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PROPOSED REPORT

OPPORTUNITIES TO IMPROVE THE
EFFECTIVENESS OF THE NUCLEAR
REGULATORY COMMISSION

*Forwarded to EDO 17 Oct 79 for comment
from CIA (James Cummings)*

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CHAPTER 1

INTRODUCTION

The Nuclear Regulatory Commission (NRC) is the focal point for Federal regulation of commercial nuclear activities. It influences, directly by regulation and indirectly by public confidence in its performance, the extent to which nuclear power is used to supply the Nation's electricity and nuclear materials are used for commercial purposes. NRC came into existence on January 19, 1975, with implementation of the Energy Reorganization Act of 1974 (42 U.S.C. 5801). That act

- abolished the Atomic Energy Commission (AEC),
- created the Energy Research and Development Administration ^{1/} to develop both nuclear and nonnuclear energy technologies and manage the military application of nuclear energy, and
- created NRC to regulate commercial nuclear activities.

REGULATION OF COMMERCIAL NUCLEAR ACTIVITIES BEFORE NRC

Regulation of commercial nuclear activities emanates from the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011). That act permitted and encouraged commercial applications of nuclear energy, and directed AEC to regulate these activities to insure that they were conducted in a manner that would protect public health and safety and maintain national security. Until the 1954 act, development and use of nuclear energy had been reserved to the Federal Government.

^{1/}On October 1, 1977, the Energy Administration became a part of the Department of Energy (DOE). Throughout this report, the Energy Administration is referred to as DOE.

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Over the years the conflict between AEC's dual role of encouraging and regulating commercial nuclear activities became more and more apparent; and AEC's research and development and military application programs dominated both its Commissioners' time and the AEC budget. Therefore, in 1957 the AEC Commissioners established a separate regulatory organization, and in 1961 elevated and enhanced the autonomy of the regulatory organization by making it a separate AEC Directorate. In 1963 the Director of Regulation moved from AEC's headquarters at Germantown, Maryland to Bethesda, Maryland. Finally, beginning in 1971 the Director of Regulation received its own operating budget.

During the same period the Congress and the AEC Commissioners created Atomic Safety and Licensing Boards and Atomic Safety and Licensing Appeal Boards to conduct hearings and decide on license applications. This helped to insulate the Commissioners from the process of licensing and regulating the construction and operation of nuclear powerplants--the commercial nuclear activity where the AEC Commissioners' dual roles most obviously conflicted.

THE ENERGY REORGANIZATION ACT OF 1974

The Energy Reorganization Act of 1974 established NRC as an independent regulatory agency. The President would appoint five NRC Commissioners, one designated as Chairman. Each Commissioner would have one vote in all Commission decisions and recommendations.

NRC's basic mission is to insure, by means of open and responsive regulation, that civilian nuclear activities are conducted in a manner

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that will protect public health and safety and maintain national security. This is set out in the Atomic Energy Act of 1954, as amended. NRC is also charged with other important responsibilities. As a Federal agency taking major actions which affect the environment, NRC must evaluate both radiological and nonradiological impacts on the environment of proposed major commercial nuclear facilities. Furthermore, in the Energy Reorganization Act of 1974, the Congress charged NRC with new or expanded responsibilities its regulatory predecessor did not have, including (1) administering major regulatory research programs; (2) regulating certain DOE nuclear waste storage and/or disposal activities; and (3) increasing emphasis on safeguarding nuclear materials and facilities against theft, diversion, or sabotage.

~~The regulatory system NRC employs to pursue its basic mission and discharge its other responsibilities generally consists of: (1) administering major regulatory research programs; (2) regulating certain nuclear waste management activities; and (3) increasing emphasis placed on safeguarding nuclear materials and facilities against theft, diversion, or sabotage.~~

The regulatory system NRC employs to pursue its basic mission and discharge its other responsibilities generally consists of:

- standards. NRC continually modifies its body of regulations and standards as it learns more about nuclear power and other nuclear activities. New knowledge comes from (1) design, construction, and operating experiences; (2) licensing and inspection activities; (3) NRC and others' research; and (4) the informed public.

