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UNITED STATES
NUCLEAR REGULATORY COMMISSION
ADVISORY COMMITTEE ON REACTOR SAFEGUARDS
WASHINGTON, D. C. 20555

November 24, 1989

The Honorable Kenneth M. Carr
Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Chairman Carr:

SUBJECT: COHERENCE IN THE REGULATORY PROCESS

During the 355th meeting of the Advisory Committee on Reactor Safeguards, November 16-18, 1989, we discussed the need for a strategy for achieving coherence in the regulatory process. Our Subcommittee on Regulatory Policies and Practices also met on August 9 and November 15, 1989 to discuss this matter. This is in response to a Staff Requirements Memorandum dated August 18, 1989 asking for "ACRS thoughts on how to best integrate the regulatory process."

As we have observed in a number of the referenced reports, the NRC seems to suffer increasingly from a lack of coherence in the formulation and implementation of its regulatory strategy. This is hardly a subject of which the Commission is unaware, and it is a problem that is perhaps unavoidable as the body of regulatory practice grows with time, and institutional memory fades correspondingly. Nonetheless, it poses problems for those who try both to understand the Commission's regulatory policies and to construe the staff's actions in the light of those policies. It seems to us axiomatic that regulation will be most effective in support of nuclear safety--our common objective--if it is coherent and defensible, and thereby understood and respected by those who are regulated.

The staff has, on occasion, been asked to describe its efforts to deal with these problems, and has responded (e.g., SECY 88-178, "Policy Statement Integration," June 9, 1989; and memorandum for Chairman Carr from J. M. Taylor, Acting Executive Director for Operations (EDO), "Integrated Approach on Regulatory Matters," October 18, 1989) by describing those programs in place to achieve "integration," which are, in effect, piling new programs on top of an assembly of unaffected and unintegrated parts. Not only can integration not be accomplished by ordinance, but there is a real and important distinction between integration and coherence--the latter is the real objective. Coherence means that all the parts pull in the same direction, not that they are put in the same box. It cannot be attained by

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repackaging of existing programs; integration does not generate coherence.

As we have said, there are so many examples, and the problem is so well known, that it may seem like overkill to list examples, but it is useful to do so, if only to note that they differ in kind, so there is no one general sweeping solution.

There are some cases in which there is no problem of coordination among the various offices, but the problem is one of drawdown of the NRC and industry resources, with negative consequences that are clear but hard to identify. This happens when any office acts, however worthily, on its own. These are problems only the Commission can address.

There are cases, like access authorization and fitness for duty, in which individual offices proceed, again however worthily, with closely related initiatives that arrive at the end stage before they finally come together in the Committee to Review Generic Requirements (CRGR). Those problems properly belong to the EDO, but there is something incongruous in having his influence felt only near the end of the process. Indeed the CRGR was created to apply an end-game palliative to some of these same problems. Such coordination would be more effective earlier.

There is the problem of the Regional Administrators, who sometimes have practices that differ from each other, and from Headquarters. In the end, it is the Regional Administrators with whom a licensee has most contact, and who embody NRC in the field, and there are too many cases in which their dicta go well beyond the policies set by the Commission.

There are cases, like the initiatives on accident management and emergency operations, in which the Commission guidance is sufficiently unclear to permit separate tracks for different staff elements.

There are pervasive problems, like the applicability of the Safety Goal Policy and the Severe Accident Policy, in which the Commission seems to be playing a passive role, reacting to staff or ACRS initiatives. Again, neither the EDO nor we can help in such matters. We all can and do provide advice, but the Commission's safety philosophy ought to guide us.

