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POLICY ISSUE

(NEGATIVE CONSENT)

SECY-93-346

December 20, 1993

For: The Commissioners
From: James M. Taylor
Executive Director for Operations
Subject: NUCLEAR REGULATORY COMMISSION LABOR-MANAGEMENT
PARTNERSHIP CONCEPTS

Purpose:

To inform the Commission of the staff's proposal for: (1) addressing the general concepts of a labor-management partnership relationship with the National Treasury Employees Union (NTEU), and (2) continuing efforts to establish a labor-management partnership within the agency.

Background:

On October 26, 1993, I sent you SECY-93-297, "Executive-Order 12871: LABOR MANAGEMENT PARTNERSHIPS," in which I informed you of the general provisions and potential impact of Executive Order 12871, and the staff's proposed strategy for implementation. By necessity we have already begun, to an extent, to operate within the spirit of the Executive Order with regard to a broadened scope of bargaining and a more cooperative approach to reaching agreement on issues of mutual interest. The recent discussions between the agency and the union relative to the realignment of Region V is an example of such cooperative efforts.

Discussion:

As a next step, I plan to meet with Jim Thomas, President of NRC Chapter 208 of the NTEU, to discuss the general concepts of a partnership relationship and how we should implement it.

We will endeavor to convene a joint NRC/NTEU Partnership Committee meeting in January to discuss a number of issues including those listed in Attachment (1). I propose that the top management group to be involved in the initial joint NRC/NTEU Partnership Committee effort should include the following:

CONTACT: Paul E. Bird, OP
492-4661

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- Commission Office Designee
- EDO and/or Deputy EDO
- General Counsel or Designee
- Director of Personnel or Designee
- Assistant General Counsel for Administration
- Chief Policy and Labor Relations, OP
- Participants as needed to discuss specific issues

In my discussion with Jim Thomas, I hope to reach agreement on a proposed joint release to all employees regarding the partnership (Attachment 2). I also plan to discuss an approach to the partnership which includes joint management/NTEU training in, and subsequent use of, "interest based" bargaining as an alternative to the traditional "position based" bargaining we have experienced. Discussion of and subsequent training in alternative dispute resolution options will also be necessary.

Prior to the initial joint NRC/NTEU Partnership Committee meeting I plan to send NRC Office Directors/Regional Administrators a letter (Attachment 3) which reminds them of our obligations under E.O. 12871 and advises them to continue operating in compliance with the provisions of the current NRC/NTEU contract. While working in a new spirit of cooperation, we are continuing to utilize traditional means of bargaining and resolving labor disputes during this period of establishing ground rules and structure of the new labor-management relationship.

The staff is working with the Federal Mediation and Conciliation Service (FMCS) and Mac Cutchin, the agency's Alternative Dispute Resolution advisor, in this regard. They have met with John Wagner, Training Director, FMCS, and Peter Swanson, Alternative Dispute Resolution Coordinator, FMCS, to discuss plans for implementation of the new labor-management partnership. Mr. Wagner and Mr. Swanson have recommended that as first steps we should:

- Develop a strategy for organizing a partnership committee and process that has a high potential for success.
- Have a neutral party such as FMCS conduct an assessment of our current relationship with NTEU based on discussions with senior management and union officials.
- Determine what is wanted by the parties in a long-term labor-management relationship.
- Establish a means for early and frequent communication.
- Implement a joint strategy for organizing the partnership which must include joint training of the management and labor officials involved.

- Continually evaluate the progress made in the labor-management relationship through utilization of partnership concepts including interest based bargaining and alternative dispute resolution.

We agree with this approach and have asked the FMCS to continue to work with us in conducting this assessment and providing the guidance and training necessary to get this approach under way.

It is very clear that this will entail significant short- and long-term changes in the organizational culture with regard to labor-management relationships and the means of resolving difficulties. Such changes will include relying on individuals at the top of the management and union hierarchy who agree that we want the partnership to work. This includes moving from traditional adversarial bargaining to a cooperative relationship, and gradually changing the attitudes of both managers and union representatives so relations can be molded in a whole new environment.

