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Thanks! Barbara *Jo* White
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Advisory Committee on Reactor Safeguards

Title: 356th General Meeting

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PUBLIC NOTICE BY THE
UNITED STATES NUCLEAR REGULATORY COMMISSION'S
ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

DATE: Friday, December 15, 1989

The contents of this transcript of the
proceedings of the United States Nuclear Regulatory
Commission's Advisory Committee on Reactor Safeguards,
(date) Friday, December 15, 1989,

as reported herein, are a record of the discussions recorded at
the meeting held on the above date.

This transcript has not been reviewed, corrected
or edited, and it may contain inaccuracies.

1 UNITED STATES OF AMERICA
2 NUCLEAR REGULATORY COMMISSION

3 ***

4 ADVISORY COMMITTEE ON REACTOR SAFEGUARDS
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7 356th General Meeting
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10 United States Nuclear
11 Regulatory Commission
12 Phillips Building
13 Room P-110
14 7920 Norfolk Avenue
15 Bethesda, Maryland
16

17 Friday, December 15, 1989
18

19 The above-entitled proceedings commenced at 8:30
20 o'clock a.m., pursuant to notice, Carlyle Michelson, committee
21 chairman, presiding.
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1 ACRS MEMBERS PRESENT:
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3 Carlyle Michelson, Chairman

4 James C. Carroll, Member

5 Ivan Catton, Member

6 William Kerr, Member

7 Harold W. Lewis, Member

8 Paul G. Shewmon, Member

9 Chester P. Siess, Member

10 David A. Ward, Member

11 Charles J. Wylie, Member
1213
14 ALSO PRESENT:
15

16 R.F. Fraley, Executive Director, ACRS

17 Stan Schofer, Technical Secretary, ACRS
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1 NRC STAFF PRESENT:

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3 Ken Perkins, NRR

4 David Lange, NRR

5 Loren Bush, NRR

6 Jim Lieberman, Office of Enforcement

7 James Taylor, Executive Director for Operations

8 Eric Beckjord, RES

9 Tom Murley, NRR

10 Matt Taylor, EDO

11 Ed Jordan, AEON

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P R O C E E D I N G S

[8:30 a.m.]

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MR. MICHELSON: The meeting will now come to order. This is the second day of the 356th meeting of the Advisory Committee on Reactor Safeguards. I am Carl Michelson, Acting Chairman of the Committee.

During today's meeting, the Committee will hear about and discuss the following; Fitness-For-Duty; preparation of ACRS reports; and, coherence in the regulatory process.

Portions of the report writing session may be closed, as necessary, to discuss safeguards information applicable to specific nuclear plants.

Topics for consideration are listed on the schedule posted on the bulletin board outside this meeting room. This meeting is being conducted in accordance with the provisions of the Federal Advisory Committee Act and the Government in the Sunshine Act.

Raymond F. Fraley is the designated Federal official for the initial portion of the meeting. We have received no written statements or requests to make oral statements from members of the public regarding today's sessions.

A transcript of portions of the meeting is being kept and it is requested that each speaker use one of the microphones, identify himself or herself, and speak with sufficient clarity and volume so that he or she can be readily

1 heard.

2 We now begin with our first topic, which is Fitness-
3 For-Duty, and David Ward will lead the Subcommittee Chairman's
4 report on this topic.

5 FITNESS-FOR-DUTY

6 MR. WARD: Thank you, Mr. Chairman. This morning, we
7 will have a presentation from the staff with the expectation
8 that the Committee may want to comment and write a letter on
9 what they hear.

10 During the past year, a comprehensive Fitness-For-
11 Duty regulation was put into force. This is 10 CFR 26. The
12 ACRS had reviewed that last year at some length and wrote a
13 fairly comprehensive letter about a year-and-a-half ago.

14 What we're talking about today is just a little
15 cleanup, a little add-on to that. There are a couple of small,
16 relatively small rule changes in Part 55, which provides for
17 licensing of operators. These rule changes will just establish
18 penalties for operators holding licenses who individually fail
19 to comply with the requirements of the Fitness-For-Duty rule of
20 Part 26.

21 The staff has developed this little package and
22 intends to issue it for public comment. We heard about it at
23 the Subcommittee meeting on the 12th, on Tuesday of this week.
24 To me, it seems pretty straightforward and non-controversial.
25 I personally don't have any particular problem with what the

1 staff proposes.

2 So we might be able to get through this fairly
3 quickly, if you agree. I have a draft letter which is just
4 kind of a nuts, bolts and screws letter, which we may or may
5 not want to issue.

6 Do any of the other members who were at the
7 Subcommittee meeting want to comment?

8 [No response.]

9 MR. WARD: Then, I think Mr. Perkins is going to lead
10 off.

11 MR. PERKINS: Good morning. I'm Ken Perkins. I'm
12 Chief of the Operator Licensing Branch. As was mentioned, Part
13 26 was revised and did address Fitness-For-Duty for facility
14 licensees.

15 The Commission subsequently asked the staff to
16 prepare a proposed rulemaking that would make clear to the
17 operators their responsibility for Fitness-For-Duty and the
18 impact of Part 26 upon the operators.

19 That's the rule that we're going to describe to you
20 today. That rulemaking package is, right now, with the EDO and
21 we expect it to be sent to the Commission shortly.

22 Once the Commission has reviewed it, it will then be
23 released for public review and comment. At that time, we
24 intend to receive and review the comments received from the
25 public, as well as from the industry.

1 I'd like now to introduce to you Dave Lange, who is
2 Section Chief for the development side of operation, Operator
3 Licensing Branch. Dave Lange.

4 MR. LANGE: Thank you.

5 [Slide.]

6 MR. LANGE: Good morning. What I would briefly like
7 to do this morning is walk you through the handout that you
8 have in front of you, to give you a summary and a brief
9 background of how we got to where we are over the last six or
10 eight months.

11 As Ken had mentioned earlier, this is a proposed
12 revision, and I've underlined the word proposed, to 10 CFR Part
13 55, Fitness-For-Duty Requirements for the licensed operators
14 and senior operators at nuclear power and non-power facilities.

15 [Slide.]

16 MR. LANGE: A little bit of the background
17 information on this as far as dates. Back in March of 1989,
18 the Fitness-For-Duty Part 26 rulemaking, SECY 89-30, was
19 approved by the Commission with the staff requirements
20 memorandum.

21 In April of 1989, the Operator Licensing Branch was
22 assigned to draft a revision to 10 CFR Part 55. This was in
23 response to the SRM.

24 In July, the revision was completed and it was sent
25 to the Executive Director for Operations. Here we are now in

1 December. As Ken had mentioned earlier, it's still with the
2 Executive Director for Operations and shortly will be sent to
3 the Commission.

4 [Slide.]

5 MR. LANGE: A little bit of clarification on the
6 staff requirements memorandum. It basically asks us to do two
7 things. Number one, to amend Part 55 to establish 10 CFR 26
8 cutoff limits as an operator license condition; and, to clearly
9 state the penalties that would inform operators of the gravity
10 for exceeding those cutoff levels.

11 The second thing it has asked us to do is to amend 10
12 CFR Part 2, Appendix C, which is enforcement, to reflect
13 individual operator enforcement sanctions. The proposed rule,
14 as it stands right now, and again I mention the word proposed,
15 clearly states in it that the enforcement amendment to 10 CFR
16 Part 2 will be amended during the final rulemaking.

17 The Commission, in the past, has not amended the
18 enforcement section of the rule along with the proposed
19 rulemaking.

20 [Slide.]

21 MR. LANGE: Getting right into the actual changes to
22 Part 55, okay, in front of you, you've got on proposed Part 55,
23 you've got two pages. One is a continuation of the other one.
24 Based on some comments we had at the subcommittee meeting and
25 in light of some of the things I've been thinking about, I'd

1 like you to turn to the continuation page, which is No. 4,
2 which is the next sheet, first.

3 [Slide.]

4 MR. LANGE: Now, I'm going to read No. 4 first, which
5 is "Shall not perform licensed duties while under the influence
6 of any prescription, over-the-counter or illegal substance
7 which could adversely affect performance." We have clearly
8 defined under the influence to make sure everybody knows
9 exactly what we're talking about and for alcohol and illegal
10 drugs, that is a confirmed positive test -- not an initial
11 screening test, but a confirmed positive test that determine
12 that the licensee exceeded the Part 26 cutoff levels, or the
13 actual facility's levels, if lower.

14 Along with Part 26, we told each facility that they
15 can have a program that's more stringent than what we've put
16 out in the rule. For prescription and over-the-counter drugs,
17 the licensee could be under the influence as determined by the
18 medical review officer as required by the Part 26 program in a
19 manner that would adversely affect performance.

20 Okay, now, keeping that in mind, I'd like to go back
21 to the No. 1 on the previous page. I'm going to talk about the
22 safety nets we've put in here on the actual conditions of
23 licensing, the 55.53; the other three requirements. The
24 licensee shall not use -- and that means consume -- alcohol
25 within the power reactor protected area or the non-power

1 controlled access area.

2 The only reason I separated those out was because
3 they are called -- for unescorted access, they are called
4 different in each one of the non-power and power.

5 MR. SIESS: If "use" means consume, why don't you use
6 consume?

7 MR. LANGE: Excuse me. Could you repeat that?

8 MR. SIESS: You said, "shall not use (consume)."

9 MR. LANGE: That's correct.

10 MR. SIESS: Why not just say, "shall not consume."
11 Is there some legal reason for saying use and then consume?

12 MR. LANGE: Yes, we went back and looked at that, and
13 all through the Part 26, to be consistent, Part 26 talks about
14 "shall not use" throughout the entire thing. I also went back
15 and reviewed the Health and Human Service Guidelines that were
16 established earlier on. The word, "use" is in there also.

17 MR. SIESS: But then, is that a good reason for
18 continuing to use it and redefining it? I used to use Gin to
19 clean my pipe, and, you know -- it's pure alcohol.

20 MR. LANGE: I put it in there for clarification for
21 this, and we are going to --

22 MR. SIESS: Why do you have to put it in for
23 clarification when you could put the word in in the first place
24 and it wouldn't need clarification.

25 MR. LANGE: Right. This question came up in the

1 subcommittee meeting. I wanted to make sure everybody
2 understood it.

3 MR. PERKINS: I think that the bottom line answer is
4 that we did it for consistency with the other regulations.

5 MR. SIESS: I guess that's a good reason. But if the
6 other regulation is wrong or unclear, you continue to be
7 unclear by being consistent.

8 MR. CARROLL: Is it your intent that you would use
9 the term parenthetical "consume" in the proposed rule, or is
10 this just for our benefit.

11 MR. PERKINS: It is our intent, when we have the
12 opportunity to clarify the package, to make it clear that use
13 means consumed.

14 MR. MICHELSON: Will that be done in the statement of
15 considerations, though, or in the rule?

16 MR. PERKINS: It will be done in the statement of
17 considerations.

18 MR. MICHELSON: That's lost eventually, but I guess
19 somebody can find it again.

20 MR. LANGE: In the statement of considerations, in
21 the supplemental information, we go into talking about
22 consumption of alcohol, as the rule stands right now.

23 Okay, on the second one, the licensee shall not use,
24 possess or sell any illegal drugs on or off site. We're
25 talking about illegal drugs here. The third one, the licensee

1 shall participate in and comply with the facility drug and
2 alcohol testing program.

3 For power reactors, that's the program pursuant to
4 Part 26, the fitness for duty. For non-power reactors, that's
5 per-facility established program, whatever program they have
6 established for that facility,

7 MR. PERKINS: I think it's important to recognize
8 that for non-power reactors, many of those facilities are
9 required to have drug -- fitness for duty programs under the
10 Drug Free Workplace Act of 1988, if they receive grants or
11 contracts of greater than \$25,000.

12 MR. MICHELSON: If a facility has a program which is
13 more stringent than Part 26, what is 3 saying then?

14 MR. PERKINS: The language in the rule makes it much
15 clearer. It actually says Part 26 or facility program, if
16 lower.

17 MR. MICHELSON: Now, if you make it so he could use
18 his license because a facility has a particularly stringent
19 program and he happens to have come in just above the cutoff
20 point there, but well below the cutoff point in Part 26, he'd
21 still lose his license?

22 MR. LANGE: That is correct. The basis behind our
23 rule --

24 MR. MICHELSON: That sort of discourages utilities
25 from having overly stringent programs then. I mean, the

1 employees may put a lot heat on to keep the programs at the
2 Part 26 levels, just because of the possibility that this could
3 occur if they were much more stringent. Is that a worry at
4 all?

5 MR. CARROLL: Isn't the situation though that a lot
6 of utilities have established programs and set limits and then
7 when Health and Human Services and Part 26 came along, the
8 limits turned out to be higher, and they're not going to go
9 back and change them.

10 MR. PERKINS: The argument was made that if we did
11 not phrase it that way, it could, in fact, undermine their
12 lower limits.