The Commission has recognized these issues in the past and has promulgated a number of important policy statements to, as we see it, provide an underlying coherence to its policies. It has every reason to be proud of these efforts, but it remains necessary to find ways of

diffusing them into the fabric of a large and complex agency. The two principal policies that are relevant to this subject are the Safety Goal Policy and the Severe Accident Policy statements. The Safety Goal Policy lays out the basic objective of the agency, to regulate in such a way as to provide reasonable assurance that a certain quantitative level of safety is achieved in the use of nuclear power. Nothing can be more fundamental, and we believe (and have said before) that that policy should serve as a clear statement of your aims. The Severe Accident Policy should, if there is any ambiguity, be applied in such a way that it conforms to and supports the safety goals. Coherence in any of the NRC's activities should be sought through the litmus test of relevance to the safety goals.

That cannot be done by leaving every branch and every regulator to assess their actions by carrying out an analysis of the implications, to the point at which the ultimate effect on the health and safety of the public can be determined. These are complex assessments, replete with uncertainties, and it would be absurd for each member of the staff to measure their own activities in terms of the overall objectives of the agency. No large organization functions that way, nor can it. People need to do more narrowly prescribed jobs that nonetheless contribute to the strategy.

In our reports to the Commission, "ACRS Comments on An Implementation Plan for the Safety Goal Policy," dated May 13, 1987, and "Further ACRS Comments on Implementation of the Safety Goal Policy," dated February 16, 1989, we tried to face this problem by suggesting a hierarchical structure for safety goal implementation, in which each level of implementation becomes more precise and prescriptive than the one above it, and therefore easier to apply to real-life situations. However, we cautioned, it is important that one not, in making the statement of each succeeding level more precise, introduce a new level of conservatism that makes it, in effect, a new safety goal. The objective of our recommendation was to achieve coherence by mobilizing the so-called implementation in support of the policy, not as a substitute for it. (We also urged that the policy statement be construed as a policy, and warned against using it too narrowly on individual cases, but that is another subject.)

On top of all that, many of the issues of safety philosophy are not easily amenable to treatment under the Safety Goal Policy--fitness for duty, for example--and those will require guidance in another form.

All of the problems are complex and, as we have said, fall into different categories. Certainly some fall under the management responsibilities of the EDO and we have not yet been able to schedule a meeting with him. Since we hope to do so in the near future, and

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since we deem his input to be of importance in some of these areas, we feel it would be premature to make any explicit recommendations to you at this time. After we have met with the Acting EDO, and explored his views, we will be in a better position to provide sound advice to you. What is clear to us from his memorandum to you, Integrated Approach on Regulatory Matters, dated October 18, 1989, is that we have not yet adequately communicated our concern to him. We hope to do so soon.

Sincerely,



Forrest J. Remick
Chairman

References:

1. ACRS report entitled, "ACRS Comments on An Implementation Plan for the Safety Goal Policy," dated May 13, 1987
2. ACRS report entitled, "ACRS Comments on the Integrated Safety Assessment Program," dated July 15, 1987
3. ACRS report entitled, "ACRS Comments on the Need for Greater Coherence Among New Regulatory Policies," dated March 15, 1988
4. ACRS report entitled, "Proposed Rule on Fitness for Duty Program -- ACRS Comments," dated April 12, 1988
5. ACRS report entitled, "Proposed Generic Letter on Individual Plant Examinations and the Proposed Integrated Safety Assessment Program II," dated May 10, 1988
6. ACRS report entitled, "Report on the Integration Plan for Closure of Severe Accident Issues (SECY-88-147), dated July 20, 1988
7. ACRS report entitled, "Mark I Containment Performance Improvement Program," dated January 19, 1989
8. ACRS report entitled, "Further ACRS Comments on Implementation of the Safety Goal Policy," dated February 16, 1989
9. ACRS report entitled, "Proposed Final Rulemaking Related to Maintenance of Nuclear Power Plants," dated April 11, 1989
10. ACRS report entitled, "Integrated Approach on Regulatory Matters," dated April 17, 1989
11. ACRS report entitled, "Proposed Resolution of Generic Issue 128, 'Electrical Power Reliability,'" dated June 14, 1989