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--Defense-in-Depth design. Nuclear powerplants and other major nuclear facilities must be designed to (1) prevent accidents, (2) prevent or minimize damage from accidents which might occur, and (3) prevent or minimize public health and safety consequences in case of accidents resulting in significant plant damage.

--Licensing. Nuclear powerplants may be built and operated only after lengthy construction and operating license proceedings consisting of NRC safety and environmental reviews, public hearings, and final decisions made by appeal boards or the NRC Commissioners. NRC also licenses the possession and use of nuclear materials.

--Inspection and enforcement. NRC inspects the construction and operation of nuclear powerplants and the use of nuclear materials on a routine basis and in response to incidents and allegations. Enforcement sanctions NRC can use include letters notifying licensees of violations, civil penalties, and orders to suspend, modify or revoke licenses or stop unsafe practices.

Critical to NRC regulation is the opportunity for public participation. In all proposed NRC licensing and enforcement actions there is the opportunity-- and for nuclear powerplant construction permit applications, the requirement-- for public hearings. In developing standards, NRC also provides opportunities for public participation. ^{NRC} The ~~Commission~~ generally publishes proposed policy statements for public comment before adopting them. In developing a new or revised regulation, NRC provides at least one and often more than one opportunity for public comment. Furthermore, anyone can petition NRC to develop a new or revised regulation.

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NRC HAS NOT ESTABLISHED SUFFICIENT
REGULATORY RESEARCH PROGRAM CONTROLS

The Energy Reorganization Act of 1974 (42 U.S.C. 5845) assigned NRC responsibility for confirming the safety of regulated nuclear technologies by establishing, through research, the validity of the safety principles that support the technologies. In 1978 the Congress expanded NRC's research responsibility to include research in advanced concepts, systems, and processes with the potential for improving nuclear safety.

The Congress intended that NRC have an independent capability to develop and analyze technical information, but not to own research facilities. NRC was to use the facilities and expertise available from DOE, other Federal agencies, and private contractors to carry out its analytical and experimental research activities. NRC's research activities are managed by the Office of Nuclear Regulatory Research. Its budget has grown from \$38 million in fiscal year 1976 to about \$185 million in fiscal year 1980.

Both GAO and NRC's Office of Inspector and Auditor have periodically reported on weaknesses in NRC's management of research projects, particularly in its relationships and use of DOE laboratories. Based on these reports and our recent audit work, we believe NRC has not established sufficient controls over its nuclear research activities to insure that

--research projects done at DOE laboratories are conducted in the most effective and efficient manner, and

--research projects are tracked from inception through completion and incorporation into regulatory requirements.

CHAPTER 3

LACK OF EFFECTIVE COMMISSION-LEVEL

LEADERSHIP HAS IMPAIRED

NUCLEAR REGULATION

The complacency, indecision and slow pace of progress in improving nuclear regulation discussed in the previous chapter is in large part due to the lack of leadership on the part of NRC's Commissioners. To some extent NRC's leadership problem may be a price that must be paid for the benefits of commission rather than single executive management. Several important benefits of ~~Commissioners~~ are that

- each decision reflects the combined judgment of each member,
- group decisionmaking provides a barrier to arbitrary and capricious action,
- decisions are based on different points of view,
- each member must convince the others of his point of view and understand the views of his colleagues.

These advantages must be balanced against the many problems which critics of the commission form suggest are pervasive among independent regulatory commissions, including

- a failure to plan and develop longrange goals and objectives.
- a seeming reluctance to formulate coherent regulatory policies as guides to adjudications and rulemakings,
- a neglect of program review and evaluation of regulatory effectiveness and impact, and
- a tendency toward procrastination and delay.

While the commission form may make effective and efficient management more difficult than in single executive agencies, the NRC Commissioner's lack of leadership has exacerbated these problems.

