19 low population zone immediately surrounding the site, including  
20 consideration of permissible radiation exposure. Acceptable  
21 means of assuring such maximum population density is not  
22 exceeded during the useful life of the facility.

23                   "The minimum distance from the site to the nearest  
24 boundary of any densely populated area. The minimum fission  
25 product released into the containment structure assumed per dose

1 calculation and the extent to which design features of a  
2 facility that have a significant bearing on the probability  
3 or consequences of accidental release of radioactive materials  
4 may modify the applicability of such requirements."

5 CHAIRMAN HENDRIE: I must say, I see very little  
6 point in an arbitrary -- As I have said before, an arbitrary  
7 suspension of construction permits.

8 I know one place where they were contemplated as  
9 a legislative proposal. I noted that the state involved was  
10 in a situation in which it would not effect, in any way, any  
11 of the proposed units in that state. I don't know if that  
12 is the case in Massachusetts or not, but it simply makes no  
13 sense to me, and the further business about the siting  
14 regulations, we have in process and a task force to look at it.  
15 It is a complex matter to take into account the maximum  
16 practical extent.

17 I wonder if there is, in fact, finite human endeavor  
18 which would meet that kind of language. You know, if people  
19 want to say we are not going to have any more nuclear plants,  
20 I think an amendment that simply says that is the straightforward  
21 way to put the issue before the legislature than this Mickey-  
22 Mouse language on siting.

23 COMMISSIONER AHEARNE: I'm not sure I -- Well, in  
24 fact, I don't go along with a lot of the words you used in  
25 there, Joe, but I would basically agree. I would be against a



1 moratorium decision, I think that we have the responsibility  
2 to decide whether or not to go ahead on a particular plant and  
3 I assume we will meet that responsibility. So I would be  
4 against a moratorium.

5 COMMISSIONER KENNEDY: I'm not arguing the question  
6 of a moratorium one way or the other. I agree with the notion,  
7 however that if, in fact, it is desired by the legislature to  
8 have a moratorium it ought to step up to the plate and hit  
9 that ball, and not four others. They ought to address that  
10 question head on, face on so that the public clearly understands  
11 precisely what it has just decided on its behalf, and whatever  
12 that decision, I would applaud it.

13 COMMISSIONER AHEARNE: That's much better said.

14 The point is, if it is a question of the health and  
15 safety is protected by our process, I think we are sufficiently  
16 responsible to do that, but if it is a legislative decision  
17 to put a moratorium on, that's clearly their responsibility  
18 and their authority and it is not really ours to comment on.

19 COMMISSIONER BRADFORD: Well, I agree with that  
20 last comment, that is, if any imposition for a moratorium  
21 obviously would be a statement on the Congress's part that  
22 they had for some reason or other doubts about our process,  
23 then it's capabilities during the period of a moratorium  
24 measure up to their standards of protection of the public  
25 health and safety, and obviously we felt that a moratorium were

1 in order that we would propose it ourselves.

2 It seems to me that their judgment of our process  
3 is theirs to make and about the most I would say about it is  
4 that if I saw the moratorium were in order, I would vote to  
5 impose it here rather than advise the Congress to do it.

6 CHAIRMAN HENDRIE: I would think it would be clearly  
7 our responsibility to do that.

8 COMMISSIONER GILINSKY: I would agree.

9 COMMISSIONER BRADFORD: That having been said, I guess  
10 there is noting that we have indicated for our own purposes  
11 that there were some preconditions to further licensing and we  
12 are still working that out separately.

13 COMMISSIONER AHEARNE: Yes.

14 MR. BICKWIT: Mr. Chairman ---

15 CHAIRMAN HENDRIE: Okay, the next amendment.

16 MR. BICKWIT: Before we leave this one, it seems  
17 perfectly possible that the tabling motion would carry and  
18 this amendment would be treated as the result, and that Senator  
19 Hart, at that point, would then offer the non-moratorium  
20 feature on the amendment as a separate amendment.

21 COMMISSIONER AHEARNE: Do you mean the maximum  
22 practical, et cetera?

23 MR. BICKWIT: Yes.

24 COMMISSIONER KENNEDY: If the Congress wishes to  
25 give us some guidance as to the kinds of considerations which

1 they think we ought to take into account in the public health,  
2 and safety business, I think that's wholly within their  
3 province and we should be guided accordingly. I don't think  
4 I want to give them guidance as to what I'd like guidance about.

5 COMMISSIONER AHEARNE: Except I doubt that in contrast  
6 to the previous where we have a fairly well structured procedure,  
7 I think, and a lot more information on emergency planning.  
8 I'm leary about being able to get into place that rule in  
9 six months. I think we ought to mention to them that that  
10 seems to be ---

11 CHAIRMAN HENDRIE: Particularly if it is going to  
12 start -- Well, October 1st you could regard as ---

13 COMMISSIONER AHEARNE: And that's an overly ambitious  
14 schedule.

15 COMMISSIONER KENNEDY: It is to be recalled that we  
16 have had a siting policy task force at work for the last three  
17 years. It was not exactly as though we had started from  
18 scratch today.

19 The record would have to make that clear if we were  
20 to go up to the Congress and say, "Gee whiz, we can't do this  
21 in six months." For my part it would have to be clear, okay.  
22 Disingenuous approaches, I think, are not likely to be  
23 productive.

24 COMMISSIONER GILINSKY: Actually, the notion that this  
25 is really within our purview also applies to the previous item,

1 emergency planning and my comment about our proposal is  
2 really to indicate that this is really the time scale and I would  
3 like to see us move on.

4 COMMISSIONER AHEARNE: Right, since we are already  
5 going in that direction with Simpson/Hart, I have no problem.

6 CHAIRMAN HENDRIE: Well I must say, an amendment which  
7 said the Commission should consider its siting regulations,  
8 in particular with regard to provisions having to do with  
9 population densities and distribution of population about  
10 potential sites, and implement or promote amendments that deems  
11 necessary and appropriate within six months, I think, you could  
12 at least make a stab at it.

