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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

STAFF PRESENTATION ON
FINAL RULEMAKING ON EMERGENCY PREPAREDNESS
PUBLIC MEETING

Nuclear Regulatory Commission
Room 1130
1717 H Street, N. W.
Washington, D. C.

Wednesday, June 18, 1980

The Commission met, pursuant to notice, at

2:05 p.m.

BEFORE:

JOHN F. AHEARNE, Chairman of the Commission
JOSEPH M. HENDRIE, Commissioner
RICHARD T. KENNEDY, Commissioner
VICTOR GILINSKY, Commissioner

ALSO PRESENT:

L. BICKWIT
H. HANRAHAN
H. SHAPAR
K. CORNELL
K. GOLLER
B. GRIMES
M. JAMGOCHIAN
R. BERNERO
J. McCONNEL, FEMA
K. PERKINS

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P R O C E E D I N G S

1
2 CHAIRMAN AHEARNE: This afternoon the Commission
3 meets to hear from the staff on the proposed final rule on
4 emergency preparedness.

5 A very large amount of effort has gone into
6 developing this rule over the past year. The staff has held
7 many meetings and many workshops and more, I think to be
8 exact, around the country. It has received a large number
9 of comments. We have gone through an advanced notice
10 proposed rule. We have the final rule here before us today.

11 This is not a meeting at which I believe the
12 Commission will be making a decision on the final rule. We
13 still have an additional meeting I believe next week on it.
14 But I certainly am delighted to see this as an example of
15 how a major rule can be moved forward both with a lot of
16 thought and careful work and also on a reasonable time scale.

17 So, let's see, Kevin, I guess you are speaking for
18 the EDO.

19 MR. CORNELL: The only thing I have to add is that
20 we are working on setting up meeting with the industry and
21 the state and local and special interest groups. It is
22 scheduled currently for the 25th of June It is our
23 understanding that sometime subsequent to that meeting the
24 Commission would make a decision on this rule.

25 I would also like to point out that back in

1 February FEMA raised a number of concerns about this rule.
2 Since that time we have had a series of very productive
3 meetings with FEMA staff. About a week ago or several weeks
4 ago FEMA wrote a letter to the Commission saying that they
5 now support this rule for issuance, and it is a current
6 form. There are a number of representatives from the FEMA
7 staff here and if you want to get into the issue we will be
8 available.

9 CHAIRMAN AHEARNE: I assume that if one of you
10 said something that they disagree with they will either jump
11 or forever hold their silence.

12 MR. CORNELL: At this point anyway I will turn it
13 over to Mr. Goller.

14 (Slide presentation - first slide.)

15 MR. GOLLER: Mr. Chairman, I would like to discuss with you
16 this afternoon the staff's proposed version for the final or
17 effective rule on emergency preparedness.

18 With me at the table today are Mr. Brian Grimes,
19 Program Director of the Emergency Preparedness Program
20 Office in NRR and Mr. Mike Jamgochian from the Office of
21 Standards Development. Other individuals who have
22 participated in the development of this rule are in the
23 audience and may be able to assist if any detailed questions
24 do come up.

25 Also present, as Mr. Cornell has already

1 mentioned, is Mr. John McConnel from the Federal Emergency
2 Management agency.

3 The staff has met before with the Commission
4 several times on this rulemaking effort, most recently on
5 March 26th when we briefed the Commission on the major
6 issues that had been identified by written comments and at
7 the workshop public meetings that were held on this
8 rulemaking in January.

9 I intend for this briefing to build on that
10 previous briefing. I will provide you with a brief
11 background and chronology on this rulemaking effort and a
12 discussion of how the staff proposes to resolve the major
13 issues that were identified including comments and
14 recommendations by the ACRS and a brief overview of the
15 differences between the final rule as proposed by the staff
16 and the proposed rule which was published for public comment
17 in December 1979.

18 If I could have the next slide, please.

19 (Next slide.)

20 MR. GOLLER: As you can see from this slide on the
21 background chronology, this has been an expedited rulemaking
22 process as the Commission requested. That has been one year
23 from the advance notice of rulemaking to the final rule
24 presentation today. It is especially true when you consider
25 the complexity and the controversy involved in this major

1 rulemaking effort.

2 CHAIRMAN AHEARNE: I gather, Karl, in the future
3 this will now be the norm for standards.

4 (Laughter)

5 MR. GOLLER: On the contrary, this is something to
6 aspire to and hopefully do better.

7 You will notice the two entries on this slide
8 whereby the ACRS has participated in the review of this
9 rule. I will have more to say about this later in the
10 briefing.

11 Also indicated on the slide is the provisions for
12 the Commission meeting with the panels, public panels which,
13 as Mr. Cornell, indicated, as being arranged for June 25th.
14 It is my understanding that the staff will also participate
15 in that meeting and will be expected to respond to any
16 questions or issues that might be raised at those panel
17 discussions.

18 Can I have the next slide, please.

19 (Next slide.)

20 MR. GOLLER: Many public comments were received on
21 this rulemaking. However, I think it is important to
22 realize that all the significant issues were identified at
23 the workshops in January, and also, that general agreement
24 that emergency preparedness around nuclear power plants
25 should be improved, although there are some differences of

1 opinion on just exactly how this should be accomplished.

2 If I can have the next slide, please.

3 (Next slide.)

4 MR. GOLLER: There are several important, very
5 recent developments relative to this rulemaking: one
6 already mentioned, the ACRS review and comment which we will
7 get into a little more later; but also the recent
8 Senate/House Conference Report on the NRC's fiscal year '80
9 authorization bill. This report and the proposed bill
10 itself have several references to emergency rulemaking and
11 provide some direct instructions or guidance to the
12 Commission on this subject.

13 We believe that the staff proposed final rule and
14 the Commission's other ongoing planned activities in
15 emergency planning are fully responsive to the Conference
16 Report bill.

17 CHAIRMAN AHEARNE: You are saying, Karl, then that
18 if one takes the Conference Report and the bill and matches
19 it against our rule, in your judgment, the rule for those
20 parts of it that cover what the Conference Report covers,
21 those parts are in synchronization and agreement?

22 MR. GOLLER: Yes, sir.

23 CHAIRMAN HENDRIE: You could note, Karl, that it
24 is a little more than a Conference Report at this stage.

25 MR. GOLLER: And bill.

1 CHAIRMAN HENDRIE: Both the House and the Senate
2 have in fact passed the legislation that is described in the
3 Conference Report and it remains, as far as I know, only for
4 a Presidential signature about which I can hardly see any
5 difficulty.

6 MR. GOLLER: Yes.

7 CHAIRMAN HENDRIE: So I think we have the
8 legislation in effect before us. The fact that the '80
9 authorization has taken a very long time to come about
10 leaves us in the rare and fortunate circumstance that our
11 reponse to the legislation, at least in this particular
12 circumstance, may be extraordinarily expeditious.

13 (Laughter)

14 MR. GOLLER: Thank you. The slide does indicate
15 several specific points that the Conference Report does make
16 relative to the emergency planning rulemaking. It is also
17 my understanding that the Office of the General Counsel is
18 preparing a general analysis of this entire conference
19 report. I have it on the basis of an oral communication
20 that they agree that this proposed rule is fully responsive
21 to the Conference Report.

22 If I could have the next slide, please.

23 (Next slide.)

24 COMMISSIONER HENDRIE: Karl, let me just ask. You
25 met with the committee on the 5th, and I don't recall having

1 seen a letter from them.

2 CHAIRMAN AHEARNE: Yes, we got one on the 11th.

3 MR. GOLLER: We have some extra copies of that. I
4 will be getting into this in some detail.

5 COMMISSIONER HENDRIE: Well, let me get a copy
6 from you before you run out of them.

7 (Copies of the letter distributed.)

8 MR. GOLLER: You do have a copy of the first
9 letter that they sent you on the first meeting in May as
10 part of the rulemaking package.

11 COMMISSIONER HENDRIE: I think that was part of
12 the staff paper.

13 MR. GOLLER: The next slide is a listing of the
14 major issues which were identified during the rulemaking
15 process. These issues are all familiar to the Commission
16 and I plan to discuss each one separately to present the
17 staff's proposed resolution or response on each and to
18 indicate what changes these involve from the proposed rule
19 to the final rule.

20 Can we have the next slide, please.

21 (Next slide.)

22 MR. GOLLER: The proposed rule used the term NRC
23 "concurrence" in state and local emergency planning and
24 required such concurrenc. for licensing and continued
25 operation of nuclear power plants.

1 The final rule as proposed by the staff would
2 replace this with an NRC finding on overall emergency
3 preparedness which would consider FEMA findings on state and
4 local plans.

5 Note also that we would propose to include the 16
6 planning objectives from the NUREG document 0654 which was
7 developed in conjunction with FEMA. We would include the 16
8 planning objectives from the NUREG document in the rule
9 itself.

10 CHAIRMAN AHEARNE: Could I ask a question on that?

11 MR. GOLLER: Yes, sir.

12 CHAIRMAN AHEARNE: I notice that you called them
13 planning objectives. But as I read it, it says "The
14 reactors must meet the following objectives." For example,
15 "Arrangements for requesting and effectively using a
16 system's resources have been made" et cetera. I am just
17 questioning the term "objectives." It almost sounds like
18 requirements.

19 MR. GOLLER: Well, I think the term "objectives"
20 was used because inherent in each of those is some latitude
21 by way of interpretation and detail which is set forth in
22 the criteria, the detailed criteria which are presented in
23 the NUREG document.

24 MR. GRIMES: But the intent was to establish a
25 standard against which the preparedness would be measured

1 rather than using the term "concurrence"?

2 CHAIRMAN AHEARNE: I understand that.

3 MR. GRIMES: I think the word "objective" came
4 from the NUREG-0654 usage as the planning objectives.

5 CHAIRMAN AHEARNE: Yes, but at that time they were
6 guidelines. For example, let's just take any one of them.
7 As an objective, something that you are striving for, it
8 need not be there and you can still make a balanced judgment
9 that in the absence it is still acceptable. If it were a
10 requirement it would have to be there. Is that a
11 distinction that is in fact there.

12 MR. GRIMES: It is intended to be a requirement to
13 the rule.

14 MR. JAMGOCHIAN: By putting it in the regulation
15 it then becomes a requirement.

16 CHAIRMAN AHEARNE: I was wondering.

17 MR. GOLLER: Mr. Chairman, I think you have put
18 your finger on a problem in terminology which is the result
19 of the evolution of this rule, and I think that perhaps
20 changing that word would be a clarification of the intent.

21 MR. SHAPAR: I had a comment on it. We have
22 performance objectives and rules and should require that
23 those performance objectives be met. This is fairly common.

24 MR. BICKWIT: Civil penalty actions would lie if
25 the objective were not complied with.

1 MR. GOLLER: Well, I don't think that that is
2 really appropriate in this case because these objectives
3 pertain to the state and local government plans. To that
4 extent there would be no possibility for any civil action
5 other than the once inherited rule against the licensee.

6 MR. BICKWIC: How about against the licensee for
7 operating out of compliance?

8 MR. GOLLER: That of course is specifically
9 spelled out in the rule.

10 MR. BICKWIC: I see. The enforcement mechanism
11 you contemplate, and the only enforcement mechanism, is the
12 shutdown as specified in the rule?

13 MR. GOLLER: Yes, with the associated procedures
14 that would be involved.

15 MR. SHAPAR: It is not necessarily a shutdown is
16 it? It could be a modification of the license.

17 COMMISSIONER HENDRIE: I suppose one could
18 conceive of circumstances where you might be inclined to
19 levy a civil penalty. I agree it wouldn't strike me that is
20 normally a way you deal with this.

21 MR. BICKWIK: It might be something we would want
22 to clarify.

23 COMMISSIONER HENDRIE: When we say objectives,
24 does that mean they are requirements, the answer is clearly
25 yes. Take a short one, No. 6, provisions exist for prompt

1 communications among principal response organizations to
2 emergency personnel and to the public. Now, if you get a
3 plan where that isn't the case, it doesn't wash. And if yo
4 had a plan where it was and then somebody decided, oh, hell,
5 let's tear up all the prompt communications facilities, why
6 the plan is now deficient under the regulations and again it
7 doesn't wash. So they are requirements.

8 Now, what prompt communications may mean for a
9 particular site and set of local governments in a given
10 state is not defined here, and there there is a certain
11 amount of cut and fit to suit the circumstances I judge.

