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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
PUBLIC MEETING
DISCUSSION OF ACTION PLAN
(CHAPTER V)

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Nuclear Regulatory Commission
Commissioner's Conference Room
1717 H Street, N.W.
Washington, D.C.

Monday, July 7, 1980

The Commissioners met, pursuant to notice, at 2:00 p.m.

BEFORE:

- JOHN F. AHEARNE, Chairman of the Commission
- PETER A. BRADFORD, Commissioner
- JOSEPH M. HENDRIE, Commissioner

NRC STAFF PRESENT:

- E. HANRAHAN
- M. MALSCH
- A. KENNEKE
- LEONARD BICKWIT, General Counsel
- R. BERNERO
- R. MATTSON
- C. KAMMERER

P R O C E E D I N G S

1
2 CHAIRMAN AHEARNE: The Commission meets this afternoon
3 to hear from two Commission offices: the Office of OPE and
4 the Office of OGC regarding the actions identified in Chapter
5 V of the TMI Action Plan.

6 These are action s specifically directed to the
7 Commissionto the development of the Action Plan. We directed the
8 staff to essentially freeze, as far as further development --
9 to bookkeep those actions. The Commission would review it and
10 decide what steps should be taken.

11 Earlier this summer, we requested the two offices that
12 I mentioned put together a paper to come back to us on it. That
13 is the purpose of this afternoon's meeting. Neither of you seem
14 to be popping forward with great eagerness.

15 (Laughter.)

16 Ed, you had your papers -- more of them in front of
17 you, so perhaps you are the appropriate person to start.

18 MR. HANRAHAN: Chapter V, as you mentioned, addressed
19 policy, organization and management issues in 7 items. Due to
20 the interrelationship among these items, we have regrouped the
21 original 7 into seven subject areas.

22 In five of these subject areas, we conclude no further
23 action is needed at this time. In two areas, specifically, organi-
24 zation and management and the developement of a safety policy,
25 we recommend that actions be taken now.

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1 We would like to proceed by first discussing the five
2 areas where we recommend no action at present, that no action
3 be taken immediately. Then, take the two items for which we
4 do recommend some action.

5 Since the five actions which require no -- recommend
6 no action, they are generally legal areas --

7 (Laughter.)

8 Only one of us will talk about legal matters.

9 MR. BICKWIT: All right. On the five, where no action
10 is recommended, before going through these, I would like to
11 do that briefly. I think it ought to be clarified what we are
12 recommending and what we are not recommending.

13 When we say no recommendation -- no action is recom-
14 mended, we are saying that no action is recommended now, either
15 because the subject of the item has been performed, is being
16 performed, or we have some other reason why nothing should be
17 done either now or at all.

18 When we get to items where there is reason why we think
19 nothing should be done now, as opposed to a situation where
20 something is already being done, that is the reason we recommend
21 no action, we will try to flag that for you because that, I think,
22 is the more difficult to the policy decisions involved.

23 The first of these is the non-safety responsibilities.
24 I am not going to go through all the discussion in this paper,
25 but simply to supplement it where I feel it needs it. On the

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1 non-safety responsibilities, we recommended no action with
2 respect to exports -- export transfers, as well as other non-
3 safety responsibilities of the Commission.

4 We do that because the Commission has made no view on
5 this matter. The Administration at this point has chosen not
6 to act on the Commission's recommendation. We feel that for the
7 Commission to submit legislation without the administration's
8 support, will not be fruitful.

9 What we suggest is that when you get a new Commissioner,
10 see where the majority stands on this, and where ever the majority
11 stands on it, a letter ought to go to the President conveying
12 that view, either to pint out that the view of the Commission
13 has changed or to point out the view of the Commission has not
14 changed and legislation in this area is supported.

15 The Administration decision not to transfer export
16 authority -- all of the formulations of that view that I heard
17 are to the effect that the reorganization plan was not the
18 appropriate vehicle for that. All of those formulations left
19 open the possibility of a transfer by legislation at a subsequent
20 time.

21 Now, on the second of the items on which nothing is
22 recommended, advisory committees --

23 CHAIRMAN AHEARNE: Before you leave that, it might be
24 just appropriate if you have any comments to comment on it now.
25 I have no problem with your formulation. It appears to me that

1 all of us -- at least I know for myself, I do not think that
2 there is anything more to be said on the issue.

3 It does not seem to be useful to take any action.

4 COMMISSIONER HENDRIE: Yes. I would not wrangle the
5 issue anymore. I guess over the past six or eight months, I have
6 managed to vote at least once on both sides of the issue. Pro-
7 bably, you know, it may turn out to be three votes for and two
8 against or something like that -- whichever way.

9 It does seem to me the practicalities of the situation
10 indicate that it is not useful to revisit this issue until such
11 time as there is an inclination on the Administration's part and
12 the part of Congress to undertake that review of NNPA functioning
13 which I think was -- is in the statute, isn't it?

14 MR. BICKWIT: Yes.

15 COMMISSIONER HENDRIE: If not in the statute, in the
16 conference reports and so on. Then, in that context, one can
17 see where -- what the best arguments seem to be. At the present
18 time, I agree, there is not much point in the Commission hassling
19 the matter any further.

20 COMMISSIONER BRADFORD: I agree with that. I think, as
21 I understand it, it is clear, at the moment, the Commission
22 would be -- would have no position. There would be two sets
23 of two views. There is no reason to try to proceed in that
24 situation.

25 CHAIRMAN AHEARNE: All right. Good. So we accept that.

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1 MR. BICKWIT: On advisory committees --

2 COMMISSIONER HENDRIE: Before you go away, you decided
3 also that there was no reasonable way that we can avoid our
4 responsibilities under the Environmental Policy Act.

5 MR. BICKWIT: I would not put it quite that way.

6 (Laughter.)

7 Although, I would agree with that statement.

8 COMMISSIONER HENDRIE: That anti-trust transfer, I
9 think I would agree with you that it is not worthwhile trying to
10 mount some independent initiative here. If the matter comes up
11 in the context of one or another rewritings of the Atomic Energy
12 Act in the next year or two, why fine. We can speak to the issue
13 then, each as we see fit.

14 Short of that, I would not propose to deal with it.

15 CHAIRMAN AHEARNE: Fine.

16 COMMISSIONER BRADFORD: I agree with that.

17 MR. BICKWIT: Yes. On item C, advisory committees,
18 the second item on which we recommend no action, let me flag for
19 you two particular sub-items. We are recommending no additional
20 activity on the part of the Commission with respect to the
21 Nuclear Safety Board.

22 That is premised on the assumption that the Commission
23 remains with its testimony before the Udall Committee on that
24 matter in which, what you said was with respect to the accident
25 review function of the Nuclear Safety Board.

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1 You did not feel that a separate board was needed, and
2 with respect to the monitoring of the Commission, function of
3 the board. You felt that was a question for Congress.

4 Unless we have different instructions, we see no further
5 -- we see no fruit in further work on that issue.

6 CHAIRMAN AHEARNE: Do you have any problems?

7 COMMISSIONER BRADFORD: No.

8 COMMISSIONER HENDRIE: No.

9 CHAIRMAN AHEARNE: All right.

10 MR. BICKWIT: Then, we are also suggesting no further
11 work on exploration of the subject of additional advisory commit-
12 tees for the Commission.

13 Mr. Bradford proposed that OPE look into some of the
14 factors involved. That has been done. We looked into some of
15 the legal aspects. We do not recommend pursuing it unless there
16 is sentiment on the part of the Commission to go forward in this
17 area.

18 CHAIRMAN AHEARNE: Could you sort of explain why you
19 don't recommend pursuing it?

20 MR. BICKWIT: We don't think the case has been made at
21 this point for an additional advisory committee. We think the
22 Commission can get its advice on an ad hoc basis when it needs
23 it.