13 When you crank it up with words like "maximum,  
14 practical," what for God's sakes, does that mean; that every  
15 citizen of the United States must be formally solicited for  
16 comment? I guess that's a maximum practical consideration.  
17 I suppose we could cut it off at age seven on the basis that  
18 persons younger than that might not have anything to contribute,  
19 but I'm sure every other citizen and maybe all of the resident  
20 aliens would fall within --

21 You know, if you set the amendment up and carefully  
22 calculate it so it can't be done, why then I have a lot of  
23 objection to that kind of legislative instruction. So as  
24 framed, I would just:

25 A. It can't be done; and B. if the intention in

1 setting it up so it can't be done is to kill the whole  
2 process, then once again it becomes a moratorium question and  
3 I think the fair thing to do for the senator is to set down  
4 and propose no more plants be sited and vote on the issue,  
5 which in fact, underlies the proposition.

6 COMMISSIONER AHEARNE: Could I get a, perhaps someone  
7 more familiar with legislative language than I could answer,  
8 when the phrase "to the maximum extent practical," does that  
9 mean do as best you can or does it mean something more in the  
10 mathematical sense, the maximum that the Chairman alluded  
11 to.

12 MR. BICKWIT: I think it means do the best you can.

13 MR. SHAPAR: And be prepared to litigate.

14 CHAIRMAN HENDRIE: Yes, I look forward to explaining  
15 in court why, in fact, the comment period was 30 days. After  
16 all, if you really wanted to get more comments, 60, 120. Why  
17 weren't people solicited? Well, we sent it out to a list of  
18 100 people. Why not 300 or 500? Surely 100 couldn't have been  
19 maximum and practical consideration. If you could solicit  
20 100, you could solicit 300.

21 So with that kind of language on the law books, why  
22 it seems to me that anybody who wants to litigate can tie you  
23 up in knots indefinitely. I think you have no way of winning  
24 against it and all kinds of ways of losing.

25 If he wants to say, "Do the best you can in six months,"

1 how about that for language?

2 Well, on the ---

3 MR. BICKWIT: It's do the best you can, but it is  
4 not do the best, which in your judgment you can. It is do the  
5 best, which in the court's judgment you can.

6 COMMISSIONER AHEARNE: You would agree with Howard?

7 MR. BICKWIT: Yes, yes I would.

8 COMMISSIONER AHEARNE: Be prepared to litigate.

9 CHAIRMAN HENDRIE: Well, for myself, I would take  
10 the position that these admonitions to change the siting  
11 regulations don't sound to me -- it is the first time I have  
12 heard it, as a matter of fact. I still don't have a copy  
13 written down any place so I can read the language. It sounds  
14 to me like a fairly bad idea. And I would appreciate comment  
15 up and down the table, and maybe we can move to the next one.

16 COMMISSIONER BRADFORD: Well, there is no reason not  
17 to flag the problems that the language to the maximum extent ---

18 CHAIRMAN HENDRIE: Well, and all that other detail  
19 that is built in there.

20 COMMISSIONER BRADFORD: Which? Do you mean the  
21 detail as to which subject we ought to consider?

22 CHAIRMAN HENDRIE: Well, as Len read it, and I can't  
23 remember it all ---

24 COMMISSIONER BRADFORD: Well, "A" thru "D" in any  
25 case.

1 CHAIRMAN HENDRIE: Yes, the maximum practical  
2 consideration struck me as a bloody horror, but it sounded to  
3 me as though there were some other things dug down in there  
4 that sort of had the same ring to them.

5 COMMISSIONER BRADFORD: I took the others to be mostly  
6 well, listing in topics we ought to consider or areas that we  
7 ought to cover.

8 MR. BICKWIT: Well, address to the maximum extent  
9 practical, the following.

10 COMMISSIONER KENNEDY: This is the rules, should be  
11 to the maximum extent practical addressed?

12 MR. BICKWIT: (Nods in the affirmative.)

13 COMMISSIONER BRADFORD: Well, it is not an area in  
14 which I would oppose the Congress legislating on any of the  
15 overall, feeling that it would somehow be proper for Congress  
16 to act immediately in this area. I guess I would want to study  
17 it a little more. I have no objection to flagging out the  
18 particular problems, but I wouldn't want to take any blanket  
19 commission against legislation on the subject.

20 CHAIRMAN HENDRIE: Vic?

21 COMMISSIONER GILINSKY: I pass on this.

22 CHAIRMAN HENDRIE: Dick?

23 COMMISSIONER KENNEDY: I don't have anything additional  
24 on this.

25 COMMISSIONER AHEARNE: I commented.

1 MR. BICKWIT: Mr. Chairman, I think the Commission  
2 is opposed to both ends of this equation.

3 CHAIRMAN HENDRIE: To the moratorium provisions, I  
4 think clearly. I think also, to the extent that on the other  
5 half, I would clearly -- I read it as a moratorium sort of  
6 thing, that is, an essentially impossible task being assigned  
7 under the law and then the result is, well, you couldn't do  
8 that and knock everything off and set it up so that lawsuits  
9 will be not only permitted, but encouraged and the law is  
10 carefully oriented so they are bound to succeed and the result  
11 is that everything gets cranked down.

12 So I'm rabidly opposed to it. I'm not sure that  
13 that could be regarded as the view of the Commission. Peter  
14 has noted that indeed, it is fair to where there is some  
15 perception that particular language may create more problem  
16 than the sponsor realized. We think it is fair to note that  
17 and John, I think you were noting your concern that indeed,  
18 the six month time frame was not a practical one, that it would  
19 mean that we would come to the end of the six months, not have  
20 the regulations, take the window litigation under the invitation  
21 of the statute to suit and loose flat out because the statute  
22 is set up that way.

23 COMMISSIONER KENNEDY: As I, in contrast recall, it  
24 is not six months we are talking about, it is three and a half  
25 years plus six months that we have been at this.