12 CHAIRMAN AHEARNE: One of the reasons for raising
13 the question was because at a later point where we talk
14 about the 15-minute warning it is also called a planning
15 objective, and I was trying to establish what the term meant.

16 MR. GRIMES: I think it is called a design
17 objective, which was intended to be comparable to the ---

18 CHAIRMAN AHEARNE: That is different than a
19 planning than a planning objective. I will get all these
20 words straight sooner or later.

21 MR. SHAPAR: Well, if the confusion is the word
22 "objective," that word certainly can be changed.

23 MR. GOLLER: As I said, I think we should consider
24 doing that because there might be some clarification
25 resulting from that. You have a good point.

1 I would like to go on.

2 COMMISSIONER KENNEDY: Before you do, the note on
3 page 31, the footnote, the objectives to which we have just
4 been referring are addressed by "specific criteria in
5 NUREG-0654. Does that mean to imply the specific criteria
6 in NUREG-0654 are incorporated by reference here?

7 MR. GRIMES: That was not the intent.

8 MR. GOLLER: No, sir, it does not.

9 COMMISSIONER HENDRIE: 0654 you meant to treat as
10 a regulatory guide, equivalent to a reg guide for the moment?

11 MR. GRIMES: Yes.

12 MR. GOLLER: At present that is a NUREG report, a
13 technical report. It is our intent to develop a guide which
14 will, among other things, incorporate most of the
15 information that is in that NUREG report today.

16 COMMISSIONER KENNEDY: Okay.

17 MR. GOLLER: Relative to this incorporation of the
18 planning objectives in the rule itself I would like to make
19 two observations. One of the requirements in the
20 legislation, the authorization bill legislation was to
21 establish by rule standards for state plans, and it is this
22 point that we feel would be responsive to that legislative
23 directive.

24 CHAIRMAN AHEARNE: How does this rule now mesh
25 with FEMA's proposed rule or about to be proposed rule?

1 MR. JAMGOCHIAN: They are in parallel.

2 CHAIRMAN AHEARNE: Ken.

3 MR. PERKINS: Excuse me just a second. I am Ken
4 Perkins in EDO's office. In the letter that we received
5 from General Counsel of FEMA they state that they believe
6 that we should go ahead with our rule and that it is
7 consistent with the rule that they are proposing. The two
8 are compatible.

9 The procedures that they are establishing are
10 parallel to those that we have in our rule, and what we call
11 planning objectives that we incorporate in our rule are also
12 incorporated verbatim in their rulemaking.

13 COMMISSIONER HENDRIE: Karl, if the bill says
14 these are standards for an emergency plan, why that is a
15 possible word.

16 MR. GRIMES: Instead of objectives, yes.

17 MR. GOLLER: The other observation that I wanted
18 to make relative to incorporating the planning objectives in
19 the rule is that the Commission has pending before it
20 SECY-80-261 which would respond to two petitions, one of
21 which requests deferring this rulemaking until the planning
22 objectives and criteria for state and local plans are
23 reconsidered.

24 If I could have the next slide, please.

25 (Next slide.)

1 MR. GOLLEP: This concurrence issue which we have
2 been discussing is closely related to the next one on the
3 NRC/FEMA responsibilities and relationship. There were many
4 comments on this subject because the NRC/FEMA relationship
5 and FEMA's responsibilities evolved during this rulemaking
6 process.

7 The final rule as proposed by the staff and the
8 accompanying supplemental information to the rule would make
9 this relationship and the respective responsibilities of the
10 two agencies quite clear, and we believe therefore would
11 offset then most of the comments which were received in this
12 area.

13 CHAIRMAN AHEARNE: And I gather that that
14 clarification also is consistent with the authorization bill?

15 MR. GOLLEP: Yes, sir, and is the result of
16 extensive coordination and communication between the two
17 agencies which is specifically what the authorization bill
18 directed occur.

19 Can I have the next slide, please.

20 (Next slide.)

21 MR. GOLLEP: This next issue on state and/or local
22 capability for 15-minute notification of the public was one
23 of the more controversial issues. Much of this controversy
24 was due to confusion and misunderstanding of the
25 requirements. Note that the ACRS commented on this issue

1 and recommended consideration of a staged notification
2 system. I will have a little more to say about that later
3 when we discuss all of the ACRS comments specifically.

4 The final rule proposed by the staff would clarify
5 that licensees must notify state and local governments
6 within 15 minutes after declaring an emergency and that the
7 state and local government must then have the capability to
8 notify the public in 15 minutes after this notification by
9 the licensee.

10 CHAIRMAN AHEARNE: I wasn't really sure reading it
11 in the two sections in the beginning and then in the rule
12 what provision you have in for decision time on the part of
13 the state and local officials.

14 MR. GRIMES: That is included in the 15 minutes.
15 The 15 minutes is intended to specify that there shall be
16 some sort of system and also is intended to specify a very
17 short decision chain. It does not require extended
18 consultation before a decision can be made but rather is
19 based on preagreed formulas.

20 CHAIRMAN AHEARNE: So in that there is no
21 specification of here is how rapid the notification system
22 must be other than it is something short of no longer than
23 15 minutes.

24 MR. GRIMES: The systems that we have seen would
25 be essentially instantaneous or a minute or two type of

1 activation signaling once the decision was made.

2 MR. GOLLER: Well, actually it was our thinking
3 that most of that 15 minutes is for the decision process,
4 and that beyond that it doesn't amount to much more than
5 pushing buttons.

6 CHAIRMAN AHEARNE: So I think what you are saying
7 is that what the rule ends up requiring is there be a
8 system, a set of procedures in a system that would enable
9 the public to be notified within 30 minutes of the licensee
10 declaring the emergency; is that correct?

11 MR. GOLLER: Yes. And also that that notification
12 is a notification to the effect that a problem exists and
13 that they should take some prescribed action probably that
14 of tuning into a radio station also prescribed to receive
15 further directions and instructions on what to do under the
16 particular circumstances that exist.

17 CHAIRMAN AHEARNE: Was there much of a discussion
18 in the workshops or the comments not so much on whether or
19 not those requirements should be there but rather on the
20 numerical value of the time? In other words, was there a
21 debate on whether it should be 15 minutes or 30 minutes.

22 MR. GRIMES: There was no close argument on 15
23 versus 30. There was a debate on whether there should be a
24 system or whether there were indeed several hours available
25 to perform the notification by door-to-door means. Another

1 facet of the discussion was whether the system should just
2 be required close to the plant and door to door and longer
3 term communication be allowed farther away.

4 CHAIRMAN AHEARNE: What were the resolutions of
5 those kinds of questions?

6 MR. GRIMES: The staff, as we discussed in the
7 supplemental information to the rule now, believes that it
8 is prudent to get as much lead time as possible, although it
9 may take several hours to develop. The actual realization
10 that a very serious situation exists itself may come several
11 hours into the accident. So that only a relatively short
12 time, an hour or two, may be available to actually effect
13 protective action, and sometimes shorter than that, for the
14 public.

15 Typically evacuation times, if that is the action
16 of choice rather than sheltering, evacuation times average
17 about two to three hours and can be in high population sites
18 up to ten hours for sectors around the plant. We believe
19 that the immediate notification will provide a large number
20 of additional cases where we do have the option to take
21 protective action. In a precautionary mode if you forecast
22 within an hour or so you may indeed have significant
23 releases.

24 CHAIRMAN AHEARNE: If you were to be talking with
25 some state governments or local government people and they
were asking you, if this rule goes into place as it is how

1 would you expect or hope to recommend that they put in place
2 a system to be able to handle this once the information
3 comes in and before they push the button or switch or
4 whatever is required? Would you hope then to have sort of a
5 check list in which, depending upon what the licensee has
6 told them, they go down and find here is the appropriate
7 warning to give?

8 MR. GRIMES: Yes.

9 CHAIRMAN AHEARNE: Or would you hope that they
10 would have in place a system by which an individual or a set
11 of individuals would be able by a conference call to meet on
12 that and reach a decision on more of an ad hoc basis?

13 MR. GRIMES: The answer is both I guess. You must
14 have the capability to act immediately. If the licensee
15 says there is a very serious problem and we expect that
16 there may be a release in the next few minutes or hour we
17 think the initial action of notification should be carried
18 out.

19 If there are many hours available and it is a
20 slowly developing situation then that information would be
21 taken into account by the outside authorities and there
22 would be a decision as to whether the actions recommended by
23 the plant were conservative enough or whether additional
24 precautions or measures were warranted.

25 CHAIRMAN AHEARNE: Then you were be recommended

1 some threshold, perhaps a relatively high threshold for the
2 immediate use of that 15-minute system?

3 MR. GRIMES: Certainly in our four emergency
4 classes the general emergency would warrant immediate
5 notification. Our initial guidance set also the site area
6 emergency in the second highest class should have prompt
7 notification. We have received a number of comments on that
8 and we are relooking as to whether all the items in the site
9 area emergency warrant notification. One way of handling
10 that is to redefine some of those items out of the site area
11 class, or one could divide the second worse class into two
12 parts, or something like that.

13 COMMISSIONER HENDRIE: Why would you notify on a
14 site emergency?

15 MR. GRIMES: A site area emergency where there may
16 indeed be effects immediately around the plant that would
17 include situations which would indeed warrant telling people
18 to at least to stay inside around the facility.

19 COMMISSIONER HENDRIE: Surely not ten miles away.

20 MR. GRIMES: Probably not ten miles away. In that
21 case we do include in the supplementary information that it
22 is acceptable to have a staged capability within the
23 notification system; in other words, so that a decision
24 could be made to use only part of the notification system.
25 There are some arguments in the other direction that once

1 there is an emergency at the plant you might be better off
2 to try to establish an official link of communication
3 through notification of everyone around the plant and
4 getting them to tune in to the radio station with the
5 correct information rather than allowing rumors to go on the
6 basis of near-site people being asked to do something.

7 COMMISSIONER GILINSKI: What are the expected
8 means of notification?

9 MR. GRIMES: There are several that have been
10 identified as possibilities. The only system that has
11 actually been purchased that I know of so far is for around
12 Diablo Canyon which would be sirens primarily. There are
13 also individual radio units which can be used in conjunction
14 with the NOAA weather alert system which is used in some
15 areas in the Mid

16 COMMISSIONER GILINSKI: How many sirens would
17 there be? I assume this applies to a 10-mile circle roughly
18 speaking?

19 MR. GRIMES: Yes. It would vary with the terrain
20 and population. I think we are talking on the order of 60
21 to 100.

22 MR. GOLLER: But it might also be combinations of
23 these systems depending upon the population density.

24 MR. GRIMES: Sirens in dense areas and tone alert
25 systems for remote houses.

1 COMMISSIONER KENNEDY: What is it the public does
2 in response to a siren tone?

3 MR. GRIMES: They turn on the radio and probably
4 the initial information they would get is advice to stay
5 indoors if they live in certain areas probably.

6 COMMISSIONER KENNEDY: The siren simply alerts
7 them to turn on the radio?

8 MR. GRIMES: It alerts them. It does not tell
9 them to move. It will be required of course to have a good
10 public information program to educate people as to what the
11 expected actions would be.

12 CHAIRMAN AHEARNE: Would you envision the use of a
13 siren or tone alert, or whatever it is, in the periodic
14 drills?

15 MR. GRIMES: Yes, at least activation of some part
16 of that system would be in the exercise.

17 COMMISSIONER KENNEDY: Is a public information
18 program contemplating informing the public at all about what
19 it is they are being warned about?

20 MR. GRIMES: Yes.

21 COMMISSIONER KENNEDY: In what way?

22 MR. GRIMES: In terms of the basic nature of
23 radiation, for example, and the fact that staying inside
24 does provide a large degree of protection against releases
25 from the site.

1 COMMISSIONER GILINSKI: Is this part of a plan
2 that we would be reviewing or FEMA would be reviewing as a
3 public information program?

4 MR. GRIMES: Yes.

5 MR. GOLLER: It is required. Public information
6 is specifically required by this rule.

7 MR. GRIMES: It would be a joint effort by the
8 licensee and the state and local people. It may vary from
9 place to place as to who actually distributes the
10 information, whether it is the utility with utility bills or
11 the more credible source is the county or state providing
12 this information.

13 COMMISSIONER KENNEDY: To what depth does
14 approval, authority or responsibility on the part of the NRC
15 reach in this public information planning, the fact that
16 there has been one prepared or the specific character of the
17 elements of it?