13 MR. BUSH: Loren Bush from NRR; there's a couple of
14 issues here that I think I should clarify just a little bit.
15 One is that many of the licenses have, in fact, set lower
16 cutoff levels.

17 At the end of November, the National Institute on
18 Drug Abuse held a consensus conference and there was over three
19 hundred people in attendance. There were some people from our
20 utilities, but the predominant attendees at the meetings were
21 people from some other government agencies and their regulated
22 industries, the laboratory testing people, medical professions,
23 medical review officers and so on.

24 The consensus of the conference was emphatic that the
25 cutoff levels need to be lowered and additional drugs added to

1 the panel. HHS will apparently be making those modifications
2 to its guidelines, sometime within the next year or so,
3 whenever they get through their bureaucratic maze to make the
4 change.

5 MR. LANGE: Thank you.

6 MR. CATTON: What is the cutoff on alcohol?

7 MR. LANGE: Right now, I believe it's .04 in Part 26.

8 [Slide.]

9 MR. LANGE: All right, we talked about No. 4, the
10 continuation on the next page, already. I wanted you to keep
11 that in mind while we were going through these other ones.
12 Does anyone have any questions on that?

13 [No response.]

14 [Slide.]

15 MR. LANGE: Continuing right along on the change to
16 10CFR Part 61 on the next page, which is Modification and
17 Revocation of Licenses; the Commission in the staff
18 requirements memorandum wanted to make it specifically clear
19 what the gravity for the situation would be.

20 Part 61 does address modification and revocation and
21 suspension of a license. The addition to Part 55.61 is going
22 to be, number one, the licensee -- we can revoke, modify or
23 suspend the license for the sale, use or possession of illegal
24 drugs on or off site, as we just talked about in the previous
25 slide.

1 Number two, for refusal to participate in facilities'
2 drug and alcohol testing program. Number three, for a
3 confirmed positive test result for drugs or alcohol as
4 determined by the facility testing program as applicable to
5 that facility. Number four; for the use, consumption of
6 alcohol within the power reactor protected areas and non-power
7 controlled access areas.

8 This parallels what we've put in the condition of
9 license. Are there any questions on that?

10 MR. CARROLL: Number one means conviction; doesn't
11 it?

12 MR. LANGE: Sale, use or possession of illegal drugs?
13 That issue of conviction, we brought up at the subcommittee
14 meeting. We talked a little bit about it. It may or may not.

15 MR. PERKINS: It does not mean arrest. It could be
16 short of conviction if the agency had evidence that convinced
17 the agency, but for some administrative reason, it did not lead
18 to arrest -- to conviction.

19 MR. CARROLL: That's right.

20 MR. LANGE: That would be based on evidence we had,
21 additional evidence.

22 MR. WARD: That's something that would probably
23 eventually be challenged in the court, I expect, if a case
24 comes up, but I don't have any -- I don't know what else you
25 can do.

1 MR. LANGE: It would be on a case by case basis,
2 depending on the evidence.

3 Okay, any other questions on that?

4 [No response.]

5 [Slide.]

6 MR. LANGE: Moving right along, continuation of 55.61
7 on the next page under Modification, Revocation of the License.

8 Number 5 -- the Licensee was determined unfit for
9 scheduled work due to the consumption of alcohol.

10 In light of some of the comments we had on the
11 Subcommittee meeting I modified this slide somewhat.

12 Under A and B I talk about the responsibility for the
13 Part 55 license. Under A it says the Part 55 license has the
14 obligation to inform the facility licensee of being unfit if he
15 is unfit if called in for unscheduled work.

16 He has that responsibility. He has that
17 responsibility under his existing license right now.

18 In B, the Part 55 licensee also has a responsibility
19 under his or her license not to perform license duties when not
20 fit for duty. It doesn't have to be just being called in for
21 nonscheduled work. It might be during the middle of a shift.

22 C -- the responsibility of the facility licensee. As
23 a requirement under Part 26 to have written policies and
24 procedures and supervisor training to determine operators'
25 fitness for duty during non-scheduled working hours. That also

1 includes scheduled working hours.

2 Now we had a lot of discussion about non-scheduled
3 and that's why I used the word "non-scheduled" but there is
4 extensive training for supervisors that is taking place under
5 Part 26 right now and also the written policies and procedures
6 have to be in place.

7 Are there any questions?

8 [No response.]

9 [Slide.]

10 MR. LANGE: Okay. I am going to go to the next slide
11 then and talk about the enforcement sanctions.

12 This is failure to meet the fitness for duty
13 requirements in 10CFR55.53(J), which is the addition, and
14 55.61(b)(5). There is a note there that we are going to amend
15 Part 2 of Appendix C when the proposal is made final.

16 For the first offense, and this is the failure to
17 meet the fitness for duty requirements under the conditions of
18 their license, the Commission may issue a notice of violation,
19 civil penalty or other, as warranted by the circumstances.

20 On the second offense the Commission will at a
21 minimum issue an order to suspend the license for three years.

22 On the third offense the Commission will issue an
23 order to revoke the operator's license and for refusal to
24 participate in the substance testing program the Commission may
25 suspend, revoke or deny a license application or an application

1 for renewal of that license -- so this would be an operator who
2 is applying for the first time or a licensed operation going up
3 for renewal.

4 MR. MICHELSON: What kind of civil penalties are
5 provided for a licensed operator?

6 MR. LANGE: I'd like Jim Lieberman, from the Office
7 of Enforcement, to address that, please.

8 MR. LIEBERMAN: Jim Lieberman, Office of Enforcement.
9 We don't have specific amounts set forth in the enforcement
10 policy for licensed operators. In the past in the one case
11 where we have given civil penalties to licensed operators in
12 the Peach Bottom case the penalties ranged from \$500 to \$1000.

13 MR. MICHELSON: Is it assigned to the individual?
14 The company doesn't pay the bill?

15 MR. LIEBERMAN: The penalty is issued to the
16 individual. In the case of Peach Bottom the individual
17 operators did pay but we don't have any control over whether
18 the utility reimburses.

19 MR. MICHELSON: So you don't have a requirement that
20 the utility not reimburse such penalties?

21 MR. CARROLL: It's not legal.

22 MR. LIEBERMAN: That's right.

23 MR. MICHELSON: It isn't even legal, because he is
24 operating as an agent of the utility or something?

25 MR. CARROLL: I don't remember the context in which

1 this came up a few years ago but I remember getting an opinion
2 that an agency could not prescribe who was going to pay a
3 penalty.

4 I think that's correct. In fact --

5 MR. MICHELSON: This notice of violation, that is
6 issued to the individual, not to the licensed site?

7 MR. LIEBERMAN: That's right. It's issued directly
8 to the individual licensee. He is a licensee of the Commission
9 and is subject to the full range of enforcement actions.

10 MR. MICHELSON: Thank you.

11 MR. WARD: For the second offense, what does "at
12 minimum" mean?

13 MR. LANGE: "At minimum" means -- you notice in the
14 first one that we may issue a civil penalty notice of violation
15 or an order. I mean we have captured all of them. There may
16 be some cases where we want to take an action.

17 On the second offense at a minimum means that we will
18 suspend the license for a period of up to three years. That is
19 not to stop up from taking more stringent action.

20 MR. MICHELSON: It doesn't say up to three years
21 there but is that what you meant?

22 MR. LANGE: We will suspend it for three years.

23 MR. MICHELSON: It is for three years?

24 MR. LANGE: For three years.

25 MR. MICHELSON: And it's apparently mandatory.

1 MR. LANGE: That's correct.

2 MR. MICHELSON: Because that is the minimum.

3 MR. LANGE: That's correct.

4 MR. WARD: So there's the possibility that some
5 greater action would be taken.

6 MR. LANGE: That's correct. It might be
7 circumstances that warrant more severe actions and that is why
8 we have captured it under No. 1, which we can revoke the
9 license on the first offense.

10 Are there any other questions on this slide?

11 MR. CARROLL: Just a comment. I remember where that
12 came up, whether the company can pay a penalty. It came up in
13 the deliberations over Part 21 where the officer responsible
14 for making the reports was subject to a fine and the original
15 version said he had to pay it himself and the lawyers finally
16 decided that was not -- you could not do that.

17 The fine is in his name but the company can pay it.

18 MR. LANGE: Okay, thank you.

19 [Slide.]

20 MR. LANGE: Okay, moving on to the last slide. I
21 have prepared this summary slide. It highlights some of the
22 things we have gone beyond the 10CFR, Part 26 actual cutoff
23 levels.

24 We wanted to prepare a proposed rule to the
25 Commission with the right message to the operators. We didn't

1 want to be held strictly to the Staff Requirements memorandum
2 of just making the cutoff levels the condition, so in light of
3 that the enforcement sanctions, the number one bullet there,
4 were extended to include impairment from alcohol abuse as well
5 as illegal drugs.

6 Part 26 right now only addresses enforcement
7 sanctions for drug use. It does not address the enforcement
8 sanctions for alcohol abuse.

9 The second one, we wanted to prohibit the performance
10 of licensed duties while under the influence. This isn't a
11 drug regulation. It's a fitness for duty standard message that
12 we want to send all licensed operators, so it is an issue of
13 under the influence from any legal or illegal substance.

14 There is enough safety nets out there. there's enough
15 fitness for duty program requirements that we want to make sure
16 the operator follows all those requirements and is made fully
17 aware of not following them and the problems that can come up.

18 The third one, it prohibits the operator from the
19 sale, use or possession of illegal substances on or off site.
20 Part 26 only addresses the issue of on-site sale, use and
21 possession. From a trustworthiness, reliability standpoint we
22 felt it important to include both on, in, offsite.

23 Any questions on the summary?

24 MR. CARROLL: The third bullet in effect put the
25 operators in a different category than anyone else in the

1 fitness for duty program.

2 MR. LANGE: We in the Operator Licensing Branch, we
3 feel the operators are the last defense. We feel that they are
4 the check valve in the whole process. They need to be told
5 what their fitness-for-duty requirements are, clearly.

6 MR. CARROLL: But arguably, offsite use of illegal
7 substances is not a fitness-for-duty issue.

8 MR. LANGE: It is an issue of reliability,
9 trustworthiness. If we cannot count on them to follow rules
10 and regulations of state and local Governments, we are talking
11 about operators following rules and regulations, plant
12 procedures. And that is discussed in the supplementary
13 information to the rule.

14 MR. KERR: Do you foresee the same penalty eventually
15 including tickets for speeding?

16 MR. LANGE: Tickets for speeding. We haven't
17 addressed that in this rule.

18 MR. KERR: The logic you just used, it seems to me,
19 would be applicable to that. Generally, certainly state laws
20 prohibit speeding. And that might be a sign of
21 untrustworthiness, if one gets a speeding ticket.

22 MR. LANGE: I guess after a number of speeding
23 tickets, there would probably be more stringent action.

24 MR. KERR: Does it take a number of these before --

25 MR. LANGE: No, not in this case. We are talking

1 about illegal substance abuse.

2 MR. PERKINS: I don't think we foresee extending it
3 to speeding ticket violations.

4 The point that was made regarding this being an
5 extension of fitness-for-duty has been discussed not just
6 within operator licensing, but through the staff who have
7 reviewed it up through management to the EDO. And the decision
8 was that this is a very important area and a violation or an
9 operator who used such substance, sold it or possessed it, was
10 shaking the Agency's confidence in his trustworthiness, was the
11 bottom line.

12 MR. CARROLL: Many utilities' programs apply the same
13 rule to everybody. But I'm just pointing this out as something
14 you are going to get challenged on, I would imagine.

15 MR. PERKINS: It may be an area that we get some
16 considerable comment on as the proposed rule is reviewed.

17 MR. LANGE: Okay. Any other questions?

18 [No response.]

19 MR. LANGE: I thank you for your attention.

20 MR. WARD: It was a good presentation. It looks like
21 a good package, to me.

22 We would like to have the opportunity to take a look
23 at the public comments. I don't know whether we're going to
24 ask you to come down again or not. That depends on what that
25 says, you know, what the public comments are.

1 So I guess there is some mechanism where we'll get
2 those for review.

3 Okay. Well, thank you very much, gentlemen.

4 That completes it, Mr. Chairman. I do have just a
5 draft letter which we could -- I don't have copies of it, but
6 we could make them.

7 MR. MICHELSON: If you could make them available, we
8 have some time remaining yet in your first session.

9 MR. WARD: Yes. Yes. I think we could dispose of
10 this fairly quickly.

11 MR. MICHELSON: If we can get that, we can at least
12 get a good cut at it.

13 Are there any other subjects any committee member may
14 have wished to bring up while we're waiting?

15 MR. KERR: What is the status of the bylaw changes?

16 MR. MICHELSON: They are coming.

17 MR. LEWIS: The bylaw change is in the hands of the
18 typists. It may be ready by now, for all I know. There was an
19 error in typing yesterday. And I've added, although it goes
20 against my grain, I've added a section on the use of
21 letterhead. I think that is beneath contempt as a bylaw. But
22 that's life.