1                   CHAIRMAN HENDRIE: That's right, we have been working  
2 on it.

3                   COMMISSIONER KENNEDY: We have been at this for some  
4 years, and it seems to me that if, in fact, there is a genuine  
5 danger that we could not submit an effort and complete the  
6 task in six months, the Congress should be aware of that,  
7 and then it should not be allowed in that context, to become  
8 a moratorium bill, sort of a self-enacting moratorium bill.  
9 It should be clear that that's the purpose if that's what it is,  
10 but we should not, I think, suggest that we are starting from  
11 scratch and therefore, we may have many many -- a long extensive  
12 process, that we will take into account, what I understood  
13 to be, a rather modest set of siting considerations. Certainly,  
14 far less than those we have already taken into account.

15                  COMMISSIONER BRADFORD: Joe, on the moratorium or  
16 the explicit moratorium part, I didn't regard what I said so  
17 much as being a position of opposition to it as one in which  
18 I feel there is nothing very subtle about a moratorium and  
19 Congress can appraise the consequences in terms of barrels of  
20 oil, cost to consumers, reliability impacts as well as or  
21 better than we can and they can frame the politics better  
22 than we can in terms of what they think the public wants at  
23 this point in time. All I meant to say is that if I thought  
24 a moratorium were necessary within our charge to radically  
25 protect the public health and safety here, then this would be

1 the place to vote for it and not to exhort them to do it.

2 As far as putting a notation to what my position  
3 is, it is up to them and the considerations aren't subtle ones.  
4 They will be as obvious to the Congressmen as they are to us.

5 CHAIRMAN HENDRIE: Yes, I think I understood that  
6 point of view on your part, Peter, and hope that Carl had  
7 noted it.

8 Now, my objection to the six-month moratorium on  
9 CPs is, if the Congress is concerned about health and safety  
10 and doesn't think we have got the guts or the wisdom to do  
11 what is necessary, why are they fooling around with CPs.  
12 I have never seen a plant in the construction permit stage  
13 that has fission products in it, and fission products are  
14 what the danger comes from or where the hazard lies.

15 If that's the way they feel, let them step up to the  
16 plate and shutdown operating reactors. That's where the fission  
17 product is, that is, the CP six-month thing seems to me, a  
18 totally cynical political maneuver to say, "Boy, look, we  
19 are doing great things," and the citizenry says, "Right,  
20 they've knocked off construction permits for six months.  
21 Isn't that grand." Any knowledgeable citizen will know it is  
22 garbage.

23 My objection to it is just because it is cynical  
24 political garbage.

25 COMMISSIONER AHEARNE: Why don't we move on to some

1 other amendments. Time run on.

2 CHAIRMAN HENDRIE: Well considered.

3 COMMISSIONER KENNEDY: What is the next one, Counsellor?

4 MR. BICKWIT: The next area is the waste area.

5 Senator McGovern will offer a proposal to give states  
6 a veto over the siting of waste facilities.

7 COMMISSIONER AHEARNE: Is that 235? Is that the one  
8 we have?

9 MR. BICKWIT: Yes.

10 There are a number of other amendments in this area.  
11 I gather that the floor manager can move to table the McGovern  
12 amendment, that they have the support of the Energy Committee  
13 and the ranking members of the Governmental Affairs Committee,  
14 and that includes the minority sides of all three committees.

15 My understanding is that the substitutes to the  
16 McGovern amendment which have been introduced will not be offered  
17 if that amendment is tabled. So in my judgment, you would see  
18 this amendment tabled and it would not get to a vote on the  
19 other amendments, but in my judgment it is not hard and I think  
20 you ought to assume that it might be wrong, and I think you  
21 ought to address the various proposals.

22 The basic differences between the basic proposals  
23 is that McGovern would give an absolute veto to the states.  
24 Senator Bumpers would apply that vet only to states which get  
25 power from nuclear plants.

1 COMMISSIONER AHEARNE: Wait!

2 MR. BICKWIT: Just the opposite, which would deny  
3 the rights of a state, that ---

4 COMMISSIONER KENNEDY: Excuse me, now what ---

5 MR. BICKWIT: The idea was that if ---

6 COMMISSIONER AHEARNE: If you have a nuclear plant  
7 in your state, you do not have a right to have a veto on  
8 disposal of waste in your state.

9 MR. BICKWIT: That's right.

10 COMMISSIONER AHEARNE: If you do not have a nuclear  
11 plant in your state, then you would have the right to dispose  
12 of waste.

13 COMMISSIONER BRADFORD: Supposing you own a piece  
14 of a nuclear plant in another state?

15 MR. BICKWIT: We have not seen language that ---

16 COMMISSIONER KENNEDY: What was your question?

17 COMMISSIONER BRADFORD: If a power company in a  
18 particular state owns a piece of a nuclear plant in another  
19 state, but doesn't have one sited within its borders, I was  
20 asking whether that state would have veto right or not.

21 MR. BICKWIT: We have seen no language in that regard.

22 COMMISSIONER KENNEDY: The equities would seem  
23 similar.

24 MR. BICKWIT: The Domenici amendment would require  
25 that the Secretary of Energy and the individual states negotiate

1 a relationship with respect to siting of waste facilities,  
2 state-by-state, and until they negotiate it, no waste facility  
3 can be sited, which is tantamount to a state veto.

4 COMMISSIONER AHEARNE: Are you describing Domenici's  
5 as one of the amendments that would not be offered if  
6 McGovern's is tabled?

7 MR. BICKWIT: That's right. All of these -- my  
8 understanding is that none of these would be offered if the  
9 McGovern is tabled.

10 COMMISSIONER KENNEDY: Domenici's would not?

11 MR. BICKWIT: That is my understanding.

12 CHAIRMAN HENDRIE: That sounds like a result hardly  
13 to be sought.

14 MR. BICKWIT: And Glenn and Percy have an amendment  
15 which allows for a Congressional override by a concurrent  
16 resolution of the state veto. Those are ---

17 COMMISSIONER KENNEDY: The current resolution?

18 MR. BICKWIT: The current resolution.

19 So those are the choices.

20 MR. SHAPAR: I think some of the problems that  
21 some of these bills raise insofar as the NRC itself is  
22 concerned, it is hard to tell from some of the language, in  
23 other words, they make the argument that the veto ought to be  
24 over the DOE activity, construction or whatever DOE is doing.  
25 That raises the further question, should the state veto be over

1 the nation's safety review process, which is NRC's bag.  
2 I would think that you would want, whichever way you come  
3 out, perhaps would want to address that question and perhaps  
4 have something to say about it.