18 MR. GRIMES: I believe the standard we have put
19 forth in at least the NUREG report, which was our detail
20 guidance, was that people around the plant would be given at
21 least a reasonable chance of at least annually receiving
22 information on the nature of the hazard. Exactly what the
23 program should contain FEMA is taking the lead on, the
24 public information program development. We will be working
25 with them and taking their advice on the adequacy of the

1 information program.

2 COMMISSIONER KENNEDY: The fundamental character
3 of the program, the public information program then is a
4 FEMA responsibility?

5 MR. GRIMES: Yes.

6 MR. JAMGOCHIAN: For your information this kind of
7 thing has gone on for the last three years I believe in the
8 State of Maine. They have sent out simple kinds of basic
9 information with the bill on a yearly basis giving them
10 information as to what is radiation and the idea of
11 sheltering. Also at the bottom it would give radio stations
12 that they would turn to in the case of an emergency and also
13 telephone numbers that they could call for additional, more
14 detailed emergency preparedness information.

15 COMMISSIONER KENNEDY: That I presume we would not
16 visualize as being promotional, although I have heard some
17 characterize it that way.

18 MR. JAMGOCHIAN: I have not.

19 COMMISSIONER KENNEDY: I would not myself. I am
20 just wondering if we have reached that conclusion.

21 CHAIRMAN AHEARN: I think it depends on how it is
22 written.

23 MR. JAMGOCHIAN: Right. The way it has been
24 written is the State Utility Commission and the licensee sat
25 down and decided what would be in it.

1 CHAIRMAN AHEARNE: Yes. As I recall, Mr. Bradford
2 was one of the members of that State Utility Commission.

3 MR. JAMGOCHIAN: Yes, sir.

4 CHAIRMAN AHEARNE: I notice your last item here.
5 This is now a design objective. To reiterate the
6 clarification, is that a requirement?

7 MR. GRIMES: We are putting together detailed
8 guidance on acceptability with FEMA. There would be a
9 guidance memorandum from FEMA headquarters to its regions
10 providing some rules of thumb for design and providing that
11 after the system is in a statistical survey be taken to
12 determine whether people are hearing the signal and
13 improvements will be made based on that.

14 CHAIRMAN AHEARNE: That is interesting and useful,
15 but it doesn't answer the question I asked as to whether or
16 not the 15 minutes is a requirement when you describe it as
17 a design objective.

18 MR. GOLLER: Well, the 15-minute notification is a
19 requirements, but perhaps this is a good example of why the
20 word "objective" is not that far off the mark in that what
21 needs to be accomplished in 15 minutes is notification of
22 the public. The objective is close to 100 percent, but
23 exactly what that fraction should be was a subject of
24 considerable comment and discussion during the rulemaking
25 process and in comments. The design objective is to reach

1 something like 90 or as close to 100 percent as possible.
2 It is just not possible to achieve perfection.

3 MR. GRIMES: It is basically a warning system
4 which you design to have a signal available to people
5 particularly and one outside.

6 CHAIRMAN AHEARNE: You have got a slight fuzziness
7 on the time.

8 MR. GRIMES: Yes.

9 CHAIRMAN AHEARNE: And you have got a slight
10 fuzziness on the percentage reached which is completely
11 understandable. But how will you determine whether or not a
12 particular plan is acceptable? Is that a judgment decision?

13 MR. GRIMES: It is going to be a judgment decision.

14 CHAIRMAN AHEARNE: Would that be FEMA's judgment
15 decision?

16 MR. GRIMES: The adequacy of the off-site
17 notification would be FEMA's judgment. Since it is a
18 radiation related need we would assist in establishing the
19 standard, the 15 minutes. Whether the particular system is
20 adequate we would rely on FEMA to determine.

21 COMMISSIONER GILINSKY: But doesn't NRC at some
22 point make the decision about adequacy as it relates to the
23 licensing process?

24 MR. GRIMES: I should have said rather than
25 perhaps rely on would heavily weigh in FEMA's opinion in the

1 area.

2 COMMISSIONER GILINSKY: Why did you underline the
3 word "capability"? Why do you stress that, as opposed to
4 what?

5 MR. GRIMES: To actually proving that 100 percent
6 of the people are notified or actually using the system in
7 every emergency. In other words, for lower-level emergency
8 classes you would not use the system. You are not required
9 to notify the public within 15 minues. Also, the state and
10 local people have the final authority of pushing the button
11 for the notification.

12 CHAIRMAN AHEARNE: You are drawing a distinction
13 between requirement to notify and having the capability to
14 notify?

15 MR. GRIMES: Yes. So it is conceivable that the
16 plant would recommend this and the state or local government
17 would not notify that. We are trying to eliminate that
18 possibility through pre-agreed emergency plans.

19 CHAIRMAN AHEARNE: You, I think, are trying to
20 make it so that that notification is a reasoned judgment on
21 behalf of the state and local officials---

22 MR. GRIMES: Yes.

23 CHAIRMAN AHEARNE: ---rather than putting the
24 burden on the licensee to make that judgment. The licensee
25 does the notification.

1 MR. GRIMES: And they also make a recommendation
2 as to the seriousness and the nature of the situation.

3 COMMISSIONER HENDRIE: I wonder if it really comes
4 out that way? If the standard that you are aiming for is
5 that within 15 minutes of hearing from the licensee you are
6 going to make a decision and then perform public
7 notification it sounds to me as though the decision gets
8 made by whoever the duty officer is next to the button that
9 rings the sirens.

10 He will have to spent part of his 15 minutes
11 dictating a piece of tape to the local radio stations and
12 making those telephone calls. The licensee calls him and
13 says, "Listen, I have had to call a site emergency over
14 here. We have a little release going on from waste tank No.
15 5." The guy on the other end at the police barracks or
16 wherever it is says, "Geeze, what will I do, press the
17 button?" The licensee will say, "It is your ball game,
18 buddie," and go back to his business which is keeping the
19 site crowd in shape. The guy on the button isn't going to
20 have any choice but to push it. So the bell is going to go
21 off every time and go out through the full ten-mile
22 emergency planning zone every time there is a notification
23 from the licensee of the top two classes of emergency I
24 think because there just isn't time in there for any
25 responsible state officers to say, wait a minute. What does

1 that mean in terms of doses? Should we notify everybody or
2 just people down in the southwest quadrant or maybe just
3 people out to a mile and a half or so.

4 If you are going to all that in 15 minutes why
5 nobody much closer than the first cross-roads up the line
6 are going to be involved in the decision. You might as well
7 put the button beside the supervisor's desk and tell him
8 every time he gets a site emergency or above he bangs it. I
9 don't think that would be a good thing to do because I don't
10 think it is necessarily the best thing to do, to ring bells
11 all over the neighborhood on each one of these occasions.
12 Some will require it, hopefully not very many, but I think a
13 lot more of them won't.

14 COMMISSIONER GILINSKI: Let me just ask a question
15 that goes along with that. What do we expect by way of
16 advice from the utility, from the operator when he
17 telephones?

18 MR. GOLLER: Well, that is one of the points I was
19 going to make, Commissioner Gilinsky.

20 COMMISSIONER HENDRIE: I think the licensee is
21 going to be the only one who is in a position to tell the
22 kind of people you are going to reach in 15 minutes what to
23 do. You are not going to have Governors and state radiation
24 officers considering the matter. You are going to have, you
25 know, the civil defense night duty officer.

1 MR. GOLLNER: What you describe could certainly
2 happen, but it is our intent that, first off, the licensee
3 make a recommendation to the body that he is notifying, and,
4 secondly, and probably most importantly, that there will be
5 coordination, cooperation and agreements in advance which
6 will establish different levels of emergencies and
7 appropriate actions.

8 COMMISSIONER HENDRIE: Let me point out it has
9 been a year and some months since Three Mile Island blew up
10 for us one Friday morning. We have talked to each other
11 about how we were going to set for the operation of our own
12 response center the guidance criteria so that duty officers
13 and early arriving officers who get there in advance of the
14 poor chairman who has to run everything ad hoc would know
15 what to do.

16 So far as I can see every time anybody sits down
17 to write out those emergency guidelines which would start
18 out and say, you know, define all the kinds of emergencies,
19 so you run your finger down and find a class 42, and it has
20 this, that and you do the other thing. We haven't been able
21 to do that. I think the one thing that keeps coming through
22 to me is I think about those kinds of matters and how I
23 would try to frame that kind of pre-agreed to guidance, and
24 my God it is difficult because every one of those
25 occurrences out there is going to have different

1 characteristics, and you just have the feeling that it is
2 going to be very hard to reasonably cover those things with
3 a lot of pre-set guidelines so that everything runs click
4 clack, click clack like some sort of a relay matrix in an
5 automatic machine.

6 You know, one of the benefits as well as one of
7 the handicaps of having human beings involved in these
8 affairs is that there are thinking mechanisms built into us
9 and we are capable of receiving inputs, making judgments and
10 coming to decisions.

11 COMMISSIONER GILINSKI: Doesn't this go back to
12 the point that Brian was making that what he is talking
13 about here is in effect the physical capability to notify in
14 a certain period of time?

15 CHAIRMAN AHEARNE: You see that is one of the
16 reasons I asked my question of what the decision time was.
17 I felt it was fairly clear the 15-minute requirement on the
18 licensee to notify, and it is fairly clear that 15 or
19 whatever the time is, once a decision is made by state and
20 local, then notificaton, but I was a little uneasy about the
21 decision time in between.

22 COMMISSIONER KENNEDY: I didn't get the impression
23 there was any.

24 CHAIRMAN AHEARNE: There isn't.

25 COMMISSIONER HENDEIE: That is right. The real

1 question I guess I am hammer away at and not very accurately
2 to is just that one, John. Is it, all things considered,
3 the best kind of configuration to compel a system in which
4 decisions of this kind are going to have to be made in 15
5 minutes along with implementing certain mechanical steps
6 like getting the word to the radio stations about what to
7 say when people call up or when people listen and pressing
8 the siren buttons and whatever else is done.

9 COMMISSIONER GILINSKY: But does the rule compel
10 the notification in 15 minutes? My impression is it did not.

11 CHAIRMAN AHEARNE: But the rule does though.

12 COMMISSIONER HENDRIE: For these purposes the
13 answer is yes.

14 CHAIRMAN AHEARNE: What Karl's answer was is the
15 rule compels a system to be in place where the system is
16 capable of going from licensee to public in 30 minutes. The
17 licensee must be able to notify in 15 minutes. It says,
18 "The design objective shall be to have the capability to
19 essentially complete the notification of the public within
20 about 15 minutes after the notification by the licensee."

21 COMMISSIONER GILINSKI: As I understood Brian, he
22 was saying when maybe finding out sometime after the onset
23 of an accident and so on, that he was trying to deal with
24 the worst case in effect in setting up this sort of a
25 physical capability.

1 COMMISSIONER HENDRIE: But if you did that, Vick,
2 you would have the capability for notification within 15
3 minutes, or if you like ten, or something like that, after a
4 decision that notification of the public was necessary.
5 That is not what is proposed. What is proposed is a system
6 which has the decisionmaking process built into it able to
7 work within 15 minutes if that is the way it turns out.

8 COMMISSIONER GILINSKI: If the system determines
9 that is what needs to be done. What I wanted to ask was
10 would it violate the sense of the rule if in some
11 circumstances the state followed John's advice here.

12 COMMISSIONER HENDRIE: Said "Thanks very much. I
13 am not going to hit the buzzer." That would be within your
14 proposition. The point I am making is it isn't going to be
15 the "State" which has connotations of Stately Governors and
16 radiation health officers in the State Department of
17 Health. It is going to be some poor night clerk.

18 COMMISSIONER GILINSKI: Whoever instructs that
19 night clerk, and I expect it would be more than a night
20 clerk, is going to tell him to press the ten-mile radius
21 button if he gets a report of the sort that you just
22 described about a small leak in one of the waste tanks.

23 CHAIRMAN AHEARNE: We don't at least in this rule,
24 as far as I see, make a judgment as to what class must be
25 automatically notified.

1 MR. GRIMES: Well, the first call he may not have
2 information as to the relative magnitude. In other words,
3 he may not know how many millirems or rems would be at a
4 particular location. He would just at that early point most
5 likely say we may have a release within a few minutes or
6 there has been a release started of this magnitude or that
7 magnitude which would warrant at least notification or at
8 least telling people to stay inside in the first couple of
9 miles.

10 CHAIRMAN AHEARNE: Who ends up being legally
11 liable for damages caused in a response that turned out not
12 to be needed?