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First and foremost, the Commissioners have not provided clear and timely direction for the NRC staff, the nuclear industry, and the public by establishing measurable NRC-wide goals, objectives, and systems for measuring performance. As a result, the only real measurements NRC has of its regulatory performance are either in terms of schedules--its ability to meet self-imposed targets for completing regulatory actions--or in terms of the frequency or infrequency of accidents or events, the most obvious of which occurred at Three Mile Island.

Second, the Commissioners have not controlled policymaking within NRC. While there are exceptions, the Commissioners generally do not decide when new policies are needed, which new policy requirements should receive priority attention, or how policies should be written. Instead, the Commissioners have generally left these matters to the discretion of the NRC staff and reserved for themselves the prerogative of final approval. The NRC staff, on the other hand, has been engaged in the day-to-day business of nuclear regulation, and has not had the time or ability to step back and objectively assess policy needs. The result has been poor policymaking performance. NRC has been slow to recognize where new policies were needed and slow to develop policies when these needs were recognized.

Finally, the Commissioners have not clearly defined their own role in nuclear regulation, and the proper relationships among the Commissioners, the Executive Director for Operations, and the major NRC staff offices. This has seriously detracted from regulatory efficiency and effectiveness.

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THE COMMISSIONERS HAVE NOT DEVELOPED MEASURABLE GOALS, OBJECTIVES, AND EVALUATION SYSTEMS

Early in our review, we sought to identify and match NRC's goals and objectives against claimed accomplishments. While such a comparison would have provided a starting point for measuring NRC's performance--its own view of its successes and disappointments--NRC had poorly defined goals and, for that reason, no clear measure of its own success. Various officials referred us to one or more of three principal documents for statements of NRC goals and objectives. These are a five-year plan and a management-by-objective document, both begun in 1977, and NRC's annual reports. The five-year plan lists regulatory program objectives and the accomplishments NRC must make to achieve those objectives; the management-by-objective document identifies ~~the~~^{the} NRC-wide objectives of particular interest to NRC's Commissioners; and the Energy Reorganization Act requires NRC to include a clear statement of short-range and long-range goals, priorities and plans in its annual reports. Collectively, however, these three sources have only limited value as statements of NRC goals and objectives. Specifically,

--Goals and objectives are so broadly stated that it would be difficult or impossible to measure performance. For example, in the five-year plan the first objective of NRC's nuclear power-plant licensing activities is to continue issuing licenses after comprehensive reviews of safety, environmental, and antitrust matters and public hearings to assure that powerplants will operate without endangering public health and safety.

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The Commissioners Have Not Fully Used ^{their} ~~its~~ Inspection Office To Evaluate NRC Performance

The Commissioner^s have not fully used ~~the~~ ^{their} Office of Inspector and Auditor--an independent office within NRC without vested program interests-- to evaluate NRC's performance. In its initial audit program this Office planned to perform a full management overview of NRC's principal functions by about October 1977. In January 1979 the Office director estimated that the plan had slipped 3 years because of unanticipated investigations and because it had been given the responsibility to surface and address staff dissenting views.

The Office of Inspector and Auditor has completed studies of NRC's reactor standardization program, export licensing procedures, and materials licensing, but has had to discontinue one nuclear powerplant inspection review, suspend a research review, and defer any work on nuclear waste management. These are all important elements of NRC's overall nuclear regulation program.

Increased staffing, funding, and use of its Office of Inspector and Auditor could not only provide the Commissioners with objective appraisals of NRC staff performance, it could also enhance acceptance of changes by the NRC staff and provide solutions to problems not seen by NRC's program offices because it is in a position to more objectively assess issues.

THE COMMISSIONERS HAVE NOT CONTROLLED POLICY MAKING

Policy making may be the most important part of NRC's system for regulating commercial nuclear activities. NRC regulations and Commissioners'

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policy statements form the basic policies of nuclear regulation and shape NRC's licensing and other regulatory activities. Because NRC regulates in a dynamic environment, it is continually changing old and developing new policies to provide guidance to the regulated industry, the NRC staff, hearing and appeal boards, and the public.