5 COMMISSIONER AHEARNE: There is a related -- in for  
6 example, the Domenici amendment in which an arrangement entered  
7 into by the Secretary of Energy and state is binding on all  
8 agencies of the Federal Government.

9 MR. SHAPAR: That's one of the provisions I was  
10 referring to.

11 COMMISSIONER AHEARNE: Yes. And that's not so much  
12 the veto as it is that here's an arrangement DOE makes in which  
13 the law would seem to say would then be binding on us.  
14 I don't think we would want to deal with those.

15 CHAIRMAN HENDRIE: Yes. And that amendment says the  
16 state will have the right to concur, not to concur in all  
17 stages of the planning, siting, development, construction and  
18 operations. They sort of have a continuous shot at it.

19 MR. BICKWIT: I gather that under all of these  
20 proposals there is a continuous shot at it, except for the  
21 Glenn/Percy proposal. There is a shot at anytime, but you only  
22 have one shot.

23 COMMISSIONER AHEARNE: Well, the McGovern amendment  
24 was confusing to me, in the sense that it seemed to have the  
25 Chairman, which I assume was of the NRC, involved in ---

1 COMMISSIONER KENNEDY: That's right.

2 COMMISSIONER BRADFORD: Yes, it does have that  
3 feature.

4 COMMISSIONER KENNEDY: Yes, but I think that's just  
5 bad drafting.

6 COMMISSIONER AHEARNE: That seemed to me to be DOE's  
7 functions as opposed to the NRC's functions.

8 COMMISSIONER KENNEDY: He is talking about the  
9 Chairman of the Atomic Energy Commission, really.

10 COMMISSIONER AHEARNE: But for those functions which  
11 were then transferred to DOE, not ---

12 COMMISSIONER KENNEDY: Yes, that's right.

13 The Domenici amendment takes that same language and  
14 says DOE. I think this is a technical problem which needs  
15 to be corrected, in any event.

16 CHAIRMAN HENDRIE: What is this?

17 COMMISSIONER AHEARNE: The McGovern amendment, for  
18 example, on page 2 at the top, okay, this is now the Chairman,  
19 and the arrangements are ----

20 COMMISSIONER KENNEDY: That's the Chairman of the  
21 Atomic Energy Commission, if one goes back to the Atomic Energy  
22 Act, which is being amended, these functions are now yours.

23 CHAIRMAN HENDRIE: Now wait a minute. You say  
24 this amendment authorizes me to build waste facilities?  
25 I want to reconsider my vote.

1           COMMISSIONER KENNEDY: No. This authorizes you to --,  
2 this directs you to go tell the states, tribes, et cetera ---

3           CHAIRMAN HENDRIE: I like the tribes part. Get  
4 right out there.

5           COMMISSIONER KENNEDY: -- about the exploration in  
6 which you intend to do.

7           MR. BICKWIT: It is the view of the floor managers  
8 in moving to table that this subject matter should be dealt  
9 with in the context of general waste legislation. The  
10 Commission supports that view to avoid with dealing with the  
11 specifics involved.

12           COMMISSIONER AHEARNE: Yes.

13           COMMISSIONER KENNEDY: I think it is a splendid view.

14           COMMISSIONER AHEARNE: I definitely agree with  
15 that, and if the amendments, nevertheless, end up being  
16 discussed, I think the point that Howard made, the one which  
17 is certainly the biggest concern I had in this was the  
18 possibility of locking us into commitments based upon arrangements  
19 made by the Energy Department and these various states.

20           CHAIRMAN HENDRIE: Also, if the amendments get picked  
21 up, we have previously, with regard to state vetoes, without  
22 quite closing on whether collegially we are deadset against  
23 it of gung ho for it, have said, "Well, if you are going to  
24 have one, it seems to us it ought to come at a particular time  
25 after there has been a chance to really thrash out the pros



1 and cons of the system," and I guess we would recommend that  
2 be, I guess, after the completion of that would correspond  
3 in a reactor to our construction permit hearing, to have allowed  
4 that exercise of the points of view.

5 COMMISSIONER AHEARNE: I would end up supporting  
6 who is offering the Glenn amendment, but the idea of a  
7 Congressional override.

8 COMMISSIONER KENNEDY: That's the Glenn/Percy  
9 amendment?

10 COMMISSIONER AHEARNE: I would be in favor of it.

11 CHAIRMAN HENDRIE: I would too, just because I think  
12 ultimately the Congress is going to have to break the deadlock  
13 by passing a law saying this is the way it's going to be.

14 COMMISSIONER BRADFORD: So you would be in favor of  
15 a state veto subject to a Congressional override?

16 CHAIRMAN HENDRIE: For myself, I would rather not allow  
17 the states a veto, and then I wouldn't ask for a Congressional  
18 override.

19 COMMISSIONER BRADFORD: I'm trying to figure out  
20 whether that is a good train or not.

21 CHAIRMAN HENDRIE: I think it just keeps heaping  
22 up the procedural barrier to doing things that ultimately  
23 the race is going to have to do, no matter what else happens.  
24 But in turn then, the fallback for me would be, "All right, if  
25 you are bound and determined to give the states veto, make them

1 exercise it at one place after there has been a sufficient  
2 pro and con set of discussions and hearings and then provide,  
3 which is our Congressional override, because with the national  
4 policy, I just think we are going to need it."

5 COMMISSIONER KENNEDY: Well, I would have come to  
6 that with an intervening step that first, I would have hoped  
7 that a state veto would not have been enacted, that a state  
8 consultation would be assured, but not necessarily veto.

9 Secondly, if, in fact, then one did go on to establish  
10 a veto proposition I would prefer to see the Executive -- the  
11 President be authorized to override that in the national  
12 interest. Failing that, I would then have turned to the  
13 Glenn/Percy proposition. There should be a Congressional  
14 override.

15 MR. SHAPAR: Of course, the states have an effective  
16 veto, probably, anyway so if you really want to insert the  
17 national interest in quotes at an early stage, you are going  
18 to have to have some sort of federal preemption, which I don't  
19 think anybody is recommending at this stage.