13 COMMISSIONER KENNEDY: Or one that turned out to
14 be needed.

15 CHAIRMAN AHEARNE: For example, quite often one of
16 the issues the cities have to wrestle with is a charge that
17 a fire truck on the way to a false alarm crashed into
18 someone and killed them or badly damaged the car or
19 something. In this case who is liable if the trigger is
20 sent so people begin to evacuate and somebody gets hurt or
21 killed and it wasn't needed?

22 MR. GOLLER: I think we will defer to one of the
23 attorneys at the table for that legal question.

24 COMMISSIONER HENDRIE: All right, you are the
25 staff's lawyer, Howard. Defend him.

1 MR. SHAPAR: Be glad to. It depends on the tort
2 law of the state. In some states you have sovereign
3 municipal immunity from suits of that kind. In other
4 states, which is a modern trend, you don't have that kind of
5 immunity. In some states they may be responsible as a
6 matter of tort law.

7 CHAIRMAN AHEARNE: But as we just finished
8 discussing here, the licensee makes the recommendation for
9 the action. Is the licensee liable?

10 MR. SHAPAR: He may be under the applicable tort
11 law of that state.

12 CHAIRMAN AHEARNE: It doesn't flow directly from
13 our rules?

14 MR. SHAPAR: I think not.

15 COMMISSIONER HENDRIE: Let's get down to
16 fundamental issues, Howard. How do Commissioners stand on
17 this?

18 (Laughter)

19 MR. BICKWIT: Why don't I answer that one.

20 (Laughter)

21 MR. BICKWIT: I think you are all right. I think
22 under the Federal Tort Claims Act the understanding has been
23 that when you are functioning in a uniquely governmental
24 capacity you are free from tort liability.

25 MR. SHAPAR: There may be some question as to the

1 discretionary exemption of the Federal Tort Claims Act, but
2 I agree with the conclusion that if I were a Commissioner I
3 wouldn't worry about it too much.

4 COMMISSIONER GILINSKI: Does that change your view
5 here?

6 (Laughter)

7 COMMISSIONER HENDRIE: Every little bit helps,
8 Vick.

9 CHAIRMAN AHEARNE: I was just wondering whether
10 there were any pressures one way or the other placed on the
11 licensee.

12 MR. SHAPAR: You can ask that question about the
13 multifarious kinds of regulations that you are promulgating
14 all the time, and there has never been a suit that I am
15 aware of.

16 CHAIRMAN AHEARNE: What was the adjective you used?

17 MR. SHAPAR: "Nefarious".

18 (Laughter)

19 CHAIRMAN AHEARNE: We don't promulgate that kind.

20 MR. GRIMES: I might also note that the insurance
21 companies after Three Mile Island put out a good deal of
22 money and the utility insurance covered that.

23 CHAIRMAN AHEARNE: Yes. Go ahead.

24 MR. GOLLER: Before we leave this issue and move
25 on to the difficult ones ---

1 (Laughter)

2 MR. GOLLER: --- I would just like to observe
3 again that on this subject of the capability for 15-minute
4 notification the Commission has an action pending before it,
5 another petition, to delete the 15-minute notification
6 requirement from the rule and/or have a hearing on this
7 requirement. The staff's recommendations on this are
8 contained in the same SECY document that I referred to, 261.

9 Can we have the next slide then.

10 (Next slide.)

11 COMMISSIONER HENDRIE: Karl, let me ask you a
12 question. Suppose you get a Governor who says people are
13 not going to order public actions in an emergency on behalf
14 of the state of whatever without me knowing about it and
15 directs that the licensee calls reporting emergencies route
16 through to his office. What then?

17 MR. GRIMES: If he can be available and do it in
18 15 minutes I guess that is all right. We are requiring
19 parallel notification of local officials as well, and in
20 some situations they may decide to act on their own even
21 though the official word does not come in a timely manner.

22 CHAIRMAN AHEARNE: Ken.

23 MR. PERKINS: I would like to suggest a point of
24 clarification. I think perhaps our discussion has confused
25 the design objective of the system with actual

1 implementation of this system. What we have said in the
2 rulemaking is two 15-minute criteria for which the system is
3 to be designed; that the capability exists for notification
4 of state and locals within 15 by the licensee and of the
5 public by state and locals within 15 minutes.

6 However, we cannot set a requirement on the state
7 and locals for implementing that within 15 minutes.

8 COMMISSIONER HENDRIE: In any given case.

9 MR. PERKINS: That is correct.

10 COMMISSIONER HENDRIE: But you are proposing to
11 require them to arrange their affairs so that the number of
12 people that they call within the state and local group and
13 the amount of consultation that they can have amongst
14 themselves is very limited.

15 MR. PERKINS: But they have addressed this problem
16 beforehand.

17 COMMISSIONER HENDRIE: No, no, that the amount of
18 consultation that they can in fact have is limited.

19 MR. PERKINS: But they can make the decision with
20 a minimum amount of consultation. That does not preclude
21 them from getting more in a particular case.

22 COMMISSIONER KENNEDY: Are you saying that their
23 15 minutes does not begin at the time they have been
24 notified?

25 COMMISSIONER GILINSKY: It does for these purposes

1 of narrowing the system.

2 MR. GRIMES: What we are specifying is that they
3 have a decision chain which would perhaps go to the county
4 executive or some single official in the state from the duty
5 officer for that decision, and he is empowered to make the
6 decision to notify the public and to advise protective
7 actions. If he in that particular circumstance decided that
8 that action was not warranted there is nothing that would
9 prevent him from getting additional people to consult with
10 before he gave the okay to do that. But we want to avoid
11 the situation where there is a required consultation on
12 behalf of 20 state people before the system can be actuated.

13 COMMISSIONER GILINSKI: As I understand what you
14 are saying is if the state gets a call from the utility
15 saying that all hell has broken loose and the utility thinks
16 everybody better get out of the way the state should have
17 the physical capability to notify people.

18 COMMISSIONER HENDRIE: And the decisional
19 capability as well as the physical capability.

20 MR. SHAPAR: They are not required to accept the
21 licensee's recommendation. That implies a judgment-making
22 process.

23 COMMISSIONER GILINSKI: Right, but that doesn't
24 mean that they would follow that procedure in other
25 instances.

1 MR. JAMGOCHIAN: It might be that their emergency
2 plan shows, their emergency plan shows that it can be done
3 in 15 minutes.

4 COMMISSIONER GILINSKI: Right.

5 MR. BICKWIT: May I ask a question on that? The
6 design objective says that the plan must show that the state
7 can inform the public within 15 minutes. The design
8 objective is not a requirement. Is that what you said, Karl?

9 COMMISSIONER HENDRIE: He already said that was a
10 requirement.

11 MR. GRIMES: It is.

12 MR. BICKWIT: I thought you differentiated between
13 the design objective and the requirement that was contained
14 in Appendix E.

15 COMMISSIONER HENDRIE: That was just a little dust
16 he was throwing up because he went around the corner there.

17 (Laughter)

18 MR. GOLLER: There is some possibility for some
19 interpretation of what some of these objectives are. They
20 are not that explicit. Fifteen minutes, however, is
21 explicit.

22 MR. BICKWIT: No, that is fine. We use design
23 objective elsewhere in the rules but it is not considered to
24 be a requirement.

25 MR. GOLLER: As I pointed out before, perhaps the

1 word "objective" is ---

2 MR. BICKWIT: I know. I understand that. I
3 thought you were differentiating between objective and
4 design objective and you are not.

5 MR. GOLLER: No.

6 MR. GRIMES: We want to make it clear that if you
7 do an exercise and you are not able to notify all of the
8 public within exactly 15 minutes that you are not out of
9 compliance with the regulation.

10 COMMISSIONER HENDRIE: There is explicit
11 recognition in the language in the proposed rule that an
12 absolute hundred percent notification of every individual
13 within the planning zone is in fact not required. It is
14 recognized as probably an impossibility. Your objective is
15 to come as close to it as you can.

16 MR. GRIMES: We designed the system to come close
17 to it.

18 COMMISSIONER KENNEDY: If in fact an accident
19 occurs and the state has been notified within the 15 minutes
20 prescribed for the licensee and does not undertake
21 notification of the public and it is later determined that
22 the circumstances were indeed such as to warrant it having
23 done so, who now is in violation of the regulations and what
24 is the practical effect of that?

25 COMMISSIONER HENDRIE: The state. We will hit

1 them with a civil penalty.

2 (Laughter)

3 MR. GOLLER: I think that is basically a legal
4 question. I doubt if anybody is in violation.

5 MR. SHAPAR: I assume that the requirement was to
6 have a plan and have the capability of doing it. We judge
7 the plan that did have that capability, and even though it
8 had that capability in an individual situation the
9 capability wasn't utilized and it is in violation.

10 MR. GOLLER: That is inherently permitted under
11 this rule.

12 COMMISSIONER GILINSKI: Have you gone back to look
13 at some actual accidents or incidents and picked out the
14 points which at these various times would be triggered. In
15 other words, when would you start counting from, for
16 example, TMI or other occasions?

17 MR. GRIMES: We have considered that that is a
18 useful exercise and we will be either asking our research
19 office to do that or having a contractor do that. I haven't
20 looked at, for example, Three Mile Island to see at what
21 points during particularly the first day one would have
22 reached these various classes. It has been some time since
23 I looked at it, but I think one would have got to the
24 general emergency class several hours or about five hours
25 into the incident which would have warranted some action.

1 COMMISSIONER HENDRIE: Well, they declared a
2 general emergency at about 7 a. m. in the morning, about
3 three hours into the incident.

4 MR. GRIMES: Yes, but under our guidelines it
5 would warrant telling people to take shelter. I can't
6 remember.

7 COMMISSIONER HENDRIE: Well, they declared a site
8 emergency at about, I don't know, two hours and 40 minutes,
9 or something like that, and ordered a general emergency half
10 an hour later, or something like that.

11 MR. GRIMES: I am looking at what actually
12 happened rather than what they thought the instrumentation
13 said or what they calculated.

14 CHAIRMAN AHEARNE: So you are not saying what they
15 would have done had they known.

16 MR. GRIMES: What they would have done had they
17 known with good information on the radiation levels stating
18 the containment.

19 CHAIRMAN AHEARNE: But not what they would have
20 done with the information ---

21 MR. GRIMES: --- with the information that they
22 had.

23 CHAIRMAN AHEARNE: That is even a different
24 scenario.

25 COMMISSIONER GILINSKI: Will there be any further

1 discussion in workshops or whatever on what is a reasonable
2 response? In other words, Joe has brought up the point that
3 one may not want to act in that time in every instance, and
4 we have said that legally the state isn't required to act.
5 On the other hand, it doesn't do any good to set up this
6 whole system if people are going to sit on their hands.
7 Somewhere in between there is a reasonable course of
8 action. I don't whether this ought to be coming from FEMA
9 or from us or maybe result from some sort of joint effort,
10 but it seems to me that there ought to be further discussion
11 of what is a reasonable course of action in specific
12 instances. One way to look at that is to go back over
13 things that have happened or one can image some
14 circumstances.

15 MR. GRIMES: We in FEMA are in fact trying to
16 develop some guidance for a particular case, New York State,
17 which is thinking about in the future having their own
18 nuclear data link effectively and having it manned 24 hours
19 a day and trying to make the decision themselves. I think
20 what we would recommend in that case is that they do
21 something at least as conservative as what the licensee has
22 recommended, if they would agree to that in advance. That
23 is the sort of thing we are faced with in particularly cases
24 trying to give the guidance. We can try to give it jointly,
25 FEMA and NRC.

1 CHAIRMAN AHEARNE: Going back to Commissioner
2 Gilinsky's point, do we have in mind any association with
3 FEMA or do you know if FEMA has in mind any follow-up? Let
4 us assume we out the rule, it goesw final and it now has
5 these requirements in place. How do state and local
6 governments essentially address the issue that we have been
7 discussing here, namely, what kind of guidance do they
8 develop for that individual who is going to be getting the
9 notification?

10 MR. GRIMES: Of course a little more detail
11 guidance than is given in the rule as given in our joint
12 criteria document. Depending on the individual situation a
13 plan has been developed and then reviewed against the
14 general objectives from the regional advisory committees and
15 the FEMA regions.

16 COMMISSIONER HENDRIE: Do we have as yet any sort
17 of prototype or model plans section which would describe
18 this area?