24 CHAIRMAN AHEARNE: Were you looking at it from the
25 standpoint of technical advice, or were you looking at it from

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1 the standpoint of any kind of advice?

2 MR. BICKWIT: We are looking at it throughout. We saw
3 no area in which the case had been made.

4 CHAIRMAN AHEARNE: Peter?

5 COMMISSIONER BRADFORD: Well, I am persuaded that while
6 I think the Commission can do with hearing from different
7 perspectives from time to time, and that that case certainly
8 could be made, that I could not see in the various combinations
9 that OPE looked at and discovered in other agencies anything that
10 was not as much or more cumbersome than the benefits it might
11 offer.

12 I guess what I came down with as an alternative would
13 be to think just more in terms of occasional out-reach, ourselves,
14 in terms of who we invited to sit across the table from us on
15 a periodic basis and particular problems, rather than formalizing
16 it through a committee set-up.

17 CHAIRMAN AHEARNE: Yes. Joe?

18 COMMISSIONER HENDRIE: I agree with that. I do not
19 find myself lacking in advice in most areas.

20 CHAIRMAN AHEARNE: I guess I would like to, while I
21 would probably end up agreeing with Commissioner Bradford on that,
22 I would like to at least see if we -- maybe OPE is the right
23 place, or Fouchard's public outreach -- but somehow, we ought to
24 see if we can't do that on a more regular basis, get some kind of
25 a system.

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1 We do have the mechanisms to hold those kinds of
2 meetings. It would probably be more useful, at least for me,
3 to gain some -- to get some regular system. It might be
4 possible to set that up to comment on such things as, for example,
5 PPPG, rather than waiting for a specific problem to arise.

6 MR. BICKWIT: The next item on my list is the licensing
7 process.

8 CHAIRMAN AHEARNE: Before that, I wonder -- Mr. Fraley
9 is here from the ACRS. He might want to make some comments on
10 advisory committees.

11 MR. FRALEY: I think this covered about every item I
12 had on my list, except for the possibility of two. You remember,
13 in the Committee's report of January 15, with respect to
14 strengthening the role of the Committee, they did suggest that
15 it might be useful to consider a procedure by which the Committee's
16 recommendations in licensing proceedings are dealt with as part
17 of the licensing proceeding.

18 Right now, the only thing that is important is that the
19 letter exists. What it says in not really considered very
20 important, specifically unless one of the parties picks it up.
21 I do not know if that has been addressed in some other forum. It
22 is not addressed here.

23 The other thing was that I think one of the Commissioners
24 suggested that it would be useful if once a year the Committee
25 could sort of identify the ten or twelve or fifteen really

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1 important safety issues that it saw in the regulatory process.

2 Again, in this January letter, the Committee suggested
3 a couple of ways that that might be accomplished. We really have
4 not heard any more about that. Perhaps we should get together
5 with the EDO, but there were two possible ways suggested.

6 One was for the Committee to review and comment on the
7 annual report to Congress on unresolved safety questions; the
8 other one was to do some sort of a resources allocation review,
9 perhaps starting with NRR, then branching out to other offices
10 and divisions.

11 The Committee has done some of that in their review
12 of the NRC Action Plan, but that is kind of a one-shot proposition
13 as it stands now. So, I think those are two items that really
14 are not addressed and need further thought.

15 CHAIRMAN AHEARNE: Ed or Len, do you want to comment
16 on those?

17 MR. BICKWIT: I would say we have not addressed them,
18 I would like to explore them further.

19 MR. FRALEY: We probably did not bring these soon
20 enough in the process to get them into this paper.

21 CHAIRMAN AHEARNE: Perhaps -- anybody have any comments,
22 otherwise, I will just ask Len and Ed to get back to us within
23 the next couple of weeks on that.

24 MR. BICKWIT: Fine.

25 CHAIRMAN AHEARNE: Okay.

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1 MR. BICKWIT: Item D, involving the licensing process.
2 I want to call your attention to our recommendation, not at this
3 point, to do any exploratory activity on the Office of Hearing
4 Counsel, or the Office of Public Counsel.

5 Our thinking is that the Commission has supported a
6 pilot program, an intervenor funding. We would think the natural
7 order of events would be to see how the Congress comes out on
8 that and to take action based on the action of the Congress.

9 If Congress turns that down, we would then want to
10 take a look at those alternatives. If Congress supports it, I
11 think we would like to see how it works before looking at alter-
12 natives.

13 COMMISSIONER BRADFORD: I would be more comfortable
14 with that if that recommendation were getting a warmer reception
15 in the key Congressional committees. I do not anticipate that
16 we will, in fact, receive those funds.

17 I mean, we might, but I would not want to necessarily
18 hold alternative approaches to improving public participation in
19 abeyance on something that does not seem to me any better than
20 a 50/50 proposition.

21 CHAIRMAN AHEARNE: I think that is on the high side.

22 (Laughter.)

23 MR. BICKWIT: You will agree, it is not any better.

24 (Laughter.)

25 COMMISSIONER BRADFORD: Anyway, my inclination would

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1 be to think some more about approaches to the Office of Hearing
2 Counsel.

3 MR. BICKWIT: I guess I also have to say that we based
4 some of our views on the obvious assumption that you cannot do
5 everything, and that we could -- I do not think there is any
6 particular proposal in here where the Commission wouldnot be
7 enriched ever so slightly by an additional study by OPE or our
8 office, or some staff office.

9 So, what we have attempted to do here -- some of what
10 we have not proposed -- we put off base on that reasoning, plus
11 whatever other reasoning might supplement that. This is one
12 of those.

13 COMMISSIONER HENDRIE: I guess I would be inclined not
14 to take any further action at this time.

15 CHAIRMAN AHEARNE: I guess I would probably agree with
16 both Peter and Len. I am not sure how to resolve that in the
17 sense that you can't do everything. I guess someone ought to be
18 thinking about -- assuming we are committed to trying to increase
19 the mechanism of the participation in the process. I am not
20 optimistic on getting the funds from the Congress.

21 Now, it does not mean that therefore, we ought to be
22 more optimistic in establishing the Hearing Counsel approach, but
23 at least it might be useful to begin thinking about how we would --

24 MR. BICKWIT: Before you come to any judgment on that,
25 let me move on to the next point. Perhaps it will be relevant

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1 in resolving this one.

2 With respect to the basic forms of the licensing process
3 that have not received adequate study -- I am including item
4 9 of Chapter V. Our view there is that we want to get to those
5 matters, matters such as should we change the role of the staff?
6 Should we think about having a neutral staff? Should we think
7 about having legislative hearings in lieu of full adjudicatory
8 hearings?

9 Should we think about a separated staff? All of those
10 matters, I think, are worthy of analysis. I think our office
11 is the appropriate office to do it.

12 At this point, I would prefer to see those matters
13 addressed at a later stage. The Office has been, to some degree,
14 strapped. Day to day activities have been taking just about all
15 of our time.

16 I would prefer to move forward on those matters we are
17 considering, and to look at some of these basic matters when we
18 can catch our breath. I guess I would lump Office of Hearing
19 Counsel, Office of Public Counsel into that group of matters that
20 it would be desirable to look at when we can.

21 CHAIRMAN AHEARNE: I guess the -- you had at one --
22 you had started an evaluation of legislative needs. Is that
23 correct?

24 MR. BICKWIT: Yes. That is on a faster track. That,
25 we are planning to come up with a paper within the next month

1 talking about whatever we think needs to be done legislatively.
2 That is, these are legislative matters that we have picked out
3 over the course of the last year, useful changes in the law.

4 They do not go to the heart of the licensing process.

5 CHAIRMAN AHEARNE: Well, the one thing that I think
6 you have to keep in mind is, let us assume that -- I do not
7 want to be overly pessimistic -- but let's assume that this year's
8 proposal for intervenor funding does not proceed.