23 MR. WARD: Let's see. We have the access
24 authorization letters.

25 MR. MICHELSON: Are you going to be copying it?

1 MR. WARD: It shouldn't take ten minutes to copy it.

2 MR. MICHELSON: That's the fitness-for-duty letter, I
3 thought.

4 MR. WARD: But the other one from yesterday. How
5 about just making copies? It doesn't have to be retyped.

6 MR. MICHELSON: While we are waiting for that item,
7 yes, Hal.

8 MR. LEWIS: Just one thing. There are some hotheads
9 on the committee who would like to see an extra coherence
10 letter at this meeting. So I wrote one last night, which is
11 also in the hands of the typists. I expect it to be defeated
12 by a nine to nothing vote or something like that.

13 MR. CARROLL: There's only eight of us here, Hal.

14 MR. MICHELSON: Do we want to entertain that after we
15 talk to the EDO?

16 MR. LEWIS: It doesn't make any reference to that
17 conversation. It apologizes for writing something
18 independently of that conversation, and it says that his input
19 was so important and so essential that it will take us another
20 month to digest it.

21 MR. MICHELSON: If we have time, we'll hit it before.
22 Otherwise, we'll do it after.

23 There is one other item that we discussed yesterday
24 in part, but I'm not sure we finished up, and that was the
25 question of operating experiences as it has to do with the

1 letter that Ivan wrote.

2 I thought we were going to discuss it further during
3 future activities, and didn't. Is that your understanding?

4 We talked about it early on, and then we said we
5 would it I thought during future activities, and we didn't. If
6 we have time remaining today, we ought to pick that up so we
7 can give Ivan the benefit of any input, because we do have the
8 Commission meeting in January, at which time that may be
9 discussed. So let's try to pick it up. Be prepared, Ivan,
10 later on, and we will try to pick that item up.

11 MR. CARROLL: Has everybody got a copy of it?

12 MR. MICHELSON: You're supposed to have gotten one
13 that was in front of you yesterday.

14 MR. CARROLL: Okay.

15 MR. MICHELSON: I think it is amongst your original
16 papers somewhere. I recall seeing it.

17 MR. KERR: Tell me what the topic is again?

18 MR. MICHELSON: The topic will be a discussion of the
19 letter which Ivan Catton wrote concerning perhaps how we should
20 go about looking at operating experience. And I don't have it
21 in front of me at the moment. If somebody finds it, they can
22 help anybody --

23 MR. KERR: November 15.

24 MR. MICHELSON: Could be.

25 MR. KERR: Is that the one, Ivan?

1 MR. WARD: Has it got a cover on it?

2 MR. MICHELSON: Ivan, did you find your copy? It's
3 just a cover letter. I've seen it.

4 MR. LEWIS: There is one other small matter, whenever
5 you get to it.

6 MR. MICHELSON: Go ahead.

7 MR. LEWIS: You may recall that when we sent the
8 Commission our coherence letter last time, it put things off,
9 and the one we write, if we write one today at all, it will
10 also put off the specific question of emergency management
11 which appeared in the Region V letter. It's a matter which I
12 think is extremely important. Therefore, as you know, I
13 drafted an individual letter to the Commission based on the
14 fact that I'm not at loggerheads with the committee, but the
15 committee is simply not acting very rapidly on this, whereas I
16 think it should. Therefore, I have drafted an individual
17 letter of which an early version circulated. There are minor
18 changes which will circulate. And I will decide by the end of
19 the meeting whether I really want to push on that.

20 MR. MICHELSON: We will discuss that as a part of
21 discussing what we do about coherence letters.

22 Ray, it would probably be well to go back on the
23 agenda and put in Number 3, Letter, which is the coherence
24 letter. And we will be doing something, some discussion of it
25 at least today. So we need a slot on the schedule.

1 MR. WARD: It took less time to copy this one than
2 the one-pager, but we can go ahead with either of them.

3 MR. MICHELSON: Why don't we go ahead with the one we
4 have in front of us, which is probably the easier one, anyway?

5 MR. WARD: Well, I think the other one is going to be
6 pretty easy.

7 MR. MICHELSON: Why don't you read it?

8 MR. WARD: Okay.

9 ACRS comments on proposed rule on access
10 authorization at nuclear power plants:

11 The staff has under development a rule to define
12 requirements under which Part 50 licensees will authorize
13 individuals to have unescorted access to vital areas within
14 nuclear power plants. These requirements are intended to help
15 assure the trustworthiness of persons granted such access and,
16 thus, to reduce the potential for radiological damage.

17 This rulemaking has been under development for a
18 number of years. At one time, the Commission gave
19 consideration to use of a policy statement rather than a
20 regulation. Subsequently, the Nuclear Management and Resources
21 Council [NUMARC] developed and published detailed guidance for
22 licensees to us in preparing their individual programs for
23 granting access authorizations.

24 In April of this year, the Commission, after
25 considering several options, instructed the staff to proceed

1 with rulemaking. The proposed rule recognizes the industry
2 effort and defines very general basic requirements. A proposed
3 regulatory guide provides more detail by endorsing NUMARC
4 guidelines, with a number of exceptions and additions.

5 Our understanding is that the proposed rule is
6 intended to supplement existing regulations on physical
7 security in nuclear power plants and thereby improve the level
8 of protection against the threat of radiological sabotage by an
9 insider.

10 Although programs to resist this threat are already
11 in place, the NRC staff has stated three reasons for their
12 belief that a new rule is warranted: (1) It will make basic
13 requirements to access authorizations more easily enforceable.
14 (2) It will ensure that an apparently small number of licensees
15 not now committed to more generally-accepted minimum standards
16 will improve their programs. (3) It will provide assurance
17 that existing good programs will be continued.

18 In addition, the staff believes that the new rule, in
19 combination with NUMARC guidelines, will provide greater
20 uniformity among licensee programs and permit more facile
21 transfer from one plant to another of access authorizations for
22 individuals. This, they believe, can result in significant
23 economic benefit to licensees.

24 MR. MICHELSON: May I interrupt just a minute, David?
25 I don't think we need any of this to be recorded. So, I would

1 ask that we suspend the record until -- there are other items
2 yet to be recorded later, but not right now.

3 [Whereupon, at 9:11 a.m., pursuant to Chairman
4 Michelson's instructions, the following portion of the
5 proceedings were held off the record.]

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COHERENCE IN THE REGULATORY PROCESS

[10:30 a.m.]

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3 MR. MICHELSON: We'll need to go back on the record
4 at this point and pick up our next agenda item, which is
5 coherence in the regulatory process. I believe it's Hal Lewis,
6 Subcommittee Chairman.

7 MR. LEWIS: As you recall, we have been involved in a
8 -- I was going to say a dialogue with the Commission, but we've
9 been writing letters to the Commission on and off for some time
10 about perceived lack of coherence in the regulatory process.

11 From time to time, we've been derelict and have said
12 integration instead of coherence when we meant coherence, so we
13 have a little bit of incoherence in our own communications, for
14 which we apologize.

15 In any case, it's a subject that everybody, I
16 believe, recognizes as a real one. There's an enormous body of
17 regulation. It's virtually impossible to make it all point in
18 the same direction. It's probably in everybody's best interest
19 to do one's best.

20 Most recently, we've been trying to put it together.
21 We've had a couple of Subcommittee meetings in which we've
22 talked about it and are sort of groping our way toward a
23 position.

24 Last month, we wrote a letter to the Commission in
25 which we outlined a number of the problems that we've perceived

1 in listening to various staff elements tell us about things. I
2 won't go through them, but they include problems in which, in
3 some cases, different offices pursue parallel approaches to
4 closely related problems and one only finds out that that's
5 true when the stuff comes together at CRGR.

6 Other cases, a branch or an element of the staff may
7 take or follow a perfectly reasonable initiative that makes
8 sense in terms of reactor safety, but in which the draw-down on
9 the community, both the NRC and the industry, is not taken into
10 account. This is the ancient problem of tragedy of the commons
11 in which each individual doing good can add up to the community
12 doing bad.

13 There are some things, as we pointed out in last
14 month's letter, in which the EDO can do something about its
15 offices. There are some things at which the EDO is helpless
16 because the Commission hasn't put its act together and,
17 certainly, we as a Committee don't -- well, I don't know if
18 we've ever claimed, but we certainly don't claim to have our
19 act together, either.

20 So this is a subject which is dynamic. In last
21 month's letter, as you recall, we said we'll tell you all the
22 problems, but we can't make any constructive recommendations
23 without talking to the EDO and that we're going to try to
24 arrange a meeting, and that is what we're now doing now.

25 This is, as far as we're concerned, an information

1 exchange. I think there is no doubt that we're all on the same
2 side and the question is how to get to where we are.

3 So with that introduction, we are yours.

4 MR. J. TAYLOR: Thank you, Dr. Lewis. I'm very
5 pleased to be here. As you know, it was just two weeks ago
6 today that I was appointed EDO by the Commission and this is my
7 first appearance here as the EDO.

8 So I appreciate it and I'm here on what I consider to
9 be a timely and important topic. So thank you for inviting me.

10 I have with me those who work with me to presumably
11 pull the regulatory process together and the directors of
12 principal offices; Dr. Murley, whom you know; Dr. Beckjord;
13 and, I believe, Ed Jordan -- there he is -- who are all part of
14 the glue or putting the major reactor oversight part of the
15 agency together.

16 So I'm very happy --

17 MR. LEWIS: We've yelled at all of them individually
18 in the past. This is our first chance to yell at you.

19 MR. J. TAYLOR: So I'm in good company with those who
20 are with me. I certainly am pleased to be here. I recognize,
21 as now the Chief Operating Officer, now having broader
22 responsibilities than I have ever had in the Commission.

23 I recognize the need for all parts of the agency to
24 pull together in the same direction. I recognize the need for
25 a common safety philosophy and for this to be understood down

1 at the trench level. I also recognize the need to have a
2 defensible regulatory practice and that I am central to trying
3 to have responsible regulatory oversight.

4 I will take an aside and tell you that through my
5 years in the Commission since joining the staff in 1980, and in
6 my career before that, I believe that I've worked on the
7 subject of reactor safety and submarine safety for almost my
8 entire post-graduate career.

9 Many of you know I spent about 18 years in the Naval
10 Reactors Program. Before joining that, I was an engineering
11 duty officer in the Navy and I hate to admit my age, but I go
12 back long enough to tell you that my relief at Portsmouth Naval
13 Shipyard, who took my job when I proceeded from there to go
14 work for the Naval Reactors Program, was one of those lost on
15 the thresher.

16 That was one of the more sobering experiences because
17 I had ridden that ship, worked on it some as a young officer,
18 and the subject of the many parts to make up what is a complex
19 engineering technology and how the parts effect safety and all
20 must work together was driven home to me after that submarine
21 accident, which most people believe was caused by a saltwater
22 joint failure, a combination of what I'll call design
23 engineering and practice and inspection, which contributed to
24 the loss of one of the earlier nuclear submarines in the Navy.

25 So those types of sobering experiences through my

1 career have given me a strong sense of what safety is about. I
2 feel deeply responsible for safety and I hope I bring some of
3 those experiences and views. The old man used to say the Devil
4 is in the details and, of course, he's right.

5 And the Devil, both within this technology and with
6 what we do, is in the details. So the subject of coherence of
7 the many details and the things we do, all 3,000-plus of us,
8 for a part of the agency is important.

9 I must say that we do have some things which I'll
10 talk a little bit about underway. We do have a regulatory
11 impact survey going on and you may know about that. I'll say
12 more about it. We've started to take a look really at some
13 internal QA and QC processes to what the staff does. We're
14 relooking at strategies that we've had in place for several
15 years.

16 I think the issue of coherence is a timely one. It's
17 another one of those words and concepts that every once in a
18 while you need to step back and perhaps take inventory. And
19 your raising the subject, as you have, and I think
20 appropriately so from your group, has caused me to want to sit
21 back and say, okay, that's a good subject.

22 You pointed out, Dr. Lewis, how difficult it is to
23 make all the parts fit a coherence to some goal or some
24 desires. It is a struggle, but I think you raise a good issue
25 and we intend to work on it.

1 I do believe that there are examples where parts of
2 the agency are not all pulling in the same direction. I
3 believe that sometimes the staff goes to the left and then we
4 go to the right. And on some practices, we may go too far and
5 perhaps on other important ones, not far enough.

6 I don't have all the answers today. The most I can
7 tell you is after thinking about it, since you asked that I
8 come down, talking to staff and the key offices who are
9 involved, I think it is a timely issue and we intend to put
10 time and work in on it.

