

1 UNITED STATES OF AMERICA  
2 NUCLEAR REGULATORY COMMISSION

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4 MEETING ON NRC RESPONSE  
5 TO STAKEHOLDERS' CONCERNS

6 \*\*\*

7 PUBLIC MEETING

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9 Nuclear Regulatory Commission  
10 Auditorium  
11 White Flint Building 2  
12 11545 Rockville Pike  
13 Rockville, Maryland  
14 Friday, November 13, 1998

15  
16 The Commission met in open session, pursuant to  
17 notice, at 9:05 a.m., the Honorable SHIRLEY A. JACKSON,  
18 Chairman of the Commission, presiding.

19  
20 COMMISSIONERS PRESENT:

- 21 SHIRLEY A. JACKSON, Chairman of the Commission
- 22 EDWARD McGAFFIGAN, JR., Member of the Commission
- 23 NILS J. DIAZ, Member of the Commission
- 24 JEFFREY S. MERRIFIELD, Member of the Commission
- 25 GRETA J. DICUS, Member of the Commission

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1 STAFF AND PRESENTERS SEATED AT COMMISSION TABLE:

- 2 JOHN C. HOYLE, Secretary
- 3 KAREN D. CYR, General Counsel
- 4 ERIE NYE, Texas Utilities Company
- 5 JOE F. COLVIN, Nuclear Energy Institute
- 6 CORBIN A. McNEILL, JR., PECO Energy Company
- 7 JAMES T. RHODES, Institute Nuclear Power
- 8 Operations
- 9 HAROLD B. RAY, Southern California Edison Company
- 10 FOREST J. REMICK, Former Chair, ACRS
- 11 DAVID LOCHBAUM, Union of Concerned Scientists
- 12 WILLIAM D. TRAVERS, EDO
- 13 SAM COLLINS, Director, NRR
- 14 JAMES P. RICCIO, Public Citizen's Critical
- 15 Mass Energy Project
- 16 JILL LIPOTI, Radiation Protection Office,
- 17 State of New Jersey

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1 P R O C E E D I N G S

2 [9:05 a.m.]

3 CHAIRMAN JACKSON: Well, good morning and welcome.  
4 Today, the Commission meets with a number of stakeholders in  
5 a reprise of a meeting held on July 17th. Again, we meet in  
6 a round table format, or at least half round, in an attempt  
7 to promote open dialogue.

8 Our goal today is to assess where we are relative  
9 to the opinions and feedback of those who have observed NRC  
10 over time and to obtain comments to fine tune our programs

11 and processes further, as necessary.

12 We value your experience and insights in assisting  
13 in NRC as we better develop and align our processes to carry  
14 out the fundamental mission of protecting the public health  
15 and safety.

16 As I noted in the last stakeholders meeting, the  
17 Commission is fully aware that those present at the table  
18 this morning are not our only stakeholders. Although our  
19 last meeting of this type was in the ACRS meeting room, we  
20 found the high level of interest required a larger forum, so  
21 we are using our auditorium today.

22 Those of you here represent diverse organizations  
23 with a stake in NRC activities. We found the last  
24 stakeholder meeting to be very constructive. I was  
25 encouraged by the level of candor, and I would like to

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1 invite a similar level of interaction at this meeting.

2 Before we begin, I would like to provide a short  
3 summary of what has transpired since we last met. As you  
4 know, on July 30th, the Commission appeared before the  
5 Senate Subcommittee on Clean Air Wetlands, Private Property  
6 and Nuclear Safety. In considering the feedback received  
7 from both this Congressional hearing and our last  
8 stakeholder meeting, as well as other inputs, I tasked the  
9 Executive Director for Operations, the EDO, with  
10 identifying, defining, and prioritizing those areas which  
11 support NRC long-term performance goals and which need  
12 near-term attention.

13 I identified a number of candidate issues for  
14 consideration: inspection and performance assessment,  
15 enforcement, license renewal, license transfers, the  
16 transition to a risk-informed, performance-based framework,  
17 NRC organizational structure and resources, and other  
18 specific areas requiring timely decisions.

19 This identification, definition and prioritization  
20 has occurred. It is captured in a living plan, maintained  
21 by the EDO, that has been concurred in by the Commission.  
22 We now are in the process of executing this plan which  
23 addresses the various concerns and which supports our  
24 performance goals. The NRC has worked to the milestones  
25 established, modifying the plan as appropriate, and has

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1 made, I think, good progress in execution.

2 Through actions on specific issues, including the  
3 candidate issues identified in my tasking memorandum, as  
4 well as others subsequently added, our initiatives address  
5 the clarity of NRC requirements and NRC expectations; NRC  
6 predictability, objectivity and timeliness; direction of  
7 focus; quality of NRC-licensee interactions; implementation  
8 of NRC programs; and the size of the NRC.

9 While stakeholder input definitely opened our eyes  
10 to a number of concerns, for example, the unnecessary burden  
11 associated with Severity Level IV violations, it had a  
12 concurrent benefit in that it allowed us to prioritize  
13 certain activities in ways that provided the best mutual  
14 benefits to ourselves, our licensees, and the public. This,  
15 in my estimation, underscores the importance of frequent and  
16 candid communications across every level of our respective  
17 organizations.

18 I am confident that, as a result of our  
19 interactions with our stakeholders, we have developed a  
20 series of action which will result in efficiencies and  
21 increase in effectiveness for the NRC, its licensees, and,  
22 obviously, the public, in a way that does not diminish, in

23 fact, which should enhance the level of safety afforded the  
24 public. We provided the last update of this document to you  
25 in preparation for this meeting.

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1 As I suggested at the INPO CEO Conference last  
2 week in Atlanta, I have characterized what we have  
3 undertaken as "responsible responsiveness." This is an  
4 excellent opportunity to take stock of what we have been  
5 doing, of where we are, and of the challenges before us in  
6 the near term.

7 Our focus in all of this is on outcomes, not  
8 merely outputs. To touch on some of the progress we have  
9 made since the last meeting of July 17th, let me list what I  
10 believe to be a few of those outcomes.

11 Our license renewal reviews are on schedule and,  
12 by all reports, the reviews are being conducted in a  
13 disciplined and responsible manner.

14 Our adjudicatory schedules are aimed at completing  
15 license renewal in 30 to 36 months.

16 The Commission has promulgated an expedited rule,  
17 which allows more informal hearings for license transfers.  
18 We anticipate that this rule will become final by December  
19 1998.

20 Concurrent with this meeting, another meeting is  
21 taking place to further clarify reporting requirements for  
22 power reactors.

23 We have implemented a stronger focus on risk, that  
24 can be seen in NRC staff activities in the area of  
25 risk-informed decision making, for example, the diesel

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1 generator allowed outage time extensions.

2 We are addressing other appropriate burden relief  
3 opportunities. The goal of the efforts is to "let go" of  
4 that which is not risk significant, and to focus more  
5 closely and carefully on what which is, as we conduct  
6 inspections, review licensing actions, assess licensee  
7 performance and take enforcement actions.

8 Regarding the NRC performance assessment process,  
9 we have made real progress and achieved significant buy-in  
10 at a recent NRC workshop.

11 Outside expertise, in the form of Arthur Andersen,  
12 has been used to strengthen the NRC skills in mapping  
13 certain key processes and identifying opportunities for  
14 efficiency, and effectiveness improvements.

15 Additionally, we have looked into the  
16 organizational structure of the NRC and determined that  
17 certain changes are necessary. As a result, NRC has  
18 extended buyout offers to certain groups of managers and  
19 supervisors with the intent to achieve an overall  
20 manager-to-employee ratio of 8 to 1 -- 1 to 8, excuse me.

21 Now, regarding today's meeting, one of the  
22 purposes of our meeting today is to solicit feedback from  
23 the assembled stakeholders on the plan, its scope, and its  
24 schedule. As we are ultimately interested in the efficacy  
25 of our actions, we also would appreciate any feedback on

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1 whether effects are being felt in the field. Additionally,  
2 we would appreciate input on the question of how to measure  
3 our success going forward, a question of metrics. While we  
4 agree that improvement is a continuing process, we must  
5 address the question of how to measure that improvement if  
6 we are to ascribe the proper worth to our actions.

7 As those of you who were involved in the last

8 stakeholders meeting are aware, either as participants or  
9 observers, our numbers here at the Commission round table  
10 have grown since the last meeting, both on the NRC side and  
11 the stakeholder side.

12 Before I introduce each participant, let me make a  
13 side comment of the idea of a round table. Whenever I have  
14 meeting with my own staff, a retreat, we always end it in a  
15 circle, and the idea of a circle is that if you really have  
16 one, you see everybody, so everybody is included, and if you  
17 have one and you don't break the circle, then there is  
18 continuity. So that is why I think the idea of a round  
19 table is important.

20 But let me reiterate again that the Commission  
21 appreciates the attention that these meetings have garnered  
22 and the willingness to participate that has been expressed,  
23 both by our assembled guests, and others who are not here at  
24 the table. Endeavors such as these are key to the NRC  
25 continuing to improve the level of oversight provided to all

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1 of our licensees, while reducing unnecessary burden in  
2 regulation.

3 Before introducing the participants, let me touch  
4 on a recent issue that has arisen relating to the "necessary  
5 burden" and "unnecessary burden," and I step into it knowing  
6 it has been controversial. After a series of internal  
7 briefings and discussions, earlier this week the NRC staff  
8 was directed to reinstate its program for Operational  
9 Safeguards Response Evaluations at nuclear power plants.  
10 This was an internal decision. This program recently had  
11 been dropped following budget considerations.

12 The OSRE inspections, as they have been called,  
13 have received some stakeholder criticism for being "beyond"  
14 the regulatory basis. The Commission previously has stated  
15 its intent to move away, to the extent possible, from  
16 prescriptive type inspections, to a more risk-informed and  
17 performance-based format. However, in this case, the  
18 necessary inspection requirements that are required to meet  
19 a risk-informed security program have not been sufficiently  
20 documented. In summary, we must migrate to these  
21 inspections in a disciplined and deliberate manner.

22 Therefore, the OSRE inspections will continue in a  
23 more focused way at the 11 remaining facilities, which have  
24 not previously been reviewed this way. Additionally, the  
25 NRC staff is accelerating an ongoing study to determine the

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1 baseline level of performance testing appropriate to ensure  
2 that nuclear plants are protected against radiological  
3 sabotage and theft or diversion of radioactive materials.

4 I have asked that the results of this study, and  
5 insights from OSRE findings, be brought to the Commission  
6 for its consideration as part of the risk-informed baseline  
7 inspection program currently under development. We also  
8 will be looking at our requirements and regulatory guidance  
9 in this area to ensure that they are adequate and  
10 appropriate.

11 Let me now introduce the individuals assembled for  
12 this meeting. Let me note at the outset that, with the  
13 conformation of Greta Joy Dicus and Jeffrey S. Merrifield as  
14 NRC Commissioners, we now are at full complement to  
15 deliberate and to act upon the important decisions the  
16 Commission must make. I am pleased to welcome them to the  
17 Commission, and to reintroduce Commissioner Dicus, and to  
18 introduce Commissioner Merrifield to you.

19 Of course, with us again, is Commissioner Diaz,

20 who is running late, and I told him I would extend my  
21 opening comments to buy time for him to get here, and  
22 Commissioner McGaffigan, who, as you can see, is not as  
23 nimble a soccer player as he once was.

24 The Commission also welcomes, starting from my  
25 right, Mr. James Riccio from Public Citizen's Critical Mass

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1 Energy Project; Mr. Harold Ray, Executive Vice President  
2 Southern California Edison Company. In addition to being an  
3 NRC licensee, he has been very active in the Nuclear Energy  
4 Institute's Working Group on Regulatory Process.

5 Commissioner Diaz, in absentia for the moment.  
6 Dr. William Travers, he is our new Executive Director for  
7 Operations, some of you may not have met him, since October  
8 the 19th. Mr. Corbin McNeill, Chairman, President and Chief  
9 Executive Officer of PECO Energy.

10 Commissioner Dicus; Dr. Jim Rhodes, Chairman and  
11 Chief Executive Officer of the Institute of Nuclear Power  
12 Operations. Mr. Earl Nye, Chairman of the Board and Chief  
13 Executive of Texas Utilities Company. He is also Chairman  
14 of the Board for the Nuclear Energy Institute, a  
15 Washington-based policy organization representing over 250  
16 organizations in the nuclear industry.

17 Mr. David Lochbaum, Nuclear Safety Engineer with  
18 the Union of Concerned Scientists. UCS, as it is called, is  
19 dedicated to advancing responsible public policies in areas  
20 where science and technology play a critical role.

21 Commissioner McGaffigan; Ms. Jill Lipoti,  
22 representing the State of New Jersey, Dept of Environmental  
23 Protection. Dr. Forest Remick, Former Chair of the NRC  
24 Advisory Committee on Reactor Safeguards, Former  
25 Commissioner of the NRC, and now an engineering consultant.

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1 Commission Merrifield; Mr. Joe Colvin, President  
2 and Chief Executive Officer of the Nuclear Energy Institute;  
3 and Mr. Samuel Collins, Director, Nuclear Reactor  
4 Regulation.

5 Also present with us today are Ms. Karen Cyr our  
6 General Counsel, and Mr. John Hoyle, Secretary to the  
7 Commission.

8 On behalf of the Commission, I thank not only  
9 those here at the table, but also members of the NRC staff,  
10 Congressional staff members, and those of you in the public  
11 and press, present today, or reading this transcript at a  
12 later date, for your interest and participation in ensuring  
13 that the NRC has processes that maintain safety in a fair  
14 and consistent manner. The Commission is interested in  
15 comments, evaluations, proposed solutions from all  
16 participants, and we look forward to an informative meeting.

17 We will begin my inviting opening statements from  
18 each participant. I ask that questions and comments be  
19 withheld until we begin our open discussions. And today I  
20 would hope that, in addition to any directed questions that  
21 I may have, that those of you who are part of the round  
22 table should question and challenge each other. I will try  
23 to keep it together, however.

24 We will, in the course of our discussions, be able  
25 to return to cover any information or ideas presented in

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1 these opening comments. We have reserved a substantial part  
2 of the day for this meeting. I would like to note that we  
3 have made available, but I think we have ample room here,  
4 the lobby of Two White Flint as an overflow area. In

5 addition, this meeting is being broadcast to both buildings  
6 here at headquarters and to our regional offices.

7 You will note that there are open microphones here  
8 in the auditorium. If time permits, and if we can work it  
9 out, I may try to recognize comments from the audience on  
10 appropriate topics.

11 At this time, we will hear opening statements from  
12 our invited guests, and from the Commissioners and NRC  
13 participants, if they desire. And I am going to begin to my  
14 far right with Mr. Riccio.

15 MR. RICCIO: Good morning, my name is James  
16 Riccio, I am the Staff Attorney for Public Citizen's  
17 Critical Mass Energy Project. Critical Mass was founded in  
18 1974 by Ralph Nader to oversee the nuclear power industry  
19 and the high level radioactive waste that they produce.

20 We are here this morning for two reasons. First  
21 is that splitting atoms is an inherently dangerous activity  
22 and needs to be regulated. The second is that Congress, in  
23 its inestimable wisdom, has seen fit to decimate this  
24 agency. I want to say that Congress, I believe, is pushing  
25 this agency in a very dangerous direction. They have

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1 abrogated their responsibility to oversee this agency and,  
2 while pushing this agency toward more performance-based and  
3 risk-based regulation, we see that the agency is  
4 simultaneously thinking about wiping out the AEOD. It is  
5 beyond my comprehension how you can do performance  
6 assessment when you are not going to assess performance.

7 The ACRS has acknowledged that it is the AEOD and  
8 the data that they have produced that has been able to hold  
9 the senior management of this agency responsible. It would  
10 be irresponsible to wipe out AEOD. We feel that our  
11 participation in this meeting, hopefully, will reflect our  
12 belief that this agency must regulate, and while every  
13 regulatory process can be improved, we would like to see it  
14 done in a manner in which the public health and safety will  
15 be protected and, basically, that we don't want to see this  
16 agency torn apart.

17 Shifting, over 20 years into this industry and to  
18 have -- we are only now defining design basis, seems to me  
19 to be a major problem.

20 There are two things that have occurred so far,  
21 and while I wasn't participating in this first go-round, I  
22 did attend the last meeting. There seem to be two things  
23 that have been accomplished since the last meeting. One is  
24 we have wiped out the SALP program, or at least terminated  
25 it temporarily, and the second is that we have wiped out

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1 Level IV violations.

2 It seems to me that the agency is like a blind man  
3 wandering in Gaza without some of this help. Level IV  
4 violations, to my mind, are the indicator that would lead  
5 you down the path to another Millstone event, and I don't  
6 think that was good for the industry. I know it wasn't good  
7 for the agency. Obviously, our opinions here today are  
8 going to be very much opposed to a lot of the people at this  
9 table, which I suppose is why we were invited. It is a  
10 pleasure to be here and it is also -- I think it is a very  
11 good opportunity to express our views and to make both the  
12 agency and the industry that we believe that this industry  
13 needs to be regulated and can be done both more efficiently,  
14 but also with an eye toward the public health and safety.  
15 Thank you.