9 I think at the end of this month, we will be going
10 through a Commission budget review again. We will have to face
11 the issue of whether or not to try again. If not, what alter-
12 native approach.

13 The Hearing Counsel approach is an alternative approach.

14 MR. BICKWIT: Yes.

15 CHAIRMAN AHEARNE: Although, you do not have to have
16 it in a budget submission in August. It can go in in the fall.
17 One always has the opportunity to go to the OMB before they
18 finish putting their budget together.

19 You really have to be able to submit it in January
20 together, so that if we were to make the decision, that rather
21 than trying intervenor funding again, we ought to try this other
22 route.

23 We would need the supporting analysis something in the
24 fall. That is a pacing item.

25 MR. BICKWIT: I think that is right. Well, what I

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1 hear you saying is why don't we treat that differently from the
2 way we treat these other, what I term, basic reforms in the
3 process.

4 CHAIRMAN AHEARNE: That would be my recommendation.

5 MR. BICKWIT: Pull that one out and move with that
6 one more quickly.

7 CHAIRMAN AHEARNE: Because I am interested in trying
8 again in the budget some approach. I have not yet, for my own
9 self, reached the conclusion as to whether or not we ought to try
10 to go back with the intervenor funding.

11 I would like to, at least, have this as an option to
12 look at some time in the fall.

13 MR. BICKWIT: Fair enough.

14 COMMISSIONER BRADFORD: I agree with that. There are
15 circles in which this approach is considerably more palatable
16 than intervenor funding, if for no other reason than the
17 Commission has more control over the quality and nature of the
18 presentations.

19 COMMISSIONER HENDRICK: Depending on the sort of
20 language that comes up in the authorizing or appropriating acts,
21 you could be in a situation where you find it hard to justify
22 Hearing Counsel Office.

23 MR. BICKWIT: One can imagine such a finding. It is
24 conceivable that we would have to -- that there would be some
25 in Congress who would regard this as not being able to justify

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1 the study of it in the current fiscal year.

2 I would not read the language of the Congressional
3 committee reports to preclude it, but conceivably some of the
4 authors do. I do not know.

5 CHAIRMAN AHEARNE: Well, I assume you will approach it
6 carefully.

7 (Laughter.)

8 Could I ask a question on this section while we're here?
9 What is the status of the SECY-82-62, which is, as I recall,
10 increasing involvement in licensing adjudications? Is that --
11 do you know what --

12 MR. BICKWIT: Can you give me a page?

13 CHAIRMAN AHEARNE: Page D-3, third paragraph. I wanted
14 to ask about status of the two studies. The ex parte one I
15 recall.

16 MR. BICKWIT: We are coming back very shortly on that
17 one. On the appeal board study, that is -- yes.

18 CHAIRMAN AHEARNE: Is that --

19 MR. BICKWIT: Yes. The status of that is we have some
20 votes in. They differ. As I understand it, there are two votes
21 for cutting back on our recommendations, and one for going with
22 our recommendations.

23 CHAIRMAN AHEARNE: Depending on where the other vote
24 comes in?

25 MR. BICKWIT: Yes.

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1 CHAIRMAN AHEARNE: On the ex parte study comments,
2 you are going to be coming back to us shortly?

3 MR. BICKWIT: Very shortly.

4 CHAIRMAN AHEARNE: All right.

5 MR. BICKWIT: Yes, yes. There was another vote --

6 CHAIRMAN AHEARNE: Now there are only four. Then, I
7 have no other problems or comments on your licensing process.
8 Peter?

9 COMMISSIONER BRADFORD: No.

10 COMMISSIONER HENDRIE: No.

11 MR. BICKWIT: The final item on which we recommend no
12 action relates to consolidation of locations, NRC locations. I
13 asked the director of OCA to be with us today. If you have any
14 particular questions on where things stand, he appears to be the
15 authority.

16 COMMISSIONER BRADFORD: By no action, you are not saying
17 no action.

18 MR. BICKWIT: No internal action. All we recommended
19 was to work with those people who have the power to make the
20 decision and make sure they understand the reasons why you are
21 where you are.

22 CHAIRMAN AHEARNE: Carl, do you have any further news?

23 MR. KAMMERER: Not any further news than the supple-
24 mental appropriations language, directing that the GAO do a
25 review, which is on the consolidation as proposed by OMB and
have a report back within 60 days as to that option or other

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1 options.

2 They use the phase cost effective option or options.

3 COMMISSIONER HENDRIE: The GAO study, Carl, is on
4 the proposed interim consolidation?

5 MR. KAMMERER: That is correct.

6 CHAIRMAN AHEARNE: I don't see anything wrong.

7 MR. BICKWITH: That concludes our portion of the
8 presentation.

9 MR. HANRAHAN: Is the --

10 MR. BICKWITH: There is one other one. On legislation,
11 the paper sounds too pessimistic, in my view, with respect to
12 the likelihood of legislative proposals coming from our office.

13 (Laughter.)

14 Maybe pessimistic --

15 COMMISSIONER BRADFORD: Does pessimistic mean that at
16 least they will?

17 (Laughter.)

18 MR. BICKWIT: I think you are likely to hear from our
19 office on legislation. The paper could be read as suggesting
20 that you will not.21 We say our conclusion is that in no instance legislation
22 necessary. What we really mean is in no instance is there a
23 crying need for legislation. You would have heard from us by
24 now if we had thought so.

25 We are coming up with a paper which will show you all

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1 possible areas for legislation, and where additional work might
 2 be needed. We felt the need to come to the condition before
 3 actually making recommendations, because some will entail some
 4 additional work. We wanted to find out whether we were simply
 5 out in left field on some of them before doing any more work.

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1 CHAIRMAN AHEARNE: I had a question on one of
2 them, Page E-4, Number 6. This is the follow-up on the
3 special entry group recommendation of industry-wide
4 consortium related. Are we examining the question of
5 minimum standards for a utility or minimum standards for a
6 group of utilities to operate nuclear plants?

7 MR. BICKWIT: Do you mean a minimum -- minimum
8 technical standards?

9 CHAIRMAN AHEARNE: I guess trying to get at the
10 point that I thought came through in the special entry
11 group's recommendation to examine the issues. There are
12 some utilities that are just too small or understaffed.

13 MR. BICKWIT: I know we are not. I don't know
14 whether anyone else is examining that.

15 MR. HANRAHAN: No.

16 CHAIRMAN AHEARNE: Well --

17 VOICE: I have a vague recollection that NRR is,
18 but I am not certain about that.

19 CHAIRMAN AHEARNE: I guess I would like to add
20 into this list of things that CPE and OGC is coming back to
21 us on, I would like to toss this in, what is happening, if
22 nothing is happening, whether you think something should
23 happen. If you don't think something should happen, why
24 not? It seemed to be an issue that came up a number of
25 times in the groups reviewing this.

1 COMMISSIONER BRADFORD: Is that information that
 2 can be had through the skilled use of, what is it, Appendix
 3 2 of the action plan? That is the recommendation must have
 4 been made, and therefore its status must be --

5 CHAIRMAN AHEARNE: It sounds logical.

6 (General laughter.)

7 CHAIRMAN AHEARNE: Maybe it would be a very easy
 8 task, but --

9 MR. BICKWIT: You just want to know where it is.

10 CHAIRMAN AHEARNE: I want to know why isn't
 11 anything happening? That is really what I want to know.

12 MR. BICKWIT: All right. That is it for us.

13 CHAIRMAN AHEARNE: Anybody else? Any comments?

14 (No response.)