Despite the importance of policy making to nuclear regulation, the Commissioners have generally left to the NRC staff decisions on when new policies are needed, which new policy requirements should receive priority attention, and how policies should be written. The Commissioners established a Commission-level Office of Policy Evaluation to advise them on proposed policies, and have generally reserved to themselves only the prerogative of final policy approval. We found widespread agreement within and outside NRC--including several present NRC Commissioners--that Commissioners need to take a more active policymaking role, but we found few efforts to do so. On the other hand, while the NRC staff has both the responsibility and technical proficiency to identify and develop NRC policies, it has not had the objective perspective necessary for effective policymaking--the staff has been engaged in the day-to-day business of nuclear regulation.

As a result the overall performance by NRC in the important area of policy making has been poor. Specifically,

--NRC has been slow to recognize policy needs. Therefore, issues which should have been addressed once in an NRC policy have been addressed over and over in individual licensing proceedings, and hearing and appeal board decisions frequently have had the practical effect of setting NRC policy.

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--NRC has taken far too long to develop regulatory policies because of time consuming coordination procedures, the lack of sufficient Commissioners' direction to the staff, and conversely, NRC staff disagreements with the Commissioners on proposed policies.

All of this has impaired regulatory effectiveness by forcing the NRC staff, licensing and appeal boards, the regulated industry; and the public to raise, address, and resolve issues in a piecemeal fashion in individual licensing proceedings.

NRC has been slow to recognize policy needs

The NRC staff offices with day-to-day responsibility for regulating commercial nuclear activities have often not been able to perceive either the need for NRC policies or the substance of policies desired by the Commissioners. The Commissioners have provided the NRC staff with very little guidance or direction on issues which should be resolved by policy making. As discussed below, the NRC staff usually has not had any Commission-level guidance on proposed policies until the policies have been drafted and submitted to the Commissioners for review.

As a result of the above, licensing and appeal boards have often found little in the way of NRC policies to guide them in deciding issues raised in individual licensing cases. In the absence of specific NRC policies, they have in effect made NRC policy in their decisions on these issues. For example, a major nuclear powerplant regulatory concern in recent years has been NRC's failure to resolve, on a generic basis, several

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issues common to many or all powerplants. The Commissioners have not established any policy on how the NRC staff should recognize and address these issues in each nuclear powerplant licensing case. In the absence of an NRC policy, an appeal board directed, in the context of the board's decision on one licensing case, the NRC staff to explicitly document in its safety report what the NRC staff is doing in the subject licensing case, and all future licensing cases, to address each unresolved generic safety issue.

We found many similar examples of appeal boards and licensing board decisions setting out guidance--in effect NRC policy--to the NRC staff for addressing issues in future licensing cases. It is no wonder that hearing and appeal boards find they must provide guidance to the NRC staff in the absence of NRC policy. Following the appeal board decision in the above example, the principal NRC staff officer sought Commissioners' clarification and guidance on how to proceed. The Chairman, however, told this official to talk to people and make his own decision; and the appeal board would let him know if he decided correctly the next time the staff presented these issues in a licensing case.

Following are two additional examples demonstrating that NRC's tardiness in recognizing and acting on policy needs results in inefficient case-by-case consideration of issues in licensing proceedings.

--In November 1975 a citizen group petitioned NRC to correct the "environmental cost" NRC had assigned in a regulation to radioactive emissions from uranium mill tailings piles. The NRC staff stated that the assigned value was inaccurate, but did not correct the regulation because it considered the discrepancy to be insignificant within the context of all of the environmental costs listed in

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the regulation. The same citizen group had also raised this issue on a nuclear powerplant licensing proceeding. In this case the NRC Commission, in April 1978, agreed to review the appeal board decision. When the NRC Commissioners finally appreciated the importance of the discrepancy they ordered the NRC staff to correct it. Futhermore, the Commissioners ordered hearing boards on 17 other licensing cases to reconsider this issue using the corrected regulation.