19 MR. GRIMES: No. We have left format open in the
20 plans for now.

21 COMMISSIONER HENDRIE: So we still have to see the
22 first of the real animals here which says when we get the
23 call from the licensee here are the things we expect to
24 hear. He will tell us one of the following four things and
25 then we will do this, that and the other thing.

1 MR. GRIMES: We have a large number of examples,
2 drafts in review now.

3 CHAIRMAN AHEARNE: Does Tennessee's plan get into
4 that at all? Do you know?

5 MR. GRIMES: I think it has to.

6 COMMISSIONER HENDRIE: They don't have a 15-minute
7 capability down there, not yet.

8 MR. GRIMES: They don't have a notification
9 capability. Under the rule that would be July 1, '81. It
10 is spoken to in each plan.

11 CHAIRMAN AHEARNE: Well, anyway, I think Vick is
12 quite right, that is something for us to either assist FEMA
13 or encourage FEMA. Something has to be done to do further
14 work on that problem.

15 COMMISSIONER HENDRIE: I will tell you something
16 that would help me considerably. As I have struggled with
17 this notification proposition, looking at the papers that
18 have come along and finally the proposed rule and the way
19 you have responded to at least some of the criticisms and so
20 on, I am ready to buy off on having the physical capability
21 to blow sirens or buzz buzzers or whatever and to have
22 people understand that means switch on station WALK or
23 whatever and listen for the inevitable announcement that
24 will say, you know, do this, do that or do the other thing.
25 Having the decision part built in there gives me a

1 problem. It would give me considerably less of a problem if
2 I were able to derive from the statement of consideration,
3 the supplementary information section of the proposed rule
4 as well, perhaps as a hint in the rule language itself that
5 there is indeed a broad spectrum of events for which the
6 licensee may find it appropriate to notify the off-site
7 emergency organization. These range all the way, as Vick
8 says, from a call from the plant that says, "For God's sakes
9 move them as fast as you can. It is just going to pieces on
10 me down here," in which case never mind discussing anything
11 with anybody, hit the buzzer and tell the radio stations to
12 tell them to get out fast out to five miles south of a plant
13 or something like that. Fair enough.

14 We have always contemplated that if things ever
15 went that way that that would be the kind of notification
16 licensees would give the local police station and, you know,
17 local authorities and so on. But it ranges all the way from
18 there toward much more likely events where there is going to
19 be substantial time and where it is going to be appropriate,
20 indeed highly desirable with the off-site officials to have
21 a chance to collect themselves and notify Governors' offices
22 and state radiological health offices, perhaps call the NRC
23 Response Center and have time for a little discussion before
24 there is a ringing of bells throughout the plant area.

25 I don't get from the language as it now stands and

1 : the supplementary information at the front of the rule or
2 certainly not in the rule language itself any sense of that
3 spectrum or that it is contemplated by the writers of the
4 rule that that spectrum exists and ought to be fully
5 exercised.

6 Now, maybe you can help that more in your informal
7 guidance documents than you can in the rule itself, but for
8 me it would help to have some sense of that in the statement
9 of consideration's language. It might be doable with a
10 couple of sentences which would make clear that this
11 15-minutes for notification of the public does not
12 contemplate that every time the phone rings from the plant
13 that you have got 15 minutes to hit the buzzer and that the
14 absolute certain outcome of the phone call within 15 minutes
15 is to hit the buzzer, that indeed there is a spectrum of
16 events in quite a fair number of these.

17 I think I must say the more I hear about, you
18 know, class nine sequences and so on, why the more it looks
19 as though the great majority of those, perhaps the very
20 great majority of those will have substantial time elements
21 running in them and there is going to be some time to think
22 about who goes where and does what in a reasonable way.

23 MR. GRIMES: I agree that we could do something
24 like that.

25 COMMISSIONER KENNEDY: That in no way invalidates

1 the notion they should be able to do it in 15 minutes.

2 COMMISSIONER HENDRIE: That is right.

3 COMMISSIONER KENNEDY: That is not the mandatory
4 result.

5 MR. GRIMES: I agree that most cases will provide
6 time for consultation, and I expect that consultation in
7 part of those cases would result in doing more than was
8 recommended by the licensee as a matter of fact. It is just
9 a precautionary philosophy.

10 I would say on the last comment you made on the
11 class nine's that you have to make a distinction between
12 warning time and when you realize you have a very serious
13 problem from the initiation time. If you look in the WASH
14 1400 columns you will see 10 hours to the release, but a one
15 or two hour warning time.

16 COMMISSIONER HENDRIE: Yes, but I am talking about
17 information developed since WASH 1400 was written which
18 suggests that the fraction of all core melt events which
19 fall into the fast moving containment breach category is
20 much small than had been expected and that for the rest the
21 times are longer than WASH 1400 then expected.

22 I think five years down the line we may find
23 considerably clarification of these matter, but it seems to
24 me the trend is clearly toward probably having more time in
25 these extremist circumstances than we had expected just a

1 few years ago. Not all, but most.

2 CHAIRMAN AHEARNE: Maybe you should try to
3 construct a couple of sentences.

4 MR. GOLLER: We will. I would just say we
5 certainly intended as the rule is written that that kind of
6 option would be exercised. There are really two aspects to
7 this. First, it would be expected that the licensee in
8 making his decision on whether an emergency exists and what
9 kind of an emergency would avail himself of that time period
10 of whatever consultation, NRC ---

11 COMMISSIONER HENDRIE: Watch out. He has got
12 reporting requirements to get to us in one big hurry if
13 anything happens. I am not sure he is going to have much
14 consultation time. He is going to have to come through fast
15 to us, and I am not sure how much time he is really going to
16 be allowed to sit and think about whether he should call
17 this a site emergency or a general emergency and what he
18 should recommend when he calls it a general emergency to the
19 state people. I think, you know, the pressures that we have
20 been applying are for him to stop thinking and get on the
21 telephone.

22 MR. GOLLER: Well, for example, the Three Mile
23 Island incident that was discussed before, there was a two
24 or three-hour period there where he could do some
25 consultation. He could have some something else had this

1 rule been in effect then. He would have had 15 minutes,
2 that would have been the rule, that he would have had to
3 notify state and locals after he made the decision that
4 there was an emergency. But before that he certainly could
5 call them and tell them that he has got a problem. He is
6 not notifying them of an emergency.

7 COMMISSIONER HENDRIE: Well, he didn't think he
8 had a problem until his radiation monitors began to pop on
9 him, and as soon as they began to pop why he knew he had a
10 problem and minutes after that he declared appropriately the
11 site emergency and not very long after that it was clear it
12 was going to be declared a general emergency. So he just
13 didn't know. You know, he didn't have two hours to
14 consult. He didn't realize that he was in that situation.

15 CHAIRMAN AHEARNE: Why don't you move on, Karl.

16 COMMISSIONER KENNEDY: Well, he wouldn't have
17 gotten to where he was anyway.

18 COMMISSIONER HENDRIE: If he had realized it, that
19 is right, he wouldn't have been.

20 COMMISSIONER KENNEDY: That is right.

21 (Laughter)

22 MR. GOLLER: If we could move on to the next issue
23 then, licensees and state and local governments. Initial
24 comments at the workshops, and to a lesser extent in
25 subsequent written comments, were that the implementation

1 schedule for this rule was generally too short for the
2 entire regulation, but especially for the 15-minute
3 notification requirement which we have been discussing.

4 However, our experience with the ongoing reviews
5 for operating plants indicates that the proposed
6 implementation schedule is reasonable except for the
7 notification requirement which we are proposing to extend
8 six months beyond the date that was indicated in the
9 proposed rule for implementation of the balance of the rule,
10 January 1, 1981, which we propose should stand.

11 CHAIRMAN AHEARNE: In your description of the
12 issues in the rule you mention that one of the problems that
13 state and local governments have is the funding issue. They
14 have to go through procedures to get funding in order to
15 implement. There was a suggestion the Commission use the
16 House report time frame. What difference would that be from
17 your modification?

18 MR. GOLLER: I guess I am not clear on the
19 question. Could you try again?

20 CHAIRMAN AHEARNE: All right. Page 13 of
21 Enclosure B, item No. 4. Now, I recognize the comment may
22 apply to more than just this one 15-minute aspect.

23 MR. GOLLER: Here we think the six-month
24 relaxation would go a long way toward dissolving that.

25 CHAIRMAN AHEARNE: What I am really asking is that

1 your comment here that you are referencing is the use of the ⁵⁴
2 House report schedule. What difference was the House report
3 schedule from your modification?

4 COMMISSIONER HENDRIE: Something like six months
5 from an effective rule or the law or something like that,
6 wasn't it?

7 MR. JANGOCHIAN: I believe that was it. I am
8 trying to think of exactly what the House report said. I
9 believe the House report simply put six months after the
10 effective date of the regulation.

11 COMMISSIONER KENNEDY: All of this this goes to
12 the question of when will the money be available. That is
13 answered not only as to whether there is actually money, but
14 when the machinery of government which makes it available
15 can actually function, and that is a function of the way the
16 state and local government operates. Do we know for a fact
17 that this six months extension would permit state and local
18 governments in all cases to go through their normal
19 budgetary and appropriation process and make that money
20 available? Are we sure of that?

21 MR. GOLLER: I would say that we can't be sure of
22 all cases, but there are a number of places where the
23 process is being shortcutted with the utility providing the
24 funds directly to the state and local government.

25 COMMISSIONER KENNEDY: Do Public Utilities

1 Commissioners as a general proposition look with favor upon
2 the utilities doing that?

3 MR. GOLLAR: I have asked that question also, and
4 so far the answer I get is yes, that any reasonable cost is
5 allowed.

6 COMMISSIONER KENNEDY: And how about one other
7 aspect which governs, the actual procurement and
8 installation time? Are we certain that all of the hardware
9 can be procured and installed in that length of time or are
10 we putting out straw men?

11 MR. GRIMES: No, I believe that within a year from
12 now the hardware can be procured. We had some discussions
13 with some siren companies, for example, last winter and they
14 thought if the requirement were put in place then they
15 thought they might be able to meet January 1, '81. Now,
16 this is a little longer time, considering the large number
17 of plants.

18 COMMISSIONER HENDRIE: You have given them six
19 more months and you are six months later ---

20 MR. GRIMES: That was in a nine-months time frame
21 that they were answering the questions. They thought they
22 might have a chance in that time of doing it. Now that they
23 have had the time there have been site surveys done. A
24 large number of people have at least done the initial work
25 to plan a system, although most have not committed any money

1 and are waiting for this rule to be finalized.

2 MR. JAMGOCHIAN: Commissioner Kennedy, I think
3 really to answer your question, it really depends on who you
4 talk to. During the workshops I spoke to a number of state
5 and local civil defense type people and licensees. And the
6 civil defense people I had asked them off the record do you
7 really think you can do that? At that time it was January
8 1, or six months thereafter, whichever comes sooner, and
9 they said that is going to be tight to put up sirens.
10 Really they were worried about procuring the equipment, as
11 we have noted in here, and telling people what it means if
12 that equipment goes off, the education of the people. They
13 said that was a problem.

14 The general consensus I got in talking to these
15 people was that add another six months on and it wouldn't be
16 too much of a problem.

17 MR. GRIMES: I guess I wouldn't hesitate if it
18 comes next March and it looks like everybody is going to
19 need another three months of changing that date, but I think
20 it is a fair date, March.

21 COMMISSIONER KENNEDY: You raised one other point
22 in saying that one of the difficulties is getting people to
23 understand what it means if the equipment goes off. I was
24 wondering about that so I will ask what is a nit-picking
25 question, I guess. Sirens exist in a variety of

1 configurations already. Air-raid sirens go off in this area
2 from time to time at high noon on some days of the week just
3 to make sure they run and that happens periodically. There
4 are in all rural communities sirens located on fire houses
5 to call volunteer firemen to the telephone. We are going to
6 add one more set of sirens. They are going to be different,
7 I assume, distinctly different so that no one would
8 misunderstand which siren he was hearing. Is my assumption
9 correct, or is the local telephone network about to become
10 saturated every time there is a fire in the middle of the
11 night?

12 CHAIRMAN AHEARNE: We have a FEMA gentleman.

13 MR. McCONNEL: Mr. Chairman, if I may speak to
14 that. I am John McConnel from the Federal Emergency
15 Management Agency.