16 CHAIRMAN JACKSON: Thank you very much.

17 Mr. Ray.  
18 MR. RAY: Thank you, Chairman Jackson and  
19 Commission. I very much appreciate this opportunity to  
20 appear here again.

21 In response to the October 25th letter from the  
22 Commission Secretary, I earlier provided specific comments  
23 and recommendations for each of the five issues which it  
24 raises. My initial comments this morning are only going to  
25 touch on a couple of items and expand on them a little more.

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1 I believe they will be complementary to some of my  
2 colleagues here as well.

3 As many of you know, my friend and colleague here  
4 to the left, Corbin McNeill, chaired a committee on the  
5 maintenance rule and its implementing guidance. And he and  
6 I share, with very few others, if any, the advantage -- or  
7 the curse, perhaps, I am not sure which, of having worked to  
8 explained to the industry what the intent and promise was of  
9 the rule, at a policy level; to then develop the detailed  
10 guidance for its implementation; and, finally, to live with  
11 the results. Virtually every other person who was involved  
12 at the beginning either is not now involved in its  
13 implementation or has been replaced at least once, and  
14 usually more often.

15 I am not here to complain when I talk about this  
16 experience, although it will surely sound like complaining  
17 in a minute. Rather, I believe that if we do not learn from  
18 this experience, and incorporate the lessons in our action  
19 plans for the much more aggressive agenda that we are here  
20 discussing today, then we will at least have missed a great  
21 opportunity, and, more likely, we will have doomed the  
22 agenda to some degree of failure.

23 One reason I do not feel I can complain about the  
24 experience today with the maintenance rule is that I believe  
25 this experience was foreseeable, if not entirely avoidable.

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1 And in this regard, I recently reread Commissioner's  
2 Remick's remarks in dissent at the time the maintenance rule  
3 was adopted. I think they were wise and have proven largely  
4 to be true.

5 That is, very early in the development of the  
6 maintenance rule implementing guidance, it was clear that  
7 the means were going to overshadow the ends, and that  
8 implementation of a prescriptive process for compliance with  
9 the rule would come to dominate achieving the purpose of the  
10 rule.

11 Nevertheless, we, in the industry, went forward on  
12 the naive hope that this would not be the case. In  
13 hindsight, we should have sooner sought resolution of what  
14 today is an embedded problem that may be more difficult to  
15 resolve.

16 In the statement of considerations for the  
17 maintenance rule, and, again, Chairman Jackson, this is by  
18 way of lessons learned that I would suggest we spend a  
19 minute on this experience, in the supplemental information  
20 that promulgated the maintenance rule appears the following  
21 statement, "The focus of the rule is on the results achieved  
22 through maintenance and, in this regard, it is not the  
23 intent of the rule that existing licensees necessarily  
24 develop new maintenance programs."

25 Thus far, in San Onofre, we have received six

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1 inspection reports focused on implementation of the

2 maintenance rule. There have been two enforcement  
3 conferences, but no escalated enforcement. We have found it  
4 necessary to deny five notices of violation, two of which  
5 were withdrawn. In addition to the inspection reports, we  
6 have received five letters from the NRC, responded with nine  
7 of our own, and held three meetings with the NRC off-site.  
8 As a result, we have significantly revised our program from  
9 what we believe to be necessary and proper, and greatly  
10 increased its cost.

11 I have recently reviewed all this material and I  
12 have no doubt that everyone here would, upon close  
13 inspection, and I don't exempt my colleague to the right  
14 here, conclude that the large cost, both sunk and ongoing,  
15 is not justified from any objective safety viewpoint.

16 This experience is by no means unique to the  
17 maintenance rule. Another recent example, most here are  
18 probably familiar with the experience of South Texas as they  
19 were attempting to introduce risk-informed principles into  
20 its QA program. What we find is that the regulations and  
21 the institutional culture, which is intimately intertwined  
22 with the regulations, are complex, prescriptive in  
23 unanticipated ways, and often seem to defy efforts at  
24 reform.

25 Recognizing this, the ACRS has recommended that

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1 the Commission explicitly adopt what it calls a two tier  
2 system as a transitional mechanism. Applying this principle  
3 to the maintenance rule, it would have been established in  
4 the beginning, as part of a second tier, presumably, in  
5 which the focus would be consistently directed at the  
6 results sought and much less emphasis would be placed on  
7 prescriptive process compliance.

8 The principle lesson from the maintenance rule  
9 experience to date supports the ACRS recommendation, in my  
10 view. It simply isn't possible in many instances to  
11 risk-inform requirements which are embedded in traditional  
12 prescriptive process-driven regulations and guidance,  
13 including especially inspection guidance.

14 Now, there is a reason for this that I want to  
15 acknowledge and that I believe is important, has important  
16 implications for the Commission policy. In very fundamental  
17 ways, our assurance of safety is seen as based on process.  
18 This is for the good reason that we want to ensure that we  
19 maintain large margins of safety and these margins are hard  
20 to measure, except by insisting on strict process  
21 compliance. We simply have not yet found another way.

22 However, there is a perverse consequence of this  
23 that we need to be aware of. In the first stakeholder  
24 meeting I mentioned my experience at San Onofre of  
25 developing very detailed, and often complex procedural

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1 guidance, which has the benefit of reducing the likelihood  
2 that an error will propagate to the point that it has safety  
3 consequences.

4 In essence, we have added built-in conservatism to  
5 our process, but this greatly increases the likelihood that  
6 strict compliance with these detailed procedures, which  
7 often go beyond the minimum regulatory requirements, will  
8 become a subject of enforcement debate and controversy, so  
9 that a perverse incentive is created to simplify and remove  
10 detail in order to reduce this problem.

11 We see analogies to this in some of the discussion  
12 today, which I think is misguided, about removing  
13 unnecessary detail from the FSAR so as to reduce

14 non-compliance exposure. The benefits to safety of this  
15 exercise are questionable at best, and the research is  
16 required to be much better invested in achieving  
17 risk-informed goals. Worse yet, the anticipated future  
18 inspection and enforcement of the perfected FSAR threatens  
19 to divert even more resources.

20 I was very pleased to see that these issues and  
21 more have been identified by the staff in its presentation  
22 to the ACRS on October 29th. Although I have only seen a  
23 summary of the presentation, I would commend it to the  
24 Commission and I look forward to the response by the ACRS.

25 An issue prominently identified by the staff is  
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1 the need for an early emphasis on scope issues, using the  
2 maintenance rule as, what the staff termed, "a test bed."  
3 There is no more lower hanging fruit than this, and perhaps  
4 I can later give examples of why this is.

5 The scope of the maintenance rule implementation  
6 has been a longstanding problem, as suggested by my earlier  
7 comments, but the problem is made much greater now by the  
8 pending change to require that removal of equipment from  
9 service not place a plant in a risk-significant condition.  
10 Not only do we need to clarify what we meant by  
11 risk-significant in this context, but the task of risk  
12 evaluation for the current broad scope of the rule is simply  
13 impractical.

14 I would like to conclude with a few brief  
15 additional remarks about risk-significance. Our concern  
16 should be integrated risk, which is a product of the level  
17 of risk and the time that that level of risk exists. If the  
18 consequence of a requirement do not exceed a specified level  
19 of risk, because that is viewed as too risk-significant, if  
20 that consequence is to extend the time at which the plant is  
21 held at some lower, but nevertheless elevated risk state,  
22 then the result may be same or worse, from a risk  
23 standpoint. Therefore, avoidance of a risk-significant  
24 configuration, per se, is not meaningful from a safety  
25 standpoint.

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1 In my book, for example, mid-loop operation is  
2 risk-significant and we take great care to minimize the time  
3 we are in that configuration. But elimination of mid-loop  
4 operation, while theoretically possible, would result in  
5 more risk in our view.

6 Another example of how risk insights can change  
7 perceptions is the following. For the first quarter of a  
8 century that I was involved in nuclear plant operations, I  
9 accepted the conventional wisdom that the most likely state  
10 -- that the most risk state, excuse me, was full power  
11 operation. Therefore, I accepted the premise that we should  
12 minimize the time that emergency diesel generators were out  
13 of service during power operation.

14 Chairman Jackson, you mentioned something about  
15 this, I think, in your opening remarks. The NRC has now  
16 agreed with the observation that, with respect to loss of  
17 off-site power, which is the time when we rely on emergency  
18 diesel generators, shutdown operation has the highest risk.  
19 So, again, referring perhaps to my colleagues' earlier  
20 comments, being risk-informed can enhance safety.

21 The reason why it is important to have the  
22 emergency diesel generators available during shutdown  
23 operation is that it is easier to remove decay heat  
24 following a loss of off-site power when the plant has been

1 circulation and turbine-driven aux feed give large safety  
2 margins, whereas loss of forced circulation and makeup, when  
3 cooled down, involve smaller margins to fuel damage.

4 As a result, now, we have a longer allowed outage  
5 time, as the Chairman mentioned, at power, and work we once  
6 did in an outage, because that is the only time we had  
7 available to do it, will now be done more safely at power as  
8 a result of risk-informing that allowed outage time.

9 There are many insights of this kind that can be  
10 identified and used to increase plant safety if we move  
11 ahead with the initiative to a risk-informed regulatory  
12 environment, which I believe the action plan is intended to  
13 do. Thank you very much.

14 CHAIRMAN JACKSON: Thank you, Mr. Ray. I actually  
15 have some questions for you, but I am going to preserve them  
16 until everyone has had a chance to speak.

17 Dr. Travers.

18 MR. TRAVERS: Thank you, Chairman Jackson. As you  
19 have indicated in your remarks, following last summer's  
20 first stakeholder meeting, the Senate authorization hearing,  
21 and in response to your tasking memorandum, the NRC staff  
22 developed a plan to address a specific set of high priority  
23 issues.

24 Our plan focused on the need to accelerate and  
25 expand any ongoing staff activities. Although we fully

1 expect to address changing NRC programs and processes more  
2 broadly, the specific issues identified in the plan are  
3 viewed as the appropriate focus of our near-term efforts.

4 On October 30th, I forwarded the second update of  
5 our plan, and I am pleased to note that, overall, staff  
6 continues to meet the plan's scheduled milestones. Since  
7 the initial response to the tasking memorandum, there has  
8 been considerable progress towards completion of milestones  
9 and initiatives, as evidenced by the issuance of improved  
10 standard technical specifications from McGuire and Catawba,  
11 completion of several plant-specific risk-informed licensing  
12 actions, issuance of the final design approval for the  
13 AP-600 and publication of the proposed 10 CFR 50.59 rule  
14 change for public comment.

15 Additionally, on November 2nd, the staff submitted  
16 a proposed revision to the NRC enforcement policy to the  
17 Commission. This proposal, which specifically addresses the  
18 disposition of certain non-risk-significant violations,  
19 characterized as Severity Level IV, was the subject of  
20 several public meetings which were very constructive in our  
21 view. The public meetings helped focus in on the detailed  
22 issues relevant to the current enforcement policy's  
23 treatment of these types of violations and helped shape our  
24 proposal for changing the policy.

25 We view these open exchanges as essential elements

1 in our efforts to modify important NRC programs and  
2 processes. In fact, as we move forward in all areas of the  
3 tasking memo response, we are continuing to emphasize  
4 frequent interactions with our stakeholders. Workshops and  
5 public meetings such as those carried out on the development  
6 of a NRC performance assessment program, and on identifying  
7 options for making 10 CFR Part 50 risk-informed, have been  
8 widely viewed as excellent forums for making progress in  
9 cooperation with a broad range of stakeholder views.

10 In addition to assuring good communications with

11 our external stakeholders, we are also seeking to  
12 effectively communicate and manage change with our internal  
13 stakeholders. Senior management team's sense is that there  
14 are many NRC staff who support our current initiatives. In  
15 fact, we are getting good input on additional areas for  
16 change, but we are not overconfident about this.

17 We believe that near-constant communication with  
18 the NRC staff will be vitally important as we move forward.  
19 To ensure this, we have developed and are implementing an  
20 internal communications plan which has the benefit of  
21 outside expertise and industry experience. The plan  
22 includes meetings and training opportunities which focus in  
23 on why and how we are changing, with a specific emphasis on  
24 the tasking memo initiatives.

25 Our goal, in addition to seeking staff support for

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1 the change initiatives, is to provide a forum for the staff  
2 to play a role in shaping the direction of change at NRC.  
3 We recognize that organizational change does not take place  
4 overnight, and we recognize the importance of fully  
5 involving the NRC staff as we change. We expect to continue  
6 our internal communications efforts over the long term.

7 In conclusion, while much remains to be  
8 accomplished, I think we have made substantial progress on  
9 important issues. I think the substantial efforts of many  
10 of the NRC staff who have contributed thus far are  
11 noteworthy, and I am grateful to the many stakeholders,  
12 including those gathered here today, for their efforts to  
13 date. Thank you, Chairman.

14 CHAIRMAN JACKSON: Thank you, Dr. Travers.  
15 Mr. McNeill.

16 MR. MCNEILL: Thank you very much, Madame  
17 Chairman. It is privilege to come back and participate in a  
18 stakeholder meeting again. My topic is really going to be  
19 around the first element of the agenda today, the  
20 risk-informed, performance-based regulation. I provide  
21 these comments in what I think is a constructive manner, in  
22 that I prefer personally to look forward. This is going to  
23 be an evolving issue, and to take the lessons from the past  
24 and apply them to the future, as opposed to necessarily  
25 complaining too much about the past.

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1 As you know, in May of this year, the industry  
2 unveiled its vision for the future of nuclear power when NEI  
3 released its report entitled, "Nuclear Energy 2000 and  
4 Beyond, a Strategic Direction for the 21st Century." A  
5 major element of than plan is the presence of an effective  
6 safety-focused regulatory framework which features  
7 risk-informed, performance-based regulation. I think there  
8 is clear synergy between the vision that the industry has  
9 and the actions that the NRC is taking under consideration  
10 in its stakeholder meeting.

11 The maintenance rule, which was issued by the  
12 Commission in 1991, really was sort of a precursor to  
13 risk-informed, performance-based regulation, and we  
14 currently have a proposed revision to that rule out. When  
15 the original rule was issued it was highly prescriptive in  
16 many respects, putting the Commission in a programmatic  
17 rather than necessarily an oversight role with regard to  
18 maintenance. Some in the industry at the time challenged  
19 the rule as an inappropriate backfit, but the Commission  
20 emphasized, and I think successfully, that the rule would  
21 evolve over time and reflect a more risk-informed,

22 performance-based nature, as we began to get experience.  
23 And as a result, the industry, through then NUMARC  
24 at the time, NEI's predecessor, we took a different  
25 challenge on, and that was to make the implementation a

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1 model for a new regulatory approach based upon  
2 risk-informed, performance-based regulation principles. As  
3 Mr. Ray has noted, I chaired the NUMARC Maintenance Rule  
4 Working Group that coordinated the development of industry  
5 guidance to implement the rule and that has served as the  
6 focal point for industry interaction with the NRC over the  
7 years of implementation.

8 The goal of that effort was to achieve effective  
9 and efficient implementation by focusing on risk-significant  
10 structures, systems and components using results in a  
11 results-oriented approach. We devoted a significant amount  
12 of time, both on the part of the NRC and the industry, over  
13 that intervening period of time for implementation. While  
14 we have not yet, in our opinion, realized the full potential  
15 of this new regulatory approach, we believe that, from the  
16 industry perspective, the maintenance rule provides a solid  
17 foundation upon which we can build a new regulatory  
18 framework.

19 The current proposed revisions to the maintenance  
20 rule provide the Commission with an opportunity to  
21 demonstrate its commitment to this new regulatory  
22 risk-informed, performance-based framework. We believe that  
23 it is time for the Commission to actively incorporate the  
24 lessons learned since the rule was promulgated, to assure  
25 that the enforcement of the rule recognizes its original

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1 intent and that it reflects the risk-informed,  
2 performance-based process.

3 Now, I want to give you just a few examples here  
4 so that we can take the lessons of the past and apply them  
5 to the future. The current rule suffers a little bit from  
6 the following deficiencies. First, in large, up-to-date, it  
7 has remained largely compliance-based. The initial part of  
8 it is a deterministic determination of scope, and, clearly,  
9 about two-thirds of the structures, systems and components  
10 within the scope are not risk-significant, but by applying  
11 other attributes of the rule, such as standby SSCs, we begin  
12 to invert the main premise, which was to focus clearly on  
13 risk-significant SSC.

14 And by example, let me give you one example from  
15 our Limerick generating station, where, in fact, the fuel  
16 pool cooling system, which has inconsequential safety  
17 significance in the overall operation of the plant, is, in  
18 fact, because it is listed in the EOPs as a system that is  
19 referred to, comes under additional scrutiny, which we think  
20 is incorrect with respect to the safety significance of the  
21 system, in that we are required to monitor that on a train  
22 basis, as opposed to an overall system basis, because some  
23 trains are shut down at certain times and are  
24 non-operational.