11 I will say that we do value the feedback from the
12 ACRS. We have, as the staff has had, a good history of
13 adopting the ACRS recommendations. Our MOU with you has worked
14 successfully through the years.

15 We know that the Commission has taken a special
16 interest and we are doing it within the EDO's office to ensure
17 that the staff appropriately responds to your recommendations
18 and positions when presenting positions to the Commission. So
19 we're trying to be very careful. We obviously in all cases may
20 not agree with you, but we're being very careful to be sure
21 that the Commission understands both what you said and whether
22 or not we agree or whether we've adopted what you've
23 recommended.

24 We are in a different time in, I think, commercial
25 reactor use. It's changing. We're heavily, of course, moving

1 out of the initial licensing, as we knew it, and going to
2 operational oversight.

3 We're working hard, and I know you know this, on the
4 subject of license renewal. Those with me and I are dedicated
5 to try to do the best job we can with setting up that framework
6 -- it's not going to be easy -- so that this resource can
7 remain available, depending upon, of course, the licensee's
8 desires, and we understand there is a high interest in the
9 subject by the companies and some large numbers have already
10 indicated that if the framework can be met without
11 extraordinary costs and so forth, but would make it worthwhile
12 that the industry itself is broadly interested in license
13 renewal.

14 Tom Murley and Dr. Beckjord are also, of course, hard
15 at work at the new plants or the new designs, and the whole
16 certification process that we have tried to put in place.
17 There are going to be a lot of challenges to the agency in
18 these changed times.

19 We have to wisely use NRC resources. It is clear
20 within the Government that we are not going to get a lot more
21 resources. I am currently in the middle of the budget process
22 for this next fiscal year. We have recommaed potential cuts at
23 OMB, and we have succeeded, with the help of the Chairman. So
24 we are going in at least with our budget for this next year,
25 with resources that we think currently will help us to get the

1 job done that the Commission wants. We, of course, have to go
2 through the Congress. You know about Gramm-Rudman, we had a
3 close call this year, had some impact. It is always lingering.
4 And we have a long road to go on future budgets. So I can
5 assure you that if we take budget cuts, some of the work that
6 we need to do and want to do will be very severely impacted,
7 and it won't just be in research, it will be our ability to
8 continue to do the upfront job on such things as license
9 renewal and the review and certification of future plants.

10 We do try to remain sensitive to the impacts of what
11 we do on licensees' resources. As you know, for example, in
12 the IPE area, we folded into the IPE most of, and will fold in,
13 the results from the containment improvement program. We are
14 working hard to be sure that the external events steering group
15 coordinates all the seismic issues in the IPE for the future
16 work in the IPE area for external events.

17 We do have a crunch of submissions. And most of the
18 utilities have indicated that sometime in fiscal year 1992
19 there will be a broad submission of the utilities' reviews
20 under the IPE process.

21 Those are big pieces of work, important pieces of
22 work. And while we are on IPE, we did brief the Commission
23 yesterday on the overall subject and status of where we are in
24 the severe accident arena. And I don't know whether you know,
25 but the staff, as preliminary commitments, most of the

1 utilities, almost across the board, will complete PRAs as part
2 of the IPE and review process. That is a very important act.
3 Almost to the person or to the unit the utilities are saying
4 yes, we will do it. You know many have done them. You know
5 those that are done. But we will get many more PRAs.

6 I would like to use a slide, if I may, perhaps to
7 better describe where I think your coherence issues may be
8 applied.

9 [Slide.]

10 MR. TAYLOR: We made a little pyramid here, and if
11 you will bear with me, the concept here is that there are
12 several parts above that dotted line where you and we and the
13 Commission itself set in motion all of the parts of what I will
14 call our safety philosophy, all the inputs that come in, that
15 feed through the regulations, and to the various license
16 conditions, staff positions, and activities resulting from the
17 body of the regulations themselves, the licenses, the specs,
18 and so on.

19 Below that is the other part of what we regard as the
20 safety pyramid, which is where things get executed, which is
21 the tie to the field, where the whole process of inspection and
22 overview of operations takes place, when we become intently
23 interested in the safety performance of individual plants and
24 individual utilities.

25 Your issue of coherence fits the top. It also fits

1 the bottom. So the intention here is to say that we intend to
2 look in both directions, that we will try to take what we think
3 ar the Commission's goals, including safety goal, and many of
4 the other policies and direction that comes through the
5 Commission, and try to be sure that we coherently carry it out
6 not only with the product that we produce that you see so much
7 of as part of the ACRS review, but that we also executed in
8 their field operations, where your ability and of course the
9 span may not give you as much information on what we do, but
10 you certainly do get feedback about it.

11 Our concept of defense-in-depth is also, as you know,
12 driven by numbers of initiatives that the staff has taken up
13 through the years, particularly in the lower part of the
14 pyramid to try to understand liconsee performance.

15 I know you were briefed yesterday on SALP and I know
16 you have some concerns in that area. You know about
17 performance indicators. You know that we do meet twice each
18 year with the senior line management and involved offices of
19 the agency, the office directors, in a senior management
20 meeting, which is principally spent trying to understand
21 problems in licensee safety and regulatory performance.

22 We are, you know, deeply involved in trying to put
23 together the pieces to spot poor safety performance. And to
24 try to turn that around, we are using what intellect,
25 resources, and influence we have before individual plants get

1 into deeper trouble.

2 We are going to continue to work both sides of this
3 concept. And of course, we will continue to try to keep both
4 you and the Commission informed.

5 We are doing, I mentioned earlier two things.

6 [Slide.]

7 MR. TAYLOR: On the second slide, Tom Murley's people
8 were kind enough to put together a QA type approach. And we
9 are really just getting off the ground on this idea. But we
10 are trying to look within the offices. We obviously have a lot
11 of oversight reviews and so forth. But there are places where
12 we can begin to apply quality principles within some of our own
13 office functions in the NRC.

14 We are currently in the middle of taking some looks
15 on what I will call the vertical slice basis within offices,
16 going down in some depth by senior management.

17 Tom Murley, I don't know whether you are aware of it,
18 has done a big quality job on the review and actions with
19 license amendments. I don't know whether you've been briefed
20 on that. But I'm very pleased, and I'm pleased to be able to
21 be here and tell you that NRR has done a bangup job on trying
22 to get behind what is the backlog and outstanding backlog and
23 license amendment, which are the most important to get done.
24 And there is more order today in the license amendment process
25 than there has been for many years.

1 That is a high-class quality operation. And it came
2 about because Tom and others in the office recognized that this
3 was not in good shape, didn't have the type of overview, and
4 personally put a lot of time to try to straighten out that
5 product line, so to speak, and very important regulatory
6 product line, of this agency.

7 I use that as an example. We are going to try to
8 look across the agency. It is applicable not only to reactors,
9 but our other licenses, licensing actions. And we are
10 beginning in a modest way, like most things. We are going to
11 look at things and maybe say, hey, that's working okay. But we
12 will try to do that across the offices, really beginning with
13 some things that we haven't done to internally look at how we
14 can improve what we do.

15 MR. SIESS: That list on the screen is of
16 considerable interest, but I think the most noteworthy thing
17 about it is that the word "quality" appears and the word
18 "assurance" does not, and I congratulate you.

19 MR. J. TAYLOR: Tom, did you have that in the back of
20 your mind when you did that? We didn't put the strong arm on
21 that, did we?

22 Going on, I want to mention that this regulatory
23 impact survey that we have currently going on has just reached
24 the point where the last visits -- Tom Murley, Ed, I believe
25 you went out.

1 MR. JORDAN: Yes.

2 MR. J. TAYLOR: We've had senior office directors
3 from Headquarters and regional administrators, obviously not
4 doing the survey in their own region, but we've been out and
5 have interfaced over the period of the past several months with
6 13 major utilities across the country, multiple plants, 13
7 utilities. We did three in each of the large regions and two
8 in each of the small regions, and the results, let me tell you,
9 we don't have the results yet. We're now gathering. Burt
10 Davis led this effort.

11 There is feedback. That's number one. The feedback
12 is that -- and you'll hear more -- that there are things that
13 we're doing that we may look at and the way we're doing it and
14 what we're doing. I'm not going to get into any of that,
15 because I have deliberately stayed out of the process, because
16 I wanted Burt Davis and Tom to be able to do this without
17 interference by any directions from me or others, and Burt is
18 now working, and Tom, to pull that product together. We
19 expect, in the next couple of months, to have that. We will,
20 obviously, be briefing the Commission not only with what are
21 the problems but what are we going to do about them, and that's
22 the lower point of that pyramid I told you about.

23 MR. LEWIS: I believe we're trying to arrange a
24 meeting with the chairman of that group for an informal
25 exchange, hopefully for next month, bearing in mind that that's

1 before the conclusions are really in.

2 MR. J. TAYLOR: Yes. That might be good to do, and
3 then, of course, we're going to have to brief the Commission
4 itself. We will put a report out, and that takes a little
5 time.

6 Most importantly, when we put it out, we're going to
7 already have had to put into motion the process of what are we
8 going to do about some of the problems that we come up with.
9 We know that they're there. We know they -- no matter how
10 well-intentioned some of the actions may be by parts of our
11 organization, that they may be having impact, and of course,
12 what we all fear -- and I think this is something that weighs
13 on my mind as we talk about the regulatory impact -- is that
14 the very impact of our actions will drag plants or licensees
15 away from doing the more important actions which contribute to
16 safety and safe operation. That's the last thing we want to
17 do, but I know that, in our own way, we can have that impact.

18 I've been to utilities myself in the past few years,
19 where I go in and their plate is full. They hold no secret
20 about their plate being full.

21 I've talked to utilities' senior executives and CEOs
22 about lay out the priorities. Don't think that everything the
23 NRC throws on top of you is of the highest priority. Take a
24 rational look at what our priority issues are and all the other
25 issues which you have that contribute to safe, reliable

1 operation in the units and try to lay out your path. Talk to
2 us about what you want to do, and if it's necessary, at the
3 most senior levels of agency, I think we're willing to do that
4 with a utility, but we are conscious of the impact that we
5 have, and this survey and, perhaps, other input that we're
6 getting will help us to not, in any way, detract from safety.

7 Where does this leave us? I guess I acknowledge to
8 you a need for continuing efforts to improve our regulatory
9 process, to look for the incoherences.

10 I will be looking at the organizational barriers.
11 What more should we do to take care of the problem?

12 I will be looking for what can EDO and my small staff
13 do, but what we can do to promote and guide the coherence? I
14 intend to continue more dialogue with the offices and the
15 people on that subject in the future months.

16 We're going to continue -- I know safety goals are
17 very important to you, the safety goal policy. We're going to
18 continue to try to use our efforts to use the safety goal
19 concept better than we have, to make the ties better. I know
20 there are cases where that has not happened. We're going to
21 try to do that, in the intent, I think, that you have for use
22 of the safety goal.

23 Most importantly, we're going to continue to want
24 your feedback. You do have the advantage of being able to be
25 an independent group, to observe what we do, to review with

1 your own background and experience; and I welcome it. Please
2 say this is not coherent and give me that back. Let me try to
3 do with it what I will.

4 I must point out that -- and I know you know this --
5 that many times, offices will come to you with preliminary
6 positions which have not yet had any exhaustive review in the
7 EDO's office. I hope you'll appreciate that, at that stage,
8 not all the ties have been made. Please bear with us, but
9 don't hold back your comments, no matter where it comes from in
10 the staff. If you get there before I do, more power to it. We
11 will try to take your comments into effect as we finalize our
12 action and make recommendations to the Commission.

13 So, I recognize that sometimes -- and it is
14 appropriate that staff will be briefing you or subcommittees on
15 what are truly very preliminary actions within the staff. If
16 you spot the incoherence at that time, throw it right on the
17 table. We'll pay attention to it.

18 MR. LEWIS: If I could just comment on that: There
19 are, obviously, conflicting interests here, because we know
20 that elements of the staff are concerned about coming to us
21 with things that are not in final form, for fear that they may
22 get flak which is premature and uncalled for, unjust,
23 unreasonable, all those bad things.

24 On the other hand, when we get things when they're
25 finally polished, it's too late to help, and so, there is an

1 awkwardness there, which probably has to be met by some sense
2 of mutual trust.

3 Our job, after all, is to advise the Commission, not
4 to advise you, but in some ways, we help the Commission best to
5 the extent that we can help your people do their job. So,
6 there is a narrow line there that -- it's actually not so
7 narrow -- that just has to be worked out by mutual
8 accommodation.

9 By and large, I think -- my personal view is that we
10 do best when we get in early.

11 MR. J. TAYLOR: I think that's true. I really do,
12 because getting those views early are very important to us.
13 So, I support it. Where possible, I would like to continue
14 that, and in a way, by the time the staff gets into its final
15 recommendations and positions with the Commission, a great deal
16 of time and effort has been spent, and it may be, if for no
17 other reason, for preserving resources. If we're off on a path
18 that isn't sensible or coherent, the earlier we know, the
19 better off we are, because we don't have resources.