16 The answer to our question, Mr. Commissioner, is
17 no, it certainly will not be a unique siren for this purpose
18 only. There are sirens, as you mentioned, all over the
19 country used for various purposes, but in every case where
20 they are used for emergency purposes the single tone running
21 for three to five minutes means turn on your radio and
22 listen for additional information.

23 I believe we can get that point further across,
24 especially in a particular area where they are designed to
25 perform a function as a result of a particular type accident

1 by the general public education that we intend to promulgate
2 along with this. So I don't think it is a real problem.

3 COMMISSIONER KENNEDY: Thank you.

4 CHAIRMAN AHEARNE: If I could try once again for
5 at least part of my question. Did anybody look at the House
6 report and look at what schedule they proposed?

7 MR. JAMGOCHIAN: I did. I don't recall what it
8 said now, but I did in the development of the rule.

9 (Laughter)

10 CHAIRMAN AHEARNE: Part two of the question of how
11 did it differ from this I will have to put aside?

12 Could you check?

13 MR. JAMGOCHIAN: I will.

14 CHAIRMAN AHEARNE: Thank you.

15 (Laughter)

16 COMMISSIONER HENDRIE: Whatever the particular
17 House provisions were, John, I am quite sure that what was
18 contemplated there was a pretty fast-moving implementation
19 and one that did not take into account things like state and
20 local government budgets cycles which are really several
21 years long.

22 MR. GOLLER: We have a man looking it and we will
23 have an answer before the end of the briefing.

24 CHAIRMAN AHEARNE: The only reason I ask it in
25 that way though, Joe, was at least the comment is written --

1 COMMISSIONER HENDRIE: Yes, it sounded as though
2 the House plan was better.

3 CHAIRMAN AHEARNE: Well, I will put aside the
4 judgmental work and just say longer.

5 COMMISSIONER HENDRIE: On implementation schedules
6 still there is a 60-day plan turn-in after the effective
7 date. Let's see, one will have notice and one will have
8 about a 70-odd-day period after promulgation before it
9 becomes effective and then 60 days after that you are due to
10 get your plan. How is that going to go?

11 MR. GRIMES: That is looking towards November for
12 actual submittal.

13 COMMISSIONER HENDRIE: What is your judgment?

14 CHAIRMAN AHEARNE: Now, you modified that. It was
15 originally 180 days.

16 MR. GRIMES: Yes. I think the 180 days was also
17 for implementation of the rule.

18 CHAIRMAN AHEARNE: Well, it was 180 days for
19 submitting the plans and now it is 60 days for submitting
20 the plans. I was wondering why you shortened it by three
21 months or four months?

22 MR. GRIMES: Part of the reason is to get the
23 plans implemented and in place by January 1, '81, and in
24 recognition of the fact that people have been making
25 substantial progress on this plans and most everyone has at

1 least a draft plan rewritten, the licensees at least. Mike
2 is showing me the original version here.

3 CHAIRMAN AHEARNE: I was looking at the version
4 that came up in the SECY paper. The 180 was struck on page
5 38, wasn't it.

6 MR. GRIMES: Which paragraph are you looking to?

7 CHAIRMAN AHEARNE: Paragraph (u) on page 38.

8 MR. GRIMES: The previous paragraph I think
9 referred to having them implemented and not submitting
10 them. The alternatives fog the issue. I can't exactly
11 focus on where it was.

12 COMMISSIONER HENDRIE: The bulk of the plans, is
13 that two months after the effective date or are we going to
14 have to go into a great extension exercising? I must say on
15 implementation schedules, if you try to set them far enough
16 out so that you are quite confident everybody can meet them
17 without straining anything excessively, then you probably
18 haven't forced the system as much as it can usefully be
19 forced in at least some circumstances. This is probably one
20 where there is an incentive to get on ahead.

21 On the other hand, if you set a schedule that you
22 know most everybody is going to have to breach because they
23 just can't do it in order to force things hard, and you may
24 want to do that, but you need to recognize that come those
25 deadlines why you are going to have to sit down and issue a

1 whole series of exemptions. You know, that is all right,
2 too. Maybe that is on balance a good way to go, but I think
3 it is useful to try to have a sense of how much of that we
4 are going to have to face.

5 MR. GRIMES: Well, the experience is that during
6 our team reviews for the operating plants when we actually
7 went out, we asked for the submittal of a draft plan within
8 about five weeks after the team visit. Those who wished to
9 take it seriously did accomplish that and did get a draft
10 plan revised in a very short period of time. So I believe
11 that they can get a plan in. We have many plans which are
12 in the final stages of review internally against effectively
13 the rule and the interim criteria and which we are going
14 back on particular points, but I think definitely something
15 which the utility believes meets the rule can be submitted
16 in a timely manner. There is no provision for us to give an
17 approval before January 1 explicitly in this rule. There is
18 a provision that they will submit the plans and that they
19 will submit the procedures and that they will implement the
20 procedures and plan which meet this rule.

21 As we complete our reviews of those plans if we
22 find deficiencies then we will start the four-month period
23 which the rule speaks of in which to correct the
24 deficiencies. So I believe that there won't be a
25 significant problem for the operating plants. We may have

1 more problems for the near-term OL's accomplishing all we
2 need to accomplish for those.

3 MR. GOLLER: They don't necessarily have to do it
4 by that date. The date would relate to when they want to
5 start up and when they want their operating license.

6 MR. GRIMES: There are some that would start up
7 before the rule would be effective or before the other
8 plants start up.

9 CHAIRMAN AHEARNE: Why don't you go ahead, Karl.

10 MR. GOLLER: The next issue is the potential state
11 or local government veto power.

12 Can I have the next slide, please.

13 (Next slide.)

14 MR. GOLLER: This is inherent in this rule. As
15 you know, we have discussed this subject before. The veto
16 power reference is a colloquialism used by commenters for
17 the potential failure of a state or local government to
18 develop and/or implement an acceptable emergency plan for
19 any reason and thereby blocking licensing and/or operation
20 of a plant. Not just applicants and licensees but also
21 state and local government representatives commented on
22 this. I want to note also that the ACRS commented on this
23 issue.

24 I would also note that all the comments on this
25 point simply noted potential. There were no suggestions on

1 how to resolve it.

2 CHAIRMAN AHEARNE: I would also note that the
3 authorization bill, however, does say as a condition of
4 issuing operating licenses that there must be a state or
5 local plan.

6 MR. GRIMES: There is an exemption for
7 compensating measures.

8 MR. GOLLER: It does, but it also goes on to speak
9 about Commission action.

10 CHAIRMAN AHEARNE: Right, but at least the
11 requirement for plans.

12 MR. SHAPAR: The bill also requires the NRC by
13 rule to establish a mechanism to encourage and assist, and I
14 think the words were carefully chosen, to encourage and
15 assist states to comply with the standards promulgated by
16 the NRC.

17 CHAIRMAN AHEARNE: That is what this is.

18 MR. GOLLER: Well, we believe that this is an
19 inherent characteristic of the rule, and for the reasons
20 indicated on the slide that nothing needs to or should be
21 done to offset this.

22 The next slide, please.

23 (Next slide.)

24 COMMISSIONER HENDRIE: Except be aware that
25 sometime down the line one one or another facilities we may

1 have to look at those other circumstances that make it an
2 acceptable proposition.

3 MR. GOLLER: Yes, sir, and the rule provides for
4 that.

5 The question of how the development of state and
6 local emergency plans and even more importantly their
7 implementation will be funded was raised many times
8 especially by state and local governments. However, the
9 ongoing reviews of emergency planning for operating reactors
10 indicates that adequate funding is provided in some way,
11 generally in one way or another from the utility licensees.
12 This ranges from various taxes and levies to outright grants
13 from the utility licensees.

14 CHAIRMAN AHEARNE: By grant do you mean something
15 which then goes into the rate?

16 MR. GRIMES: I guess we don't have the details on
17 that. I assume it does.

18 MR. GOLLER: I assume it would.

19 COMMISSIONER HENDRIE: It is the cost of doing
20 business in most states.

21 CHAIRMAN AHEARNE: It was the term "grant" and I
22 was just trying to make sure I understood it.

23 COMMISSIONER HENDRIE: John, I don't think it goes
24 in the rate base because that would be a capitalization.

25 MR. GOLLER: I didn't say that. I didn't say

1 base. I said into the rates.

2 COMMISSIONER HENDRIE: I think in most states that
3 that is a cost of doing business.

4 MR. GOLLER: The distinction I meant to make was
5 that in at least some cases the licensee did not wait for
6 the state and local government to levy a tax or something on
7 him formally but rather volunteered to provide resources and
8 in some cases personnel and in some cases personnel and
9 funds to provide the state or local jurisdiction with the
10 wherewithal.

11 CHAIRMAN AHEARNE: I assume that consistent with
12 some of the review groups that we have had examining a
13 number of issues that we would be in agreement that that is
14 a true cost of doing business and the PUC's ought to allow
15 that to be charged.

16 COMMISSIONER HENDRIE: Well, it ultimately seems
17 to me to be a rational proposition. If you need a certain
18 set of procedures that are connected with this way of making
19 electricity why that sounds to me like it is part of the
20 cost of that kind of electricity. Feeding it, you know, and
21 running it back to the people who would buy the power is a
22 cost item and it is a fair way to distribute it.

23 CHAIRMAN AHEARNE: Do you know of any PUCs that
24 have objected?

25 MR. GRIMES: I know of none.

1 MR. JAMGOCHIAN: Not in the comment letters.

2 CHAIRMAN AHEARNE: All right.

3 MR. GOLLER: Further on the subject of funding, it
4 is my understanding that FEMA will address the subject in
5 its report to the President on the status of emergency
6 preparedness of operating nuclear power plants which is due
7 June 30th.

8 CHAIRMAN AHEARNE: You have here any federal
9 funding should come through FEMA. I imagine that is an
10 issue that is still open to question with respect to the
11 Congress.

12 MR. GOLLER: As I understand it, the question is
13 whether there will be any federal funding. If there is any
14 federal funding in this regard it should come through FEMA.

15 COMMISSIONER KENNEDY: Or at least not through the
16 NRC.

17 MR. GOLLER: Yes.

18 If I could have the next slide, please.

19 (Next slide.)

20 MR. GOLLER: You will recall that several pairs of
21 alternatives were included in the proposed rule. The first
22 three of these are related to the effect of an inadequate
23 state or local plan and these were closely interrelated.
24 For these the staff continues to favor alternative "A" which
25 would involve a Commission action to require shutdown.

1 CHAIRMAN AHEARNE: Now, as I read the
2 authorization bill that would be much more consistent with
3 "A" than "B"; is that correct?

4 MR. GOLLER: That would be my judgment, too,
5 although I think that is not absolutely clear.

6 The next two pairs of alternatives are appearing
7 in Appendix E of the proposed rule and hinged on whether to
8 require measures to prevent damage to property or not. Here
9 the staff recommends alternative "B", that is, there should
10 be no reference to property damage in this emergency
11 planning rule.

12 The last pair of alternatives, also in Appendix E,
13 involve the frequency of licensee exercises involving
14 federal agencies. Here we recommend alternative "B", the
15 exercises involving federal agencies every five years. I
16 point out that this would, even with the present number of
17 operating plants, involve the NRC and other federal agencies
18 in an average of more than one drill every month.

19 CHAIRMAN AHEARNE: Can I ask a clarification
20 question, and without a blackboard it may be a little
21 difficult. Suppose there is a state "A" that has a nuclear
22 reactor in it and the ten-mile zone is solely within the
23 state. The 50-mile zone goes out into two other states that
24 are neighboring it, state "B" and state "C". State "B" has
25 a reactor in it and state "C" does not. Now, there is a

1 requirement in here to go through the test with the state if
2 you are in the food ingestion pathway every five years.
3 Now, that in this case would cover state "A", state "B"
4 because of state "A's" reactor and state "C" because of
5 state "A's" reactor. State "B" because it has its reactor
6 itself is going to be going through an annual test anyway.

7 MR. GRIMES: Not necessarily with that reactor.

8 CHAIRMAN AHEARNE: Not with that reactor.

9 MR. GRIMES: One of the annuals might agree with
10 this other reactor.

11 CHAIRMAN AHEARNE: That is correct, but I am
12 saying we will be going through an annual test with respect
13 to the reactor, but it need not go through the test with
14 respect to state "A's" reactor except every five years.

15 MR. GRIMES: That is correct.

16 CHAIRMAN AHEARNE: State "C" since it does not
17 have a reactor has to at least go through the test every
18 five years because of the food ingestion. But now where
19 does it stand? I think the way the rule reads is that
20 because it is in an LPZ it has to go through it every year
21 anyway.