25 While having taken that lesson from the inspection

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1 and applied it, we had to go back at look at 23 other  
2 systems, to go back and look at them on a train basis, as  
3 opposed to a system basis, with an expenditure of a large  
4 amount of engineering and managerial time in doing that. It  
5 might be worth noting that we, in fact, had been doing it  
6 that way at Peach Bottom, and the Peach Bottom plant was a  
7 demonstration inspection as a part of the original test of

8 the implementation, and we were doing it at the train level.  
9 We had gone to an NRC workshop in 1996 and, in fact, we had  
10 reversed ourselves and were going back to monitor on a  
11 system basis, until we got the Limerick inspection, so it is  
12 unclear to us as to what the appropriate guidance is.

13 A second suggestion here is that there is a  
14 failure to utilize performance-based approaches to  
15 regulation. Much of the inspection and enforcement activity  
16 to date has been focused on programmatic issues. We need to  
17 make sure that the performance basis element of the  
18 regulatory oversight becomes much stronger as we move  
19 forward in implementing this.

20 And, finally, the rule suffers from ambiguity and  
21 vagueness, the definitions of availability and  
22 unavailability are obscure, and we need to focus on those  
23 much more clearly, as an example, in definitions as we begin  
24 to develop and implement new rules and risk-based rule.

25 Harold and I, having gone through that, understand

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1 that right from the start. We probably spent two-thirds of  
2 our interaction time with the NRC back in the '93 - '4 time  
3 frame, just on understanding definition.

4 On a positive side, I want to emphasize that the  
5 maintenance rule can serve as a model for future  
6 risk-informed, performance-based regulatory approaches. It  
7 provides a solid foundation for moving forward. The  
8 Commission should incorporate the lessons learned from the  
9 implementation of the rule, as you move forward to a  
10 risk-based regulatory framework, and I would encourage the  
11 Commission to seriously consider the industry comments on  
12 the maintenance rule as an opportunity to fulfill the  
13 promise and the intent of the original effort.

14 I believe that the prospect for the future of  
15 additional risk-informed, performance-based regulation is  
16 very strong if you do that, but begins to diminish, in fact,  
17 we tend not to move forward with the real fundamentals of  
18 risk-based regulation. Thank you.

19 CHAIRMAN JACKSON: Thank you very much.

20 I am going to go to Dr. Rhodes, and then I am  
21 going to circle back through my colleagues' comments. Dr.  
22 Rhodes.

23 DR. RHODES: Thank you, Chairman Jackson. First,  
24 let me say that I appreciate the opportunity to represent  
25 the Institute of Nuclear Power Operations at this meeting.

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1 We continue to be encouraged by the openness being displayed  
2 by the NRC in communicating with stakeholders. This  
3 process, an open exchange of ideas and information, can only  
4 help in everyone's effort to ensure the safe and reliable  
5 operation of our nation's nuclear power plants.

6 Let me also add that we are very pleased to see  
7 the Commission at full strength again, as you mentioned,  
8 Chairman Jackson. This will help the Commission more  
9 efficiently carry out its work, particularly in the  
10 challenging and changing industry environment.

11 As you are probably aware, we are INPO have  
12 underway a series of initiatives geared towards improving  
13 how we meet our mission of promoting the highest levels of  
14 safety and reliability in the operation of nuclear electric  
15 generating plants. Therefore, we can certainly understand  
16 the challenge the NRC faces as you strive to effectively  
17 meet your regulatory responsibilities, while at the same  
18 time making needed changes in the way you carry out those

19 responsibilities.  
20 At INPO, we have seen many utilities challenged  
21 with managing change. Some have had success, others have  
22 struggled. Based on our observations and experience, and  
23 certainly on my previous experience at Virginia Power, it is  
24 clear that change requires clarity of purpose, constant  
25 communication, training and, most of all, persistence and

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1 hard work. Let me address each of those elements briefly.

2 First, clarity of purpose. A clearly defined,  
3 simple goal is necessary. With clarity and simplicity,  
4 change leaders throughout the organization can help ensure  
5 that strong support exists at all levels.

6 Second, constant communication is critical for  
7 success. Communication must be two-way, involving both  
8 sending information and receiving feedback. External  
9 communications with stakeholders, through processes such as  
10 today's meeting, are to be applauded and need to continue.  
11 Being flexible enough to incorporate relevant feedback from  
12 stakeholders throughout the change process, as I believe you  
13 recognize, will be important to your success.

14 Internal communications are just as important, as  
15 Dr. Travers just talked about. First, the intentions of the  
16 Commissioners and the senior staff should be repeatedly  
17 communicated throughout all levels of your organization.  
18 But then, just as importantly, employees must be engaged in  
19 dialogue to assure that the messages are being received and  
20 understood.

21 Third, preparing and training your employees for  
22 change, and helping them succeed, is another fundamental  
23 ingredient. Our experience shows that organizations often  
24 underestimate the effort required to engage and train the  
25 work force on significant changes. We encourage you to look

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1 hard at the ability of your work force to digest and  
2 internalize the changes being made. Also, as your  
3 organization changes, particularly in light of new  
4 assignments, additional skills training may be needed.  
5 Further, it is important that the NRC's award and  
6 recognition system support successful implementation of the  
7 change process.

8 Finally, persistence and hard work. As you have  
9 said, what you are undertaking includes a change in culture.  
10 Cultural changes take time, tremendous energy and, most of  
11 all, significantly more persistence and hard work than often  
12 expected. However, we are encouraged by what we have seen  
13 happening thus far.

14 But, Chairman Jackson, to use one of your quotes,  
15 one I like very much actually, "Performance is what  
16 performance does." We have seen many organizations with  
17 great intentions have their change programs fall short  
18 because of poor implementation. Given the far-reaching  
19 effects of the changes you are initiating, persistent and  
20 consistent execution of your change process is critical to  
21 success. This, as I said, and as you well know, will taken  
22 an immense amount of hard work.

23 In the meantime, we encourage you to continue  
24 improving your responsiveness to industry needs, such as  
25 timely license amendments, transfers and renewals, and

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1 reducing administrative burdens such as minor Level IV  
2 violations. Additionally, while maintaining appropriate  
3 data propriety, increased information sharing may also be  
4 appropriate to reduce duplication and administrative

5 burdens.

6 In conclusion, we believe that the industry and,  
7 indeed, the public, wants and needs a more predictable,  
8 objective and responsive nuclear regulator. We are  
9 encouraged by what you are attempting to do, that is,  
10 becoming a more risk-informed, performance-based regulator  
11 with your inspection, enforcement and assessment processes  
12 focusing on items directly related to your mission, the  
13 protection of the public health and safety. We at INPO will  
14 continue to work in cooperation with you to help ensure the  
15 safe operation of our nation's nuclear power plants. Thank  
16 you very much.

17 CHAIRMAN JACKSON: Thank you very much, Dr.  
18 Rhodes.

19 Mr. Nye.

20 MR. NYE: Good morning, Chairman Jackson. Thank  
21 you for this opportunity to be part of this meeting, to  
22 continue what I believe is a very constructive stakeholder  
23 dialogue. I join my colleagues present today in expressing  
24 our significant pleasure at the Commission once again being  
25 at full strength. Commissioner Dicus, welcome back, glad to

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1 have you. Commissioner Merrifield, we congratulate you and  
2 wish you the very best in your very challenging  
3 responsibilities.

4 Clearly, Chairman Jackson, Commissioners Diaz and  
5 McGaffigan have embarked upon a bold course of action and  
6 the involvement of the full panel will simply enhance the  
7 process.

8 I presume that most of those present here today  
9 would readily acknowledge that the commercial nuclear  
10 industry is in the midst of a period of significant change,  
11 change which has resulted from the globalization of the  
12 economy, growing competition in a previously comprehensively  
13 regulated industry, and the increasing importance of the  
14 environmental benefits of nuclear power. Perhaps it is  
15 apparent, but I believe we need to observe Lincoln's  
16 admonition not to confuse change with progress. What I hope  
17 we all seek is progress, progress towards a strong,  
18 effective and credible regulatory authority that will assure  
19 safety in a fashion that will permit efficiency, innovation  
20 and performance by the industry.

21 Perhaps it is also obvious that to achieve what I  
22 think has been aptly termed "responsible responsiveness,"  
23 all constituencies must be involved. This is not a matter  
24 for the Commission alone and the industry must adapt and  
25 accept fully its responsibilities. Likewise, the public,

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1 public interest organizations, the Congress, the  
2 manufacturing and consulting communities, must all play a  
3 role as well.

4 The letter inviting participation posed several  
5 questions for our consideration, and I think through the  
6 presentations of industry representatives, each question  
7 will be addressed. I would like to offer a couple of  
8 summary comments, however. At the outset, I want to commend  
9 Chairman Jackson, the Commissioners and the senior staff for  
10 their clear commitment to the task of regulatory reform.  
11 All involved should be impressed with the zeal with which  
12 you have undertaken the task and with your willingness to  
13 continue this interaction with stakeholders on your plans  
14 and progress.

15 My colleagues and I note a new energy level at the

16 NRC and an openness and enthusiasm for the process of reform  
17 that is, in my experience, unique in government. The plan  
18 that you have devised is thoughtful, comprehensive and  
19 impressive. I believe that it has captured the highest  
20 priority issues, namely, the license renewal and transfer  
21 process, which will permit more timely business decisions  
22 during the restructuring process, and the installation of an  
23 objective, safety-focused performance assessment process.

24 With regard to this last point, I am especially  
25 appreciative of your bold step to develop a more appropriate

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1 mechanism in lieu of the SALP process. This is clearly  
2 indicative of a firm commitment to move quickly to a new  
3 objective, safety-focused assessment for all licensees. We  
4 look forward to working with you over the next several years  
5 to resolve many other important issues along the way, and we  
6 commit the industry to acting in a fully supportive and  
7 reciprocal fashion.

8 One of the key questions implicit in this matter  
9 deserves a firm response at the outset. You asked if we,  
10 the industry, are prepared to accept the cost of a  
11 potentially much less-forgiving regulatory process as a  
12 result of reliance on more objective performance measures.  
13 Assuming that the performance measures are objective,  
14 risk-informed and safety-focused, the answer is  
15 unequivocally yes. We will stand accountable for our  
16 performance and safe operation. Again, thank you for the  
17 opportunity to participate.

18 CHAIRMAN JACKSON: Thank you very much, Mr. Nye.  
19 Mr. Lochbaum.

20 MR. LOCHBAUM: Good morning. During the July 17th  
21 stakeholder meeting I stated that the NRC does not conform  
22 to the same high standards that it requires of its  
23 licensees. The staff's October 30th, 1998 response to the  
24 tasking memorandum is further evidence to me that my  
25 position is correct.

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1 During my 14 years as a consultant, I had several  
2 assignments at both top-performing nuclear plants and also  
3 problem plants. I observed that one of the few consistent  
4 indicators of management effectiveness is in the response to  
5 an announcement of an upcoming NRC inspection. At the good  
6 plants, management develops a presentation to do some  
7 bragging. They have all kinds of charts and tables and  
8 examples to explain to the NRC the positive results they are  
9 obtaining from strong, effective programs. At the bad  
10 plants, management panics. They rush to develop action  
11 plans to address all of the problems they have been  
12 ignoring. They hope to convince the NRC that they are aware  
13 of the problems and have blueprint in place for fixing them.

14 The NRC's response to the Senate's marching  
15 orders, or, more specifically, its preparations for the next  
16 oversight hearing reminds me more of the reaction of a bad  
17 plant than a good plant. The true purpose seems to be to  
18 convince the Senate to leave the NRC alone, just as the bad  
19 plant's management only wants to trick your inspectors into  
20 giving them more time.

21 The NRC's plan is comprehensive and will probably  
22 satisfy the Senate, but the NRC does not have mechanisms to  
23 ensure that the processes described in the plan are  
24 consistently implemented, nor does the NRC have mechanisms  
25 to evaluate revised processes to gauge whether they have

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1 fulfilled the goals. Without such mechanisms, the best plan

2 in the world is unlikely to produce a successful outcome,  
3 and as the written comments that accompany these oral  
4 remarks suggest, UCS does not feel that the NRC's current  
5 plan is the best plan in the world.

6 The NRC demands that reactor licensees have  
7 aggressive self-assessment programs complemented by  
8 effective corrective action programs. The staff's October  
9 30th, 1998 response to the tasking memorandum covers the  
10 majority of the key elements of the NRC's reactor oversight  
11 program. Its large scope and the high level of effort  
12 required to address its many items suggest either that the  
13 NRC was not aware of all these problems until the Senate,  
14 the GAO, and other external entities called attention to  
15 them, or that the NRC knew about these problems but was  
16 unable to correct them in a timely manner.

17 The staff's response to the tasking memorandum is  
18 essentially identical to the restart plans developed by  
19 reactor licensees at problem plants. This 74 page document,  
20 when I was preparing these remarks last week, was on my desk  
21 with the restart plans for D.C. Cook, Salem and Millstone,  
22 and the reason I knew that, because it took me four shots to  
23 find this plan on that desk.

24 The glaring exception in this plan, compared to  
25 the restart plans at problem plants, is that the reactor

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1 licensees are required to prove to the NRC that they have  
2 fixed their self-assessment and corrective action programs.  
3 The staff is not proposing to do so. We think that the  
4 NRC's initiatives will not be successful until they are  
5 complemented by substantial improvements to the staff's  
6 self-assessment and corrective action programs. Thank you.

7 CHAIRMAN JACKSON: Thank you very much.

8 Ms. Lipoti.

9 DR. LIPOTI: Thank you. I am honored to be part  
10 of this circle, and perhaps a little awed as well.

11 CHAIRMAN JACKSON: Don't be.

12 DR. LIPOTI: From a state perspective, we have an  
13 emphasis on emergency planning, and so our emphasis is on  
14 responding to things that might go wrong, and we would  
15 prefer prevention, and that is why we look at licensee  
16 processes, as well as NRC regulatory control. And we  
17 understand limited resources, because at the state we have  
18 limited resources as well, and we understand the use of  
19 probabilistic risk-assessment and individual plan  
20 examination as being essential for prioritization.

21 What I would like to do is to take to you the  
22 regulator's perspective, because we are a regulator, too.  
23 We regulate X-ray machines and naturally-occurring  
24 radioactive materials, and radon businesses, and radio  
25 frequency sources, and we have limited resources, and how is

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1 it that we cope? Well, we prioritize, but if we strictly  
2 use probabilistic risk-assessment for prioritizing X-ray  
3 inspections, we would look at fluoroscopy machines because  
4 they have the highest exposure potential. And we would look  
5 only at hospitals, because they have the high population  
6 exposure. But, in reality, the hospitals have the best  
7 self-assessment programs. They have good quality assurance  
8 programs, and they identify and correct the problems before  
9 we do the inspection.

10 In reality, it is the small medical and  
11 chiropractic offices that have the most violations. And so  
12 we try to inspect where the inspection is going to do the

13 most good.  
14 I put a very busy slide in my presentation about  
15 the violation rates, and I have looked at it over the years,  
16 and this is just one example of using performance  
17 indicators. In '94 we began to lose staff because of  
18 cut-back of state programs, and so we watched the length of  
19 time between inspections increase and we watched the  
20 violation rate at medical offices and chiropractic offices  
21 increase dramatically. And so I took a bold step and I said  
22 we are not going to go to those hospitals every year, even  
23 though that is the highest probability of high exposure, and  
24 we are going to go to the smaller offices because they  
25 obviously need our inspection to prompt them to make

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1 corrections.

2 We did a form of your Generic Letter, we sent out  
3 a letter to the groups that we were going to be inspecting  
4 and we gave them a list of top 10 non-compliances and said  
5 if you fix these before we get there, you probably won't  
6 have any non-compliances. We sent that out in January of  
7 '95, and you see that the non-compliances increase in '96.

8 We did change our priorities. We were able to  
9 bring the chiropractic and medical offices down to lower  
10 non-compliances. And so I guess that gets to the idea of  
11 establishing a metric so you know what your baseline level  
12 of inspections needs to be.

13 In New Jersey, for the department, we have guiding  
14 principles, and they are very few of them: continuous  
15 quality improvements; effective partnerships; innovative  
16 management strategies; enhanced scientific assessments of  
17 data by using indicators to reflect the conditions, the  
18 trends and the results. You want to look at what is out  
19 there, you want to look at how you can influence those  
20 trends, and how you can get the results. And you look for  
21 linkages among the causes, conditions and the effectiveness  
22 of the management strategies. So the selection of metrics  
23 is extremely important and I am glad that you are  
24 concentrating on that.

25 When I looked at your plan, and I looked at the

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1 NRC organization and structure, I thought that it missed one  
2 of the current trends in management, and the trend is toward  
3 postmodern management, which is more of a deconstructionism,  
4 deconstructing the bureaucracy and an emphasis on  
5 creativity, a reliance on partnerships, and I think that the  
6 stakeholders is a way of getting to partnerships, but I am a  
7 little bit concerned that your partnerships are mainly with  
8 your licensees and perhaps at a lesser extent with states  
9 and other interested parties.

10 I saw indicators that reflect conditions and  
11 trends and results, but I didn't see how you propose to  
12 improve the public understanding of the issues. I think  
13 that is really important.

14 The next slide is -- What does your new culture  
15 look like? -- and it is a blank slide, because I couldn't  
16 tell what your new culture would look like.