20 MR. LEWIS: The redeeming feature is that when we
21 make off-the-wall comments early, people ignore them anyway.

22 Chet, you wanted to say something.

23 MR. SIESS: It's not unusual for us to see something
24 coming from one area of the staff early and something coming
25 from another area of the staff early and these, too, are not

1 coherent. Is there any mechanism within your organization fo
2 you to see things that are being developed; say, one group
3 working in Eric's research and another one over in NRR with
4 Tom, at an early stage?

5 MR. J. TAYLOR: We have deliberately kept the EDO
6 staff small. I think I did not want a large staff, so I'm not
7 making apologies or excuses, but I've got a very small staff.
8 You know Matt. Matt does a great deal of the cross review with
9 help from guys like Bill Kennedy.

10 I will -- i"m going to make it more of a principle
11 for our own staff to try to spot it, but I don't want to expand
12 the EDO's organization right now. I think that's -- I'd rather
13 let the offices try to make that mating.

14 MR. SIESS: These things can go pretty far before one
15 office knows what the other is doing.

16 MR. J. TAYLOR: I know.

17 MR. SIESS: Now, not necessarily all the way up to
18 CRGR, but sometimes, there's been a lot of effort put into
19 something by the time it gets that far, that was either
20 duplicative or unnecessary.

21 MR. J. TAYLOR: Well, I'm supposed to have two
22 deputies. I was the deputy really directed towards the field
23 when we reorganized several years ago, and spent most of my
24 time in the field.

25 Then Vic and the Commission decided to reorganize

1 EDO's office, and so it's only been about the last year that
2 I've assumed broader responsibilities. Ideally, if -- and that
3 position is not filled yet, but ideally, that will give more
4 senior management in the EDO office.

5 As you know, I was acting principally as Vic's deputy
6 for a long period of time, and then we brought up a second
7 deputy. Then Vic left some months ago, so I've been trying to
8 do multiple jobs.

9 That may help, Professor Siess, but we'll try to do
10 better up there. Yes, sir?

11 MR. KERR: Mr. Taylor, I certainly commend you for
12 trying to avoid a top-heavy administrative staff. We see --
13 and I'm emphasizing what I have heard some of my colleagues say
14 -- many occasions on which it appears that people on the
15 working level either have no mechanism for, or avoid for some
16 reason, communicating with each other. I don't know how you
17 encourage that, but it appears to me that what is needed is
18 some way of convincing people that if they talk to each other
19 at the working level, it's efficient, and it doesn't
20 necessarily infringe on one's territory.

21 I don't think I have to sell you on that principle,
22 but I must say that within the organization, I don't know how
23 to achieve it. I believe it would add efficiency to the
24 organization if more cross communication could occur.

25 MR. J. TAYLOR: I think that's a good comment. I

1 have the principal officers here that are involved, and they're
2 responsible to try to -- and will work on that. I must say
3 that as I look back, consolidation has helped us. Eric is over
4 in Nicholson and we're still working on that second building,
5 by the way, but we are a more cohesive staff for having
6 occupied White Flint North.

7 I see the change. It is dramatic with the staff
8 being closer together. We're also much closer to the
9 Commission and therefore that adds some really coherency
10 between the staff and the Commission I don't think that has
11 existed in the past.

12 It also keeps the staff hopping, because the
13 Commission is right in the building. But we need to work on
14 that. I can tell you one of the success stories out of this
15 reorganization.

16 When INE went out of existence and INE and NRR were
17 combined -- Tom Murley, of course, has been very instrumental
18 in this whole process -- is that there is more coherence, more
19 cooperation and more discussion between headquarters and the
20 field people than ever in our history. You don't get nearly as
21 much of the "we and they" attitude that persisted through many
22 years of the agency.

23 Those of you who have been here a long time know it.
24 A lot of that has gone by the board, so I regard that as a
25 communications success. But I take your comment. I was going

1 to ask the other office directors that were here to say a few
2 words. Sir?

3 MR. SIESS: One comment: I think there are two
4 levels to this question of communication. First, people have
5 to know that somebody else is working on something. Once they
6 know that, it isn't always that difficult to get them to talk
7 to each other.

8 We've had one element of the staff come in and talk
9 about something and we say, well, yesterday, we heard so and so
10 from another group. What about that? They've never heard of
11 it. Once they hear of it, I'm sure they talk, but it's just
12 this question of becoming aware of what's going on.

13 Is there something -- there's something called a
14 regulator agenda which I used to look at. Is there something
15 where people that are working on regulatory activities could
16 describe what they're doing in five and six line, and now with
17 computers, everybody can look at that stuff and make searches
18 on it.

19 MR. J. TAYLOR: Let me take a look at that. That's a
20 good thought. You know, we are networking our whole PC system.
21 That's one of the things that we've got in the works, so --

22 MR. LEWIS: If you do set up a database of this kind
23 -- and that makes a lot of sense -- send a copy of it to the
24 ACRS.

25 MR. J. TAYLOR: You can get on that network. You can

1 join.

2 MR. LEWIS: We're not allowed to connect with the NRC
3 system.

4 MR. SIESS: It's hard to do it from home, but it's
5 not difficult from our offices.

6 MR. WARD: Jim, I've already said that traditionally
7 one of the hallmarks of the NRC has been technical competence.
8 We're in, you know, a complex, difficult, sophisticated,
9 technical business, and I think that pretty generally through
10 the years, NRC people have been able to stand toe-to-toe with
11 experts outside the agency in discussing and resolving
12 sometimes pretty complex issues.

13 At least some of us perceive that a good bit of that
14 technical competence has resulted from these -- one byproduct,
15 perhaps more of a direct product of a quite large research
16 program that the NRC has had through the years -- early in your
17 remarks, you said something to the effect that budget cuts, if
18 they're deeper, won't just be in research.

19 To me, that indicates you personally are giving
20 research a somewhat lower priority than it's had in the past.
21 I mean, obviously, when budget cuts come, they do seem to be
22 preferentially in research. Is that because you think it's now
23 less important for the agency to have the sort of technical
24 competence that comes from being involved in a research
25 program?

1 MR. J. TAYLOR: No, not at all.

2 MR. WARD: Or, are you getting it some other way.

3 MR. J. TAYLOR: No, the problem with the NRC budget
4 is that a large part of our budget is directed to people costs.
5 If sometime you'd like to go through this, I'd be glad to,
6 because it's very interesting to see how our budget lines up.
7 We call that basically our non-discretionary.

8 We have to pay our rent, phone bills and there are
9 enormous costs, you know, comparatively, that are just part of
10 being largely a people agency, just to keep the whole place --
11 the lights on and all of our services and frankly, salaries.

12 So that therefore leaves you with almost two thirds
13 of the budget or better tied up in people costs of the budget.
14 Our current number is about \$475 million, which we're going
15 forth with in the 1991 fiscal year. The rest of the money then
16 is in not the people costs in the Office of Research, but the
17 actual direct money to support research and Program Office
18 monies to support the necessary review and contractor support
19 that comes into the major program offices.

20 In mentioning that and cuts, I by no means meant to
21 emphasize cutting research. In fact, Tom feels strongly and I
22 do too that we want to keep a strong research program and we
23 continue to with Eric's -- Eric hasn't been silent about that.
24 We intend to continue.

25 It means that Eric has got to run a tight show; that

1 is, he's got a certain pool of money, so where he puts it gets
2 ever more important that it support the regulatory safety
3 process. The fiscal situation isn't going to improve
4 measurably in the foreseeable future, so I think it's going to
5 be a continuing struggle, and Eric, with the help of others, is
6 working on that subject.

7 The current effort with OMB has resulted in our
8 ability to restore funds on research that were part of the
9 proposed cuts, and we intend to continue to do that.

10 By the way, we sent in a budget of \$527 million and
11 we are about \$475 right now. The cuts were taken across the
12 board as we could, where discretionary costs could be cut.

13 It was not solely in the Office of Research so the
14 bottom line, we hope we can continue to support Eric's
15 research.

16 MR. WARD: The concern has been, I mean, for the
17 reasons you described is when faced with the overall Agency
18 budget cut it's administratively much easier to make them in
19 research discretionary funds and there is probably a temptation
20 to do that.

21 MR. J. TAYLOR: There is.

22 MR. WARD: We hate to see that driving a policy or a
23 philosophy.

24 MR. J. TAYLOR: It's only the fact of what are called
25 the fixed costs and then costs that you can control via

1 contract processes drives it.

2 We'll be glad some time if you are interested to talk
3 about that to the ACRS.

4 MR. LEWIS: I don't want to start a debate on it but
5 I am curious. We did send a letter to the Commission last
6 month which contained a copy of one of the regional letters
7 which I am only curious to know whether you have read that
8 letter.

9 MR. J. TAYLOR: Yes, I've read it.

10 MR. LEWIS: Okay. I don't want to start a debate on
11 it because that would take us all afternoon.

12 MR. J. TAYLOR: Right. I did read it. I think
13 you're point is understood.

14 MR. LEWIS: Fine. I don't want to start that one
15 now.

16 Other --

17 MR. MICHELSON: Yes. A small item. The Committee
18 recollects that perhaps in the early 1980s there was a study by
19 O'Reilly and a group in Atlanta.

20 We wanted to go back and refresh our memories on what
21 that was about and we were having some difficulty locating a
22 copy of it.

23 MR. J. TAYLOR: I will get it for you.

24 MR. MICHELSON: So could you send another copy to the
25 office?

1 MR. J. TAYLOR: Surely. Absolutely. We dusted it
2 off as part of finding this regulatory answer.

3 MR. MICHELSON: We are not sure but we thought there
4 was also a Murley study of some sort perhaps a little later.
5 Could you fill us in if there was such a study?

6 MR. MURLEY: Of the type of the O'Reilly study or
7 regulatory impact survey? No.

8 MR. MICHELSON: You did not prepare any?

9 MR. SIESS: Tom did one on all the varied ways in
10 which the NRC imposes things on licensees.

11 MR. MURLEY: Yes.

12 MR. SIESS: Unrelated but not quite the same thing.
13 This was the forerunner of CRGR.

14 MR. MURLEY: That is correct.

15 MR. MICHELSON: Was that put in a form that you could
16 send us also? We again we weren't quite able to find it in our
17 files.

18 MR. MURLEY: Yes.

19 MR. SIESS: It might bring it up to date because I
20 suspect you have thought of a couple of new ways.

21 [Laughter.]

22 MR. MICHELSON: So if you would send those two
23 documents we would appreciate it.

24 MR. J. TAYLOR: I was going to ask, if you don't
25 mind, since I asked them to join me, whether there was any

1 thought that I may have missed that they would like to bring
2 up. If we have a few minutes I would like to ask the office
3 directors if they would like to present any other views.

4 Is that acceptable, Mr. Chairman?

5 MR. MICHELSON: It's yours yet.

6 Okay, I'm sorry. I missed the question.

7 MR. J. TAYLOR: I brought Tom Murley, Eric and Ed
8 Jordan and I wanted to check to see if there is some thought
9 that in talking to you that I missed that they would like to
10 add.

11 MR. LEWIS: No, no. They have been sitting there
12 nodding wisely as you spoke.

13 MR. J. TAYLOR: Tom, do you have anything you would
14 like to add? Now is the chance.

15 MR. LEWIS: I assume that's why you brought them but
16 we are happy to hear from them if they have anything to say.

17 MR. J. TAYLOR: Do you have anything you would like
18 to add, Tom?

19 MR. MURLEY: A couple points I might amplify on a
20 little bit.

21 As you know, in the past three years or perhaps four
22 the Agency, the Staff has shifted its focus, largely toward
23 operational safety and in that sense I think we are much more
24 coherent than we have ever been. Jim alluded to it.

25 I think I am not ready to declare absolute success

1 but I am pleased with the focus that both headquarters and the
2 region and in fact all the elements of headquarters are giving
3 to operational safety.

4 Within your concerns I think there are areas that are
5 better than others.

6 I would point out where I see probably the most lack
7 of coherence or where we can do better in getting our acts
8 together and that is in the advanced reactor area. Partly I
9 think it's the way the new organization was set up because both
10 research and NRR have separate responsibilities in the advanced
11 reactor area.

12 MR. SIESS: Would you define advanced reactor,
13 because some people use it one way and some simply mean the
14 future.

15 MR. WARD: That is part of the problem.

16 MR. MURLEY: Strictly speaking, the advanced reactors
17 I think are the HTGR and liquid metal. We also used the
18 evolutionary light water reactor, which is our responsibility
19 for reviewing and the passive light water reactor designs.

20 Now that gets us into --

21 MR. SIESS: So really you mean future reactors, if
22 any?

23 MR. MURLEY: Pardon?

24 MR. SIESS: So really what we are talking about is
25 future reactors, if any?

1 MR. MURLEY: Yes.

2 I think where we have to be careful in working
3 together is in the severe accident issues that touch on both of
4 these types of future reactors. We are trying very hard to
5 coordinate our views and activities and Jim Taylor mentioned we
6 briefed the Commission yesterday on that subject.