22 MR. GRIMES: Because it is in an EPZ?

23 CHAIRMAN AHEARNE: Yes.

24 MR. GRIMES: I think only those within plume
25 exposure.

1 CHAIRMAN AHEARNE: I am not sure. That is what I
2 was trying to find out.

3 MR. GRIMES: The states are having some difficulty
4 with this wording right now, too, so you are not alone.

5 CHAIRMAN AHEARNE: It says "Each licensee shall
6 conduct an exercise at each power reactor site annually with
7 the states within the emergency planning zones."

8 MR. GRIMES: I think you are right.

9 CHAIRMAN AHEARNE: That is on page 51. I am not
10 sure whether I am right or not. I was just having some
11 difficulty understanding that requirement.

12 COMMISSIONER HENDRIE: I think the answer to your
13 question was that the guy on the white horse was the
14 Governor of state "A".

15 (Laughter.)

16 COMMISSIONER: And I was anxious to see how we got
17 there.

18 (Laughter)

19 MR. GRIMES: I think as written that it would
20 require state "C" without any reactors to have an ingestion
21 pathway exercise every year with any reactor that was in
22 pair with the "A's" reactor.

23 CHAIRMAN AHEARNE: I am not sure whether that is
24 realistic or not.

25 MR. GOLLER: Why don't we take another look at

1 this and be sure that it is clear and as intended.

2 CHAIRMAN AHEARNE: All right.

3 MR. SHAPAR: Does your question imply that state
4 "C" is getting power from state "A" or the grid of the
5 reactor in state "A"?

6 CHAIRMAN AHEARNE: It just happens to be within 50
7 miles and I wasn't sure whether there was any lever left on
8 that state, and to do it every year might be a little much.

9 MR. SHAPAR: Okay.

10 MR. GOLLER: Do you want to do the next subject?

11 CHAIRMAN AHEARNE: Yes.

12 MR. GOLLER: May I have the next slide, please.

13 (Next slide.)

14 MR. GOLLER: As previously indicated, the ACRS
15 recently reviewed and commented on the proposed and the
16 final rule. We were able to resolve all items to their
17 satisfaction except three which were only partially resolved.

18 Enclosure G to the Commission paper is a copy of
19 the ACRS's letter to the Commission on their first pair of
20 meetings and relating to the proposed rule. The second
21 letter to the Commission, a recent one dated June 11th was
22 recently provided to you but we have extra copies and we
23 made some of these available earlier this afternoon.

24 The next slide, please)

25 (Next slide.)

1 MR. GOLLER: The first ACRS item that was not
2 completely resolved to their satisfaction is that the
3 NRC/FEMA approach should encourage state and local
4 governments to incorporate nuclear emergency plans into
5 their plans for other types of emergency situations.

6 Now, we agree with the principle of the ACRS
7 comment, but we do not believe that it would be appropriate
8 for the NRC to try to force it in any way. Therefore, we
9 recommend that no changes be made in the rule in this
10 regard. Beyond that, as indicated on the slide, it is our
11 understanding that the spirit and intent of the ACRS'
12 comment would come into being in most cases in any case.

13 MR. SHAPAR: I think there is some question as to
14 our legal authority to compel states to adopt a certain kind
15 of emergency plan for matters not related to nuclear power
16 plants.

17 CHAIRMAN AHEARNE: There is no question at all, is
18 there?

19 (Laughter)

20 MR. GOLLER: As the slide indicates, as proposed
21 the supplemental information which accompanies the rule
22 indicates that these objectives may be blended with
23 non-nuclear emergency plans. That indication was
24 incorporated at the initial request of the ACRS in its first
25 letter. They indicated in their second letter that they

1 feel that this does not go far enough and some additional
2 provisions possibly incorporating the rule itself would be
3 in order. We do not agree with this.

4 CHAIRMAN AHEARNE: When I read their first set of
5 comments I thought that part of it was their point that they
6 felt we were trailblazing in the way of emergency
7 preparedness, and it was partially also trying to say that
8 if we are going to go this far that we ought to try to push
9 all the other areas having gone that far. If we perhaps
10 couldn't get the other areas to go that far then maybe we
11 shouldn't go this far. I thought there was a little bit of
12 that flavor also.

13 MR. GOLLER: Perhaps Mr. McConnell from FEMA could
14 say a few words on this because it is my understanding that
15 it is FEMA's intent to accomplish pretty much what ACRS is
16 suggesting.

17 MR. McCONNEL: Thank you, Mr. Chairman.

18 Yes, FEMA certainly agrees with the philosophy and
19 it would be battling the stream upstream if we tried to do
20 anything else. It is inherent in the addition of any
21 emergency configuration, emergency planning configuration in
22 a state to incorporate it under the general umbrella of the
23 procedures they have developed for other types of
24 emergencies. It will happen whether we like it or not, but
25 we would also encourage it.

1 CHAIRMAN AHEARNE: Thank you, John.

2 MR. GOLLER: The next slide, please.

3 (Next slide.)

4 MR. GOLLER: The second ACRS comment is to
5 incorporate the concept of staged notification in the rule
6 itself. I want to note that the supplemental information
7 accompanying the rule clarifies that the rule permits this
8 type of implementation, but that capability for 15-minute
9 notification through the plume ETZ is required.

10 Now, similar words could easily be incorporated in
11 the rule which is all the ACRS wants, but clarifying
12 information on inherently permitted activities are
13 appropriate in the supplemental information and not in the
14 rule. Therefore, the staff recommends that no change be
15 made in this regard.

16 CHAIRMAN AHEARNE: If you are going to use a siren
17 system it is going to be a little difficult to have many
18 stages.

19 MR. GOLLER: These could be arranged control-wise
20 electronically in some stages. This could involve, for
21 example, several buttons.

22 CHAIRMAN AHEARNE: I am not saying you couldn't
23 trigger sirens sequentially or selectively. Weather
24 conditions might really do more of a control over who would
25 hear them in your selective turnaround.

1 MR. GOLLER: To move on to the next and last slide
2 then.

3 (Next slide.)

4 MR. GOLLER: The last remaining ACRS comment
5 pertains to the potential for a state and local government
6 veto power which we discussed before. The ACRS requests
7 clarification of the Commission's intentions in this regard.

8 Based on the considerations brought out in the
9 earlier discussion on this issue the staff believes that the
10 Commission's position is clear and that no further action is
11 necessary.

12 CHAIRMAN AHEARNE: Let me ask two other ACRS
13 questions. One certainly is an ACRS question and one may
14 not be. In your Enclosure L, page 2, this is your enclosure
15 which was analyzing the earlier ACRS comments, on page 2 the
16 staff analysis of the second comment. That is then
17 somewhere embedded in the rule; is that correct? At least
18 in my initial reading of the rule I was having difficulty
19 finding it.

20 MR. GOLLER: Well, that would certainly be my
21 understanding, Mr. Chairman. I think Mike Jamgochian can
22 help us on that.

23 (Short pause)

24 CHAIRMAN AHEARNE: Well, Mike, if you could get
25 back to me on that.

1 The other question I think is one that General
2 Counsel and I had communicated briefly about.

3 MR. BICKWIT: It is a rather basic question about
4 the rule. I gather it has been raised by the ACRS and I
5 suspect by others, and that is the way the rule is
6 structured the enforcement discretion of the Commission is
7 curtailed from the situation that normally exists in the
8 case of violations of other Commission regulations.

9 The question that raises is why that is so, and,
10 if it is to be so, doesn't that raise the obligation for the
11 Commission to come to the conclusion that somehow those
12 requirements are more important than the other requirements
13 in our regulations?

14 Is that too cryptic?

15 CHAIRMAN AHEARNE: Why don't you expand it a
16 little bit.

17 MR. BICKWIT: In a case of a violation of other
18 regulations of the Commission the Commission has all kinds
19 of enforcement mechanisms at its discretion. It may choose
20 not to shut a plant down even though there is a violation of
21 the regulations. This is the one regulation I am aware of,
22 and there may be others but I am not aware of them, were in
23 the regulation itself we are imposing on ourselves a certain
24 enforcement responsibility. My own inclination is that I
25 don't see the basis for the distinction.

1 MR. GOLLER: When you say a violation of the
2 regulations do you mean, and I hate to use the word
3 "violation," but do you mean in terms of the state and local
4 government, for example, their not having the capability to
5 perform?

6 MR. BICKWIT: That is right.

7 MR. GOLLER: But the rule in this case is quite
8 explicit what happens in that case.

9 MR. BICKWIT: That is right and that is my point.

10 CHAIRMAN AHEARNE: His point, Karl, is that in any
11 of the regulations which we establish as requirements on the
12 licensees you must do this. Then latent in our statement
13 that you must do this carries with it that if you don't
14 certain actions may follow, one of which is shutting the
15 plant down.

16 MR. GOLLER: Yes.

17 CHAIRMAN AHEARNE: But that latter description is
18 is not explicit.

19 MR. BICKWIT: In this case we must shut the plant
20 down except if we make certain findings. In the case of any
21 other regulation on the books our discretion is not so
22 limited.

23 MR. GRIMES: This does not make the statement that
24 you made. This says "If deficiencies are not corrected
25 within four months the Commission will determine whether the

1 reactor shall be shut down until such deficiencies are
2 remedied."

3 MR. GOLLER: That is one of the reasons that we
4 recommend alternative "A" because it does provide that
5 flexibility.

6 MR. BICKWIT: That is right. Then it says "The
7 reactor need not be shut down subsequent to the four-month
8 period if the licensee can demonstrate," and I read that to
9 mean only if, "to the Commission's satisfaction that the
10 deficiencies in the plant are not significant for the plant
11 in question or that alternative compensating actions have
12 been ---

13 MR. GRIMES: I didn't read the "only if."

14 MR. GOLLER: But beyond that the Commission can
15 always grant exemptions to its own rules if that be deemed
16 proper.

17 MR. BICKWIT: Is that the intention that in
18 addition even if these exemptions are not complied with that
19 the Commission contemplates exempting plants from the
20 requirement under 5012?

21 MR. GOLLER: I don't know whether it contemplates
22 it. It certainly has that prerogative.

23 MR. SHAPAR: Under any rule.

24 MR. GOLLER: Under any rule.

25 MR. BICKWIT: I understand that. If that is what

1 we do contemplate then this is really, the word I would use
2 is fluff, because if we don't intend to adhere to these
3 requirements then the question is why are they there?

4 MR. GOLLER: No, I think we do intend that the
5 Commissioner adhere, but the possibility, and I think that
6 is what you were getting at at first, is there for some very
7 unusual circumstances.

8 MR. BICKWIT: Well, then, if we do intend to
9 adhere in these circumstances then why don't we have similar
10 requirements curtailing our discretion with respect to
11 violations of other regulations? Why is this regulation
12 different from the other regulations?

13 MR. SHAPAR: Let me take a stab at that, Karl.
14 This was a very, very controversial issue from the
15 beginning, and it eventuated through a long series of
16 discussions with the public. This is one of the
17 controversial issues in which there was a lot of comment.
18 This particular problem cried out for solution, and this is
19 the solution that the staff is recommending. Beyond that it
20 is not really novel in the sense, although it is not a
21 regulation and the analogy is not perfect, you do have
22 technical specifications and operating licenses that require
23 such things as shutdowns under certain conditions. Maybe
24 you would like to add to that.

25 MR. GRIMES: I think the major difference is that in

1 all of our other regulations, at least the few that I am
2 familiar with, we are really talking to the licensee and we
3 saying here is what you must do, as the licensees well know
4 what happens if they don't.

5 In this particular case we are to some large
6 extent talking beyond the licensee. We are really talking
7 to the state and local government agencies, and we don't
8 have any legal requirement to levy on them. We levy on the
9 licensee, but we are trying to talk beyond them, so we are
10 making it much more explicit than we do in our others.

11 MR. BICKWIT: But I don't understand that as a
12 basis for the distinction, frankly, because we could provide
13 that the licensee would be considered in compliance with the
14 regulations only if the state and local governments complied
15 with these particular measures. We could then leave
16 ourselves free, as we do in the case of our other rules, to
17 apply any enforcement action that we consider desirable.

18 CHAIRMAN AHEARNE: Oh, I see what you mean.

19 MR. GRIMES: But inherent in the four-month
20 period, for example, is a judgment that there can be less
21 than perfect emergency plans.