17 I know Dr. Travers mentioned internal stakeholders  
18 meetings and forums for the staff to get involved, and I  
19 think that is very important, because I don't -- if I didn't  
20 see what your culture is supposed to look like, I am not  
21 sure that your staff did. And I notice that in a speech  
22 that you gave to your senior managers, you said, "If the  
23 staff feels that they are charged with guessing at  
24 management goals, strategies or acceptance criteria in a

25 given circumstance, we will not make timely progress." I

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1 think that is really important.

2 Decommissioning, I thought was the largest gap in  
3 your plan, and maybe that is because you haven't really  
4 looked at this as a continuum in nuclear power, from  
5 operations to shutdown, to decommissioning, and maybe you  
6 need to create that big circle there.

7 I think you need a critical shift in your thinking  
8 for the cleanup issue, and you need stakeholders, perhaps  
9 just on this issue, because they might be different  
10 stakeholders, states, EPA and NRC.

11 I am a little concerned that on the shutdown  
12 emergency preparedness rule there seems to be meetings  
13 between the NRC staff and NEI, but states are the biggest  
14 stakeholder in off-site emergency preparedness and we should  
15 be part of those discussions.

16 I thought MARSSIM was an excellent example of a  
17 good product that was based on collaboration, and I think we  
18 need more collaboration on this particular issue.

19 You asked a couple of questions. You asked, is  
20 your plan sufficient? And I thought the accountability was  
21 good because you gave dates and you assigned things to  
22 specific people, and it does seem responsive to the  
23 Congressional requests, but I am just concerned that it  
24 might be at the expense of a thoughtful process, where you  
25 get too busy with the checklist to think of the organization

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1 as a whole. I also wondered it was outside the normal  
2 management process, because, really, this is part of good  
3 management. I thought you might have missed some issues  
4 like emergency planning and radiation monitoring systems.

5 I noticed on your inspection program that there  
6 are some plant systems that aren't real high on the risk  
7 ranking, like emergency preparedness, like radiation  
8 monitoring systems, but they are sure important to states  
9 because of our off-site responsibilities.

10 You asked about the successful completion of the  
11 plan, and I think there should be no completion, it should  
12 be part of the continual improvement process and it should  
13 be a living document.

14 When I look at NRC in the long-term, I think the  
15 plan responded to the Congressional hearings, but you missed  
16 some of the big issues. A lot of the pages of this plan  
17 were devoted to approving six different types of  
18 multi-purpose canisters, and that is very important to do,  
19 but it doesn't solve the problem of spent fuel being stored  
20 at 100 different places around the country and not having a  
21 permanent waste disposal facility. So it might be time to  
22 revisit those direction-setting issue papers and consider  
23 some reinvolvement in some of the big picture issues.

24 I think that one thing you didn't anticipate was  
25 the quantity of plants that are being shut down and

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1 decommissioned early, and it might be time to revisit your  
2 trending data and to place more emphasis on the transition  
3 to decommissioning.

4 I have lots of other slides, and I will just bring  
5 up those points during the regular discussion. Thank you  
6 very much.

7 CHAIRMAN JACKSON: Thank you.

8 Dr. Remick.

9 DR. REMICK: Thank you. Good morning,

10 Commissioners, NRC staff and fellow stakeholders. I  
11 appreciate the invitation to participate in this, the second  
12 round table stakeholders discussion meeting on the nuclear  
13 regulatory process. As before, I will strive to be direct  
14 and to the point.

15 Like others, I am pleased to acknowledge the  
16 number of changes that are underway and decisions that are  
17 being made in the agency. I am both pleased and impressed  
18 by the breadth of the activities that are underway.

19 The Commission appears to be more engaged in the  
20 issues that confront the agency and its licensees. Many  
21 important issues are being managed by the senior managers  
22 with increased guidance from the Commission and with  
23 apparent renewed energy and enthusiasm. For example, the  
24 staff's response to the tasking memorandum and stakeholders'  
25 concerns, which I consider to be the agency's corrective

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1 action plan, is serving to focus attention and, hopefully,  
2 developing consensus within the agency.

3 There appears to be an improved alignment of the  
4 Commission and the staff on issues. As a result, staff  
5 managers appear to be more involved in the activities of  
6 their staff. An example is the decision to issue relief for  
7 some plant designs on the time to initiate the monitoring of  
8 hydrogen concentrations following ECCS initiation. This was  
9 one of the pilot programs to which I referred in July as  
10 languishing for lack of a timely decision and unending  
11 requests for additional information. It is now time to make  
12 decisions on other risk-informed pilot program submittals  
13 which are also before the staff and propose either  
14 risk-neutral or risk-positive changes.

15 As is the case in any major change in direction or  
16 paradigm shift in large organizations, there is the question  
17 of how those in the depths of the organization have accepted  
18 the change. Thus, leadership and commitment for change must  
19 be demonstrated down the line, and continuous and consistent  
20 communication must be sustained, because we all know that  
21 Congressional attention and interest, as well as  
22 Commissioners, come and go.

23 It is important that the communication be  
24 consistent and clear. To that point, I hope that the recent  
25 interim enforcement guidance is more scrutable to those in

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1 the field who must implement the guidance, than I can claim  
2 as an interested and somewhat knowledgeable reader. To me,  
3 the guidance, issued, I am sure, with the very best of  
4 intent, is replete on -- on the one hand, do this, but on  
5 the other hand, do that.

6 There are several aspects of your corrective  
7 action plan which appear to be missing. For example, what  
8 is your vision in constructing and approving your corrective  
9 action plan? That is, what will the NRC look like when the  
10 plan is completed? Without such a vision, clearly defined  
11 and communicated to the staff, how will you know when you  
12 have achieved your vision? Further, consistent with how the  
13 agency asks its licensees about their corrective action  
14 plans, what self-assessments are planned in the course of  
15 conducting the corrective actions, or after the actions are  
16 completed, so you can determine whether the actions have  
17 been effective?

18 I am pleased to see veteran Commissioner Dicus  
19 back on the job and to see Commissioner Merrifield, my  
20 neighbor here, completing the complement of Commissioners.  
21 In the past I have proclaimed the benefits of a

22 multi-disciplined Commission structure for handling complex,  
23 technical policy issues important to public safety.

24 Incidentally, I have also touted the benefits of a  
25 multi-discipline, "science court" process for resolving

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1 complex technical issues in contention, such as you have  
2 with the Atomic Safety and Licensing Board, admittedly,  
3 assuming that it is functioning efficiently.

4 However, now that all the seats are filled, if the  
5 Commission is to be effective, it cannot be a bifurcated  
6 body. It must be a collegial body which works together for  
7 a common purpose, that is, providing adequate protection to  
8 the public, the environment, and national security in an  
9 efficient and cost-effective manner. To be successful in  
10 carrying out your important your important responsibilities,  
11 you must communicate with each other as equals. Further,  
12 you must communicate clearly and frequently with the staff,  
13 which, in my view, is one of the most professional staffs of  
14 any agency in this town. And when I say this town, I mean  
15 the one 10 to 12 miles from here.

16 In seeking ways to improve the performance of this  
17 agency, the Commission should search for methods to improve  
18 the efficiency and effectiveness of own modus operandi. For  
19 example, I, like many others, believe that the Commission's  
20 practice in implementing the government in the Sunshine Act  
21 inhibits a healthy, open, free-wheeling exchange of  
22 perspectives on issues pending before the Commission.

23 Specifically, the current practice wherein no more  
24 than two Commissioners may meet informally to discuss their  
25 perspectives on an issue curtails meaningful collegial

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1 dialogue and precludes the synergistic opportunity which I  
2 believe was envisioned when the concept of a  
3 multi-disciplined, five-person Commission was adopted. The  
4 current practice of having to have four separate discussions  
5 to seek other Commissioners' perspectives is inefficient,  
6 ineffective and nonsensical, in my view.

7 Decisions on issues pending before the Commission  
8 cannot and should not be made in such discussion meetings,  
9 but a healthy airing of individual perspectives would be  
10 beneficial to eventually deciding policy issues. I believe  
11 the Commission has the authority to revise its current  
12 practice without violating the commendable intent of the  
13 government in the Sunshine Act. In fact, I believe that  
14 Section 101(c) of Part 9 of your own regulations permits you  
15 to do that.

16 Returning to a matter that I discussed at our last  
17 meeting, I believe there is nothing in the Atomic Energy Act  
18 which defines Confirmatory Action Letters, the so-called  
19 CALs, or Confirmatory Orders, and that is in contrast to  
20 orders in general, or is there anything in the regulation  
21 which defines such instruments and their intended use.

22 Now, I don't question the Commission's authority  
23 to establish such instruments because the Atomic Energy Act  
24 gives the Commission broad powers, but I do question their  
25 bases in the regulations and, thus, their fairness in use.

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1 If there is a legitimate regulatory need for them, the  
2 responsible action would be to revise the regulations  
3 through rulemaking in accordance with the Administrative  
4 Procedures Act, and consistent with the Commission's  
5 Principles of Good Regulation. If promulgated, their use  
6 should be closely prescribed, controlled and monitored to

7 prevent their misuse as a means of bypassing the  
8 Commission's regulations, including its backfit rule.

9 Now, I understand the staff's liking for  
10 Confirmatory Action Letters and Confirmatory Orders,  
11 inasmuch as they preclude the opportunity for a licensee to  
12 exercise its right to request a hearing on the matter,  
13 wherein the regulatory basis of the action could be  
14 challenged and Commission review should, and presumably  
15 would be triggered.

16 I am pleased to note that it appears that staff  
17 composed Confirmatory Action Letters have come under closer  
18 scrutiny since the last stakeholders meeting, to see that  
19 some impending CALs have not been issued. However, I am  
20 displeased to report that some in the regions have already  
21 found a way around the closer scrutiny. For example, the  
22 staff is able to arm twist a licensee, under the threat of  
23 the issuance of a CAL or a Confirmatory Order, to make  
24 formal, detailed, prescriptive commitments that the staff  
25 wants, which then become part of the licensee's licensing

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1 basis. Thus, the staff gets around the backfit rule and  
2 other regulatory requirements without issuance of a CAL.

3 Now, this is a flagrant violation of the backfit  
4 rule to me, and some might refer to it as regulatory  
5 extortion, admittedly an extreme and contentious term,  
6 however, a term which does have a ring to it as a means of  
7 drawing attention to regulatory methods used to force  
8 licensees to commit to actions with otherwise they are not  
9 obligated to do by the regulations. It has caused me to  
10 define a new CAL acronym as "Commitments by Arm-twisting and  
11 Leverage." I am surprised that the Office of the General  
12 Counsel has not raised a red flag about the practice, if it  
13 has not.

14 Finally, I think you, as Commissioners, have some  
15 of the best executive service positions in this town. As  
16 Commissioners appointed by the President, you neither serve  
17 at the pleasure of the President, nor must follow the  
18 associated dictates from the White House. You are free to  
19 make important public policy decisions based on the dictates  
20 of your conscience as to what you consider to be right in  
21 the best interest of the public, and you are largely free  
22 from partisan politics, although correctly subject to  
23 Congressional oversight.

24 You are free to fulfill your responsibilities  
25 using your best judgment. In doing so, you must be willing

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1 and be prepared to shoulder criticism from the media and  
2 others, willing to face and resolve in a fair manner  
3 differing professional opinions from the staff as well as  
4 questions from Congress, and willing to stand up to the  
5 challenge from those opposed to maintaining nuclear energy  
6 as an energy option for this country, as has been decided by  
7 Congress. As has been said, "if you are right, you will  
8 prevail." And you will be right more often if you improve  
9 your ability to come together as a collegial Commission and  
10 thoroughly discuss your individual perspectives on issues  
11 before deciding those issues.

12 In closing, again, I say that I am pleased and  
13 impressed with the changes that are underway, for which you  
14 are to be congratulated. Properly managing the changes,  
15 assessing their effectiveness and sustaining your efforts to  
16 their conclusion will be essential and critical elements to  
17 your success. Thank you.

18 CHAIRMAN JACKSON: Thank you.

19 Mr. Colvin.  
20 MR. COLVIN: Chairman, Commissioners, ladies and  
21 gentlemen, thank you. It really is a pleasure to be here at  
22 this second stakeholders meeting and appear before, in  
23 essence, a full Commission.

24 I think that as we move forward, I see that we  
25 really have the ingredients for success and making some

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1 important changes in the regulatory processes and in  
2 reforming and making the processes more efficient. It is  
3 clear from my perspective, and the industry's perspective,  
4 that we the Commission and the staff dedicated to change and  
5 clearly achieving results, in fact, in many cases, very  
6 dramatic results that are being felt at the plants and by  
7 the people in the field. I think that, as you asked in your  
8 opening statement, or mentioned, Chairman, that is really  
9 one of the key indicators that we have been looking for,  
10 certainly, not change in Washington, there is a lot of  
11 change that goes on in this town, but change to the people  
12 where it really matters.

13 Secondly, we have certainly Congressional  
14 interest, oversight, and I think, more importantly, support  
15 and recognition of the important role of nuclear energy in  
16 the United States Congress that is growing, and I think that  
17 is part of the factor that is important in providing that  
18 support to the agency as we move forward.

19 I think lastly, but by no means last, the  
20 dedication of the stakeholders, all the parties here, and  
21 others, to try to provide their insights in these reform  
22 activities. So I really do believe that we are moving  
23 forward and the results have been dramatic.

24 I think obviously we have a lot of work to do, and  
25 how we go about that is an important parameter in achieving

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1 long-lasting change, and I would like to focus some of my  
2 remarks, and I do have a few slides, if I could have the  
3 first slide, please, as we move forward.

4 There is an old saying that if you don't know  
5 where you are going, then you will be satisfied with  
6 whatever you get. So, from our standpoint, we have  
7 provided, and this is the industry's view on what we believe  
8 the regulatory objective ought to be, and that is really to  
9 achieve a safety-focused, results-oriented and accountable  
10 regulatory Commission whose regulations objectively define  
11 adequate protection of public health and safety, are  
12 administered efficiently and effectively for the benefit of  
13 the licensees and the public.

14 I might mention that, as we move forward -- my  
15 next slide, please. We have really broken down into the  
16 regulatory attributes, which are self-explanatory. I would  
17 like to provide the context of both near-term activities and  
18 some longer-term activities that we believe are important,  
19 along with some milestones from the industry perspective,  
20 and priorities, Chairman, Commissioners, for your  
21 consideration. And that is the next slide, please.

22 It is important to mention that we have many other  
23 activities that have been mentioned by our stakeholders that  
24 need to be addressed by the Commission, material licensee  
25 issues, fuel fabrication facility issues, 10 CFR Part 70,

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1 and other activities which really are not within the context  
2 of today's discussion, but need to be recognized as  
3 important as we move forward.

4 I would like to go through just the near-term  
5 priorities, and I think we are -- these are covered well in  
6 the programs that are underway. New regulatory oversight  
7 process, license administration, renewal and transfer.  
8 Risk-informed, performance-based regulation, I might mention  
9 here that risk-informed, in-service inspection, in-service  
10 testing, the tech specs, allowed outage times that you have  
11 mentioned are very important. Just as an example, on the  
12 ISI programs that are underway.

13 From the ASME perspective, the Section 11  
14 perspective, and, certainly, industry perspective, we have  
15 the ability, with the changes moving forward, to eliminate  
16 about 60 percent of the inspection activities that are  
17 really unnecessary and, with it, probably the largest  
18 contributor to man-rem exposure that we have within our  
19 facilities.

20 So there is a very important win-win, perhaps even  
21 win-win-win situation with the programs to look at  
22 risk-informed processes like this, where we can actually  
23 reduce the efforts and activities from both the licensee and  
24 the regulator on these. On unnecessary activities, we can  
25 reduce the man-rem exposure and then we can use those

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1 resources to really focus on what is important to safety. I  
2 encourage the Commission's activities in continuing to move  
3 forward on these issues and certainly the industry is fully  
4 in support of those.

5 We have talked basically about the maintenance  
6 rule. I want to just clarify the whole plant study is  
7 really the approach that we have proposed to the Commission,  
8 to use as pilots three licensee plants to look at how one  
9 applies risk insights to the entire plant as we move  
10 forward. We are pleased that that is proceeding, and,  
11 obviously, trying to provide that as a foundation for an  
12 entire risk-informed Part 50. Next slide, please.

13 The issues on this slide, we are moving forward  
14 on. I would say 50.54(a) rulemaking activities really  
15 relate to the graded QA activities that Harold Ray talked  
16 about. Application of the backfit rule, in this area I  
17 think we still need considerable work on -- and I think this  
18 is an area which needs to -- is being addressed by the  
19 Commission, but is important to the industry, as Dr. Remick  
20 has pointed out. In this area, really look at how one  
21 applies that to decommissioning activities and other  
22 activities, as well as the controversial issue of averted  
23 on-site costs, especially as we move forward into a  
24 deregulated environment from the cost of service situation  
25 which we are in today.