--During hearings on nuclear powerplant licensing applications issues arise which have general applicability to classes of powerplants. NRC staff studies issued in June 1977 and in June 1978 both concluded that NRC could improve regulatory efficiency by resolving these types of issues by policy making rather than on a case-by-case basis. In January 1979 the NRC staff identified 10 candidate issues, but NRC has not yet developed day-to-day procedures to identify future candidate issues for resolution by policy making. One suggested possibility would be to have the chairman of NRC's licensing board panel routinely submit to the Commissioners a list of new issues surfacing in public hearings which could be more efficiently resolved by Commissioners' policy making.

NRC Has Taken Too Long To Develop Proposed Policies

On many occasions in previous reports, we have found that NRC has taken a long time--sometimes over 5 years--to develop and implement new policies. This appears to be due to two reasons. First, it often takes a long time to coordinate a proposed policy among the various NRC

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staff offices and the NRC Commissioners. Lead NRC staff offices--usually but not always the Office of Standards Development--must obtain the concurrences of various NRC staff offices, including the staff's legal office. Frequently two or more of these offices disagree on the need for policies, the basic regulatory approaches taken in draft policy statements, and/or specific language in draft policy statements. Resolving these disagreements, or at least narrowing them to agreeable extent, often takes a long time. In this regard, the Executive Director for Operations told us that the NRC staff does not want to submit proposed policies to the Commissioners until the staff believes it has come up with the best possible effort. Once the NRC staff has completed the often lengthy process of coordinating proposed policies at the staff level, it may still take an additional long period of time to obtain Commissioners' approval because:

- ✓ --meetings between Commissioners and the NRC staff to discuss proposed policies tend to be more like sterile staff presentations or hostile encounters than useful exchanges of ideas in pursuit of common objectives;
- Commissioners are usually not familiar with the basic objectives of the NRC staff's proposed policies so they often return policies with requests that the staff address specific questions and/or consider alternative policy approaches; and
- Commissioners have different individual regulatory priorities and work schedules which add to the time required to obtain Commissioner's comments or concurrences.

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The second major reason NRC has taken too long to develop policies is the lack of firm Commission^{ers'} direction on how policies should be developed. Rather than the Commissioners taking the lead and giving the staff early directions on what it wants to see in a policy, the general practice is that the staff presents policies to the Commissioners after the staff has decided on its own what the policies should be. Because the Commissioners do not have early input, they often have problems with the staff proposed policy which require the staff to go through the time consuming process of drafting a new consensus position.

~~The~~ lack of early Commissioners' input is compounded by staff resistance to revising their positions to accept Commission^{ers'} desire^d modification's to proposed policies. Such resistance results in unnecessary rounds of time-consuming redrafting.

The following examples demonstrate how the time-consuming process of coordinating proposed policies among the various NRC staff offices and the five Commissioners, the absence of firm Commissioners' direction, and; conversely, NRC staff disagreements with Commissioners, all lengthen the time NRC has taken to develop policies.

--Over a 4-year period the NRC staff presented the Commissioners with a series of interim papers on a proposed new policy on reducing occupational radiation exposures. When the NRC staff presented the final paper for Commissioners approval, the Commissioners sent it back to the NRC staff to reconsider an issue the Commissioners had raised 4 years earlier-how the policy could be made inspectable and enforceable. The basic approach the NRC staff had been using disagreed with what the Commissioner's had wanted on two occasions 4 years apart.

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- Since 1972 AEC and now NRC have been developing a proposed policy on requiring medical licensees to report misadministrations 1/ to NRC so it could determine the causes and assess whether licensees took adequate corrective actions. Two reasons for this lengthy period, particularly over the last few years, have been major disagreements among three NRC staff offices and between Commissioners and the NRC staff.
- In June 1975, the Commissioners directed the NRC staff to develop information necessary to revise NRC's nuclear powerplant siting regulation, and to prepare a proposed new siting regulation. The many siting issues surfacing in hearings had raised questions about the adequacy of the existing regulation. Three years later, in August 1978, after the NRC staff had submitted and the Commissioners had rejected several versions of a proposed new siting regulation, the Commission^{er} set up a special task force to try again. The task force anticipates presenting final recommendations for a revised siting policy about May 1980--5 years after the project began. The Commissioner~~s~~ Chairman told us that the major reason for the length of this policymaking proceeding has been a basic disagreement between the Commissioners and the NRC staff on the technical approach to the new regulation.