22 MR. BICKWIT: I am not saying there is not
23 flexibility here. There certainly is flexibility. It is
24 not a major point, but nonetheless if one has a certain
25 affection for consistency it is a point worth making that in

1 other circumstances were were no limits on the enforcement
2 discretion of the Commission. Here we are providing the the
3 limits and I fail to see the rationale for it. I don't find
4 any legal problem associated with doing it.

5 MR. GOLLER: As we discussed before, they are
6 really not limits. They are more by way of guidance set up
7 in advance of what the Commission will use as criteria if
8 this circumstance arises.

9 COMMISSIONER KENNEDY It is essentially saying
10 what the Commission will do, which is the point you are
11 making. It is reaching the conclusion.

12 MR. GRIMES: And will not do within that
13 four-month period also.

14 MR. SHAPAR: I think the real question is whether
15 this is a rational response to what has been identified as a
16 very serious and controversial problem. So I think there is
17 a basis for a distinction between the ordinary case and this
18 rather unusual situation we have of extrapolating from our
19 authority over the licensee to try and control the actions
20 of the states. So I think the real question is is it a
21 rational way of handling it isn't it? In my opinion it is.

22 MR. BICKWI I must say I do not find it an
23 irrational way to handle it. I just find it a way that is
24 inconsistent with the way we handle violations of other
25 regulations and I fail to see the rationale.

1 COMMISSIONER KENNEDY: Which presumably could have
2 equally serious health and safety implications.

3 MR. BICKWIT: In fact, might have more serious
4 health and safety implications. But if our conclusions were
5 that they were of equal severity I fail to see why in this
6 case we tell ourselves in our rules what we are going to do
7 where in other cases we do not tell ourselves in our rules.

8 CHAIRMAN AHEARNE: My answer would be we are not
9 really telling ourselves. We are trying to speak to a group
10 of institutions to which we normally don't speak and as a
11 result perhaps need a little bit greater clarification laid
12 out on what we would do in that instance.

13 COMMISSIONER KENNEDY: Your problem could perhaps
14 be corrected without any violence to this point if it simply
15 said in such circumstances the Commission shall take such
16 enforcement action as it deems appropriate to and including
17 ordering the shutdown of the reactor which would give the
18 signal that the Commission does not exclude the possibility
19 that it will order it.

20 MR. SHAPAR: I think the reference though is at
21 2.200 which encompasses the full panoply of the Commission's
22 enforcement authority.

23 MR. BICKWIT: But it tells us that we are going to
24 shut down the plant under certain circumstances.

25 MR. GOLLER: If we moved in the direction of the

1 wording that was just suggested we would be moving even
2 further away from alternative "B".

3 MR. BICKWIT: There is no doubt about that.

4 MR. SHAPAR: Well, I think really the analogy is
5 the technical specifications. We are saying that there are
6 certain situations which ordinarily will cause a plant
7 shutdown unless we make certain findings. That is the
8 identical theory of using technical specifications, if
9 certainly things happen to the plant they will shut the
10 plant down.

11 MR. BICKWIT: Those things as I understand it are
12 those things we regard as the most serious violations of our
13 various code of rules and regulations. If that is our view
14 of these particular regulations, then I think there is a
15 rationalization. If that is not our view I think we have an
16 inconsistency.

17 CHAIRMAN AHEARNE: Well, I would guess that that
18 will be one of the issues along with the 15-minute aspect
19 that when the Commission comes to a final vote on this that
20 we will have to think about. You might want to propose as
21 you just did alternative language.

22 I wonder if I could ask two questions. I assume
23 you are now through with your briefing, Karl?

24 MR. GOLLER: Yes, except we have answers to the
25 two questions that were left open before on the House rule

1 and on that other quotation.

2 CHAIRMAN AHEARNE: Fine.

3 MR. JAMGOCHIAN: On page 7 of Enclosure B, that
4 was a reply to the ACRS comment, six lines down.

5 MR. GRIMES: The confusion was the word "rule" was
6 used in the response and it appears in the supplemental
7 information rather than in the regulations.

8 CHAIRMAN AHEARNE: Yes, I was looking at the rule.

9 MR. GOLLER: Likewise, to your first original
10 question relative to the House Report 0413, I will read the
11 words and they are on page 53. "While the Commission should
12 determine how much time a utility will have to comply with
13 this order," an order to shutdown, "the Committee considers
14 that in no case should more than two years be necessary and
15 that in many cases one year will be sufficient." Now, one
16 year from the date of publication of this, and it was in
17 August '79 ---

18 CHAIRMAN AHEARNE: And two years would then make
19 it August of '81.

20 MR. JAMGOCHIAN: Or one year in August of this
21 year.

22 CHAIRMAN AHEARNE: Thank you.

23 Page 47. I would like some explanation of how you
24 would implement or how you would propose, whoever has to
25 implement, the phrase "including the transient population

1 within the yearly dissemination to the public of this
2 information."

3 MR. JAMGOCHIAN: Basically it was envisioned by
4 the staff that a page in the phone book or signs around
5 beaches, something to that extent, or both, in order to take
6 care of the transient population.

7 CHAIRMAN AHEARNE: Would you then have similarly
8 reached the conclusion that signs on roads or a page in the
9 phone book would satisfy the requirement of the yearly
10 dissemination to the nontransient public?

11 MR. JAMGOCHIAN: No, I wouldn't.

12 CHAIRMAN AHEARNE: How would the reader of the
13 rule know that you have a fundamentally different approach
14 allowed with respect to transients and nontransients?

15 MR. JAMGOCHIAN: Well, usually rules are amplified
16 by regulatory guides, and I would imagine a section in the
17 regulatory guides addressing each one as well as giving more
18 definitive information as to what the mail-out would contain.

19 CHAIRMAN AHEARNE: I would like at least to hear a
20 little bit more from you on that. I thought I well
21 understood the yearly dissemination to the public and the
22 type of information as you had briefly spoken about, perhaps
23 a pamphlet of some kind in the utility bill or such.

24 MR. GRIMES: I think typically, what might be done
25 for a public beach is to just post a notice of what would be

1 done.

2 CHAIRMAN AHEARNE: My concern is that one has
3 fundamentally a different type of information and detail
4 that you are talking about giving to the nontransient versus
5 the transient. Without some care here you could either
6 guarantee that it would be an impractical method to
7 distribute to the transient that you would be trying like
8 the pamphlet that had to be handed out to everybody coming
9 into an area, or you would greatly water down the
10 information that would be going to them.

11 MR. GRIMES: It may be a combination of making it
12 known that there is information available. The transient
13 population could be another very free agent.

14 MR. COLLIER: Did you want something additional to
15 that?

16 CHAIRMAN AHEARNE: I would like some clarification
17 somehow whether you are going to put it into the backup to
18 the rule or somewhere because embedding that phrase within
19 that section I think could very well be interpreted as they
20 are treated alike.

21 Now, the other question I had was on page 6 of the
22 basic SECY paper. On the coordination it said "The Office
23 of Research has participated but will submit comments to the
24 Commission at a later date."

25 Kevin, what does that mean?

1 MR. BERNERO: I am Bob Bernero of the Office of
2 Research. Basically we had a concern with this rule. At
3 one time it was called an interim rule, and it has an
4 interim character in our view. It is a first step, and
5 there is a lot of work to be done. During this discussion
6 this afternoon you were pursuing one of the areas where we
7 are most deeply interested in work that has to be done. the
8 decision-making process.

9 The fundamental parts of the rule which cover the
10 jurisdictional authority and approval of emergency plans, we
11 have no quarrel with that. The idea of having prompt
12 diagnosis and prompt notification is equally acceptable
13 provided that there is something prethought or predigested
14 that can be used intelligently to take advantage of that
15 time.

16 A great deal of analysis we think has to be done
17 yet to weigh the effectiveness of various public protective
18 measures for a site for a particular type of reactor and to
19 have a soundly based emergency procedure which would be at
20 the desk side for the night duty officer to act on.

21 Now, in the discussion you had earlier this
22 afternoon I got the impression that the Commission may not
23 be aware of a fairly large body of guidance that already
24 does exist. The criteria document that is referred to in
25 the rule, the FEMA/NRC NUREG-0654 has an attachment or an

1 appendix in it, NUREG-0610, and that already gives a fairly
2 substantial body of guidance on if you have a general
3 emergency what is the logical step to do, take shelter for
4 two miles, and if you have lost two of the three barriers do
5 something else.

6 A lot more of that work is needed, and that is our
7 real concern that one not go away with the impression that
8 this rule is the end-all and be-all of emergency planning.

9 CHAIRMAN AHEARNE: I doubt if any of us who have
10 participated to any extent in that think it is the end-all
11 and be-all of emergency planning. It is a major step
12 forward. I am familiar with that and had some early
13 problems with it. There are some modifications in it that
14 have made it more acceptable to me, but I don't think that
15 that chart per se, that set of charts, are really an
16 adequate set that you would want to have that individual who
17 gets notified in the state and local that that is it, that
18 that is the sole set of criteria.

19 MR. BERNERO: No, no, more needs to be done. No
20 question.

21 CHAIRMAN AHEARNE: That is essentially then the
22 gist.

23 MR. BERNERO: That is essentially our problem.

24 CHAIRMAN AHEARNE: Dick.

25 COMMISSIONER KENNEDY: I have a couple of

1 questions. One on page 34. Among the objectives that must
2 be met by on-site and off-site emergency response plans is
3 the inclusion of general plans for recovery and reentry. I
4 guess I am not quite sure as to why that is a part of an
5 emergency response plan. It seems to me that comes well
6 after. The implication there is something well after the
7 emergency. What does that included? It also appears later
8 in Appendix B on page 52, I think.

9 MR. GRIMES: Yes. What we have in mind there are
10 indeed general plans. We agree that detailed planning need
11 not be done in advance for that. For example, the detailed
12 criteria under that objective in the FEMA/NRC criteria
13 document include developing plans for how you relax
14 decisions on protective measures. In other words, at what
15 point do you allow people to go back into an area? You
16 should prethink not only how you take people out but at one
17 point you would allow them to come back into the area and
18 that calls for a general outline of the recovery area
19 organization, and says that that specified by the AIF would
20 be would be an acceptable organization. That is essentially
21 the extent of the detailed criteria.

22 MR. GOLLER: I would also like to note that this
23 is in Appendix E which this regulation has really changed
24 and an extension of it. The present Appendix E includes
25 information of this kind if you actually required deletion

1 of this kind of information if we were to move from it.
2 This was also a factor in why we continued this
3 consideration.

4 COMMISSIONER KENNEDY: One other. The rule
5 implies that FEMA will also be reviewing plans that are
6 associated with fuel cycle facilities. It doesn't go into
7 the kinds of criteria that will be involved. Can you say
8 something about what is intended?

9 MR. GRIMES: I think Nuclear Materials Safety and
10 Safeguards intend to provide additional manpower in the next
11 couple of fiscal years to develop those more detailed
12 criteria. Certainly we are not looking at 10-mile zones
13 for those other types of facilities. In some cases you may
14 have a pharmaceutical facility in a downtown area that may
15 indeed require some planning around the immediate area. The
16 NMSS is in the process of identifying those and has sent a
17 list of key facilities to FEMA. After FEMA's initial
18 efforts on operating reactors are a little better underway
19 then efforts on these other areas will be undertaken.

20 CHAIRMAN AHEARNE: Joe?

21 COMMISSIONER HARDIE: No.

22 CHAIRMAN AHEARNE: Well, I thank you very much. I
23 think it is an excellent product. We are almost there. We
24 have a few more Commission meetings or at least one we have
25 to go through. Certainly I thank all of you who have worked

1 so very hard. I also appreciate the contribution FEMA has
2 made in both working on this and also willingness to come to
3 meetings such as this and participate. It is really a major
4 accomplishment.

5 Thank you all very much.

6 (Whereupon, at 4:20 p.m., the public meeting
7 concluded.)

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NUCLEAR REGULATORY COMMISSION

This is to certify that the attached proceedings before the

in the matter of: Staff Presentation on Final Rulemaking on
On Emergency Preparedness - Public Meeting

Date of Proceeding: June 18, 1980

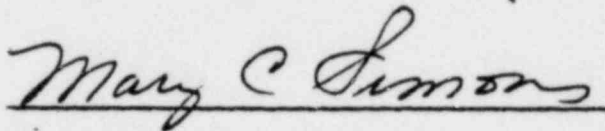
Docket Number: _____

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

Mary C. Simons

Official Reporter (Typed)



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