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1 Last on that list, and we did not have this on the  
2 original list to the Commission, was used fuel storage from  
3 two perspectives, and that was really not only the work in  
4 dry cask, which is well identified and very important, but  
5 also the efforts on permanent repository and the licensing  
6 of that repository and identified the Part 63 activities to  
7 the Commission. We commend the Commission for taking steps  
8 forward in these activities to try to bring these important  
9 issues to resolution.

10 We move forward to a little longer-term  
11 priorities. We are really trying to look at how we bring  
12 about risk-informed regulation. In a broader context, we  
13 need to continue, we have looked out, on this priority, in  
14 the 2000 to 2002 timeframe, recognizing that we can't do it  
15 all, or do it all certainly effectively in the near term.

16 A transition to selected Part 50 regulations that  
17 are outside of those identified to date. The design basis  
18 reform comment really relates to how, as we move forward and  
19 make changes in risk-informed and performance-based types of  
20 -- or regulatory activities, we then to look and to ensure  
21 that we have the design basis of the plants in conformance  
22 with and consistent with the changes that we have embodied  
23 through the regulatory process.

24 I couldn't resist putting NRC staff size and  
25 containment on there for two main reasons. One is that --

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1 you have commented, Chairman, that in questions about what  
2 people do you need, or should you de-regionalize, or  
3 continue the regionalization, we have to first figure out  
4 what the agency has to do. And from that standpoint, we  
5 believe that that is a priority which ought to be looked at  
6 but not be an over-arching priority in the near term.

7 We think that, obviously, you are moving forward  
8 to make some changes within the agency, and we support  
9 those, but we need to make sure that we have enough staff  
10 support and resources to complete the important work and set  
11 the foundation work in place. And, again, I think until we  
12 figure out what all that means from the standpoint of  
13 risk-informed and performance-based, that we cannot tell  
14 what types of resources are really truly needed or the types  
15 of people that need to fill that. So there is a balance in  
16 that approach that we need to achieve.

17 And, lastly, on the near-term priorities, really  
18 looking to the importance of taking a hard look, as you have  
19 already described, in the whole safeguards area, and  
20 reforming the safeguards area to ensure that we provide the  
21 regulations that are necessary to ensure the adequate safety  
22 of the plants from the standpoint of terrorists and other  
23 activities, and at the same time provide the balance to  
24 ensure that those don't impact plant safety in the operation  
25 of these facilities. We have to balance that as we move

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1 forward.

2 And the last slide, the longer-term priorities.  
3 Some issues that we have not really talked about very much,  
4 because they seem further off in many people's minds than  
5 others, but not in my mind, and that is how we move forward  
6 with the advanced plant designs and address some of the  
7 issues in the combined operating license, and how we proceed  
8 to move forward to license those plants.

9 As we look at the environmental discussions that  
10 are going on, have gone on in Buenos Aires, and as we look  
11 around the world, we really see the important need for  
12 nuclear energy in developed countries to ensure that we  
13 provide the energy supply while protecting the environment,  
14 and that is going to require, if you use DOE's recent  
15 announcement, not only relicensing of all the 100 plants  
16 that are operating in the United States, but constructing 68  
17 new 600 megawatt reactors by the year 2015, just to meet 3  
18 percent below the climate change limit.

19 So I think we are starting to see a significant  
20 future reality ahead of us and we need to ensure that some  
21 of the issues, COL issues that we have set aside for the  
22 future, it is going to be time to come up and start  
23 addressing those issues.

24 I guess the last thing which is our real  
25 challenge, that I must mention, is that I think we need to,

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1 through these processes, we need to develop the confidence  
2 in the regulations and the regulatory practices. And I say  
3 confidence from the standpoint of the NRC staff, the  
4 Commission, the stakeholders and the public, that those  
5 regulations and processes provide us the assurance of safety  
6 that we need to ensure the adequate protection. And if we  
7 have that confidence, and I think we are on the path to  
8 developing that, that we will be much further ahead in  
9 ensuring the safe and efficient regulation of our plants.

10 Chairman, Commissioners, thank you.

11 CHAIRMAN JACKSON: Thank you very much.

12 Mr. Collins.

13 MR. COLLINS: Thank you, Chairman. Speaking for  
14 the Office of Nuclear Reactor Regulation and the primary  
15 manager for the Reactor Safety Program, I would like to  
16 acknowledge those thoughtful comments that have been made up  
17 to this time, and also acknowledge that a primary  
18 stakeholder perhaps is not present, at least in front of us  
19 today, and that is the regions. Clearly, the regions,  
20 regional management, the regional staff and, specifically,  
21 the inspectors are a primary stakeholder in all of our  
22 activities today, and I will speak a little bit more about  
23 that in a moment.

24 NRR is committed to the process of improvement and  
25 change management. Some of our actions and accomplishments,

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1 as acknowledged earlier, are summarized in the October 30th  
2 update to the tasking memorandum. What we have done to date  
3 as far as progress has involved some tough decisions, not  
4 all are popular, or perhaps even easy to implement, but we  
5 must focus on I think what was referred as cultural  
6 strategies during this process.

7 Those have been defined for the Office of Nuclear  
8 Reactor Regulation. They are maintaining safety, reducing  
9 unnecessary burden, increasing efficiency and effectiveness  
10 of our processes and increasing public confidence. Those  
11 cross-cut issues are being incorporated into all of our  
12 processes, including measurable outputs and outcomes.

13 The NRR team is deeply involved in examining and  
14 improving our processes. We are involved in selecting  
15 outputs and desired outcomes, as I indicated, and  
16 determining appropriate measures and goals, and that is a  
17 hard part. I think it was referred to by Mr. Lochbaum. It  
18 is a difficult process in the planning, budgeting and  
19 performance measurement area to determine what is success  
20 for a regulatory agency.

21 We have the assistance of contractor Arthur  
22 Andersen, who has been working with us for over a year in  
23 this area. We have made some great strides. We have  
24 outcomes and deliverables that are due to the Commission in  
25 this area, and I hope that the results of that will be

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1 clearly evident to the stakeholders here today that have  
2 appropriately challenged us in those areas.

3 The headquarters and the regional staffs are  
4 responding. What is important to me is change at the  
5 interface. I think it has been mentioned here a few times  
6 and that is at the level where our programs actually impact  
7 our stakeholders, and there many of those. The states  
8 certainly are one, our inspectors influence change at the  
9 interface. Our project managers, who deal directly with  
10 licensees. Dr. Remick referred to perhaps a negative impact  
11 in that regard at the interface, and I would be interested  
12 in the specifics of that. But we need to focus on those who

13 deal directly with our stakeholders, and change at the  
14 interface will be the measure of success.

15           Ultimately our programs must be predictable, must  
16 be objective, and they must be timely. In order to succeed,  
17 licensees must bring issues to the NRC for review and  
18 resolution. In Dr. Remick's comments, there are two  
19 concerns when we deal with the new definition of CALs. One  
20 is the instance itself. The other is that those types of  
21 issues are not brought directly to the staff for resolution,  
22 and we have processes to accept those and processes to  
23 resolve those concerns, so, in effect, highlighting that  
24 issues raises both of those concerns.

25           Through a continuing series of presentations and

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1 workshops, I know Dr. Travers, senior staff of the Office of  
2 NRR, as well as the regional administrators, have been  
3 deeply involved with the NRR staff and the regional staffs,  
4 work together to communicate our expectations, update our  
5 staffs on the status of change. But, as acknowledged by Mr.  
6 Nye, change is hard. Many of the attributes that were  
7 referred to on how to manage change are those that we are in  
8 fact using as guideline and as principles within the Office  
9 of NRR, but they are very difficult. As Arnold Glasgow  
10 stated, "The trouble with the future is that it usually  
11 arrives before you are ready for it," and I think that is  
12 true and we are preparing, and it is around the corner.

13           As a learning organization, I know this is one of  
14 Harold Ray's points in his presentation -- Is the NRC a  
15 learning organization? I look forward to the input of the  
16 stakeholders present and the insights that you will derive  
17 from that, as we continue to define our goals and refine our  
18 processes, while focusing on the value of reasonable  
19 assurance of adequate protection of maintaining safety. We  
20 can't lose sight of that core mission, particularly in the  
21 conduct of our business with the regions and change at the  
22 interface. Thank you.

23           CHAIRMAN JACKSON: Thank you very much, Mr.  
24 Collins.

25           I will go to my Commission colleagues for any

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1 comments they wish to make. Commissioner Dicus.

2           COMMISSIONER DICUS: Thank you. Yes, I would like  
3 to make just a few comments. One of my staff members, on  
4 the way down here, sort of indicated to me that the opening  
5 comments might take up the whole morning, and I think we are  
6 close to reaching that goal. So I do have two or three  
7 things I would like to say, so I will try to get on through  
8 them fairly quickly.

9           First of all, it is great to be back, and I  
10 appreciate everyone's kind comments to me on returning.  
11 Obviously, I was not participating in the earlier  
12 stakeholders meeting, but I did read the transcript. I have  
13 read other documents, the exchange of letters, so I have got  
14 a pretty feel for what has been accomplished. I think one  
15 of the things that I recognized is that I think the issues  
16 that we are dealing with have been fairly well defined.  
17 They need to be refined somewhat. I think Mr. Ray pointed  
18 out some issues of policy that we need to take under our  
19 wing and so forth.

20           I heard also, as I read the transcript, and as I  
21 have listened to other things, that we are dealing with  
22 solutions as well. I think that as we refine our issues, we  
23 really need to get into the solutions and check our progress

24 and our process in accomplishing these things as we go  
25 forward. I look forward to being part of this.

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1 I note a couple of new stakeholders at the table.  
2 I would make special note of having a state representative  
3 here. One of the things I have tried to accomplish in my  
4 first term on the Commission is to make, at the Commission  
5 level, a greater awareness of just what the impacts are of  
6 NRC activities and actions and rules, guidance, et cetera.  
7 We impact our licensees, obviously, but we impact beyond  
8 that as well. Somewhere in the archives of this agency  
9 there are some letters from a former director of the  
10 Arkansas program, not always happy with some of the things  
11 the NRC was doing to us. So we do impact, and I appreciate  
12 having the state representative here.

13 I think there are others that could be  
14 represented. I think the Chairman said this is not  
15 necessarily all the stakeholders that we have. I would  
16 mention the possibility of professional organizations such  
17 as ANS, and the Health Physics Society and organizations of  
18 this type. We may be reaching critical mass, though, in the  
19 number of people that we have, so it may not be appropriate,  
20 but I would like to mention one thing just real quick, that  
21 you may not be aware of.

22 The Health Physics Society has just, in the past  
23 month, created an ad hoc committee to study regulatory  
24 burden, and they are asking HPS members, and I am a HPS  
25 member, and others as well, to contact this committee with

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1 issues that you have on regulatory burden. Now, it is not  
2 just the NRC, it will be EPA, or FDA, or FEMA, or DOE, et  
3 cetera, OSHA. But regulatory burdens are going to be  
4 captured by this committee. They are going to analyze these  
5 and come forward with a report. I think that would be also  
6 a very useful tool for all of us to have.

7 I would like just to close quickly by saying, when  
8 I made some brief comments following my swearing in to my  
9 first term, I made the comment that being director of a  
10 state agency, and it was a large and comprehensive program,  
11 I had to interact with a large number of federal agencies,  
12 or parts of federal agencies, I think close to about a dozen  
13 that you really had to interact with. And through all those  
14 interactions, even though at times I would be annoyed with  
15 the NRC, it was -- without a doubt, the NRC was the best  
16 agency to work with. And nothing has changed my mind on  
17 that.

18 I back up what Dr. Remick said, this is a good  
19 agency. It has a competent and professional staff. As we  
20 deal with these issues, let's not lose sight of that,  
21 because it is my confidence in this competency and in this  
22 professionalism that gives me the added confidence that we  
23 can, in fact, achieve these goals that we have set for  
24 ourselves. I think that this staff, supported and guided by  
25 the leadership that this Commission is going to give it,

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1 will achieve these goals that we have set for ourselves, and  
2 I think we can be defined in the long term by the successes  
3 that we have as we work through the issues.

4 I am going to be here five years, you are stuck  
5 with me. But it one of my goals of my office to see this  
6 through to completion, nor for the short term, but for the  
7 long term, that this becomes how we work and not simply a  
8 change and not progress, as was pointed out earlier. And  
9 that is a commitment that I make the stakeholders, but I

10 make it to the staff as well. Thank you.

11 CHAIRMAN JACKSON: Thank you.

12 Commissioner McGaffigan.

13 COMMISSIONER MCGAFFIGAN: I am going to play off  
14 of some of the comments that were made earlier. First, I  
15 will tell you to be aware of 12 year old girls when playing  
16 soccer.

17 Let me just touch on a few of the points. One of  
18 the points made by Mr. Lochbaum was about good plants and  
19 bad plants, and a good plant, when the NRC comes calling,  
20 assembles all the good things it has done lately. I think  
21 we are not a bad plant. We could have done that, and I am  
22 going to tick off some of the things that are not in the  
23 plan that I think we have done well lately, but we  
24 consciously chose to focus, I think, on the things that we  
25 thought we had not yet made enough progress on, although

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1 many of them had been previously identified and we obviously  
2 are speeding the process.

3 One area, I mean I will just tick off some of  
4 them, Trojan reactor vessel with its internals intact being  
5 approved for shipping to Hanford. The West Valley, we have  
6 put a paper out yesterday, and we are going to seek public  
7 involvement in the next month on what the decommissioning  
8 standard should be at West Valley.

9 Part 70, which was referred to, we are going to  
10 open up a process, we are going to take some further time,  
11 work with stakeholders to perfect Part 70 before we put it  
12 out for proposed rule.

13 Orphan sources, an issue that Jill, the last time  
14 she talked to us as a Commission, we are moving out with a  
15 rulemaking. I don't think it is in the plan, but it is a  
16 very important thing we are doing.

17 Electrosleeving, we worked with Calloway and we  
18 found a way to approve Calloway to try the Framatome  
19 electrosleeving technique for repair of steam generator  
20 tubes.

21 Leading edge flow meter. We have a rulemaking  
22 that will be underway shortly that has the potential for  
23 allowing power uprates on the order of 1 percent for much of  
24 the industry. We approved the Hatch and Monticello power  
25 uprates in the last few months.

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1 One indicator I have, it is a personal indicator,  
2 but I tend to be the Commissioner, I will probably get aced  
3 out, having said this, who has a chance to go down and talk  
4 to the INPO managers when Mr. Hasty brings them every few  
5 months in to us. I had Commissioner Merrifield come down  
6 the last time they were in town, it was I think just about  
7 his first day on the job, and I said, I will get beat up,  
8 you may want to see it, these guys always bring issues to  
9 us. And by the time Jeff got there, it was sort of a  
10 lovefest.

11 I mean these managers who normally do -- are not  
12 at all averse to complaining, and they were one of the  
13 earlier indicators we had that there was there was a  
14 Severity Level IV issue, or that other issues were out of  
15 whack, were basically saying to us that they had seen a lot  
16 of change in the way we were dealing with licensee  
17 amendments in the last year.

18 It wasn't uniform, but there was much greater  
19 professionalism in processing license amendments. They were  
20 concerned about our resident program, about the turnover,

21 excessive turnover in their view and in my that we have in  
22 our resident program and how important it was, the resident  
23 relationship with them. They were still complaining, but it  
24 was a remarkably -- the enforcement guidance memo, however  
25 abstruse it may have been drafted, and I agree with some of

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1 that, that it had had an effect in the field that they had  
2 felt.

3 So I think there's a lot of things that we are  
4 doing that we are doing well. Not all of them are in the  
5 planned Part 63, the rulemaking that Mr. Colvin referred to.

6 What we are trying most of all to do, and this  
7 follows up on something Mr. Collins said, we are trying to  
8 communicate. We are happy to have these meetings. We are  
9 communicating in every way we can think of at the moment.  
10 Maybe there's too many meetings for small organizations and  
11 Mr. Lochbaum has commented to me about now being able to  
12 attend them all, but there -- we are trying desperately to  
13 not have anything under the table -- get everything out on  
14 the table, understand what the issues are, and then  
15 prioritize the dealing with them and meetings like this can  
16 help us do that, but I am very optimistic that we are making  
17 progress, not all of which is in this plan, that we can make  
18 further progress in the years ahead.

19 It is going to take time, and the last comment I  
20 will agree with is Jill's. This is a plan that will never  
21 be complete. All of the people who talk about change --  
22 indeed, I was at an NEI meeting a few weeks ago where there  
23 was a person talking about change. The thing to communicate  
24 is that change doesn't end.

25 We are going to have to be a learning

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1 organization, an agency that is constantly trying to improve  
2 over a long period of time, and I think we recognize that.  
3 I think we have tremendous challenges.

4 The Staff is trying to make progress in all of  
5 these areas and other areas that I have mentioned and other  
6 areas I haven't while downsizing, while reorganizing and  
7 while probably getting to the hairy edge of disfunction, and  
8 our goal is to get through this in a way that we remain  
9 highly functional, highly effective, but we'll see whether  
10 we succeed. Why don't I leave it at that.

11 CHAIRMAN JACKSON: Thank you. Commissioner  
12 Merrifield.

13 COMMISSIONER MERRIFIELD: Madam Chairman, as it is  
14 five minutes of 11:00 I am the last person to make opening  
15 comments.