20 CHAIRMAN HENDRIE: I already have.

21 MR. SHAPAR: But in a different context.

22 COMMISSIONER AHEARNE: Well, do we have some other  
23 amendments?

24 MR. BICKWIT: Yes, but in summarizing your position  
25 is that ---

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1 CHAIRMAN HENDRIE: It is primarily that this sort of  
2 thing ought to be considered in the context of an overall waste  
3 management bill, rather than tacked on as an amendment or  
4 alternative amendments to the authorization bill, where there  
5 hasn't been -- you know, it is a subject that clearly is worth  
6 talking about at some length and deserves better than the kind  
7 of consideration it gets here this morning in these amendments.

8 MR. BICKWIT: And do you want to indicate concurrence  
9 around any other proposition?

10 CHAIRMAN HENDRIE: I think there is a majority,  
11 although not a clear unanimous sentiment on the Commission that  
12 indeed, if something like these amendments come, probably  
13 something like the override is useful to talk about because  
14 otherwise you may just paralyze the system, and sooner or  
15 later we will have to come to that point. But I feel a little  
16 vague about that because I don't think we have developed it  
17 fully.

18 MR. DIRCKS: Some of that language is very restrictive  
19 in that they couldn't even do exploration work.

20 CHAIRMAN HENDRIE: Yes. The way I read these amendments  
21 is that we couldn't evaluate, DOE couldn't do any exploratory  
22 work, you know. The whole thing looks to me calculated to  
23 prevent any forward motion.

24 MR. TRUBATCH: I would just like to point out that  
25 the McGovern amendment would apply to all waste facilities,

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1 including possibly AFRs.

2 CHAIRMAN HENDRIE: Yes, and lowlevel stuff, I expect.  
3 Okay, let's try the next amendment.

4 MR. BICKWIT: I'm just going to tick off some of  
5 these which I don't think will cause you any problems.

6 Domenici will offer the Commission's mill tailings  
7 language.

8 COMMISSIONER AHEARNE: We've in favor of it.

9 MR. BICKWIT: I assume you are in favor of it.

10 CHAIRMAN HENDRIE: Mill tailings language. Is he  
11 for mill tailings or against it?

12 MR. BICKWIT: For our proposal.

13 CHAIRMAN HENDRIE: Which is?

14 MR. BICKWIT: For it.

15 COMMISSIONER AHEARNE: The one we sent up, remember it?  
16 The clarifying language.

17 CHAIRMAN HENDRIE: The clarifying language, "Wow!"

18 COMMISSIONER KENNEDY: Actually, we had submitted  
19 some material for legislative history to indicate that we urged  
20 those engaged in millings to find ways of possible -- within  
21 the limits of practicality, to try to eliminate tailings.

22 CHAIRMAN HENDRIE: Yes.

23 COMMISSIONER KENNEDY: Have you forgotten that?

24 MR. BICKWIT: If I may move on.

25 CHAIRMAN HENDRIE: Yes.

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1 COMMISSIONER AHEARNE: Please do.

2 MR. BICKWIT: The DeConici amendment would be offered,  
3 which allows the Commission to restore its regulatory authority  
4 without notice in hearing, even in the case of an agreement  
5 state.

6 COMMISSIONER AHEARNE: That's the one we have a copy  
7 of?

8 MR. BICKWIT: That's right.

9 COMMISSIONER GILINSKY: How does that differ from  
10 the authority the Commission now has under such ---

11 MR. SHAPAR: You need a hearing.

12 COMMISSIONER AHEARNE: And also, it enables us to go  
13 after just part of it.

14 MR. SHAPAR: You can go after part of it now, this  
15 would enable you to go after one situation.

16 COMMISSIONER GILINSKY: Well, how do you ---

17 CHAIRMAN HENDRIE: I thought the present situation  
18 was that you had to drop the whole thing.

19 COMMISSIONER GILINSKY: No. It is all or part.

20 MR. SHAPAR: It was amended with the mill tailings  
21 control act you can now terminate part of a program, like  
22 byproduct material.

23 CHAIRMAN HENDRIE: Oh, I hadn't noticed that.

24 MR. SHAPAR: This would enable you to pinpoint a  
25 specific plant.

1                   COMMISSIONER GILINSKY: But where is the language that  
2 does that? I thought -- It still says all or part, doesn't it?

3                   MR. SHAPAR: Well, legislative history of the other  
4 one, I think, means the part is a big part, like all byproduct  
5 or a source.

6                   COMMISSIONER KENNEDY: It winds up by saying,  
7 "... provided, however, that a temporary suspension under this  
8 subparagraph shall authorize the Commission to exercise its  
9 authority only to the extent necessary to contain or eliminate  
10 the danger, and only for such time as the emergency situation  
11 exists."

12                   COMMISSIONER GILINSKY: I see, so it is more specific.

13                   COMMISSIONER KENNEDY: It is a piece of the part.

14                   CHAIRMAN HENDRIE: Yes. The DeConici amendment speaks  
15 to dealing with an emergency situation which presumably then  
16 is one plant or a couple of closed plants or a particular  
17 situation.

18                   COMMISSIONER KENNEDY: It is the Arizona situation,  
19 precisely.

20                   MR. SHAPAR: And without hearing, to also respond  
21 to your question, but I can't imagine why without notice, as  
22 the bill states.

23                   COMMISSIONER GILINSKY: That must mean immediately,  
24 you make it immediately effective.

25                   MR. SHAPAR: Just send a telegram.

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1 COMMISSIONER KENNEDY: But that is something you would  
2 do in any event, would we not?

3 CHAIRMAN HENDRIE: Any comment on this one, Bob?

4 MR. RYAN: Yes sir. I think, on balance, I support  
5 the idea, that an amendment like this would be helpful because it  
6 would have the practical effect of making the states pay a  
7 great deal of attention to the recommendations which may  
8 proceed from the program with the NRC.

9 Mr. Kerr, who is not here today has asked me to point  
10 out, and I will, that it is, however, tailored to a specific  
11 situation and he queries whether it is desirable to legislate  
12 on the basis of one situation.