1/ Error in administering a radioactive drug or treatment to a patient.

--NRC, and AEC before it, had been considering a proposed policy requiring licensees to establish quality assurance programs for fabricating radioactive material transportation containers for almost 7 years before NRC finally adopted a policy in August 1977. The policy NRC finally adopted was essentially the same as AEC had published in draft for public comment 4 years earlier. The principal reason why NRC took from January 1975 to August 1977-- over 2 1/2 years--to finalize the subject policy was disagreement among the NRC staff over the value of the proposed policy compared to the NRC resources that might be required to enforce it.

THE COMMISSIONERS HAVE NOT DEFINED
THEIR ROLES AND RELATIONSHIPS WITH
STAFF OFFICES

There is much disagreement within and outside NRC about the Commissioners' basic role and the relationship among the Commissioners, the Executive Director for Operations, and major staff offices. Clearly, nuclear regulation would benefit from a clear definition of what the Chairman's and other Commissioners' roles should be, and by extension the roles of other NRC components. By doing this the Commissioners would be in a better position to lay out what areas the Chairman and other Commissioners will deal with and what will be left to the Executive Director for Operations and major office directors.

The Energy Reorganization Act of 1974 provided the Commissioners little guidance on what their roles should be. The act specified that the five Commissioners would have equal authority and responsibility in all decisions and actions. The only specific guidance the act provided directed the Chairman to

- preside at meetings of the Commissioners,
- be the official Commission spokesman in relations with the Congress, Government agencies, persons, or the public; and
- see to the faithful execution of the Commissioners' policies and decisions, and report thereon from time to time to the other Commissioners.

A 1975 amendment to the act made the Commission Chairman the principal executive officer of NRC. The amendment states that the Chairman

"shall exercise all of the executive and administrative functions of the Commission including functions of the Commission with respect to (a) the appointment and supervision of personnel employed regularly and full time except in the immediate offices of Commissioners other than the Chairman, and except as otherwise provided in the Energy Reorganization Act of 1974, (b) the distribution of business among such personnel and among administrative units of the Commission, and (c) the use and expenditure of funds."

This amendment was enacted as a part of the NRC fiscal year 1976 budget authorization. Its purpose, according to its sponsor, was to strengthen a statutorily weak NRC Chairman so he could manage and lead NRC. The expansion of the NRC Chairman's authority and responsibility placed that office approximately on par with the Chairmen of the Federal Power Commission, the Federal Trade Commission, and the Securities and Exchange Commission. The first NRC chairman, however, had requested the amendment over the strong objections of the other NRC Commissioners; and since then the NRC Commissioners have so opposed any change in the relative authority between the chairman and other Commissioners that no NRC chairman has attempted to define and use this new authority.

While the act left to the Commissioners the task of establishing their own roles, the Commissioners do not seem to have clearly done so.

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As discussed earlier, the Commissioners have not set measurable NRC goals and objectives or controlled policymaking. Also, the Commissioners have not agreed on how directly they should supervise the NRC staff, and how actively the Commissioners should be involved in deciding cases in public hearings. One Commissioner told us that because his role was not sharply ✓ defined, he decided to spend much of his time traveling and speaking on nuclear regulation to various industry, public and governmental meetings.

In one very important instance the NRC Commissioners carried over a role the AEC Commissioners played in a very different environment. Although the AEC Commissioners had the right to act as the final decision authority for matters in adjudication, they relied almost entirely on appeal boards to perform this function, the AEC Commissioners were busy administering nuclear search and development and military weapons programs. NRC's Commissioners, however, devote all of their time to regulating commercial nuclear activities. Therefore, the first NRC Commissioners could have reasserted their responsibility for making final decisions on licensing cases. The first NRC Commissioners, however, retained the appeal board to make final decisions and also retained the prerogative of ordering hearing and appeal boards to elevate cases to the Commissioners for final decision. In June 197⁷, the Commissioners for the first time began permitting parties to appeal licensing decisions to the Commissioners, but to date the Commissioners have chosen to review few appeals.