16 I have some good news and bad news. The good news  
17 is that I have no prepared comments.

18 [Laughter.]

19 COMMISSIONER MERRIFIELD: The bad news is that as  
20 a Senate-trained lawyer I still have a few things to say.

21 [Laughter.]

22 COMMISSIONER MERRIFIELD: First off, like  
23 Commissioner Dicus I would like to thank everyone,  
24 particularly the folks here at the Commission who have given  
25 me a very warm welcome and a tremendous amount of assistance

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1 in terms of getting up to speed to the very important  
2 decisions that we are having to make in these -- in these  
3 opening weeks of my term as a Commissioner.

4 The second thing I think I want to talk about a  
5 little bit is the stakeholder process. I think that having  
6 stakeholder meetings like this are critical. We utilized

7 those when I was working up in Congress. I think they are  
8 very, very helpful. I think it gives direction to the  
9 Commission as to how we should move forward. I think it  
10 gives greater buyer input, stakeholder input in terms of  
11 what we are doing. I think it ultimately will lead to a  
12 more satisfying result.

13 I agree with Jill Lipoti's comments that we should  
14 try to regularize this and do this often. The Chairman has  
15 also mentioned that.

16 I will say one personal comment about the  
17 stakeholder meetings. Similar to my reactions to  
18 Congressional hearings, I want to get to the questions. We  
19 have got some interesting issues that I would like to see us  
20 have a dialogue on and then the reaction.

21 Taking two hours to go into opening statements --  
22 I think the next meeting we all ought to have some  
23 self-imposed discipline to try to do that.

24 James Riccio had very brief comments at the  
25 beginning and I thought that was the way to go, and perhaps

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1 we can replicate that next time.

2 In terms of a reaction to the some of the comments  
3 made, the only one -- and not to pile on to David Lochbaum,  
4 but the only one I wanted to focus on was a statement that  
5 he made to the extent that the true purpose of what we seem  
6 to be doing is to convince the Senate to leave the NRC  
7 alone. I don't feel that way.

8 When I was confirmed for my position, one of the  
9 things that I made note of was that I think that strong  
10 Congressional oversight is good for this agency. I think it  
11 ought to happen often, and I am welcome to -- I feel very  
12 open and welcome to go up to the Senate and the House  
13 frequently to explain what we are doing and hopefully we  
14 will have a good message to take with us when we do.

15 Finally, I do want to make note of a comment that  
16 the Chairman made about the Operational Safeguards Response  
17 Evaluations Program -- the OSRE program.

18 We did have some comments made about that.  
19 Recently I had the privilege of sitting in a Chairman's  
20 briefing that she had put together to go over that program.  
21 I am in agreement that we need to put that program back into  
22 place. I think there needs to be greater buy-in of our  
23 stakeholders into how we should be utilizing that process.  
24 Now that is not to say that that program ought to stay the  
25 way it is. Given the information that we were provided, I

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1 think we need to do a reanalysis. We need to make sure that  
2 safety is upheld at those facilities but in a cost  
3 effective, reasonable and adequate manner, and so I look  
4 forward to the Staff review of that, and that is something I  
5 think the Commission certainly should grapple with very  
6 soon.

7 Thank you.

8 CHAIRMAN JACKSON: Thank you very much.

9 We do want to get on to the questions and in fact  
10 I have a couple that I would like to throw out to the group,  
11 but my only summary comments are two.

12 One is to thank the various participants, even  
13 though it was a lengthy process. I, too, note Mr.  
14 Riccio's -- the succinctness. Nonetheless, I think all of  
15 the opening statements made some very perceptive  
16 observations and assessments.

17 But one thing I will say about the plan -- okay --

18 the tasking memo response. Now the difficulty of a plan is  
19 the benefit of the plan, namely that it does give a focus to  
20 certain specific areas, but in having that plan and giving  
21 focus to it, and we will be discussing various aspects of it  
22 today, let us make no mistake. I mean the NRC is a complex  
23 organization.

24 It has a day-to-day regulatory program to carry  
25 on. There are any number of initiatives and activities that

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1 are not captured in that plan, including some that a number  
2 of the participants said were missing from the plan -- and  
3 they are missing from the plan. That does not mean that  
4 they are not given high priority and, as Commissioner  
5 McGaffigan pointed out in some of his comments, it does not  
6 mean that there is not progress made in any number of areas.

7 We have debates about whether in fact everything  
8 ought to be in the plan, okay? -- and Commissioner  
9 McGaffigan and I engage on that quite a bit --

10 [Laughter.]

11 CHAIRMAN JACKSON: -- but the point of the plan is  
12 the benefit of the plan, namely that it does provide  
13 specific focus in specific areas to try to have achievable  
14 objectives that support, and that was the point, our  
15 long-term goals, and so the long-term goals are still there.  
16 There are any number of other activities that go on, and so  
17 the action plan also --and this is not outside the normal  
18 management process. In fact, the Staff was given explicit  
19 instruction that whatever it did was to be incorporated into  
20 what we call our planning, budgeting and performance  
21 management process, which is how we manage today.

22 Mr. Collins mentioned the work with Arthur  
23 Andersen, which is ongoing, that predated the plan. In  
24 fact, it has helped particularly in the reactor area, NRR  
25 and others involved in reactor regulation to incorporate the

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1 elements of the plan into, in a comprehensive way,  
2 everything that is going on.

3 The final comment is that Mr. Travers and Dr.  
4 Knapp, who is our new Deputy Executive Director for  
5 Regulatory Effectiveness, as of December the 1st, is that  
6 it? -- as of now --

7 [Laughter.]

8 CHAIRMAN JACKSON: Yes, October the 16th, that's  
9 Monday, right.

10 They have been explicitly charged with this issue  
11 of developing a coherent self-assessment process and the  
12 metrics, the appropriate metrics that are a part of that,  
13 not just for the elements of the action plan, but in all of  
14 our activities and in fact that is what the regulatory  
15 effectiveness organization is about, and so they are  
16 listening very carefully to us today because one thing we  
17 wanted to be able to talk about was in fact what are  
18 appropriate metrics -- and so that is the first question, in  
19 fact, I would like to pose to the group.

20 A number of you have mentioned the need to have  
21 metrics, to be able to measure progress not only on specific  
22 item but in a coherent self-assessment sense and so I ask  
23 the various participants what -- you know, what your  
24 thoughts are in that regard.

25 Mr. McNeill.

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1 MR. McNEILL: Madam Chairman, I think this is a  
2 very difficult issue because I think the whole framework may  
3 not support it, and I am going to go back to an often-used

4 and probably misused example of how we would measure  
5 progress.

6 The one I have is that as the industry performance  
7 has improved over the years, we are getting inverse measures  
8 coming back of increased violations and things of that  
9 nature, which tell me to some extent the context is wrong,  
10 and I would only caution you to make sure that the measures  
11 you use are not ones that maybe have been used in the past  
12 but they are ones that are more appropriate for future  
13 directions, because I think you could misinterpret some of  
14 this as progress when in fact it may not be true progress in  
15 the direction you might go.

16 CHAIRMAN JACKSON: Let me ask you this question.  
17 Is number of violations an appropriate metric?

18 MR. McNEILL: If the standard is correct, I think  
19 it is, and I do, I believe that NEI is working, and I do not  
20 know the degree of which they are working, are keeping the  
21 NRC informed and the development of a threshold mechanism of  
22 regulatory versus non-regulatory space, if you want to call  
23 it that, so that there is a space of operations that is  
24 exclusive for the utility to operate in as long as we don't  
25 broach or breach into the next level.

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1 If that concept is appropriate, and I personally  
2 believe from what I have seen to date in my experience I  
3 believe it is, then if that borderline is established  
4 correctly, then I think measures of violation, if you want  
5 to call it that, or excedences within crossing that boundary  
6 line are appropriate measures.

7 CHAIRMAN JACKSON: Okay. Mr. Riccio, did you have  
8 a comment you wanted to make?

9 MR. RICCIO: Only that it's going to be very  
10 difficult to use violations as a measure, since you have  
11 continually altered how you are going to be issuing your  
12 violations. You have wiped out Level 4 violations --

13 CHAIRMAN JACKSON: That is not true.

14 MR. RICCIO: Okay. Okay -- well, you have reduced  
15 the number of Level 4 violations.

16 CHAIRMAN JACKSON: Let me back up.

17 The intent in the changes in the enforcement  
18 policy, and I think I agree with the comment that was made  
19 having to do with perhaps that we could have stated the  
20 changes with a greater degree of succinctness and clarity,  
21 the intent was to reduce the burden associated with Level 4  
22 violations and so there were specific changes made having to  
23 do with the burden on the licensee in terms of response to  
24 violations of a certain type.

25 MR. RICCIO: I understand we are trying to reduce

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1 the burden on licensees here. My problem is you have so  
2 continually changed your assessment process for these  
3 reactors that I see how you are going to have a lot of  
4 difficulty seeing whether you have actually moved forward or  
5 backward.

6 That is basically my comment.

7 CHAIRMAN JACKSON: Okay. Yes, Ms. Lipoti -- Dr.  
8 Lipoti, I apologized earlier for not addressing you  
9 appropriately.

10 DR. LIPOTI: It's okay. I would like to comment  
11 on the enforcement initiatives because whether or not you  
12 set the number of enforcement items as a performance  
13 indicator the media will use that as a judgment of your  
14 performance and in my experience the Governor's record on

15 the environment was based on two things -- the number of FTE  
16 in the agency and the number of enforcement actions, and it  
17 was an unfair metric.

18 We previously had used administrative orders to  
19 order people into compliance and that gave them 90 days to  
20 come into compliance, and we got a 63 percent compliance rate  
21 at the end of the 90 days.

22 We changed over to more effective "field notices  
23 of violation" where the people were issued a notice right  
24 there. They had 30 days to come into compliance and no  
25 fine. We had 76 percent compliance in 30 days. It was much

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1 more effective, but on our report card in the media it  
2 looked like we were becoming less effective, so I think it  
3 is extremely important not only for you to choose your  
4 metric but to communicate that metric and the application of  
5 that metric to the public.

6 CHAIRMAN JACKSON: Mr. Collins, you were going to  
7 make a comment?

8 MR. COLLINS: Yes. Thank you, Chairman.

9 If I understand the question correctly, I would  
10 provide an insight to get back to what enforcement really is  
11 and where enforcement fits in the process. As you stated,  
12 our threshold of safety is reasonable assurance of adequate  
13 protection and compliance provides your presumption  
14 conclusion, presumptive conclusion that licensees are safe.

15 Noncompliance does not necessarily mean that a  
16 licensee is not safe. In other words it takes an analyses  
17 to understand the situation, so therefore as the sole  
18 indicator, I believe that there's probably more to bring to  
19 the table.

20 The new assessment or oversight process that we  
21 are looking at I believe has the order in a way that  
22 fashions an appropriate place for enforcement, and that is  
23 we need to assess what is important to measure at a plant.

24 We need to be able to inspect that. We need to be  
25 able to have an enforcement tool that reinforces those

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1 values, and then we need to have a reporting scheme that is  
2 consistent with that, so to say that enforcement is an  
3 indicator, it is an indicator but I think in the overall  
4 context of it is risk informed in its processes. Are we  
5 understanding how it fits into those other attributes of an  
6 oversight process is probably as important as the sole  
7 indicator itself.

8 You recall the IRAP process, which focused on  
9 enforcement. It was not perhaps the right tool and that is  
10 why we are looking right now at the second round, if you  
11 will, of those processes, so I think we need to be very  
12 careful about that as an exclusive indicator.

13 CHAIRMAN JACKSON: Mr. Lochbaum and then  
14 Commissioner McGaffigan.

15 MR. LOCHBAUM: I think addressing the question of  
16 what is a successful metric for measuring the effectiveness  
17 of the change, even though UCS has persistent problems with  
18 the agency's allegation process, we think the fact that  
19 there is an agency allegation advisor whose function is to  
20 ensure there is consistency on how that program is  
21 implemented, and also conducts periodic assessments of how  
22 well NRR and the various regions are implementing that  
23 process, is a mechanism to ensure safety -- or not safety --  
24 ensure effectiveness of changes or processes, and things  
25 like that should be considered whenever possible. They are

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1 not right for every change but whenever appropriate that  
2 would be good.

3 CHAIRMAN JACKSON: So what is the specific  
4 recommendation?

5 MR. LOCHBAUM: That in these changes for  
6 inspection process, assessment process, and whatever,  
7 consider the use of something analogous to the agency  
8 allegation advisor role in monitoring those programs.

9 CHAIRMAN JACKSON: Okay. Commissioner McGaffigan.

10 COMMISSIONER MCGAFFIGAN: I have two comments.  
11 One, we got off on enforcement, so I will stay  
12 there for a second.

13 I think we do the best with the indicators that we  
14 have and the reason, addressing Mr. Riccio, we had a problem  
15 with the Severity Level 4 is what Corbin McNeill referred to  
16 earlier. There was cognitive dissonance between an  
17 indicator which was going up by a factor of three over a  
18 very short period of time after a change in 1996, so part of  
19 the problem was indeed the change and the general good  
20 performance of the industry in terms of other performance  
21 indicators, so when you get indicators that are indicating  
22 two different things, you have got to ask yourself a  
23 question.

24 In that particular case Mr. Lochbaum has been  
25 intimately involved in the process as a public member and

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1 indeed I think has endorsed the Staff recommendation to the  
2 Commission that is currently before us including the only  
3 issue in dispute or one of the few issues in dispute is  
4 whether we continue to write up these infractions in our  
5 inspection reports or not, and he has said as the Staff has  
6 said that they would like that we should.

7 The industry has suggested that it calls undue  
8 attention to what may be relatively minor stuff compared to  
9 everything else in their corrective action program. We'll  
10 resolve that, but I think indicators -- we are going to use  
11 the best indicators we have.

12 Enforcement is inevitably going to be one. We  
13 have to understand what it is it is measuring and we have to  
14 understand where it is that it is in dissonance with other  
15 indicators.

16 More probably I think there are some of these  
17 areas where we are changing it is easy to have indicators.  
18 You know, either we are doing license renewal, the safety  
19 evaluation report and the final environmental impact  
20 statement for Calvert Cliffs are either done next November  
21 or they aren't. The follow-on ones for Oconee are either  
22 done on time or they aren't.

23 The goal of the Commission is established for 95  
24 percent of the licensing actions being completed within one  
25 year and all within two, which is a significant change from

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1 past practice, a goal that we expect to achieve in the year  
2 2000 -- either it is achieved or it isn't, so some  
3 indicators are easy.

4 For some other processes it's much more difficult  
5 and it is going to be a learning organization making --  
6 doing the best we can and then the input we get from others  
7 making adjustments.

8 CHAIRMAN JACKSON: You know, if I think back on  
9 kind of a binning, and I have talked about it before in  
10 speeches and even in the tasking memo to the Staff, if I  
11 think back on the nature of the criticisms and from whatever

12 side, from licensees, from former Commissioners, from the  
13 Congress, from public interest groups what I hear are  
14 problems with clarity of expectation, with objectivity, with  
15 predictability, with quality of product, quality of  
16 interface and safety focus, so how do you go from there,  
17 which have been the areas -- think about them in the  
18 large -- where the criticisms have been to metrics that tell  
19 you there's been any change in those areas?

20 Well, let me try something else. How do you  
21 measure appropriate safety focus? Is it presumptive if we  
22 develop a risk-informed framework? How do you measure  
23 clarity of expectation, through the use of performance  
24 indicators, with appropriate thresholds built in? How do  
25 you measure predictability? Does it require a template to

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1 be laid out and this is how you are going to be measured?

2 Because this is important. It is important not  
3 just in terms of specific metrics for specific things and  
4 whether the number of enforcement actions or number of  
5 violations can or shouldn't be used, because these get to  
6 the heart of where NRC has been criticized and so unless we  
7 can hear something from you, relative to how do you get at  
8 that, then you are leaving us hanging, and I so I am asking  
9 you, Mr. Ray.

10 MR. RAY: Well, I have been pondering your  
11 challenge to us here and the thing that occurs to me is that  
12 in our business as it is changing we are finding that we are  
13 having to engage in metrics which measure our customer  
14 satisfaction. Now "customer" is a bad term to use in this  
15 environment, so we should substitute "stakeholder," I  
16 suppose, but I would simply offer to you, Chairman Jackson,  
17 that it is possible to associate with the various areas that  
18 you have just now been talking about -- clarity,  
19 responsiveness and so on, a systematic and I want to call  
20 capable of being repeated with some fidelity.

21 Mr. Riccio mentioned that violations are not good  
22 when the basis is changing for what becomes a violation and  
23 that is correct, but over time at least we are finding that  
24 we need to be implementing programs to measure the extent  
25 to which our stakeholders are satisfied with our performance

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1 in a number of fairly soft areas like you mentioned, and I  
2 would simply offer to you that those tools are available to  
3 us and that the Commission give consideration to trying to  
4 bend these things as you suggest to define a stakeholder  
5 population and to have somebody measure the degree of  
6 satisfaction or dissatisfaction that exists among that group  
7 over time.