13 We can think of no comparable situation from the past  
14 where substantial recommendations have been ignored as far as  
15 recommendations concerning agreement states cases.

16 I think, if the amendment were enacted it is not the  
17 kind of a thing that would be used promiscuously. As a matter  
18 of fact, I think its presence on the books would probably  
19 mean that it would not have to be used extensively, because  
20 you could make the argument that states would ---

21 CHAIRMAN HENDRIE: Is that so clear or would we find  
22 ourselves being bombarded with demands to act in a particular  
23 case and states standing back so that we could take the heat  
24 for shutting somebody down.

25 MR. RYAN: I don't think we have been bombarded in

1 the past with particu'ar cases or states asking for us to take  
2 the heat. I think we have been asked from time to time for  
3 support ---

4 CHAIRMAN HENDRIE: No, but we sure get a lot of mail  
5 complaining about things in agreement states.

6 MR. RYAN: I'm sorry. I don't know that to be the  
7 case, Mr. Chairman.

8 MR. SHAPAR: Well, I think with this legislation in  
9 the books, it might serve as an invitation. I guess beyond  
10 that, I guess I have raised the question of whether or not the  
11 Commission would have sort of a continuing obligation to more  
12 closely monitor the activities of the states, because the  
13 Commission, according to the legislation, can, on its own  
14 motion extend that requirement. If you have that authority,  
15 I would think you would be kind of compelled to monitor more  
16 closely.

17 COMMISSIONER GILINSKY: Except for the interpretation  
18 that this part is a smaller part than is now in Section 247.  
19 We still have that on the books right now. So we are expected  
20 to monitor it pretty closely.

21 MR. SHAPAR: Yes, but I'm wondering whether or not  
22 our present monitoring system is fine enough to pick up the  
23 kind of a situation that actually happened in Arizona that  
24 prompted this bill.

25 COMMISSIONER GILINSKY: Another difference, it seems to



1 me is that under the law as it stands now we are required to  
2 make a health and safety determination ---

3 MR. SHAPAR: Annually.

4 COMMISSIONER GILINSKY: No, no. Before we would  
5 suspend or terminate part of an agreement. Here, it looks as  
6 if -- I see, the Commission still has to make a judgment that  
7 an emergency still exists. Okay.

8 MR. SHAPAR: One other question that I wanted to  
9 raise is that the Commission would exercise its authority only  
10 to the extent necessary to contain or eliminate the danger.  
11 Then the state, of course, would move back in, and I guess the  
12 question I want to raise is maybe that line isn't all so clear  
13 that you would have, really, two agencies involved in health  
14 and safety.

15 COMMISSIONER GILINSKY: Suppose, I don't know how  
16 many plants are working with tritium in Arizona, but suppose  
17 one said that part of the agreement was plants dealing with  
18 tritium. Would you regard that as part of the agreement as  
19 described in the law now? In other words, the law now says  
20 you can suspend or terminate all or part of an agreement. Do  
21 you regard part of an agreement to be that portion dealing  
22 with tritium plants?

23 MR. SHAPAR: I guess my feeling is that just tritium  
24 wouldn't do it. I think it would have to be all byproduct  
25 materials.

1                   COMMISSIONER AHEARNE: But even then, you would still  
2 need a hearing.

3                   MR. SHAPAR: You would need a hearing under the  
4 present law before you could terminate. Now, the only grounds  
5 of termination is lack of adequacy to protect the public health  
6 and safety, which presumably would be the grounds, as you  
7 stated it.

8                   COMMISSIONER AHEARNE: Bill, do you have any comments  
9 on this?

10                  MR. DIRCKS: No. I think the point that Howard  
11 raised about what is the cutting point that we make, byproduct  
12 material, specific plants handling specific isotopes. I think  
13 these are the areas.

14                  COMMISSIONER AHEARNE: Do you have any comment on  
15 DeConici, the amendment?

16                  MR. DIRCKS: What?

17                  COMMISSIONER AHEARNE: Do you have any comment on  
18 the amendment?

19                  MR. DIRCKS: No.

20                  COMMISSIONER AHEARNE: Do you have any problem with it?

21                  MR. DIRCKS: We have no problem with it.

22                  COMMISSIONER AHEARNE: I guess I have no problem with  
23 it.

24                  COMMISSIONER KENNEDY: I have no problem with it.

25                  COMMISSIONER BRADFORD: (Nods in agreement.)

1 CHAIRMAN HENDRIE: I have no real problem with it  
2 either.

3 I will add a comment that it will be not an enormous,  
4 but I expect over time not a trivial I&E resource user. For  
5 facilities in agreement states operating under license by that  
6 state, everybody that doesn't like them can complain to us,  
7 and say, "Under your emergency powers you ought to get in there  
8 and shut this plant down." And in order to know whether we have  
9 got a real situation or just a complaint from somebody who  
10 doesn't like the plant, why out will go the I&E team and once  
11 in a while one of Bill's people, the regional license inspectors  
12 in I&E.

13 MR. DIRCKS: And the mills too, the uranium mills.

14 CHAIRMAN HENDRIE: And uranium mills also.

15 So I think the amendment, which seems like a useful  
16 piece of authority for the Commission, have, in fact, also  
17 down the line will bring with it a steady resource requirement  
18 year-in and year-out which you otherwise wouldn't be there.  
19 So aside from that comment about it ---

20 COMMISSIONER AHEARNE: So it is appropriate to at  
21 least let Mr. DeConici know that.

22 CHAIRMAN HENDRIE: I think it would be fair.

23 I think actually, since the Congress seems on the  
24 verge of cranking 146 people into I&E, I don't feel able to  
25 say we can't stand the burden at the moment. But it will be

1 an inspection, an investigation area. I can just see it going  
2 down the line. There will be another 100-odd cases a year  
3 for inspection/investigation on specific complaints.