15 MR. HANRAHAN: The first item I would like to take
 16 up is the development of safety policy. In the PPPG, the
 17 Commission stated its intent to define more clearly the
 18 level of health and safety it believes adequate. The ACRS
 19 has a subcommittee which is pursuing this area, and the
 20 Office of Research has a number of programs under way
 21 leading to the development of a safety goal and anticipating
 22 it.

23 In addition, there is a variety of efforts in
 24 industry --

25 CHAIRMAN AHEARNE: What about NRR?

1 MR. HANRAHAN: Yes, industry has some work going
2 on. It seems, then, that the appropriate thing is to
3 prepare a plan which would draw together certainly the NRC
4 activities in this area which would schedule them and assign
5 responsibility for bringing them together and bringing
6 forward recommendations to the Commission.

7 In addition, there is the likelihood that this
8 will be legislatively required to be conducted and reported
9 to Congress in June, I believe is the date.

10 So, our recommendation on this is to assign the
11 responsibility to myself and the general counsel to prepare
12 the program plan which would identify the -- who should be
13 responsible and now it should be carried out.

14 CHAIRMAN AHEARNE: I would like to ask first Ray
15 Fraley and then Bob Bernero to at least address briefly
16 whether they would like to add anything to the description
17 of the efforts in the paper.

18 MR. FRALEY: We have tentatively scheduled a
19 report of the subcommittee to the full committee of the
20 September meeting, which we hope will be the beginning of
21 the committee's report on this. So certainly by the end of
22 the year we would hope to have the committee's report
23 finished. September is the nominal date to begin working on
24 the report. October is probably at least the last.

25 CHAIRMAN AHEARNE: Do you expect that committee is

1 going to come up with some quantitative safety goals?

2 MR. FRALEY: Yes, sir. That is what they are
3 working on, in terms of individual and cumulative public
4 risk.

5 CHAIRMAN AHEARNE: All right. Anything else that
6 you would like to add, Ray?

7 MR. FRALEY: No.

8 CHAIRMAN AHEARNE: Robert?

9 MR. BERNERO: We have just discussed with the ACRS
10 at a subcommittee meeting last week the work that we are
11 doing. We expect to have reports on our research efforts by
12 the end of this fiscal year. In other words, October. And
13 we would be in a position then with those results that would
14 include -- I will call it the philosophical underpinning of
15 quantitative safety goals, and some of the mechanics of
16 actually using quantitative safety goals in the regulatory
17 process.

18 With that, I think we can make an intelligent
19 recommendation on an initial attempt.

20 CHAIRMAN AHEARNE: You are saying in order to make
21 your intelligent recommendation, you would need until when?

22 MR. BERNERO: The end of this fiscal year. I
23 would say October, give or take a month.

24 CHAIRMAN AHEARNE: So it is approximately around
25 the same period of time.

1 MR. BERNERO: Yes.

2 CHAIRMAN AHEARNE: Peter? Comments?

3 COMMISSIONER BRADFORD: Let's see. How, then, do
4 you see those efforts blending with what you propose that
5 you and Len undertake?

6 MR. HANRAHAN: I think those are the activities
7 that would be part and parcel of program planning. Those
8 would be pieces of work that would go on which would be
9 relied upon by whoever is given the task of developing the
10 safety goals to use as the basic analytical mechanisms that
11 are going on, as well as the NRR.

12 COMMISSIONER BRADFORD: You are proposing, then,
13 that about a year from now you would as a result of these
14 and other efforts put something before us that would in
15 effect be a draft safety policy statement?

16 MR. HANRAHAN: Well, someone would. What I
17 propose is to outline the means, what is involved in getting
18 from here to that safety standard, and whether that takes a
19 year or longer, I think is a good question. I would think
20 that a year is going to be an awfully short time because of
21 the issues involved and the need for public participation in
22 that process.

23 COMMISSIONER BRADFORD: It may be a long time to
24 actually arrive at the standard. I would think at least a
25 draft as something from which we could decide on how to go

1 about involving the public and decide basically what else we
2 wanted to do, that would be something I at least would like
3 us to have in front of us as soon as possible, taking into
4 account, obviously, the efforts that Bob and the ACRS have
5 under way.

6 I wondered whether, for example, you would feel
7 that six months would be an unreasonable period of time to
8 have at least some kind of a rough draft statement in front
9 of us so that the Commission can make some decisions about
10 how to go from that to a final official Commission

11 CHAIRMAN AHEARNE: I would think that if, assuming
12 that both the ACRS and Research are able to continue with
13 their progress, and that ends up in about three months, I do
14 not see why there could not be something in six months that
15 we could not work with, because one is then also going to
16 have to go out, I guess, to a number of public meetings to
17 try to have discussions.

18 MR. HANRAHAN: I think the process is going to be
19 a lengthy one. I think as early as possible, I think it is
20 important to get out not only sort of the draft, but also
21 the work that will come due in October and November from
22 ACRS and Research, and subjecting those to public discussion
23 and scrutiny.

24 CHAIRMAN AHEARNE: It would appear to me that what
25 we have to try to do is get the ACRS and the research

1 material out, as you say, but not only -- I think in this
2 case we also have to try to get a substantial amount of
3 discussion to help us in coming down on something rather
4 than come down on something and then go out for discussion.

5 MR. HANRAHAN: I think the whole process over the
6 next six months or year or whatever it takes has got to be a
7 very interactive process.

8 CHAIRMAN AHEARNE: I have no problem in tasking
9 you to come up with that kind of a plan. I think it really
10 ought to be a Commission statement rather than, say, an ETO
11 statement that comes out, because it is going to be a
12 mixture. It is going to be public policy.

13 MR. HANRAHAN: It is going to be a Commission
14 statement.

15 CHAIRMAN AHEARNE: I am concerned to make sure in
16 developing this plan you first get -- become very familiar
17 with what Bob is doing and what the ACLS is doing, because
18 they have had this stuff under way. We want to capture and
19 utilize that as opposed to trying to start from scratch. I
20 definitely think you ought to try by the end of 1980 to have
21 that in front of us.

22 MR. HANRAHAN: Have the statement, or --

23 CHAIRMAN AHEARNE: You ought to try to come back
24 in, I would say, a month, at least, with a plan, and then
25 ought to aim at the end of 1980 with being able to have

1 something the Commission can begin to look over.

2 MR. HANRAHAN: I think that is a reasonable
3 schedule.

4 CHAIRMAN AHEARNE: Okay.

5 MR. HANRAHAN: The next subject is the management
6 study.

7 CHAIRMAN AHEARNE: Before I leave that, I took a
8 sidewise snæke of the head rather than asking Roger a
9 question. Did you have anything you wanted to ask Roger?

10 MR. MATTSON: We have been doing some thinking at
11 NRR about safety goals and what form they make take, not so
12 much trying to get a number at the start, but trying to look
13 broadly at the start and figure out all the interests that
14 need to be served, the various fears of people that you need
15 to speak to.

16 We have had some talks. We have written some of
17 them down. Since he has the responsibility, maybe we will
18 just send them off to him, and see if they factor into his
19 plan. We would like to play a role.

20 CHAIRMAN AHEARNE: I guess the right thing for him
21 to do is to go down and talk to you.

22 MR. MATTSON: Good.

23 COMMISSIONER BRADFORD: Roger, this is taking
24 place independently of what Bob is doing and what the ACRS
25 is doing.

1 MR. MATTSON: I would not say independently. We
2 are cognizant of what they are doing. We have attended the
3 ACRS meetings and talked to the people involved, but it is a
4 separate activity, not high level, not a lot of man years.

5 CHAIRMAN AHEARNE: Why don't you plan on trying to
6 get back to us in a month with a plan?

7 MR. HANRAHAN: The final item deals with
8 organization of management. The items encompassed under
9 that were NRC top management structure process, organization
10 functions of the NRC offices, delegation of authority to the
11 staff, clarifying and strengthening the role so the Chairman
12 and the Commission and delegation of emergency response
13 functions to one Commissioner.