7 I take my senior staff and meet periodically with
8 research and with AEOD just to try to go over these top level
9 issues with Eric and his people and with Ed Jordan and his
10 staff and I think those kinds of meetings are necessary but we
11 do find from time to time that we are going off in different
12 directions.

13 Quite frankly, it just takes a lot of management
14 attention to deal with it.

15 I think another area that I acknowledge -- I would
16 say it's probably of most concern to me personally is the one
17 Hal Lewis mentioned, the "Tragedy of the Commons" aspect, where
18 individual things that we work on have merit by themselves and
19 one will find it very difficult to say that we shouldn't work
20 on them or that we shouldn't impose them and yet we don't have
21 a good mechanism for standing back and saying what is the
22 cumulative sum of all these individual actions that we're
23 taking.

24 The Regulatory Impact Survey was meant to try to come
25 to grips with that and I have been on two of those meetings and

1 I am going out Monday to talk with Burt Davis. I can tell you
2 it's a very difficult thing to grapple with but I think we have
3 to do it.

4 I think those are my comments.

5 MR. LEWIS: I wonder -- if I can say one thing and
6 then Bill Kerr has something -- Tom, incidentally I appreciate
7 your plug for "Tragedy of the Commons," which was an essay
8 written by a colleague of mine at Santa Barbara many years ago
9 and therefore -- and it is a very famous essay which I am happy
10 to advertise at NRC expense, but one thing. You know you said
11 you were more comfortable about coherence in dealing with the
12 operating reactors and we all know that there has been a
13 transition in that direction.

14 This Committee has written letters in the past saying
15 that the hallmark of coherent regulation is that everything
16 should support the safety goals.

17 Is that the sense in which you mean that things are
18 getting much better?

19 MR. MURLEY: Oh, dear. That would be a whole
20 different subject, because the safety goals and --

21 MR. LEWIS: If you want to pass on it, it's okay with
22 me.

23 MR. MURLEY: I'll have to pass.

24 MR. LEWIS: In that case, I'll give it to Bill.

25 MR. KERR: Tom, you mentioned the coherence in

1 operating the reactors. At least from my perception, there is
2 -- I use the term -- they disconnect between the regulations
3 that were developed prior to TMI-2 and the way in which we now
4 deal with severe accidents.

5 It appears to me that aside from the IPE -- and I'm
6 not sure how one is finally going to deal with the IPE after
7 the analyses come in. Aside from that, much of what we are
8 doing with severe accidents is somewhat ad hoc. I know that we
9 require that PRAs be performed, but it ought to be a little bit
10 clearer how one makes a decision given the PRA as to whether
11 the severe accident issue has been taken care of appropriately.

12 Do you see coherence there? Perhaps I'm missing it.

13 MR. MURLEY: What we have tried to do -- in fact,
14 back two years ago -- is pull together a plan, and I think it's
15 more of -- in your terms, it would be more of an integration
16 than coherence. But we tried to integrate all the things that
17 were going on in the agency and aim them toward a process that
18 we call closure of the severe accident issue for operating
19 plants.

20 We have presented that to the Commission and we have
21 been working toward that closure plan. Now, there are some
22 elements of it which you might ask, and I think the Committee
23 is on record as saying that they seem to be pulled out for
24 special treatment or they seem to be out of phase, like the
25 MARK-1 recommendations and so forth.

1 To some extent, I might agree with you, but there
2 I'll have to plead that that was, I think, an issue that had to
3 be dealt with in a timescale earlier than closure of the whole
4 severe accident issue, which is still a good five years away or
5 more.

6 But, in general, I would say we have a -- I think
7 it's a coherent thought process or at least a coherent
8 philosophy of what we're doing to close the severe accident
9 issue.

10 MR. LEWIS: Any more for Tom?

11 MR. SIESS: One fairly important aspect of the severe
12 accident issue closure is the IPE, which the staff is requiring
13 as a followup to the severe accident policy statement. I
14 personally am convinced that having each plant do an IPE,
15 especially since most of them are going to do some sort of a
16 PRA and look for vulnerabilities, I think that that requirement
17 is going to improve safety.

18 I think simply going through the process and finding
19 the outliers and certainly some of them are going to be fixed,
20 particularly core melt contributors.

21 I'm not sure from where I sit now, and I'd certainly
22 like to have your view, is how much you think the staff review
23 of the IPE is going to improve safety. I mean, one scenario is
24 simply tell them to do it and the other is to tell them to do
25 it and then spend the next three years reviewing it or however

1 you propose to do it.

2 I can see a large increment, one, and I'm unconvinced
3 on the other. Have you thought about it?

4 MR. MURLEY: Yes.

5 MR. SIESS: Or is it unthinkable that you wouldn't
6 review it.

7 MR. MURLEY: We're right in the middle of intense
8 discussions, Eric's staff and my staff, on what should be the
9 scope and depth of our review. We haven't concluded yet. I
10 can give you my own views on the matter, though. It is that
11 the main benefit from an IPE is the fact of the utility doing
12 it themselves and their own staff involvement in, and what they
13 conclude from it, and how they approach it.

14 The seriousness with which they approach it and the
15 sincerity, I guess, of actually trying to fix problems that
16 they find. Now, if we could be confident that there were this
17 sincere approach to doing the IPE, then I think our review
18 could be quite minimum.

19 However, we just don't know yet, until we get the
20 results in. But it is certainly possible for a utility to
21 simply go out and hire some consultants and send us in a report
22 with hardly even reading it themselves.

23 MR. SIESS: When you told them three years, you
24 encourage that, certainly.

25 MR. MURLEY: Pardon?

1 MR. SIESS: When you set a time limit, you encourage
2 that. To do a PRA on all those plants and the time that's
3 available.

4 MR. MURLEY: Yes, I know.

5 MR. SIESS: The same thing is going to happen when
6 you come to review it. You're not going to have the staff to
7 review everything they did. You're going to go out to
8 contractors to do it.

9 MR. BECKJORD: I think a couple of very important
10 points have been made. I agree with Tom. I think that our
11 effort on the review should focus on a determination of whether
12 an adequate or a superior job has been done. If we conclude
13 that it hasn't been done, I do not believe that we should
14 attempt to second guess the utility.

15 I think we should simply send it back and say it's
16 not good enough.

17 MR. SIESS: Tom used a good word; "sincerity." If
18 it's been done with sincerity.

19 MR. BECKJORD: Yes.

20 MR. LEWIS: That's a word straight out of Snoopy, I
21 believe.

22 MR. CARROLL: Some competence along with sincerity
23 would probably help.

24 MR. LEWIS: Would Eric or Ed like to say something?

25 MR. J. TAYLOR: I was going to ask Eric.

1 MR. BECKJORD: Thinking of the discussion, just a
2 couple of points. Jim Taylor described the budget situation to
3 you. I thought I'd just maybe add a little bit to that. As he
4 said, the situation that we were facing in September was
5 essentially resolved and that Gramm-Rudman sword for Fiscal
6 1990 would stay.

7 Now, for the past three years, which is my
8 experience, every year there has been a substantial cut in the
9 budget for research. The result of that has been essentially a
10 deferral of projects. We've gone through everything that we
11 had in mind. We've lined it up in priorities and we've
12 deferred certain things as a result.

13 I think we can say that we kept the program whole
14 during this period. Certainly, that's my view. We've also, as
15 a result of the cuts, gone back and taken a careful look at
16 things and rethought priorities, looked for better ways to do
17 things, doing experiments differently.

18 In other words, efficiency. I think that we have
19 recovered a substantial part of those reductions through
20 efficiency. Primarily, that's by taking a new approach.
21 However, there are still deferrals.

22 So I think what's happened in the budget process is
23 we got by in reasonable shape for Fiscal 1990. However, the
24 threat is still there in Fiscal 1991. I think the issue is are
25 we going to be able to recover and, which the budget which was

1 submitted, provides for recovery and dealing with some of the -
2 - with the important deferrals of the past.

3 So the issue is going to be whether we're going to be
4 able to do that or not, the issue in Fiscal 1990. So that's my
5 comment on the budget.

6 The second point. You suggested the importance of
7 communication between the offices. I certainly agree with
8 that. I guess what I'd say on the part of research is that
9 there are very few things that we do that do not require
10 concurrences and discussion with other offices.

11 So we do that extensively. Now, the question then is
12 not do we do it or not do it. Talking doesn't necessarily
13 imply communication. So I don't claim that the communication
14 is perfect, but I think what would be helpful to me would be an
15 early indication.

16 If you find evidence that there has been talk but no
17 communication, I'd certainly like to know about it because I
18 can do something about that.

19 MR. J. TAYLOR: Ed?

20 MR. WARD: Could I ask Eric a quick question? Eric,
21 you have, in your office, since the reorganization and, I
22 guess, even before that, there are some functions that are
23 really not research by much stretch of the imagination.

24 I don't know what I expect you to say, but are you
25 sitting comfortably with that? I guess some of us have been

1 concerned that that in itself has diluted efforts toward real
2 research.

3 MR. BECKJORD: No. I have never really been totally
4 comfortable with it, for the reason that the other duties are
5 also of considerable importance. I mean the resolution of
6 generic issues, the writing of rules. I guess, to me,
7 personally, the greater challenge is the writing of rules,
8 because I have very little in my own past experience that
9 provides any background there. So, I learn what I can, and I
10 search carefully for the right position, and I'm looking for
11 the experience and the ability of the people who are working on
12 this to carry it through.

13 What it means to me personally is that there is a lot
14 of time that I don't spend on research, and when I say I am not
15 comfortable with that, that's what I am not comfortable with.
16 I think that the research issues certainly deserve all the time
17 that they can get.

18 MR. SIESS: If you didn't have that function in your
19 office, you wouldn't necessarily have more money for research.

20 MR. BECKJORD: That's true. I might even have less.

21 MR. WARD: Yes, but I think that's maybe a more
22 complex question, because you might get lost in the battle. I
23 mean your energies for research can affect how much you get.

24 MR. BECKJORD: There are pluses and minuses. The
25 plus side of it, which I didn't mention, is that the work on

1 generic issues, I think, is very important as an input to the
2 research program, because it's really -- how those issues were
3 resolved has and should have a major impact on what research is
4 done. So, that's a plus.

5 MR. SIESS: That's an interesting statement there,
6 but I wonder if you could back it up with something in writing.

7 MR. BECKJORD: I'm sorry, with something in writing?

8 MR. SIESS: I mean something to show how much of the
9 research is really going to resolve generic issues. I know
10 that there are individual little projects tied to generic
11 issues, and some of them are even technical support, but when I
12 look at large areas of research on severe accidents and thermal
13 hydraulics and try to say -- I really can't justify that in
14 terms of generic issues.

15 MR. BECKJORD: Well, for the past couple of years,
16 the generic issue resolution has had much more to do with the
17 Engineering Division than it has with the work on severe
18 accidents, that's true, but there is a considerable impact
19 there. I mean of the Engineering program is devoted to --

20 MR. SIESS: Right, and every time we look at it, or
21 every time I look at it, I have a whole lot less trouble
22 showing the uses of the research and the benefits from the
23 research when I look at the Engineering Division research than
24 when I look at the other areas, and I think that's what you're
25 saying. It's more directly related to resolution of issues if

1 the questions are fairly clear, but you know, when you were
2 talking about the budget, there are two steps.

3 First, somebody has to decide what research must be
4 done and then how do we get the money to do it. We don't start
5 with the money and then say what can I do for that money. Now,
6 maybe that's zero-based budgeting, I'm not sure, but I think
7 that this Committee, from time to time, and, I think, other
8 people, the Congress, have had problems with the research
9 that's being done and justifying the research. There has got
10 to be some reason, other than just the -- what Jim said, that
11 the research budget is getting close to a third of what it used
12 to be.

13 MR. BECKJORD: Well, on that point --

14 MR. SIESS: That isn't a third as much research
15 either.

16 MR. BECKJORD: I and others have put, I would say, a
17 fair amount of effort into improving the description of what is
18 done and why it's important and how it's structured, and I
19 guess I don't know what else to do in that area. If somebody
20 can give me a suggestion -- I guess I have concluded that our
21 problem with funding research now is not closely correlated
22 with the fact that it's poorly explained, because I think the
23 reason and rationale is pretty good now.

24 MR. SIESS: I wasn't thinking about explaining why
25 you are doing it, but to be able to go somewhere where people

1 have money and show them what you got out of it the last year k
2 or the year before that or the year before that, to show how
3 the results of that research have increased the health and
4 safety of the public or reduced the risk, enabled you to do
5 something you couldn't do before.