4 Vic, how do you feel about it?

5 COMMISSIONER GILINSKY: I guess I move the same as  
6 you.

7 CHAIRMAN HENDRIE: Peter?

8 COMMISSIONER BRADFORD: I have no difficulty with it.

9 CHAIRMAN HENDRIE: Let's see, they were looking for  
10 informal comment. I guess the informal comment is the  
11 Commission believes it would be a useful piece of authority  
12 and just notes in passing that on down the line it will  
13 create a resource need, because of the need to investigate.

14 COMMISSIONER GILINSKY: This doesn't affect our  
15 current authority to take over or suspend part of an agreement  
16 as previously interpreted, because it is generally not  
17 properly administered?

18 MR. SHAPAR: It doesn't affect that.

19 CHAIRMAN HENDRIE: Just supplements it.

20 Next.

21 MR. BICKWIT: There is a Metznebaum amendment which  
22 requires the Commission to notice state officials when hazardous  
23 nuclear wastes are shipped through their states.

24 COMMISSIONER AHEARNE: What specifically is in mind  
25 on the insular area?

1 MR. BICKWIT: Excuse me?

2 COMMISSIONER AHEARNE: What specifically is in mind  
3 by the phrase "insular area"?

4 MR. BICKWIT: I don't know. I haven't even seen the  
5 language. It sounds like you have.

6 (Mr. Bickwit provided a copy of the document.)

7 MR. BICKWIT: I have no idea.

8 COMMISSIONER AHEARNE: The gentleman on my left  
9 suggests Puerto Rico.

10 COMMISSIONER KENNEDY: The Virgin Islands.

11 COMMISSIONER BRADFORD: Well, I suppose if there is  
12 to be Pacific base for spent fuels for somebody, that might  
13 fall under that.

14 CHAIRMAN HENDRIE: Let's see, it is prior to the  
15 transport of nuclear waste. So it's everything.

16 MR. BICKWIT: Yes. Now, there will be an amendment  
17 offered to it, so that it is not everything. It will provide  
18 that it is limited to nuclear wastes in such quantities and  
19 of such types as the Commission determines which pose a  
20 potentially significant hazard to health and safety.

21 COMMISSIONER AHEARNE: I guess then, my only problem  
22 would be the October 1st. Can we meet that until the 1st.

23 MR. DIRCKS: Well, there is such a variety of  
24 nuclear wastes, as you pointed out. They mean nuclear wastes  
25 coming from hospitals going to collection points and they mean

1 the collection points to the waste disposal labs. So we  
2 have a job of classifying what nuclear wastes would be included  
3 in this.

4 COMMISSIONER AHEARNE: Is that even with the amendment  
5 that Len just mentioned?

6 MR. DIRCKS: Well, that tells us to do what I'm talking  
7 about.

8 MR. BICKWIT: That's right.

9 MR. DIRCKS: It would be pretty tight.

10 In addition to that ---

11 COMMISSIONER KENNEDY: I think it would be remarkable  
12 because we have been setting October 1st as the assumed date  
13 for enactment, which would be the same date we would have to  
14 complete this.

15 CHAIRMAN HENDRIE: We just aren't going to get there  
16 from here.

17 MR. DIRCKS: And in addition to that, we are not  
18 notified ourselves when wastes are moved. DOT regulates much  
19 of the wastes that are transported on the roads, and we have a  
20 very small part and it is only that part that falls into  
21 certain categories. So we would have to work out other  
22 arrangements.

23 COMMISSIONER BRADFORD: Why isn't it a more sensible  
24 arrangement to require shippers to do the notifying, since they  
25 are now required to notify us or DOT?

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1 MR. DIRCKS: They are not even required to notify  
2 DOT.

3 COMMISSIONER BRADFORD: Oh. But at least they are  
4 now required to notify us.

5 MR. DIRCKS: No, only for certain types of wastes,  
6 for example, spent fuel. They are required to notify us.  
7 Other types of wastes they are not required to notify us.

8 CHAIRMAN HENDRIE: I think -- you know -- the proposed  
9 legislation is practical in any sense only if we are willing  
10 to go forward with a rule here, that is, that the amendment to  
11 the amendment takes hold and that we are willing to go forward  
12 with a rule here that limits the waste for which notification  
13 will be supplied to a couple of very specific highlevel  
14 categories.

15 Now, right at the moment, spent fuel is about the  
16 only thing that comes up there. If you go down a couple of  
17 levels in terms of the waste content, you get to just large  
18 numbers of things, and the bookkeeping in which we are notifying  
19 all the state and insular areas just becomes incredible.  
20 It is not practical, and I'm not sure that -- I'd rather do  
21 without the amendment than have the amendment and then have us  
22 do a rulemaking in which we are going to fight over what all  
23 categories we have to notify everybody about, because I think  
24 that may be a little awkward. Kind of an artificial proposition.

25 COMMISSIONER BRADFORD: Well, I wouldn't go so far as

1 to say that states shouldn't have notice of at least highlevel  
2 waste -- Well, if they want it. So I would be much more  
3 inclined to point out the difficulties with this legislation  
4 and impose whatever requirement that we feel necessary to  
5 get down to a list of the sorts that the states might really  
6 be interested in. But I wouldn't, myself, want to sign on  
7 a blanket opposition to states having notice of highlevel  
8 waste shipments from them.

9 MR. DIRCKS: If we are talking about highlevel  
10 wastes and spent fuel, as a matter of fact, we are not really  
11 shipping any highlevel waste now, and spent fuel is really ---

12 CHAIRMAN HENDRIE: The only highlevel waste is spent  
13 fuel.

14 MR. DIRCKS: -- is spent fuel, and under this new  
15 procedure that we have, the safeguarding procedure, we are  
16 going to be notifying the states. So in that regard, we are  
17 in a sense complying.

18 CHAIRMAN HENDRIE: Furthermore, the amendment needs to  
19 be framed so that only the waste that we regulate, do we have  
20 to notify. There is just no way in the world that we are  
21 able to notify states when the Executive Branch of the  
22 Government decides to move their mysterious products from one  
23 place to another.

24 COMMISSIONER BRADFORD: Well, that's why I thought  
25 the legislation might better focus on the shipper than on the



1 NRC, because there are shippers that we don't regulate, and  
2 if the point is to have states comprehensively notified of all  
3 shipments for certain types of material, it is better to put  
4 the burden on the shippers than it is to put the burden on  
5 someone who doesn't have jurisdiction over a fair portion of  
6 their shipments.