14 COMMISSIONER BRADFORD: Funny, I have heard some
15 of those before.

16 MR. HANRAHAN: The latter two have been taken care
17 of through the President's reorganization to a large extent,
18 and other actions the Commission has taken on emergency
19 response. The delegation of authority to the staff has been
20 taken up in the delegation of rule making paper. That
21 leaves the management question. In the FY 80 Authorization
22 Act, signed a week ago, a management study is required to
23 examine the internal management -- the structure of the
24 agency at all levels.

25 As you will recall, there was a previous

1 management study which was going through the procurement
2 process, which was only to look at the Commission and its
3 relationship with the EDO and the staff offices. That
4 process was terminated when it became apparent that a larger
5 study would be required by Congress, so in this area, we
6 recommend that a scope of work be developed in that study
7 based on the statements in the law and the previous scope of
8 work that was developed by the Commission itself, and that
9 responsibility be assigned to the EDO.

10 CHAIRMAN AHEARNE: What kind of a deadline?

11 MR. HANRAHAN: Well, I believe the Act requires
12 one year. That would mean the scope of work should be back
13 probably no later than the 1st of September if the
14 procurement process works the way it usually does in the
15 competitive bidding.

16 COMMISSIONER HENDRIE: It would take a year to
17 place a job with a contractor.

18 MR. HANRAHAN: We did it faster the last time.

19 CHAIRMAN AHEARNE: It only took nine months.

20 MR. HANRAHAN: Not from the time that we went out
21 with the request for proposals in September until their
22 evaluation. I think the process can be done in four to five
23 months.

24 CHAIRMAN AHEARNE: I would agree with that.

25 COMMISSIONER BRADFORD: Yes.

1 MR. HANRAHAN: We have not discussed that date with
2 the executive director for operations.

3 MR. MATTSON: I have a question when you have
4 finished with this one.

5 CHAIRMAN AHEARNE: Well, let us try the September
6 1 date, but why don't you check with EDO to see if that is
7 feasible. It cannot go much later than that --

8 MR. HANRAHAN: You need the time to do the study.

9 CHAIRMAN AHEARNE: Yes, assuming doing the study
10 rather than exercising the procurement system is the role.

11 MR. HANRAHAN: I believe that is the purpose.

12 That concludes our presentation.

13 CHAIRMAN AHEARNE: Let me ask one question, and
14 then see if these gentlemen have one, and obviously, Roger
15 has one. There is an item under that same section, use of
16 technical consultants, and it was not clear that the
17 comments tracked the recommendations. The recommendations
18 seem to be to increase the use of technical consultants,
19 particularly in some of the discrete technical areas -- I
20 assume those are areas we don't have covered. The comment
21 seems to be that we always do that.

22 I am assuming that the recommendation was written
23 by people who knew what we did, and therefore there might be
24 something more, and perhaps the conclusion that we do not
25 really reach out to the extent we should.

1 Do you have any comment on that?

2 MR. HANRAHAN: No. If anything, there has been a
3 great deal of criticism on the use of consultants recently
4 by NRC -- NRC having a long laundry list of consultants.

5 CHAIRMAN AHEARNE: Having a list of them and using
6 them are two different things.

7 MR. HANRAHAN: For example, there has been
8 extensive misuse of consultants for the review of control
9 room design. I think there was an area where a need was
10 obvious. I do not know what more can be done short of
11 giving an exhortation on it.

12 CHAIRMAN AHEARNE: Do you think the exhortation is
13 needed?

14 MR. HANRAHAN: No, I do not.

15 CHAIRMAN AHEARNE: Joe? Peter? Roger?

16 MR. MATTSO: On Page F-4, Item Number 4 at the
17 top, I take it by this that we all agree that in the safety
18 policy back up in Item Number 1, we are going to speak to
19 backfit policy. It was sort of the assumption of the
20 steering group that put together the action plan that the
21 safety goal would include consideration of how you go about
22 making backfit decisions.

23 This Item 4 on Page F-4 -- your discussion did not
24 mention that, and one could take the Item 4 to imply that I
25 had been delegated the responsibilities for backfit policy.

1 I would just as soon we all work on that.

2 CHAIRMAN AHEARNE: You view your responsibility,
3 though, to attempt to generate a backfit policy.

4 MR. MATTSON: We are most happy to work on it.
5 What I want to understand is that that is part of the --

6 MR. HANRAHAN: It has to be.

7 MR. MATTSON: It is one of the reasons you need a
8 safety goal.

9 MR. HANRAHAN: Right.

10 CHAIRMAN AHEARNE: By doing that, does that mean
11 therefore you do not view that any longer as --

12 MR. MATTSON: I make backfit decisions almost
13 daily. I like to know that there is work going on at the
14 policy level.

15 CHAIRMAN AHEARNE: Are you saying, Roger, that you
16 do not view attempting to develop the backfit policy as part
17 of your responsibility?

18 MR. MATTSON: I think that is a question yet to be
19 solved in the context of the plan for the safety goal.

20 CHAIRMAN AHEARNE: All right.

21 MR. MATTSON: As to who gets what responsibility.

22 I want to make sure we are not leaving backfit
23 policy out of the safety goal. I think we all agree it
24 belongs in there.

25 COMMISSIONER BRADFORD: That is right. The safety

1 goal is not just backfit policy, but backfit policy will
2 certainly flow from it.

3 MR. BICKWIT: It is safety policy we are dealing
4 with, obviously. That has got to include backfit policy.

5 CHAIRMAN AHEARNE: Roger, as the godfather of the
6 action plan, do you have any comments?

7 MR. MATTSON: One general comment. I think it
8 would be well as we look to testimony before the President's
9 oversight committee, and I believe GAO is about to recommend
10 that the key Congressional committees hold hearings to see
11 how progress is made on the plan, it might be well to turn
12 today's meeting into sort of a pen and ink markup of the
13 action plan. That is, the decisions you have taken here in
14 the context of this paper so we could put out a revision of
15 the action plan reflecting mistakes we found, you recall,
16 when we approved the thing, plus these things, and you also
17 asked us to put out for public comment, and I guess there
18 are a few changes, and it probably does not make sense to
19 print it now before the public comment period.

20 We can keep track that way of all the decisions
21 made in the course of the next year. So, if we could ask
22 these fellows to mark up a copy of Chapter 5, I would see
23 that it got into the master set.

24 COMMISSIONER BRADFORD: By markup, you mean. Put
25 it in a format consistent with the others, status,

1 deadlines, whatever?

MR. MATTSON: Yes, reflecting the decisions you
3 made here today.

4 COMMISSIONER HENDRIE: I think it is a good idea.
5 Chapter 5, when we printed this thing, was recognized not to
6 have been called out completely, so in some ways it was not
7 up to the standard of the rest of it. It would be useful to
8 do it. You say you think it is not worth doing those
9 corrections, and then clean up Chapter 5 before we go out
10 for comment?

11 MR. MATTSON: I can talk to the editors and see
12 how long it would take them to turn it around. If you want
13 the Federal Register notice out in the next week -- I doubt
14 it. It would probably take three weeks at a minimum. If
15 you wanted to move the Federal Register notice to the 1st of
16 August, they can push and probably do it. That way they can
17 push and probably do it. That way, the people who do not
18 have copies that would be writing in and saying, yes, I want
19 a copy, where can I get a copy, they would get the update.

20 The Federal Register notice could tell the people
21 who already have the old copy that there have been updates
22 made and they are in the mail.

23 CHAIRMAN AHEARNE: I guess I would just as soon
24 send it out myself.

25 COMMISSIONER HENDRIE: Couldn't the Federal

1 Register notice -- how long a comment period is it?

2 MR. MATTSON: I have not crossed that bridge.
3 Sixty days people tell us is just not enough time to put
4 together any kind of meaningful comments, so at the moment,
5 I would say 90 days is a minimum.