The Commissioners' continued reliance on appeal boards as the final agency decision makers in adjudication--with a seldom exercised option for the Commissioners to make final decisions--has extracted a heavy price in efficiency and effectiveness. In order to protect ^{their} its option to make

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final decisions the Commissioners must abide by ^{NRC's} ~~the~~ rule strictly limiting interaction with the NRC staff, license applicants, or other parties on any substantive issues in active public hearings. This makes it difficult for the Commissioners to talk with the NRC staff about new regulatory issues and for the NRC staff to seek Commissioners' guidance on these issues. With the Commissioners staying out of issues to protect their right to review appeal board decisions, and then rarely using that right, they have effectively taken themselves out of the cases. As a result (1) appeal boards sometimes set policies which the Commissioners should set, (2) the NRC staff receives needed Commissioners' guidance late, (3) the Commissioners have a more difficult time monitoring staff performance on a wide range of issues, and (4) the Commissioners effectively close their collective eyes and ears to substantive issues in cases needing their attention.

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The Role of The Executive Director For Operations Should Be Clarified And Strengthened

Section 209--"Other Offices"--of the Energy Reorganization Act of 1974 (42 U.S.C. 5849) established the position of an Executive Director for Operations and authorized the director to perform "such functions as the Commission may direct." It also prohibited the Executive Director from preventing the directors of the Offices of Nuclear Reactor Regulation, Regulatory Research, and Nuclear Materials Safety and Safeguards from communicating directly to the Commissioners. The Act made the Executive Director for Operations equal in rank to these Offices' directors. In this structure the three Office directors mentioned above did not even have to ~~advise~~ the Executive Director advised of their contacts with the

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Commissioners--this despite the Executive Director's assigned responsibility for coordinating the offices' activities.

We found substantial differences of opinion among Commissioners, the Executive Director and Deputy Executive Director for Operations, senior NRC staff, and others on the Director's role in nuclear regulation. In May, 1977, the Commission^{ers} defined the Executive Director's role in part as follows:

"The Executive Director for Operations is responsible for supervision and coordination of policy development and operational activities of the following officers....."

While on paper the Director's operational authority over NRC staff offices is clear, some of the major office directors and Commissioners are not clear that the Executive Director is a superior authority in the chain of command over the five major staff offices. One Commissioner, for example, described the Executive Director as a senior staff--rather than line-officer. An office director and an industry representative described the Executive Director as an executive director for administration rather than operations. These conflicting views suggest that the position's duties, authorities and responsibilities are ambiguous, and, as a former Commissioner suggested, should be crystallized.

The current ambiguous authority has contributed to past problems. For example, the former Deputy Executive Director told us it had been difficult to get the staff offices to work together harmoniously to resolve the issues which the March 1975 Brown's Ferry nuclear powerplant fire raised and which required multi-office involvement. Other NRC staff told us of similar difficulties getting the various offices to concur in unified staff positions. They also pointed out that the concurrence

process often takes a long time. A stronger role for the Executive Director for Operations would better insure that the various offices both cooperate in these and other important areas and devote sufficient resources to NRC-wide goals.

The Executive Director has the main responsibility, although apparently not the authority, for coordinating NRC's budget. As discussed on page 38 various major staff office budget priorities are sometimes inconsistent with agency wide goals and objectives. Again, because the Executive Director's authority and responsibility is not clearly defined the Director seems to be in a weak position to insure a unified agency approach to nuclear regulation.

The Commissioners are amending the NRC organization manual to make clearer that the Executive Director for Operations is in charge of the staff offices. A February 1, 1979, draft would change the chapters dealing with organization and function of the Offices of Nuclear Reactor Regulation Research, and Materials Safety and Safeguards to make the Executive Director's authority over these offices more nearly equal to his responsibility for their actions. The draft states that these office directors report to the Executive Director for Operations.

CONCLUSIONS

The complacency, indecision, and slow pace of progress in improving nuclear regulation discussed in the previous chapter is in large part due to the lack of leadership by the Commissioners. The Commissioners have not