8 CHAIRMAN JACKSON: Well, in fact, I have asked Mr.  
9 Travers to do that.

10 Mr. McNeill and Commissioner Dicus.

11 MR. McNEILL: I would agree. All right, I'll give  
12 you an example. My sense of this industry over the last  
13 eight years or 10 years is that we get the NRC's attention  
14 generally speaking after we do some validated review -- INPO  
15 going out four years ago and questioning plant managers and  
16 developing a database that they brought back to the NRC in  
17 some form. In fact, we had a survey I believe by an outside  
18 consultant.

19 I can't remember once having a stakeholder  
20 satisfaction survey done by the NRC of utility personnel,  
21 whether it is the industry or otherwise. I can't remember.  
22 There may have been one but I can't remember, so I think  
23 that there is a valid place for well-designed periodic

24 surveys -- you know, in this case clearly two years would be  
25 the minimum timeframe I would have -- maybe at three year

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1 intervals the NRC going out and really doing it. That can  
2 appropriately be done on Congress and others. It doesn't  
3 have to exclusively be people sitting at this table.

4 On the second part of this, my experience would  
5 lead me to believe that there really is a fairly effective  
6 safety focus, series of things that you focus on, and you  
7 maintain one of them very well and that is the events,  
8 significant events. I mean that is very compelling issue.

9 Likewise, I think an appropriate review of either  
10 employee satisfaction, concerns, at facilities or within  
11 corporations is a good review and how you do that I don't  
12 know other than a database that you have where you get  
13 allegations and things of that nature in looking at how many  
14 of them might -- you have to separate the wheat from the  
15 chaff in that kind of a performance indicator, but clearly  
16 it is one that I think we look in our own company. We  
17 survey our employees once a year and in fact in our nuclear  
18 organization we put in specific questions around our safety  
19 culture and how they view that, but we do in fact get some  
20 feedback in that regard, but I think that those are the  
21 things -- and then status of performance under the  
22 maintenance rule -- those would be the three general areas I  
23 would look at around the safety focus.

24 CHAIRMAN JACKSON: Commissioner Dicus.

25 COMMISSIONER DICUS: Well, Mr. McNeill partially

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1 stole my thunder but I think I can add perhaps a little bit  
2 more to what it is.

3 You know, some of the metrics, if you are talking  
4 about a quantitative metric, as Commissioner McGaffigan  
5 says, it is very simple. We either did it or we didn't.  
6 It's a simple number and we can define the success of what  
7 we are accomplishing in that way.

8 Other metrics may be somewhat more difficult, and  
9 as you noted, the metric may be wrong if we have established  
10 the wrong standard or it is not the right metric for what we  
11 need to find out, but those are quantitative measurements  
12 and I think what you are really coming to and what Mr. Ray  
13 and Mr. McNeill indicated is when you have to have a  
14 qualitative metric, and the numbers can be easier to deal  
15 with, but the qualitative metric may be much more difficult,  
16 but we shouldn't be afraid of having qualitative metrics nor  
17 should we be afraid of evaluating ourselves accordingly.

18 We have heard some good suggestions about how we  
19 might do that, and I tend to support those as a way for us  
20 to measure qualitatively when there isn't a quantitative  
21 metric how we are doing.

22 CHAIRMAN JACKSON: Dr. Travers and then Mr.  
23 Colvin.

24 DR. TRAVERS: Since I am charged with what we are  
25 talking about, I thought I better chime in.

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1 The thing that struck me about metrics and in this  
2 case in particular drawing out external and internal  
3 stakeholders is this notion that while we are about the  
4 identification and conduct of a set of near-term  
5 initiatives, what we seek in the longer term is to continue  
6 to really facilitate the kind of change based on the  
7 development of new tools like PRA or anything else that may  
8 come up and so a qualitative assessment periodically

9 conducted that focuses in on satisfaction or some measure of  
10 stakeholder views on how our performance is going has an  
11 appeal that transcends the near-term and should be one that  
12 we can use usefully in the long-term, and so I think that  
13 that has an advantage, and as others have pointed out, I  
14 agree, there are many of the initiatives that we're about  
15 that can simply be identified based on how we are doing and  
16 whether or not we are meeting intent and milestones.

17 In the longer term and I think more broadly, the  
18 expectations of stakeholders and their views on how we are  
19 conducting our regulatory oversight program founded our own  
20 significant view on how we are doing that by virtue of  
21 self-assessments and so forth provide a good foundation for  
22 this kind of metric.

23 CHAIRMAN JACKSON: Mr. Colvin.

24 MR. COLVIN: In thinking about the question and  
25 picking up on the comment I think there were in reality two

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1 surveys that were done by the NRC if you think  
2 retrospectively on licensee perceptions about the  
3 effectiveness of the regulatory process, one in 1989 and one  
4 I believe in 1983 or 1982 -- I can't remember that far back,  
5 although I participated in both of them.

6 CHAIRMAN JACKSON: We have to be careful because  
7 you are the historian.

8 [Laughter.]

9 MR. COLVIN: But I think if I think about that and  
10 your question, Chairman, I would say that those were not  
11 effective for two principal reasons.

12 One is that they were of limited scope. As I  
13 recall, whether it was 12 or 15 licensees or whatever, and  
14 it really didn't cover the industry and the feedback.

15 The second issue is they were not independent.  
16 Your own people went and asked the licensee what they  
17 thought about what your people were doing to them --

18 [Laughter.]

19 MR. COLVIN: -- and from that standpoint the  
20 results were somewhat mixed, and I would say also the  
21 conclusions that were drawn by the people that did it, and I  
22 am not trying to demean what they did, but in fact were not  
23 objective from the standpoint of what you are looking for.

24 So as we look at customer satisfaction surveys,  
25 feedback, we need to consider an effective approach in

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1 setting the climate for getting the results that you desire.

2 I guess the other issue is with respect to  
3 specific metrics, and when we thought about your questions  
4 about the metrics one thing is I don't really know and I  
5 don't think our people know what you currently measure or  
6 monitor -- I mean within NEI and I think within most  
7 companies everybody has their own set of metrics -- periodic  
8 management reports and other things that we monitor for our  
9 own business -- but in the case of your question I don't  
10 know what those are, and so it is difficult to give you an  
11 assessment or feedback on what those might be without having  
12 at least a basis.

13 I think I would encourage the Commission as you  
14 develop these metrics or as you have them perhaps the  
15 communication side of that, getting them out, we could  
16 provide you some feedback on our view about those or  
17 certainly the stakeholders' views. That might be an  
18 important way to go.

19 I guess the third point on that is that there are  
20 some metrics which -- I don't know whether metric is the

21 correct term -- but some issues which have been identified  
22 by the stakeholders which go back to the question of call it  
23 predictability, stability -- pick your choice, your term of  
24 art, but there are many issues -- confirmatory action  
25 letters and other issues -- which somehow we have to get a

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1 handle on where we are circumventing the processes that you,  
2 ,the Commission, have put in place, whether it is with  
3 arm-twisting or whether it is with the use of a CAL, or  
4 whether it is the Staff not adhering to some provision of  
5 the backfit rule or whatever, I think that those kinds of  
6 issues which are underlying and fundamental to change the  
7 Commission needs to grapple with and they may be not easily  
8 measurable, something you can't graph on a chart, but they  
9 are very important to the success of your change activities  
10 and certainly I would be happy to discuss that further.

11 CHAIRMAN JACKSON: Thank you. Now actually it's  
12 interesting because I think a number of the speakers have  
13 mentioned an issue having to do with management oversight  
14 and one speaker even mentioned -- one could call it  
15 accountability or performance appraisal, and having these  
16 things inculcated in that way, and I think that is a very  
17 important point to elevate because people respond to what  
18 they are asked to do and I, like any number of my  
19 colleagues, including Commissioner Dicus this morning, feel  
20 extremely strongly that NRC has a very competent,  
21 well-educated, motivated, dedicated Staff who believe that  
22 they are safety-focused.

23 Therefore, if things are going awry, then one has  
24 to ask a question about whether they are getting the  
25 guidance they deserve, whether they are getting the

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1 management oversight they deserve, and whether within our  
2 appraisal systems or whatever they are being help  
3 appropriately accountable, but you cannot hold people  
4 accountable if you haven't given them the guidance in the  
5 first place and the tools to do their jobs and so I think it  
6 is important that we don't propagate into pejorativeness, as  
7 it were, about the Staff without realizing that as we make  
8 change we are going to have to be sure that all of our  
9 internal processes come along with that to ensure that that  
10 change occurs so that it is not something where we are  
11 blaming people or holding them accountable for what hasn't  
12 been laid out to them.

13 Commissioner McGaffigan.

14 COMMISSIONER MCGAFFIGAN: Mr. Riccio may have had  
15 his hand up first.

16 MR. RICCIO: You can go first.

17 CHAIRMAN JACKSON: Oh, I'm sorry.

18 COMMISSIONER MCGAFFIGAN: One point I am going to  
19 make about the process. It picks up on something in Mr.  
20 Lochbaum's prepared remarks and I think bears on it.

21 When we make these changes we are going to have  
22 DPOs and DPVs and Mr. Lochbaum in his prepared remarks  
23 expresses some concern about our DPO/DPV process because  
24 some people from our Staff have gone to him in order to get  
25 issues elevated to the Commission level.

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1 I think that is still an exception. One of the  
2 things that we are -- you know, the DPO/DPVs obviously  
3 worked effectively in the case of OSRE in the last week or  
4 so, although they may have gone to the media in order to  
5 come back to the Commission, and that may speak to the speed

6 of our DPO/DPV process, but I'll tell you, there's a fair  
7 number of papers now coming to the Commission with differing  
8 professional opinions attached.

9 In two cases -- in one case we applauded the  
10 person and agreed with them and it resulted in a change in  
11 policy. In the other case the Commission unanimously  
12 decided against the person but commended the person in our  
13 SRM, in our Staff Requirements Memorandum for having made it  
14 a better process and for raising some issues as to how one  
15 calculates doses for folks and some of the art in doing  
16 that.

17 I think what we are trying to do is we realize we  
18 have a very competent Staff. There are differing views out  
19 there. We want to hear those differing views and then we  
20 are going to make decisions.

21 The Commission doesn't always agree. I mean there  
22 was reference earlier to the maintenance rule being less  
23 than a unanimous vote back in 1992. No Commission has fully  
24 agreed, I don't think -- and some parts of us may agree with  
25 some parts of the Staff and some parts not, but one of the

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1 things that we are going to have to do as we go through with  
2 change is deal with differing opinions coming at us from  
3 differing directions, deal honorably with those, hear them,  
4 and then we will either agree or we won't agree with the  
5 differing view.

6 It would be interesting -- some of you all have  
7 gone through massive changes and you have differing views in  
8 how you have managed the change, making sure that you  
9 respect the views you are hearing yet still keep moving, and  
10 that is something we are going to try to do, but as I said  
11 the bottom line is I think our DPO/DPV process is more  
12 robust -- at least it is being utilized --

13 CHAIRMAN JACKSON: Robustly.

14 COMMISSIONER MCGAFFIGAN: -- robustly at the  
15 moment and yet it is also slow and we need to -- it's yet  
16 another one of our processes when we look at it we may well  
17 have to challenge ourselves as to how to make it more rapid  
18 and resolve things more rapidly.

19 CHAIRMAN JACKSON: Right, and in a separate arena  
20 but related to this general point of view, the Staff is  
21 encouraged and it began with strategic assessment, on  
22 particularly important and controversial policy issues, is  
23 told to bring options to the Commission, not necessarily a  
24 recommended position, or it can be a recommended position,  
25 but what the additional options were that were considered as

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1 well as getting separate legal opinion of our legal counsel,  
2 so that the Commission has the full panoply of positions and  
3 issues before it.

4 Mr. Riccio and then Mr. McNeill.

5 MR. RICCIO: Well, just addressing how you assess  
6 whether or not this whole process has been successful, there  
7 are a few things I think would be along that line.

8 First, that every licensee complies with -- knows  
9 what its licensing basis is and complies with it.

10 I don't think we can make that statement at this  
11 point. Actually, I know we can't make that statement at  
12 this point.

13 The reason, one reason we have had a massive  
14 increase in the number of low-level violations is because  
15 NRC has decided that they were going actually determine  
16 whether or not the licensees met their licensing basis. A  
17 lot of those LERS come out of design basis issues which have

18 then reflected themselves in violations.  
19 We would think that having each licensee knowing  
20 what its licensing basis is is also essential for you to  
21 carry out your process.

22 As Mr. Collins has indicated, the NRC cannot  
23 determine that a reactor is safe to operate absent  
24 compliance with the licensing basis.

25 Secondly, another way to assess whether or not  
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1 this process will be successful is whether or not you are  
2 again surprised by things like another Millstone or another  
3 Salem.

4 I am upset a little bit that the GAO wasn't here,  
5 because I think they have a lot of important insights and  
6 they were a good addition to the panel last go-around.

7 CHAIRMAN JACKSON: They were asked to come.

8 MR. RICCIO: I understand that.

9 CHAIRMAN JACKSON: They chose to decline.

10 MR. RICCIO: I understand that.

11 One of the findings, and I don't expect you to  
12 take the findings from GAO or even people like me, but I  
13 would at least expect you to follow the advice of your own  
14 Staff.

15 One of the major findings to come out of your  
16 assessment of the South Texas project, another  
17 Millstone-like problem, was that the use of uncited  
18 violations led you down the primrose path at South Texas.

19 Well, closing your eyes to Level 4 violations to a  
20 certain extent will lead you down that same path again.

21 The third thing I would like to see -- how you  
22 would be able to assess whether or not this whole process  
23 has been successful would be hopefully that you wouldn't  
24 have any what I would call post-mortem mea culpas. These  
25 are the revelations that have come out about other places

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1 where licensees have not met their licensing basis. This  
2 only comes to light after the reactor has been shut down --  
3 basically had a emergency core cooling system being  
4 undersized for 28 years and not knowing whether it would  
5 have been able to perform its function -- the Big Rock water  
6 storage tank is another example of that.

7 I think you have had similar instances at Maine  
8 Yankee as well, so it is not going to be a quantitative  
9 assessment but a qualitative assessment.

10 If the NRC is again surprised by being caught  
11 unawares then I think this process will not have been  
12 successful.

13 CHAIRMAN JACKSON: Okay.

14 MR. RICCIO: And hopefully it will be.

15 CHAIRMAN JACKSON: Thank you. Mr. McNeill.

16 MR. MCNEILL: I would like to speak to  
17 Commissioner McGaffigan's remarks because I think there's,  
18 from my experience there is an interesting issue here,  
19 because most of these issues similar to what I call -- refer  
20 to as differing professional opinions generally in my  
21 experience tend to arise out of a diversity of qualitative  
22 risk management, whether it is business risk, whether it is  
23 to some degree safety risk, whether it is legal risk that  
24 you as a corporation or entity are trying to define, and to  
25 me it has been beneficial in our organization to have a

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1 healthy discussion, to accept that input, but once you make  
2 a decision to try and make sure that that gets filtered back

3 into the organization so that the organization begins to  
4 understand what the risk tolerance of the organization is on  
5 a qualitative basis when you can't necessarily define it  
6 quantitatively.

7           The better that you can do that as an  
8 organization, the more you will tend to have harmony,  
9 productive output and will tend not to waste effort and  
10 cause some degree of divisiveness that can occur from time  
11 to time.

12           CHAIRMAN JACKSON: Let me -- okay, Dr. Remick and  
13 Dr. Lipoti and then we are going to move on to another  
14 topic, please.

15           DR. REMICK: Several of the panelists have  
16 suggested customer surveys, which is in general I think a  
17 good idea, but if one just goes out every two years and  
18 basically asks some general questions about how the NRC is  
19 doing I think you will get back so many diverse reactions  
20 from people that might not be helpful but tying that  
21 together with the various activities you have underway now  
22 in response to input from Congress, stakeholders, Staff and  
23 so forth one of the things you might consider is as you  
24 complete what you consider to be important actions in  
25 response to these inputs, as I have indicated, you have done

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1 some kind of assessment to make sure that in your own mind  
2 you think that it's been effective in carrying out what you  
3 intended.

4           You might take a couple of those and go out to  
5 licensees and others and specifically ask, basically tell  
6 them this is what we have done in response to input and this  
7 is what we have accomplished -- do you think this resolves  
8 the problem that was foreseen by the various input? In  
9 other words, used focused questions on specific actions you  
10 have undertaken which you think are important in response to  
11 input and see if people do agree with you that from their  
12 standpoint it's been effective.

13           CHAIRMAN JACKSON: Okay. Dr. Lipoti.

14           DR. LIPOTI: I am worried about a survey of  
15 licensee satisfaction that it doesn't get to the margin of  
16 safety question which is really what you want to get as the  
17 bottom line at NRC, and so I think you are really talking  
18 about two different kinds of metrics here.

19           One is a metric that measures the efficiency and  
20 effectiveness of the Nuclear Regulatory Commission in  
21 maintaining margin of safety.

22           The other is a metric to measure change within the  
23 agency -- two different things, two different performances  
24 that you are measuring.