6 COMMISSIONER HENDRIE: If you had a 90-day comment
7 period and the notice goes out next week and gets published
8 the week after that, you are now at mid-July, you are saying
9 you can turn this thing around with a little push just about
10 early in August.

11 MR. MATTSON: Put in the notice it was being
12 printed and would be made available as expeditiously as
13 possible.

14 COMMISSIONER BRADFORD: Roger, how are you
15 phrasing the request for comment on this? Does it say, we
16 would like your views in general? Does it say -- Does it
17 give people any notion of what their views may be used for?
18 It is a Commission request, so in a sense I am asking you if
19 you have figured out what we want.

20 MR. MATTSON: I have not written it yet, but it
21 was in my mind to make it fairly general, to go through a
22 brief history, perhaps the same history and the policy
23 statement. Here is what we have done with it so far, and we
24 are interested in public comments on it as we move forward
25 to implement the longer range things.

1 COMMISSIONER BRADFORD: I do not want to sort of
2 miscneivously get us back into the policy statement
3 controversy, but if the commission does have in mind at the
4 end of the comment period saying, now, as a result of these
5 comments, the following actions will be taken with regard to
6 the licensing process, I would be more comfortable giving
7 some indication in the notice that went out that in fact the
8 comment process might be used in that way, rather than
9 having a generalized period of comment and then putting
10 those comments to a use that the commenters might not have
11 realized was in the ofring.

12 CHAIRMAN AHEARNE: I guess my comments on that
13 would be, first, I did not realize it was a Commission
14 request.

15 COMMISSIONER BRADFORD: Actually, that is --

16 COMMISSIONER HENDRIE: A Commissioner request.

17 (General laughter.)

18 COMMISSIONER BRADFORD: That is right, but at the
19 same time, if the Commission is in the end to take action
20 based on the comments, it will certainly in the end, it will
21 become a Commission request.

22 CHAIRMAN AHEARNE: In my direction to the staff to
23 put it out, I did have the statement that if -- that I hoped
24 they would end up using, which really was on the basis of
25 those comments, are you led then to conclude that they

1 should make changes in what they recommended to us, they
2 should come to us, so that seemed to capture that sense. At
3 least I thought so.

4 So, I would rather you go ahead with the Federal
5 Register notice and get this done as soon as you could.

6 MR. MATTSON: Rather than waiting until the
7 comment period is over.

8 CHAIRMAN AHEARNE: Yes. Any other comments?

9 (No response.)

10 CHAIRMAN AHEARNE: All right, very good.

11 (Whereupon, at 3:00 p. m., the meeting was
12 adjourned.)

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This is to certify that the attached proceedings before the
NUCLEAR REGULATORY COMMISSION

in the matter of: Public meeting - Discussion of
Action Plan (Chapter V)
Date of Proceeding: July 7, 1980
Docket Number: _____
Place of Proceeding: D.C.

were held as herein appears, and that this is the original transcript thereof for the file of the Commission.

David S. Parker

Official Reporter (Typed)

David S. Parker

Official Reporter (Signature)

June 20, 1980

SECY-80-2308

COMMISSIONER ACTION

FOR: The Commissioners

FROM: *Edward J. Hanrahan*
Edward J. Hanrahan, Director
Office of Policy Evaluation
Leonard Bickwit, Jr.
Leonard Bickwit, Jr.
General Counsel

SUBJECT: UPDATE OF CHAPTER V OF TMI ACTION PLAN: NRC POLICY,
ORGANIZATION, AND MANAGEMENT

PURPOSE: To update the TMI Action Plan Chapter V draft issued May
1980, including subject identifications, status, and
remaining needs and opportunities, with special attention
to recommendations for near-term Commission actions.

BACKGROUND: Chapter V of the TMI Action Plan (SECY-80-230), addressing
NRC policy, organization, and management, is in a unique
category: it is not, like the other chapters, primarily a
detailing of plans for NRC staff or licensee action. Rather,
it delineates intentions of the Commission itself. The
special status of Chapter V is recognized by a statement in
its introduction that the items in the chapter will be
decided by the Commission, and that the Commission staff
will review the status of the various items and prepare
necessary decision papers.

At its May 21, 1980 discussion of the Action Plan, the
Commission requested OPE and OGC to prepare the present
paper. (Memo, Secretary to EDO, GC, and PE, 6/4/80 --
item 8.)

DISCUSSION: 1. General

In recognition of interrelationships that call for correlated
planning, we have grouped the seventeen items of Chapter V
into seven subject areas, as follows:

- A. Development of Safety Policy (Item 1 of Chapter V)
- B. Possible Elimination of Nonsafety Responsibilities
(Item 2 of Chapter V)
- C. Advisory Committees (Items 3, 4, and 8)

CONTACT:
George Sege, OPE, 634-3295
Martin Malsch, OGC, 634-1465

A. K. Malsch

- D. Licensing Process (Items 5, 6, 9, and 17)
- E. Legislation Needs (Item 7)
- F. Organization and Management (Items 10, 11, 12, 13, and 14)
- G. Consolidation of NRC Locations (Items 15 and 16)

The information developed for each of these subjects is presented in Enclosure 1. For each of the seven subject areas the enclosure presents, in turn, (a) a summary of the plan; (b) status; and (c) remaining needs and opportunities for action, with special attention to specific near-term actions that, in our view, warrant Commission consideration. We have defined near-term actions to mean matters or items in need of immediate Commission attention and decision.

As noted under "Status" in each of the subject areas, actions have already been taken, set in motion, or recommended by the Commission on a number of the original Chapter V items (e.g., item #6, construction during adjudication (in group D); #12, delegations of authority (F); #15 and 16, consolidation of locations (G)). Decisions concerning some are reflected in the President's reorganization plan for NRC (e.g., #2, elimination of non-safety responsibilities; #13, roles of Chairman, Commission, EDO; #14, authority to delegate emergency response (Groups B and F)). However, new or additional initiatives remain available for Commission consideration in some areas.

2. Near-Term Actions Warranting Commission Consideration

In Subject Area A, Development of Safety Policy, the most immediate need is for formulation of a general plan for development and articulation of NRC safety objectives, notably -- but not exclusively -- with respect to reactors. The development of a safety goal for reactor regulation may be required by legislation: the Senate Environment Committee's NRC Authorization bill for FY 1981 (S. 2358) includes such a provision -- with a June 30, 1981 due date for a report to Congress. However, regardless of a possible future legislative requirement, the Commission itself has expressed its intent to seek to define more clearly the level of protection it believes adequate. (FY 1982-86 Policy, Planning, and Program Guidance.) The plan formulation should include analysis of the extent to which articulation is possible and practical in the near term, such as the one-year time scale in S. 2358, and subsequently (e.g., two-three years). The major elements and disciplines of the issue, including activities beyond those already in

Completion of action on the Commission's decision to delegate substantial rulemaking authority to the Office of Standards Development is already in progress. (The draft delegation instrument is being revised as directed by the Commission.)

On G, Consolidation of NRC Locations, required near-term actions are already in progress.

3. Further Steps

As noted above and detailed in Enclosure 1, most of the necessary specific Chapter V actions have already been taken or started. However, with respect to the few remaining items of Chapter V (apart from the near-term actions here recommended), the Commission should, we suggest, direct conduct of specific projects ad hoc as needed. It would be understood that the Commission was committed to using its best efforts to take a hard look at the areas and specific items encompassed by Chapter V, as staff resources become available and consistent with the priorities of other business. Necessary status reports and decision papers would be prepared by the Commission staff.