6 MR. BECKJORD: I understand. There is a report --
7 the last report which was out, I don't know whether I've got
8 the right number. I think it was 1266, which is the report on
9 Research Accomplishments, which came out in April. I think
10 there's a copy here. I think that's one of the better jobs
11 that's been done, and it's going to be even better this year.
12 It will come out in probably January or February, because it's
13 been shifted to a fiscal year basis.

14 MR. SIESS: But you know, I'd have a problem, I
15 think, doing a cost-benefit on it and evaluating man rem
16 averted as the results of research at \$1,000 a man rem and
17 justifying, say, the money that was spent on LOFT or something.
18 They ought to be able to justify research, be able to go to
19 Congress and say -- just like we justify anything else on a
20 cost-benefit basis, roughly.

21 MR. BECKJORD: Well, I think there's been a big
22 payoff on a few items.

23 MR. WARD: I don't know that that's a Committee
24 opinion.

25 MR. SIESS: No, this is not a Committee opinion.

1 There are some members of the Committee that think we ought to
2 be doing research on human factors, whether you're going to use
3 it or not.

4 MR. LEWIS: Jim is trying to say something.

5 MR. J. TAYLOR: I'd like to correct one point.

6 Research is not a third of what it used to be. That
7 "third" figure meant to take in that I was using two-thirds,
8 one-third, was the total NRC budget and how, when budget cuts
9 come, about two-thirds of our budget is restricted to --

10 MR. SIESS: My figure, 200-and-some-odd-million
11 dollars 6 or 7 years ago, where it says \$70 million --

12 MR. J. TAYLOR: I haven't run that number.

13 MR. SIESS: It's probably closer to a quarter of the
14 research, with inflation.

15 MR. CATTON: And it's really worse than that when you
16 consider all of the other things that have been moved into
17 research. You're looking at just the dollars. It's really
18 worse than the dollars reflect.

19 MR. LEWIS: Before you people start shooting at each
20 other, we should make sure Ed gets a chance to say something,
21 too.

22 MR. BECKJORD: Could I just respond to one of
23 Professor Siess' points, which I think is a very important one,
24 on this matter of the impact of issue resolution. It's been
25 great on the Division of Engineering and not much on the other

1 division, which does the research.

2 I think, looking forward to the IPE, that's going to
3 change, because one of the questions in this area has been the
4 practical relationship between the research and the real impact
5 on how plants are run and what, if any, changes are needed, but
6 I think this IPE that we're going through is going to put that
7 right on the table, and I think that you will see a much closer
8 relationship as a result of that, and that's in prospect.
9 That's looking over the next 2 years.

10 MR. LEWIS: Ed.

11 MR. JORDAN: Okay, thank you. I have had lots of
12 time to think, and so I should have a very profound statement.
13 But instead, I will just make a couple of comments about AEOD,
14 and how it contributes to coherence or perhaps detracts from
15 it, as the case may be.

16 The three areas that it would seem AEOD has a
17 particular role is in being independent in reviewing operating
18 experience. Hopefully, that adds to the coherence of the
19 agency's activities in both deriving the benefits from
20 experience and then communicating them. We try to be additive
21 in that fashion, and to provide to the program office
22 responsible to NRR and to Research if it is an unresolved issue
23 a package that they can then act on in a reasonable time frame.

24 From the technical training center viewpoint, we
25 should be providing coherence to the entire agency technical

1 staff in causing them to receive a curriculum that has a
2 foundation that suits and matches the overall policies of the
3 agency.

4 And an example where we feel that we have picked up
5 in a small way, Dr. Murley and myself had a conversation quite
6 some time ago about Event "V," and learned that many of our
7 inspectors had not gotten through our training center a good
8 understanding of some of the accident sequences, and the real,
9 true significance of them, and that when we looked at it in
10 some detail we came to the view that our training center really
11 did not have that as a part of its culture that they were
12 communicating.

13 And so we have made some substantial efforts that you
14 will hear about next month to make sure that that happens in
15 fact. And so the training center is a real opportunity for the
16 agency to communicate to technical staff through what we have
17 now developed as a training and qualification program that most
18 of the agency's positions have specific training programs to
19 meet.

20 So I think that is a real opportunity. And I think
21 we are doing better there.

22 You have already mentioned the CRGR. We are kind of
23 dancing a line between becoming a management group, getting in
24 too early, and steering the staff, and maintaining our
25 independence in being able to review in a critical fashion the

1 product that comes to us. And I think that is the issue that
2 you brought up earlier.

3 We are quite aware of some of the issues that have,
4 we feel, created a regulatory impact on utilities, in perhaps
5 not the most favorable way. So we are looking with
6 anticipation at the results of the study, and would examine
7 ways to improve the CRGR's function so that the agency does in
8 fact have a more coherent set of requirements going out to
9 utilities in a fashion that minimizes cost, maximizes the
10 safety.

11 Thank you.

12 MR. SIESS: You know, CRGR can clearly do what you
13 said, see that what goes out is finally approved as integrated
14 and coherent.

15 It is possible, of course, that to do that, that CRGR
16 has to throw out about half the stuff that comes to it. That
17 is, it has no control over what people are working on, only on
18 what is imposed on the licensees.

19 MR. JORDAN: Yes. That is correct.

20 MR. SIESS: Now, I can see a real problem in CRGR
21 trying to review things that are being developed. But they
22 really do not see things until they are pretty far along. And
23 if they kill it, that effort has been wasted. And that is not
24 good for morale, for one thing. I would hate to work on
25 something for six months and then have CRGR say gee, you should

1 not have wasted your time on it.

2 You did mention the balance between getting in early,
3 but right now it is a pretty late stage of the process.

4 MR. JORDAN: It is. that is correct.

5 There is some iteration that occurs. And we have
6 examples, perhaps too numerous to mention, fitness-for-duty
7 being one of them, that comes to the committee. We have very
8 strong comments. And it goes back and gets further staff work,
9 and comes back yet again and again, and I believe is, in fact,
10 improved substantially as a result. But it is a very iterative
11 process, and I do not know whether you can streamline that.

12 MR. SIESS: That is a quality function. But I saw
13 something the other day that went to CRGR and the first
14 question that CRGR asked was, why do you have to do this
15 anyway? Why not let the industry do it?

16 The answer to that is yes, somebody has wasted their
17 time, and our money.

18 MR. TAYLOR: That is true.

19 MR. SIESS: I do not know the answer. I just raise
20 the question.

21 MR. JORDAN: Yes, sir. We are quite aware of the
22 question.

23 MR. CARROLL: To shift back to coherence philosophy,
24 if you will, I was curious -- Well, I applaud Jim for making
25 the statement, that I have not heard very often from people in

1 the NRC, that regulation can have a very negative impact on
2 safety if it is not done properly.

3 And that leads me to wonder whether, in the course of
4 doing your regulatory impact survey, you are taking into
5 account another very potent regulatory agency that has arrived
6 on the scene, called INPO.

7 When I left the utility industry, or retired a couple
8 of years ago, I guess my view was that they had a bigger impact
9 on our operations than the NRC did. And I think that is a
10 subject that really needs some attention.

11 MR. TAYLOR: Tom, maybe you want to address that.
12 You know, INPO is independent of us. Your question is a good
13 one.

14 I think here and there, there have been some
15 comments. But beyond that, I don't know that we have taken it
16 upon ourselves to make that type of review.

17 Ideally, Mr. Carroll, if there are concerns like
18 that, it ought to be the industry itself that takes a step.
19 They do have a board of directors. They have closer ties to
20 the industry than we do. And, you know, they are the industry.
21 They are paid for by it. So seeing whether they are at the
22 right course is an important question.

23 MR. CARROLL: Or whether your two courses are being
24 steered properly.

25 MR. TAYLOR: Yes. We do, you know, we have an MOU

1 with INPO. We try to, and we have close communications with
2 them in a number of areas. Part of that is to avoid needless
3 conflict. We try to coordinate so that all of a sudden a plant
4 doesn't have a team of NRC inspectors and a team of INPO
5 inspectors at the same time, which is God awful, if you think
6 about it. So there are things that go on in accordance with
7 our MOU with INPO where we coordinate activities. But we
8 don't, on the other hand, then try to evaluate whether their
9 impact -- Tom, do you have anything to add on that? We aren
10 really doing that.

11 MR. SIESS: Jim, didn't your regulatory impact survey
12 look at not just what NRC was doing with the licensees but what
13 everybody else was doing?

14 MR. MURLEY: Well, yes. We didn't really limit the
15 scope of the topics of what the utility people wanted to bring
16 up. And we did hear, from time to time, a concern that people
17 were having to do things twice, that they were having to
18 respond to our information notices or bulletins as well as
19 INPO's SOERs, that sort of thing.

20 My sense, though, is that it was not an overwhelming
21 concern. It was more of perhaps a nuisance, the fact that we
22 do overlap, but not a major concern.

23 MR. LEWIS: Carl, do you have a question?

24 MR. MICHELSON: Yes. I wanted to use the opportunity
25 to ask Jim Taylor on his views on a subject which I think is

1 related to the process that you are now undergoing of examining
2 the regulatory process in the regions. But you can correct me
3 if I am wrong, or tell me.

4 But the concern is, this process of interpreting and
5 enforcing the regulations and licensing commitments by each
6 individual region, and also the variation from region to
7 region.

8 The committee has wondered on occasion what is
9 happening. And is this going to be a part of your present
10 survey process that we will ultimately hear the results of?

11 MR. J. TAYLOR: Yes. Actions by individuals is part
12 of it, with as much fact as we can get.

13 MR. MICHELSON: It is action by individuals, true;
14 but what is our process by which we think we have reasonable
15 assurance that our regulations and the licensing commitments
16 that were made and so forth can be properly interpreted and
17 uniformly interpreted and enforced?

18 MR. J. TAYLOR: That's been a problem for years. We
19 do have what used to be the old I&E. We have inspection
20 manual, which is meant to govern and control. We have a
21 management process which isn't always working right in the
22 regions, which is meant for the Section Chief-Branch Chief.

23 We have the whole body of technical data and
24 requirements that support that process. But we are, I think,
25 as part of the survey, finding where individuals will depart

1 from that, and that's part of what we want to get as part of
2 this survey.

3 Remember, we've always had inspectors arguing about
4 criteria and requirements. It's a natural.

5 MR. MICHELSON: It's the way we write our
6 regulations. If they're non-prescriptive and open to
7 interpretation, I guess they expect variations in the
8 interpretation.

9 MR. J. TAYLOR: Yes, to a degree. Of course,
10 hopefully, you can get back to a code or standard which is the
11 ultimate backup.

12 MR. MICHELSON: And it even has to be interpreted.

13 MR. J. TAYLOR: Right.

14 MR. MICHELSON: But is there a process in place
15 already that kind of assures uniformity of decisionmaking at
16 the grass roots level which is --

17 MR. J. TAYLOR: Only what I indicated. Tom, do you
18 want to add anything to that? Regional assessments. Part of
19 the review is done by the program office to be sure that the
20 basic criteria are being followed. Of course, I think this
21 survey -- we went out on this survey asking people to be frank,
22 blunt.

23 The purpose of this is not retaliation against our
24 people, per se, or retaliation against the facility that may
25 have legitimate complaints. The Chairman has made speeches;

1 tell us what it is. Only then can we act intelligently to
2 correct it.

3 MR. MICHELSON: I guess we expect to hear a lot more
4 about this later. I just wanted to make sure that was a part
5 of it.

6 MR. J. TAYLOR: I understand some folks have come up
7 and said this is it, this is -- and that's going to give us
8 specifics to deal with. It's going to tell us what we need to
9 do with our people. There may be misfits. I think we'd be
10 naive to think that everybody out there is right in line.

11 MR. MICHELSON: Could you tell us again what the
12 schedule is for the completion of this work?

13 MR. J. TAYLOR: I'm going to ask Tom, because he's
14 working with Burt to complete the report. Tom?

15 MR. MURLEY: Yes. We've been to each of the five
16 regions, utilities in each of the five regions. Burt Davis is
17 compiling the results. It's quite a large amount of
18 information that we've gotten.

19 My understanding is that he intends to have it in
20 good draft form by mid-January. I think we want to kind of
21 contemplate -- at least, I'd like to talk with him and with Jim
22 and the other office directors and regional administrators a
23 little bit to have some notion of what we're going to do before
24 we really put it out on the street, because it's going to, I
25 think, cause a lot of discussion, shall we say.

1 So it will probably be toward the end of January.

2 MR. MICHELSON: It's eminent, though, relatively.

3 MR. MURLEY: I would say within a month or so.

4 MR. LEWIS: The fact that you've gotten so much out
5 this, and I applaud the effort, means that there has been a
6 backlog of complaint out there. I wonder if, among your
7 considerations -- I don't want to push you toward anything --
8 you might not -- well, whether there has been any established
9 promulgated channel through which a licensee can complain about
10 the region without fear of retaliation.