Further guidance pertaining to the partnership concept is expected from the Office of Personnel Management (OPM), which is currently coordinating the draft guidance with the National Partnership Council. This guidance is expected to include several points:

- Partnerships should be specifically tailored to the needs of employees, their representatives and management.
- Agencies and unions should give priority to forming partnerships. They should be established at "appropriate" levels, including offices or installations that have authority to deal with one or more bargaining units, the national level, or at the level of a major subcomponent.
- Parties should agree to procedures for bargaining over the formerly "permissive" issues and resolving disputes.
- A first priority for agencies and their partnership committees should be to train line managers, supervisors, and union representatives in communication, cooperation, and bargaining techniques. Those who will be bargaining in the near future should receive training first.

The Federal Labor Relations Authority, the FMCS, and OPM can help agencies conduct training.

- When agreement cannot be reached after bargaining over the formerly discretionary subjects, use FMCS or private mediation. If that fails, rely on the Federal Services Impasses Panel or an arbitrator.
- Agencies cannot declare proposals nonnegotiable because they fall under 5 U.S.C. 7106(b)(1), the law covering previously discretionary subjects.

- Agency and union representatives should evaluate their committees' progress and effects on service.

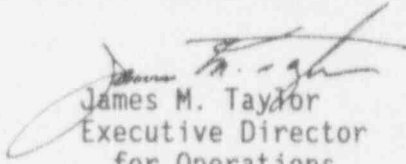
Coordination:

The Office of General Counsel has no legal objection.

Recommendation:

That the Commission note that it is the staff's intention to:

Proceed with the implementation of a joint labor-management partnership concept as described above no earlier than ten working days from the date of this paper unless instructed otherwise by the Commission.


James M. Taylor
Executive Director
for Operations

Attachments:

1. Agenda Topics for a Proposed January 1994 Meeting of the NRC Partnership Committee
2. Draft All Employees Announcement
3. Draft Memorandum for Office Directors and Regional Administrators

SECY NOTE: In the absence of instructions to the contrary, SECY will notify the staff on Thursday, January 6, 1994, that the Commission, by negative consent, assents to the action proposed in this paper.

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PROPOSED AGENDA TOPICS FOR JANUARY 6 MEETING OF
NRC PARTNERSHIP COMMITTEE

LABOR MANAGEMENT RELATIONS UNDER EXECUTIVE ORDER 12871

- I. Concept of Partnership
 - a. Trust as an essential of partnership
 - b. Confidentiality of information
 - c. What is interest based bargaining
 - d. Distinctions between traditional and interest based bargaining
- II. Role of Agency Partnership Committee
 - a. Oversight and evaluation of E.O. implementation
 - b. Vehicle for communication between parties
 - c. Define partnership boundaries
- III. Level of Partnership Activity
 - a. Agencywide
 - b. Office and region
 - c. Division
 - d. Branch and below
- IV. Alternative Dispute Resolution (ADR)
 - a. What is ADR
 - b. When is ADR used
 - c. What are the ADR options
- V. Training, Guidance and Instruction
 - a. Executive Order 12871
 - b. Interest based bargaining
 - c. Role of supervisors and managers
 - d. Role of union
 - e. Extent of training
 - f. Use of facilitators
- VI. Groundrules of Partnership
 - a. Process of communication
 - b. Interest based bargaining subjects
 - c. Means of resolving process issues
 - d. Means of resolving substantive issues



UNITED STATES
NUCLEAR REGULATORY COMMISSION

ANNOUNCEMENT NO.