RECOMMENDED NEAR-TERM ACTIONS:

To recapitulate, we recommend that the Commission undertake the following:

- (a) Direct OPE/OGC to prepare a program plan for developing safety goals.
- (b) Direct the EDO to prepare a scope of work for a contract study of NRC management (on the assumption that S. 562, Sec. 302 will become law).

ENCLOSURE 1: Details of Plans and Status

Commissioners' comments should be provided directly to the Office of the Secretary by c.o.b. Tuesday, July 8, 1980.

Commission Staff Office comments, if any, should be submitted to the Commissioners NLT June 30, 1980, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional time for analytical review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.

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A. DEVELOPMENT OF SAFETY POLICY (Item 1 of Chapter V)

Summary

The Commission will endeavor to develop more explicit articulation of policy with respect to the fundamental issues of public health and safety. This will include some general approach to risk acceptability and safety-cost trade-offs, and, to the extent that these reasonably lend themselves to articulation, quantitative safety goals, safety improvement goals, and standards for review of past actions in light of new rules and improved practices.

Status

In its FY 1982-86 Policy, Planning, and Program Guidance (PPPG) (Memo, Secretary to EDO, 5/1/80), the Commission stated its intent to seek to define more clearly the level of protection of the public health and safety that it believes is adequate.

In its letter to Dr. Press commenting on the Kemeny report, the Commission stated that it is prepared to move forward with an explicit policy statement on safety philosophy and on the role of safety-cost tradeoffs in NRC safety decisions (A-3).

OGC has submitted for the Commission's information a legal analysis of NRC's present requirements and practices with respect to safety adequacy. ("Adequate Protection of the Health and Safety of the Public," memo to the Commission from L. Bickwit, GC, 10/18/79.)

and occupational risk associated with the coal and nuclear fuel cycles. A preliminary draft of a report on Approaches to Acceptable Risk is presently being reviewed, and a draft report on the risk associated with the coal and nuclear fuel cycles is being finalized for distribution in July 1980.

2. A research task force of a variety of professional disciplines has been established to formulate several possible sets of numerical criteria, using different technical approaches. The formation of the research task force and the conduct of its meetings are being coordinated through the Institute of Electrical and Electronic Engineering (IEEE), with cooperation from other professional engineering societies. The task force has been established in the IEEE SC-5 Reliability Committee, and has completed several working group meetings as of June 1980.
3. Brookhaven National Laboratory has been contracted to independently formulate criteria in order to investigate the implications of such criteria and to determine the impact of attempting to satisfy such criteria. Information on risk exposure and risk acceptance criteria from other societal activities is being collected. Also, baseline calculations of WASH-1400 accident sequence probabilities are being revised by using hardware and human error failure rates. Criteria validation is scheduled for completion in 3rd Quarter FY 1982.
4. As means of peer review during the BNL project, the National Science Foundation, the National Academy of Science, and the American Statistical Association have been contacted to set up peer review functions.

Remaining Needs and Opportunities

The most immediate need is for formulation of a general plan for development and articulation of NRC safety objectives, notably -- but not exclusively -- with respect to reactors. The formulation should include analysis of the extent to which articulation is possible and practical in the near term, such as the one-year time scale in S. 2358, and subsequently (e.g., two-three years). It should identify the major elements and disciplines of the issue, including activities beyond those already in progress.

Recommendation: That the Commission assign responsibility to prepare a program plan to OPE/OGC, using internal (NRC) and outside consultation and assistance.

Brief consideration has also been given in this context to the possible transfer of NEPA and antitrust review responsibilities to other agencies, although no detailed analysis was performed. On NEPA the Commission reached a judgment during discussions on the Administration's reorganization plan that environmental issues were so closely linked to health and safety matters in the nuclear licensing process that it would be difficult to remove the agency's NEPA responsibilities without fundamentally altering the structure and content of NRC's regulatory activities. Therefore, the Commission decided that further consideration of its NEPA role is probably better pursued in the context of legislative proposals for comprehensive reform of the nuclear siting and licensing process (for example, H.R. 6390 introduced earlier this year by Congressman Udall in the Subcommittee on Energy and the Environment of the House Committee on Interior and Insular Affairs).

The Commission also gave brief consideration to the transfer of NRC antitrust review responsibilities to the Justice Department. It was concluded that such a transfer would have no significant effect on NRC safety regulation because review resources would be only marginally affected, and resources requirements for future antitrust reviews will likely decrease since a major portion of the electric utility industry has already been subjected to NRC antitrust review. Also, it was noted that a transfer to another agency could result in licensing delays since the review schedule and allocation of review resources would no longer be within NRC control.

C. ADVISORY COMMITTEES (Items 3, 4, and 8 of Chapter V)

Summary

The Commission will undertake several actions concerning advisory committees --

- o continue efforts to strengthen the role of the Advisory Committee on Reactor Safeguards (ACRS), including support for legislation to eliminate mandatory ACRS case reviews, to free up Committee time for broad -- as well as case-specific -- safety issues (item 3 of Chapter V).
- o determine whether to establish additional advisory committees, such as a citizen's advisory committee or a general advisory committee similar to that of the Atomic Energy Commission, after examining the possible functions of such bodies and their relationship to the ACRS, or a nuclear safety board (item 4 of Chapter V)
- o study the need to establish a nuclear safety board to independently investigate nuclear accidents and important incidents, and to monitor and evaluate the quality of NRC's regulatory process (item 8 of Chapter V; since this study involves the relation of such a board to the ACRS, it is included under this heading)

- o Pursuant to the House Authorization legislation for FY 1981, the House Committee on Interior and Insular Affairs has authorized the ACRS to expend sums necessary to furnish technical assistance and advice on decontamination of TMI-2 to the proposed Three Mile Island Advisory Panel.

- o H.R. 6390 (the Udall bill) introduced on January 31, 1980, includes Sec. 304 which amends Sec. 182b of the Atomic Energy Act of 1954 to permit the ACRS to review only cases that it selects, including, to the extent practicable, applications referred to it by the Commission.

With respect to studying the need for further advisory committees, OPE submitted a report to the Commission on February 6, 1980, which assessed the strengths and weaknesses of alternative proposals and presented considerations to maximize the effectiveness of advisory boards. A provision in NRC's FY 1981 authorization bill would establish a TMI Advisory Panel to make recommendations on the decontamination of TMI. and the Commission has decided to create such a body.

Finally, as to the establishment of an independent nuclear safety board, no actions are presently pending within NRC. However, there have been some recent related activities:

committees addresses the questions associated with additional committees; we perceive no pressing need for new NRC advisory committees. Finally, the existing NRC organizations (e.g., I&E, ACRS, AEOD) address a number of the would-be objectives of an independent safety board, thus reducing the urgency of the need to study the desirability of such a board.

Recommendation: No further Commission action, apart from ongoing activities, is needed.

The Commission will review its role in adjudications to examine the extent of Commission involvement in licensing proceedings and to eliminate any undesirable and unnecessary insulation of the Commission from decisionmaking activities of the staff. (Item 17 of Chapter V)

Status

With respect to public participation reforms, a majority of the Commission has expressed an intention to proceed with a pilot program for intervenor funding in FY 1981 if Congress approves such a program. For FY 1980, the Commission has decided not to fund public participation expenses because of the legislative history associated with the FY 1980 appropriations legislation. No action is ongoing within NRC on the Office of Hearing Counsel/Office of Public Counsel proposals.

Regarding the rulemaking to address changes to the Commission's rules on construction during adjudication, a Federal Register notice requesting public comments on alternative courses for Commission action was published in May, 1980 (the Commission did not identify a preferred course); the comment period expires on July 7, 1980. A decision paper will be sent to the Commission about August 1, 1980. The immediate effectiveness rule is presently suspended as a result of Commission action following TMI.