11 I may not ask you a question. Let me suggest that
12 it's a good thing to have as a check and balance. I'm going to
13 be a bum and try to give us all five minutes before we have to
14 go to our new meeting, if that's not an unreasonable thing to
15 do. We could go on all day and we'll do it another time.

16 Let me thank you very much for the frank and
17 interesting discussion from which we are all wiser and soberer
18 and turn it back to our Chairman.

19 MR. MICHELSON: Thank you. Yes. On behalf of the
20 Committee, we certainly do appreciate your very fine
21 informative presentation and we'll look forward to discussing
22 further matters with you later on as subjects come up.

23 For the benefit of the Committee members, we will
24 adjourn for lunch now, which is upstairs, and reconvene. We'll
25 reconvene at 1:30 with the anticipation that we will be able to

1 break off by no later than 3:00.

2 That is the end of the recording session. This
3 afternoon we will be covering only preparation of reports. So
4 that completes that portion of the meeting.

5 [Whereupon, at 12:00 p.m., the Committee was
6 adjourned.]

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REPORTER'S CERTIFICATE

This is to certify that the attached proceedings before the United States Nuclear Regulatory Commission

in the matter of:

NAME OF PROCEEDING: 357th General Meeting

DOCKET NUMBER:

PLACE OF PROCEEDING: Bethesda, Maryland

were held as herein appears, and that this is the original transcript thereof for the file of the United States Nuclear Regulatory Commission taken by me and thereafter reduced to typewriting by me or under the direction of the court reporting company, and that the transcript is a true and accurate record of the foregoing proceedings.

Marilynn Nations

MARILYNN NATIONS
Official Reporter
Ann Riley & Associates, Ltd.

Am...

PROPOSED REVISION OF 10CFR55

FITNESS-FOR-DUTY REQUIREMENTS

FOR

LICENSED OPERATORS AND SENIOR OPERATORS

BACKGROUND

MARCH '89 SECY 89-30 - FINAL RULEMAKING (PART 26)
APPROVED BY COMMISSION WITH STAFF
REQUIREMENTS MEMO (SRM)

APRIL '89 OPERATOR LICENSING BRANCH (OLB)
ASSIGNED TO DRAFT REVISION TO 10CFR55
IN RESPONSE TO SRM

JULY '89 PROPOSED 10CFR55 REVISION TO EDO

DECEMBER '89 PROPOSED 10CFR55 REVISION TO THE COMMISSION

STAFF REQUIREMENTS MEMORANDUM

(MARCH 22, 1989)

DIRECTED THE STAFF TO PREPARE A NOTICE
OF PROPOSED RULEMAKING TO:

1. AMEND 10CFR55 TO ESTABLISH 10CFR26 CUTOFF LIMITS AS AN OPERATOR LICENSE CONDITION. PENALTIES SHALL BE CLEARLY STATED TO INFORM OPERATORS OF THE GRAVITY FOR EXCEEDING CUTOFF LEVELS.
2. AMEND 10CFR2, APPENDIX C, TO REFLECT INDIVIDUAL OPERATOR ENFORCEMENT SANCTIONS.

PROPOSED REVISION TO 10CFR55.53

(CONDITION OF LICENSES)

1. SHALL NOT USE (CONSUME) ALCOHOL WITHIN (POWER REACTOR) PROTECTED AREA OR (NON-POWER) CONTROLLED ACCESS AREA.
2. SHALL NOT USE, POSSESS OR SELL ANY ILLEGAL DRUGS ON OR OFF SITE.
3. SHALL PARTICIPATE IN AND COMPLY WITH THE FACILITY DRUG AND ALCOHOL TESTING PROGRAM.
 - a. POWER REACTORS - PURSUANT TO PART 26
 - b. NON-POWER REACTORS - PER FACILITY ESTABLISHED PROGRAM
(AS APPLICABLE)

PROPOSED REVISION TO 10CFR55.53 (cont)

(CONDITION OF LICENSES)

4. SHALL NOT PERFORM LICENSED DUTIES WHILE UNDER THE INFLUENCE (☛)
OF ANY PRESCRIPTION, OVER THE COUNTER OR ILLEGAL SUBSTANCE
WHICH COULD ADVERSELY AFFECT PERFORMANCE.

(☛) DEFINITION

- | | |
|--|--|
| a. ALCOHOL AND
ILLEGAL DRUGS | CONFIRMED POSITIVE TEST THAT DETERMINED
THE LICENSEE EXCEEDED PART 26 CUTOFF
LEVELS OR FACILITY LEVELS IF LOWER |
| b. PRESCRIPTION AND
OVER-THE-COUNTER
DRUGS | LICENSEE <u>COULD</u> BE UNDER THE INFLUENCE
(AS DETERMINED BY THE MEDICAL REVIEW
OFFICER) IN A MANNER THAT WOULD <u>ADVERSELY</u>
AFFECT PERFORMANCE |

PROPOSED REVISION TO 10CFR55.61

[MODIFICATION AND REVOCATION OF LICENSES]

COMMISSION MAY MODIFY, REVOKE OR SUSPEND A LICENSE FOR:

1. SALE, USE OR POSSESSION OF ILLEGAL DRUGS ON OR OFF SITE.
2. REFUSAL TO PARTICIPATE IN FACILITIES DRUG AND ALCOHOL TESTING PROGRAM.
3. CONFIRMED POSITIVE TEST RESULTS FOR DRUGS OR ALCOHOL AS DETERMINED BY FACILITY TESTING PROGRAM (AS APPLICABLE TO THAT FACILITY).
4. USE (CONSUMPTION) OF ALCOHOL WITHIN (POWER REACTORS) PROTECTED AREAS OR (NON-POWER REACTORS) CONTROLLED ACCESS AREAS.

PROPOSED REVISION TO 10CFR55.61 (cont)

[MODIFICATION AND REVOCATION OF LICENSES]

5. DETERMINED UNFIT FOR SCHEDULED WORK DUE TO CONSUMPTION OF ALCOHOL.
 - a. PART 55 LICENSEE HAS OBLIGATION TO INFORM FACILITY LICENSEE OF BEING UNFIT IF CALLED IN FOR UNSCHEDULED WORK.
 - b. PART 55 LICENSEE HAS RESPONSIBILITY UNDER HIS/HER LICENSE NOT TO PERFORM LICENSED DUTIES WHEN NOT FIT-FOR-DUTY.
 - c. FACILITY LICENSEE HAS A REQUIREMENT UNDER PART 26 TO HAVE WRITTEN POLICY / PROCEDURES AND SUPERVISOR TRAINING TO DETERMINE OPERATORS' FITNESS FOR DUTY DURING NON-SCHEDULED WORKING HOURS.

FAILURE TO MEET FITNESS-FOR-DUTY REQUIREMENTS

[10CFR55.53(J) AND 10CFR55.61(b)(5)]

NOTE: 10CFR PART 2 APP. C WILL BE AMENDED WHEN PROPOSED RULE IS MADE FINAL

ENFORCEMENT SANCTIONS

FIRST
OFFENSE

COMMISSION MAY ISSUE NOTICE OF VIOLATION,
CIVIL PENALTY, OR ORDER AS WARRANTED.

SECOND
OFFENSE

COMMISSION WILL, AT MINIMUM,
ISSUE ORDER TO SUSPEND
LICENSE FOR THREE YEARS.

THIRD
OFFENSE

COMMISSION WILL ISSUE ORDER
TO REVOKE OPERATOR'S LICENSE.

REFUSAL TO
PARTICIPATE
(SUBSTANCE TESTING)

COMMISSION MAY SUSPEND, REVOKE
OR DENY A LICENSE APPLICATION OR
APPLICATION FOR RENEWAL.

SUMMARY

PROPOSED REVISION OF 10CFR55 GOES BEYOND STRICT COMPLIANCE WITH 10CFR26 CUTOFF LEVELS:

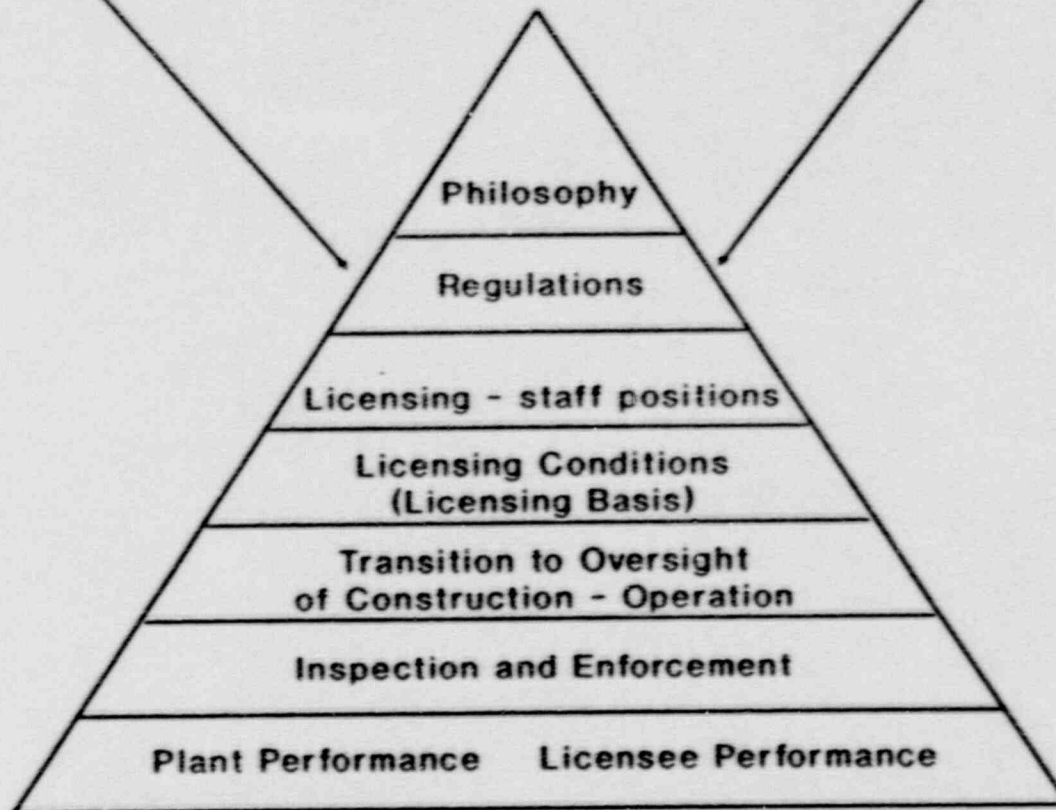
- ENFORCEMENT SANCTIONS EXTENDED TO INCLUDE IMPAIRMENT DUE TO ALCOHOL ABUSE.
- PROHIBITS PERFORMANCE OF LICENSED DUTIES WHILE UNDER THE INFLUENCE OF ANY LEGAL OR ILLEGAL SUBSTANCE.
- PROHIBITS OPERATORS FROM SALE, USE, OR POSSESSION OF ILLEGAL SUBSTANCES ON OR OFF SITE.

ATOMIC ENERGY ACT

SAFEGUARDS

SAFETY

NEPA



NRC Regulatory Process for NPPs

draft

QUALITY PRINCIPLES

- 1 DEFINE GOALS, OBJECTIVES AND POLICIES.
ENSURE THEY ARE UNDERSTOOD.
- 2 SPECIFY ROLES AND RESPONSIBILITIES.
ENSURE THEY ARE UNDERSTOOD AND ACCEPTED.
- 3 SPECIFY AND COMMUNICATE EXPECTED RESULTS.
IDENTIFY AND ALLOCATE RESOURCES TO ACHIEVE THEM.
- 4 HOLD INDIVIDUALS ACCOUNTABLE FOR THEIR OWN WORK.
MEASURE PERFORMANCE AGAINST EXPECTED RESULTS.
- 5 ENSURE PEOPLE ARE COMPETENT AT THE WORK THEY DO.
- 6 ENSURE THE RIGHT PEOPLE HAVE THE RIGHT INFORMATION
AT THE RIGHT TIME.
- 7 SEEK AND USE RELEVANT EXPERIENCE.
- 8 PLAN AND CONTROL THE WORK.
- 9 USE THE RIGHT MATERIAL, EQUIPMENT, AND PROCESSES.
CONTROL ANY CHANGES TO THEM.
- 10 VERIFY WORK TO ENSURE THAT IT MEETS REQUIREMENTS.
- 11 IDENTIFY AND REMEDY ERRORS AND DEFICIENCIES.
IDENTIFY AND REMEDY THEIR ROOT CAUSES.
- 12 CONTROL THE PRODUCTION, USE, STORAGE, AND RETRIEVAL
OF ESSENTIAL RECORD AND DOCUMENTS.
- 13 PERIODICALLY REVIEW MANAGEMENT AND WORK PROCESSES
TO MAINTAIN OR IMPROVE THEIR EFFECTIVENESS & EFFICIENCY.