7 MR. SHAPA: I guess DOT would have authority now  
8 to compel us to do it, wouldn't you think? Under the  
9 hazardous material act.

10 MR. MALLORY: I think it is interesting to note that  
11 as I understand it we used to have a program of notifying the  
12 states of when highlevel waste shipments were made. And I  
13 gather that the reaction of the states was, "What are we going  
14 to do with this information?" I have refused that for years  
15 and then the program was stopped, and then ---

16 COMMISSIONER BRADFORD: That was a few years ago,  
17 though.

18 COMMISSIONER KENNEDY: When they were sensible.

19 CHAIRMAN HENDRIE: Well, I note a range of views, but  
20 I don't know.

21 Let's see, have I extracted the views? I have got  
22 Peter's and I have got mine.

23 COMMISSIONER AHEARNE: I don't think we can make  
24 October 1st.

25 I believe that notification of highlevel wastes and

1 spent fuel is appropriate, but at the same time, I think we  
2 will be doing that.

3 CHAIRMAN HENDRIE: Or already doing it.

4 COMMISSIONER AHEARNE: I don't think the legislation  
5 is doing that, necessarily.

6 COMMISSIONER KENNEDY: I agree with that 100 percent.  
7 It isn't necessary, we are doing what is contemplated.

8 COMMISSIONER BRADFORD: Right, but when we say we are  
9 doing it, then if that is to be a point communicated, we ought  
10 to also to add the point that what we are doing doesn't cover  
11 all shipments

12 CHAIRMAN HENDRIE: Yes, that it covers our licensees,  
13 and what we are talking about is the highlevel stuff, i.e.,  
14 spent fuel, at the present time, and that it doesn't cover what  
15 may be conceivably comparable materials shipped by other  
16 branches of the government.

17 COMMISSIONER AHEARNE: Yes..

18 CHAIRMAN HENDRIE: Good enough?

19 MR. BICKWIT: Senator Dole has two non-germane  
20 amendments. I just bring them to your attention. I don't  
21 know if you want to speak to them.

22 One would require that there be an energy summit  
23 between the United States, Canada and Mexico, and the other  
24 would create a National Energy Council to study and report  
25 to the President on the situation. It would be headed by the

1 Vice President and consist of private individuals, a study  
2 commission, on the status of our energy problems.

3 COMMISSIONER AHEARNE: I would prefer not to comment  
4 on that one.

5 CHAIRMAN HENDRIE: Did we get to send somebody to the  
6 North American summit?

7 MR. BICKWIT: You would know.

8 COMMISSIONER AHEARNE: Do you have any other amendments  
9 left?

10 MR. BICKWIT: Yes, the Heinz amendment that would  
11 require resident inspectors to live within five miles of a  
12 plant.

13 CHAIRMAN HENDRIE: Absolutely not. Jesus Christ, if  
14 we had one more requirement for the resident inspectors, it  
15 becomes humanly impossible.

16 COMMISSIONER AHEARNE: Bad amendment.

17 CHAIRMAN HENDRIE: And point out to the senator that  
18 that is not because the resident inspectors have doubts about  
19 the plants with regard to the safety of their own families,  
20 but rather that these are people that we have put an enormous  
21 responsibility on, out there by themselves, and in some of these  
22 plants, by God you can't find a decent place to live within  
23 five miles of the site and it would require the guy to live in  
24 a mobile home or something like that to meet a stupid statutory  
25 requirement like that. Maybe his wife could bring the kids to

1 the north gate once a day for a half hour's exposure. How  
2 about that ---

3 COMMISSIONER AHEARNE: Perhaps you could just pass down  
4 that the Commission is against it.

5 COMMISSIONER KENNEDY: Perhaps we could make a  
6 requirement that the licensees establish small school  
7 facilities on the property.

8 MR. BICKWIT: There is a Church/Jackson proposal  
9 to add \$20 to \$25 million for NRC safety research.

10 COMMISSIONER AHEARNE: To add it?

11 MR. BICKWIT: To add it.

12 COMMISSIONER KENNEDY: What?

13 MR. BICKWIT: To add \$20 or \$25 million for NRC  
14 safety research. And that will be opposed by Simpson and  
15 Hart, because they feel it is more appropriate to deal with it  
16 in the supplemental appropriations.

17 COMMISSIONER KENNEDY: I would agree.

18 COMMISSIONER AHEARNE: Would there be a specific  
19 direction on it or just a ---

20 MR. BICKWIT: That's all I know.

21 CHAIRMAN HENDRIE: My understanding is that it is  
22 in anticipation of the R&D part of the '80 supplement, and  
23 I don't think they are under any illusions about the  
24 appropriations committees allowing the funds with the -- in  
25 the bill which is now -- Well, I guess it is now ready for the  
floor. But their point was, "Look, if we do this, we can then

1 regard whatever sum is put in there as having been authorized,  
2 and when the supplement comes through, then all you need is  
3 a supplementary appropriation. You have all ready got  
4 authorization for at least that chunk.

5 COMMISSIONER AHEARNE: It is just restricted to  
6 Research?

7 MR. BICKWIT: (Nods in the affirmative.)

8 CHAIRMAN HENDRIE: I'm inclined to think that --  
9 you know, somebody is going to want to talk about what it is  
10 going for, whether it is the appropriation committee or the  
11 authorization committee, and I'm sure both will, on the other  
12 hand I hate to be negative about who would like to provide  
13 us a little more elbow room in the budget.

14 COMMISSIONER AHEARNE: I guess my attitude would be  
15 that we will certainly be asking for supplemental. How the  
16 Congress wishes to authorize it is really a matter for the  
17 Congress.

18 COMMISSIONER KENNEDY: I agree with John.

19 MR. BICKWIT: That's all I have.

20 CHAIRMAN HENDRIE: Okay. I think we may have  
21 actually made a little progress.

22 Thank you very much.

23 (The meeting in the above-entitled matter was  
24 concluded at 11:05 a.m.)  
25