DATE:

TO: All Employees

SUBJECT: THE NATIONAL PARTNERSHIP RELATIONSHIP AND LABOR RELATIONS

On October 1, 1993, President Clinton signed Executive Order 12871 outlining the details of a new relationship he would like agency managers to form with employees and their unions. He believes that this is necessary if most of the goals listed in the National Performance Review are to be met. At the center of the partnership relationship is a body called the National Partnership Council. It is composed of the presidents of the four largest unions of federal employees and the directors of the Office of Personnel Management, the Federal Labor Relations Authority, and the Federal Mediation and Conciliation Service (FMCS). The President has also included the Deputy Director for Management, Office of Management and Budget; the Deputy Secretary of Labor; and two departmental deputy secretaries. Robert Tobias, the President of the National Treasury Employees Union, which represents NRC bargaining unit employees, will serve on the Council. Their primary role will be to foster labor-management partnerships and propose changes in personnel laws and regulations consistent with the recommendations of the National Performance Review.

The Executive Order also conveys the President's interest in changing the historical approaches to bargaining and dispute resolution between employees and executive branch leaders. The Executive Order stresses, and NRC and NTEU fully support, the importance of training managers, employees, and union representatives in new techniques for consensual resolution of issues and concerns.

Another change the Executive Order makes is that it expands the scope of issues over which management and unions are now obligated to negotiate. As of October 1, 1993, managers and employee representatives are required to negotiate on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, and on the technology, methods, and means of performing work. This change will expand the participation of employees and their representatives in important decisions the agency makes about their work environment.

With the issuance of this memorandum, both NTEU and NRC acknowledge their responsibilities under the Executive Order and affirm their support of the President's goals and objectives. In the near future, we intend to form a joint NRC Labor-Management Partnership Committee to aid in the implementation of the Order. We have enlisted the aid of the FMCS to assist us in this process. Further information on these efforts will follow in the weeks to come.

James M. Taylor
Executive Director
for Operations

Jim Thomas, President
NTEU, Chapter 208

D R A F T

Enclosure 3

MEMORANDUM FOR: Office Directors and Regional Administrators

FROM: James M. Taylor
Executive Director for Operations

SUBJECT: LABOR-MANAGEMENT PARTNERSHIP

The Commission has recently approved SECY-93-297, Labor Management Partnerships, setting the stage for development of a new relationship between NRC management and the National Treasury Employees Union (NTEU). It is important that each Office Director and Regional Administrator become familiar with the basic concepts of a labor-management partnership and the staff's plan to implement Executive Order 12871 (Labor Management Partnerships) which is outlined in the attachment (SECY-93-___).

As we prepare to address the concept of a labor-management partnership for NRC, I would like each of you to designate a principal contact and a backup who will be responsible for coordinating labor/management activities within your organization and with OP and OGC. These individuals should be senior management officials who can make commitments in your behalf, have extensive knowledge of the NRC organization, and can maintain effective communications with management officials and employees at all levels. Please advise Paul Bird of your designees (both the principal and backup) no later than _____.

I plan to meet with Jim Thomas, President of the NRC Chapter of NTEU, to discuss our respective views regarding the labor-management partnership concept for NRC. As a follow on, I hope that we can convene the initial meeting of an NRC labor-management partnership committee in early 1994. Proposed topics for discussion may include:

- Goals and expectations of a labor-management partnership in the NRC;
- Need for training in labor-management partnerships and interest-based bargaining;
- The role of a joint labor-management partnership committee;
- The appropriate organizational level for partnership activity;
- Alternative dispute resolution options.

Please let me know if you believe additional topics should be discussed in these initial sessions.

Please keep in mind that until the ground rules and structure of a new labor management relationship have been more firmly established, you are to continue operating in compliance with the provisions of the current NRC/NTEU contract.

Until alternative dispute resolution procedures are agreed upon, the traditional means of bargaining and resolving labor disputes should be continued. You will be advised of any changes in these procedures as they are adopted. You are also reminded to keep Michael Fox of the OP labor relations staff (492-9500) apprised of any pending meetings or discussions with the union as well as any requests or other communications received from the union.

James M. Taylor
Executive Director
for Operations

Attachment:
As stated