As for reforms to the licensing process, a comprehensive licensing reform bill was introduced by Congressman Udall in January 1980 (H.R. 6390). The Subcommittee held hearings in March, but no final action

A new look at licensing reforms also has some merit because such reforms could be instituted now, given the absence of new construction permit applications and the forecast that this situation will likely persist for some time. Past studies of licensing reform have been extensive, and this reduces the attractiveness and urgency of a new study of licensing reform. However, past studies have largely centered on how reforms might contribute to the efficiency of the licensing process, whereas post-TMI calls for licensing reform appear to be premised on the belief that reform can improve the adequacy of the process. Opportunities for further Commission consideration of one-step licensing and increased standardization are (1) further Commission deliberations on H.R. 6390 this Congressional session and next, and (2) Commission consideration of its comprehensive legislative needs in preparation for the next Congressional session (a paper on omnibus legislation is early in preparation by OGC). We do not recommend immediate Commission action on a study of the licensing process because of these separate opportunities for further deliberations, because of the knowledge already gained from earlier studies, and because of the other management and organizational changes post-TMI, which should be given sometime to take hold before a study of the licensing process is commenced.

If licensing reform is not now to be actively pursued, then the Commission does not need to consider suspending CP and LWA proceedings. A more persuasive case can be made for suspending issuance of new CPs and LWAs pending articulation of a safety philosophy and safety goals (item A).

E. LEGISLATIVE NEEDS (Item 7)

Summary

The Commission will study the need for legislation with respect to the following TMI-related issues:

- (1) Clarification of NRC authority to issue a license amendment prior to a hearing when necessary to ensure the health and safety of the public.
- (2) Determination of whether NRC should seek an amendment to the Sunshine Act to reduce the Act's requirements for Commission meetings during an emergency.
- (3) Determinations with respect to NRC's current legal authority to take over and conduct cleanup actions at a nuclear facility and with respect to the Federal government's (a) liability for damages occurring during a cleanup conducted by NRC and (b) entitlement to reimbursement for cleanup costs.
- (4) The continuing desirability of the current Price-Anderson Act provisions in two areas: (a) extraordinary nuclear occurrence and (b) limitation on liability.
- (5) Desirability of creating a new category of license to be issued in place of an operating license for a facility during an extended recovery period following a major accident.
- (6) The need for new or modified NRC authority to address the establishment of a chartered national operating company or consortium.

- (3) During its response to the TMI accident, the Commission has taken the position that it possesses adequate legal authority to direct the licensee to obtain NRC review and approval of all activities that are taken which affect offsite radiological releases, onsite containment of radioactivity, the reactor core shutdown and the cooling of the reactor core. In short, the present regulatory system provides the Commission with the final word on all activities of a licensee which may be determined to affect the public health and safety. The Commission has not identified a need to alter this basic framework by having NRC assume the role of implementing, rather than reviewing, cleanup activities. The issue here is not basically one of legal authority, but rather one of institutional capabilities and the advisability of removing NRC as a regulator to place it in an operational role which it lacks the resources and personnel to undertake.

Because of the lack of any present Commission policy which would place NRC in an operational cleanup role, no additional studies are anticipated in this area. If proposals for an NRC cleanup capability are raised in the Congress, or elsewhere, the need for legislation to implement such concrete proposals will be addressed.

- (4) The Commission expressed its views on proposed revisions to the Price-Anderson Act in testimony on Section 303 of H.R. 6390. Regarding the increase in the limitation on liability from \$560 million to \$5 billion proposed in that bill, the Commission stated that it was "reluctant" to take a position on this question because it involved "value judgments about proper allocation of financial

In sum, based on our evaluation of each legislative item as set out more fully above, our conclusion is that, in no instance, is legislation necessary. We will continue to monitor related pending proposals (e.g., H.R. 5390). Also, OGC is preparing a paper for the Commission looking to the Commission's comprehensive legislative needs.

Recommendation: No further action is recommended.

The Commission will clarify and strengthen the respective roles and authorities of the Chairman as principal executive officer, the Commission as lead of the agency, and the Executive Director for Operations as chief staff officer. The Commission will also seek authority to delegate specific responsibilities to an individual Commissioner in the event of defined emergencies (items 13 and 14).

Status

With respect to the management study, the Commission solicited and received proposals early in 1980, from management consulting firms, for an analysis of Commission functions, processes, and procedures, and its relationship with the Executive Director for Operations and principal Commission staff offices (RS-OPE-80-471). The study was to examine the current internal management approaches and identify and examine possible improvements. The solicitation was canceled on June 3, 1980, upon Commission decision. The cancellation followed introduction of a provision in the FY 1980 authorization bill that would require a broader study.

At this writing, the authorization bill is not yet law. However, when enacted it will likely require NRC to "contract for an independent review of the Commission's management structure, processes, procedures and operations at all levels of agency management" (Section 302 of S. 562). The required study is to be completed for the Commission within one year of enactment of the authorization bill, and transmitted promptly thereafter to the Congress.

- (4) Integrated Program for Modifying Regulatory Requirements. The reorganization of NRR created a Division of Safety Technology for this purpose.

- (5) Use of Technical Consultants. This item is viewed by Staff as an option it has always used to some extent (e.g., NRR has used technical consultants in such areas as Human Factors Engineering, Fire Protection, and Operating Reactor amendment reviews, and also contracts for the use of various technical skills from the national labs).

As for the clarification and revisions of Commission delegations to staff, the Commission is nearing completion of its work on the OGC-OPE Delegation Study which addresses this item.

Finally, respecting clarification of the roles of the Commission and Chairman, the Commission developed statements during late 1979 and early 1980, (1) to detail the respective roles of the Commission, Chairman and Executive Director for Operations; and (2) to set out revised structures and guidance for emergency response management, including a description of the roles of the Commission and the Chairman. Also during that period, the President submitted a reorganization plan for NRC that encompasses these subjects. The effective date of the plan will be no later than October 1, 1980; the President may fix an earlier effective date. Several offices are individually examining the implications of the Reorganization Plan (e.g., OGC, SECY, ADM). However, no office has been tasked by the Commission to comprehensively examine the effect of the Plan on agency authorities and responsibilities.

G. CONSOLIDATION OF NRC LOCATIONS (Items 15 and 16 of Chapter V)

Summary

Following up on recent OMB guidance, the Commission will continue to work with appropriate committees of the Congress and with GSA to achieve a single location for its headquarters offices and to take interim consolidation measures pending achievement of that goal.

Status

• Interim consolidation:

By a letter of April 22, 1980, James F. McIntyre of OMB directed GSA to plan and implement an interim consolidation at 1717 H Street and in NRC's present Bethesda location. GSA estimated in May 2 testimony before the Senate Committee on Environment and Public Works that this consolidation, involving moving NRC offices to H Street, would be completed in 540 days or by November 1, 1981. This may be delayed because of difficulties in preparing space and the opposition of agencies moving out of the Matomic Building to their new locations. GSA has yet to direct any of the current tenants to move out of the Matomic Building. In a letter of May 23 to the Director, OMB, four senators expressed their concern about the interim plan for consolidation and requested reasons for the OMB decision, an evaluation of comparative costs of consolidation in the District and Maryland, and an evaluation of whether a reassessment of the OMB decision was advisable in light of the space availability in Maryland and the Committee's approval of the Silver Spring site. Maryland officials have met with OMB to express their concern about the effect of NRC's move on Montgomery County and on NRC employees. OMB apparently maintains the view that the H Street/Bethesda consolidation is the best interim move for NRC.

federally-owned building must be worked out, either through the provisions of S. 2080 if it becomes law, or through some separate legislation.

Remaining Needs and Opportunities

Continued active support and cooperation with Congressional, OMB, and GSA efforts at long-term and near-term consolidation remain in order. Little scope is available for any further NRC initiatives beyond such support and cooperation.

Recommendation: No additional actions required at this time.