25           I think Joe Colvin mentioned what are your metrics

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1 now, because that is a baseline in determining your  
2 effectiveness and efficiency. If you say that it takes you  
3 60 days now to issue a tech spec change, and you change it  
4 to 45 days or 30 days, then that is a metric. That is  
5 measurable and it is something that you can use to measure  
6 efficiency. Effectiveness is different.

7           CHAIRMAN JACKSON: Let me make a comment to that,  
8 and I am expressing a personal bias.

9           I think efficiency is an appropriate metric but we  
10 have to be careful in how it is applied, because people talk  
11 about applying a number of days goal that should be a goal  
12 to a tech spec change, but not all tech specs are created  
13 equal in terms of the complexity of the change, and so we  
14 need to be sure that we don't lose sight of that, that there

15 are overlying metrics that have to be applied in terms of a  
16 regulatory order.

17 DR. LIPOTI: Thank you for saying that, because  
18 that is absolutely true.

19 The failure reports was another metric that was  
20 mentioned and by the time something gets to be a failure, it  
21 should have been seen beforehand.

22 I think very important is the compilation of  
23 lessons learned documents, and on page 6 of your plan you  
24 have got plant-specific licensing reviews, and you have a  
25 list of different safety evaluations that you are going to

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1 issue, and that is good, but I think what is more important  
2 is to issue the lessons learned document so that future  
3 Staff reviews can be informed by what you learned here, and  
4 that lessons learned document wasn't anywhere in the plan.

5 CHAIRMAN JACKSON: Thank you. That's a good idea.  
6 Commissioner Merrifield.

7 COMMISSIONER MERRIFIELD: I think we just need to  
8 be careful in terms of looking at metrics. I think they do  
9 need to be focused more beyond simply specific measures.

10 The concern you get into, and it's standard  
11 option, do you judge the safety, public safety, by the  
12 number of criminals you have in jail or by the number of  
13 assaults you have on the street? And depending upon what  
14 you look at you get a different indicator.

15 I think we would all agree that having no one in  
16 jail and a safe society is the best outcome, so I think we  
17 just have to be very careful in terms of just going down the  
18 road of picking specific criteria and measuring that. I  
19 think it's got to be more uniform.

20 It does unfortunately mean a degree of  
21 subjectivity but I think that is something we are all going  
22 to have to accept.

23 CHAIRMAN JACKSON: I think I agree with you, but  
24 that is what happens if the metrics focus on outputs and not  
25 on outcomes --

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1 COMMISSIONER MERRIFIELD: That's right.

2 CHAIRMAN JACKSON: -- and so one has to be clear  
3 on what the desired outcome is and then the metrics fall  
4 into line.

5 Let me move along. Let me throw another kind of  
6 tough issue onto the table, because there has been a lot of  
7 talk about moving to risk-informed performance-based  
8 regulation. That's been something I have been a proponent  
9 of since I got here, but you know, as we become more  
10 risk-informed, we might, just might identify areas where  
11 additional -- additional -- regulatory controls may need to  
12 be applied, due to pre-existing but previously-unidentified  
13 risk contributors.

14 Where do we come out on that? There has been a  
15 lot of discussion of burden relief, but what you hear me  
16 talk about is necessary burden, and so I am interested in  
17 are we really talking that it cuts both ways or is it  
18 risk-informed regulation just for burden relief? Mr. Ray?

19 MR. RAY: Chairman Jackson, it seems to me that  
20 when we talk about risk-informed as if it was some optional  
21 thing that might or might not seek, we surely don't want to  
22 be risk-uninformed in what we do either.

23 I just don't see what the viable alternative is to  
24 trying, and I think the most ardent proponent of maintaining  
25 high safety margins ought to be interested in being

1 risk-informed, and I will use the example of a consequence  
2 that -- I have never appealed to risk information methods as  
3 a way of removing burden. I know some have.

4 To me it's simply the right thing for us to do,  
5 and for instance you expressed the emergency diesel  
6 generator as a relaxation of allowed outage time. I don't  
7 see it that way. I see --

8 CHAIRMAN JACKSON: Actually, you should read my  
9 INPO speech. It clarifies it.

10 MR. RAY: Okay.

11 [Laughter.]

12 CHAIRMAN JACKSON: Just read the whole speech.

13 MR. RAY: I try to read all of your speeches, but  
14 I haven't retained that one, but anyway --

15 [Laughter.]

16 MR. RAY: -- let me just say that the point of it  
17 in my mind is to move -- I mean these are big, complex  
18 machines.

19 They require maintenance. The idea is to move it  
20 to a time when it is less risky to do. It turns out that  
21 that is when the plant is at power, not when the plant is  
22 shut down.

23 Now that to my way of thinking is a good model for  
24 what it is we are trying to achieve here.

25 I would say in the area of fire protection is

1 probably an area in which we have gotten some insights.

2 I don't know if they are revelations or not, but  
3 anyway, have recognized that some see a risk-informed  
4 process as a way of gaining relief in fire protection. I  
5 understand that, but it is also true that risk insights  
6 reveal weaknesses and problems in the plant design  
7 potentially that we ought to try and recognize, so I guess I  
8 am an ardent proponent with others here, I know, but not  
9 because I think it provides an opportunity for burden relief  
10 but because I just think that continuing to be  
11 risk-uninformed or not seeking to be risk-informed, if that  
12 is a better way of expressing it, is just not the right  
13 thing to do.

14 CHAIRMAN JACKSON: Okay. I am going to go Mr.  
15 Colvin, Dr. Remick, and then Mr. McNeill.

16 MR. COLVIN: Chairman, and following up on Harold  
17 Ray's comments, I agree with Harold fully on this. I think  
18 if you just take a step backwards, we have got an industry  
19 that is about 40 years old with a tremendous amount of  
20 operating experience. When we started the design and  
21 developed this technology, we really did not have that  
22 operating experience. Today we do, and if you take the  
23 example that I used in risk-informed inservice inspection,  
24 we have done over 20,000 inspections in there, and we have  
25 found almost no problems identified through that process.

1 We have a base on which to make a rational  
2 decision that is in fact risk-informed, and I think in that  
3 context that is -- that is really the approach that we are  
4 trying to do.

5 If you -- it has to be unforgiving in both  
6 directions I think it's clear. We cannot expect that you go  
7 in one way. It's a check-valve. We have to look at what  
8 makes the most sense, and so our approach -- you take the  
9 maintenance rule and the guideline that Corbin McNeill  
10 talked about that. That guideline in fact was developed  
11 with that in mind, that you had to conduct this analysis and

12 develop your system structures and components and analyze  
13 those with risk insights, not necessarily some computer  
14 model with some exotic factors and features but in fact  
15 bringing to bear the experience that you have to do that, so  
16 the answer to your question from my perspective is  
17 absolutely yes, it has to go both ways.

18 CHAIRMAN JACKSON: Dr. Remick.

19 DR. REMICK: I fully agree. I think based on risk  
20 information, it cuts both ways without question, and I can't  
21 imagine that if the agency finds that through that  
22 information there is a need for modifying the regulations to  
23 address the increased risk that is known, if that is clearly  
24 made known to licensees I just can't imagine that it would  
25 not be accepted, and especially if the backfit rule is

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1 properly applied and the agency doesn't use the approach  
2 "We're from Government and we are going to save you averted  
3 onsite costs as part of our cost benefit analysis" and  
4 justifying that on a cost benefit basis, I just can't  
5 imagine people not accepting it if you convince them that  
6 there is a risk that has not been addressed in the past and  
7 therefore the regulation must be modified to address that.

8 It definitely has to cut both ways.

9 CHAIRMAN JACKSON: Mr. McNeill.

10 MR. McNEILL: I want to speak for myself and PECO  
11 Energy, not for the rest of the industry here.

12 I have heard you ask this question several times  
13 and I will tell you we are very willing to accept both sides  
14 of this equation. Now I say that because it's the right  
15 thing to do and I am going to summarize here a little bit.

16 It is the right thing to do. You can't ignore it,  
17 as Harold has indicated.

18 But secondly, I say that with a high degree of  
19 confidence based on 36 years of personal experience that we  
20 are relatively mature technology. I mean this is -- we have  
21 been around for, you know, close to 40 years, and I don't  
22 think we are going to find -- on the equation we are going  
23 to find things where we have over-imposed things where they  
24 are not risk-significant as opposed to finding things where  
25 we have missed risk significance, and so that the burden is

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1 most likely going to be lightened or focused on risk, higher  
2 risk issues, and still come out better in the equation.

3 CHAIRMAN JACKSON: Mr. Lochbaum and then Mr. Nye.

4 MR. LOCHBAUM: We have severe reservations about  
5 the progress being made in risk-informed regulation. We  
6 think risk information has valuable applications but it is  
7 not a universal thing that it seems.

8 We are somewhat concerned in going to a lot of  
9 these workshops and meetings that it seems to be an implicit  
10 component of every action that is taken -- enforcement,  
11 inspection, everything.

12 There are certain applications where it works and  
13 certain applications it doesn't work.

14 CHAIRMAN JACKSON: Can you be explicit?

15 MR. LOCHBAUM: It shouldn't be in enforcement at  
16 all. Once you determine severity, that's it. There  
17 shouldn't be use of green, yellow or anybody's scheme. An  
18 offense is a certain offense and that carries with it a  
19 certain sanction no matter who does it, no matter under what  
20 conditions, so we think other risk information should be  
21 totally eliminated from that picture altogether.

22 CHAIRMAN JACKSON: Should the severity be linked

23 to risk?

24 MR. LOCHBAUM: It should be from the standpoint  
25 that that determines the Severity 1, 2 or 3 level. That

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1 should be based on risk. We feel in the current program one  
2 of the components of risk is time, and that is totally left  
3 out of the NRC's current enforcement program. A thing that  
4 is -- an offending condition that lasts for two decades  
5 carries the same weight as something that lasts 12 hours or  
6 in some cases less weight than something that lasts 12  
7 hours, and that's completely throwing risk out of the  
8 picture altogether in an inappropriate way.

9 As far as cutting both ways, one of the concerns  
10 we have is that a lot of this design basis information that  
11 Jim referred to earlier where plants have operated for years  
12 with safety systems that wouldn't have worked -- Haddam  
13 Neck, Big Rock Point, D.C. Cook. There is a long list. The  
14 risk is that -- probabilistic risk assessment for those  
15 plants showed that these systems were highly reliable,  
16 changes of failure were one in 10,000 or something like  
17 that.

18 The one at Haddam Neck wouldn't have worked its  
19 entire 28-year life. That is reality, but that is not  
20 reflected in the PRAs, so unless the PRAs are based on  
21 reality, we should not be using those as a source for making  
22 risk-informed regulation.

23 CHAIRMAN JACKSON: I am going to come back because  
24 I was going to segue into, you know, where do we need to be  
25 on design basis issues, because to me that gets to the heart

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1 of some of the longest shutdowns of plants, the most  
2 expensive, and it also gets to the issue of why are we  
3 surprised and it gets to a number of your issues, Mr.  
4 Lochbaum, but let me hear from Mr. Nye first and then I  
5 would like for us to take up this question of where we need  
6 to be on design basis.

7 MR. NYE: Chairman Jackson, I'll be brief. I find  
8 this whole element of the conversation the dialogue a little  
9 bit surprising. And let me just express from a personal  
10 standpoint where I am coming from. I feel a great  
11 responsibility as the licensee for the safe operation of the  
12 plant. I assumed everybody thought that when we came here  
13 this morning.

14 And the idea that somehow I want to participate in  
15 anything that relieves the burden because it's inconvenient  
16 for me with respect to my responsibilities as licensee is  
17 simply not the case.

18 My reputation and the reputation of my company to  
19 some extent evolves around how well we operate this plant,  
20 how we are perceived as operating this plant. And any  
21 significant violation that reflects on the way we operate  
22 this plant has financial and other implications which I'm  
23 simply not willing to accept.

24 So I'm here to participate in a process that  
25 hopefully makes the NRC a better agency, that makes this

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1 industry a better industry, and that, in fact, we eliminate  
2 what from a management perspective I would call form over  
3 substance.

4 My experience is not as long as many at this  
5 table, but it's long enough. And I will tell you that as we  
6 examine the discussion about Level 4 violations, they're not  
7 all the same, and that gets back to the comment you made,  
8 Chairman, about the consistency and the objectivity and the

9 predictability.

10 And what I would expect is that we will arrive at  
11 an understanding of what is most likely to deliver a set of  
12 safe systems in this industry which serves everyone's best  
13 interests. So it's more a question of not resorting to form  
14 which sometimes we do and the media will or the outsiders  
15 will. They're count numbers. Now whether those numbers are  
16 relevant or not -- and I get back to what Mr. Riccio said,  
17 if the numbers change over time, then none of us can view  
18 those as valid from a statistical standpoint.

19 I think from the point of view of a licensee, I've  
20 always felt that the harshest thing was to be unjustly  
21 accused. And when you don't have a predictable, thoughtful,  
22 objective set of standards against which people can be  
23 judged, then you sometimes are unjustly accused as not being  
24 a good operator and not taking care of the public safety and  
25 health and so forth.

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1 So from my standpoint, what I would hope is that  
2 someday when someone is justly accused, they would stand  
3 responsible for their failings, and those number of times  
4 when you're unjustly accused will be eliminated.

5 CHAIRMAN JACKSON: Very good. Thank you. Let me  
6 segue into the design basis discussion in the following way.  
7 You know, risk informed regulation, to the extent that it  
8 becomes heavily predicated on PRAs, implies a valid PRA.  
9 That is, that the validity of plant-specific PRAs becomes  
10 much more important.

11 And, therefore, the PRA in the end in modeling  
12 accident sequences is modeling the plant. And there are  
13 assumptions built in about the reliability of certain key  
14 systems, structures and components, you know, the frequency  
15 with which they will work or not work.

16 But the actual frequency becomes very plant  
17 specific. And so that is to be somewhat of a good segue  
18 into some of the design basis issues, although PRAs don't  
19 model everything in that regard. So keeping in mind that  
20 there are active systems that may get modeled in PRAs and  
21 there are systems that are not as explicitly modeled but not  
22 necessarily strictly focusing it on PRAs, where do we need  
23 to be on the design basis issues because those are the kinds  
24 of issues that in the end seem to be the hardest nut to  
25 crack in terms of the regulator missing them, but they also

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1 seem to be the most expensive to licensees if their plants  
2 are shut down because of them, whether they're voluntary or  
3 not, through formal mechanisms or not.

4 Can you give us some insights in that regard, Mr.  
5 Ray.

6 MR. RAY: Not to be pedantic, but let me begin  
7 with an observation that Mr. Ricco talked about licensing  
8 basis. Mr. Lochbaum talked about design basis. You have  
9 now referred to design basis. These are not the same thing.  
10 But maybe for the purpose of this discussion, they're close  
11 enough that we don't need to make the distinction. But  
12 sometimes it is important. And in my written comments, I've  
13 suggested that the Commission perhaps needs to address this  
14 at a policy level because it's linked with other things.

15 CHAIRMAN JACKSON: Absolutely.

16 MR. RAY: Like the FSAR. I don't see how any of  
17 us would be comfortable suggesting that we don't have to  
18 have integrity of compliance with the design basis or the  
19 licensing basis, either one. I'm going to try and not

20 discriminate between those things at this point. But the  
21 plant is licensed to its licensing basis.

22 And in terms of what it is the Commission has  
23 encountered in this area, I would suggest this only, and I  
24 think it goes to the issue of expectations which you alluded  
25 to in talking about metrics of Commission performance.

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1 We haven't had consistent and clear understanding  
2 and expectations among all the stakeholders as to what it is  
3 constitutes the Commission policy in this area. Now I say  
4 that recognizing that there'd be a lot of disagreement about  
5 that, I'm sure, by various parties. But the major problems  
6 that we have experienced -- not all of them, perhaps, but  
7 some of them at least, I believe have arisen in large part  
8 due to differing expectations and understandings as to what  
9 was required.

10 Now there are always cases in which in fact  
11 everybody's in agreement on what the rules are, and we just  
12 failed to comply with the rules. But the biggest problems  
13 have, I think, arisen from circumstances in which there are  
14 over a considerable period of time a differing belief and  
15 understanding as to what the rules were relative to --

16 CHAIRMAN JACKSON: For the purposes of our  
17 discussion, could you give more specificity with perhaps an  
18 example?

19 MR. RAY: Perhaps I can. Perhaps --

20 CHAIRMAN JACKSON: Hello, Commissioner Diaz.

21 MR. RAY: Dr. Travers would be far more qualified  
22 on this than me. But in any event, let's go to the example  
23 of where a significant problem was identified with -- in  
24 fact, I think it was someone within the licensee  
25 organization raised the issue they were not -- the plant was

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1 not being operated in accordance with FSAR -- with what was  
2 stated in the FSAR.

3 Not the tech specs. This, for example, is a  
4 distinction that I think I'm trying to illustrate here in  
5 which we, the licensees -- at least I personally -- over a  
6 long period of time viewed the tech specs as sacro sanc, as  
7 hallowed ground, as something not ever to be violated  
8 without terrible things happening.

9 The content of the FSAR was viewed differently,  
10 and I spent a lot of my life writing stuff and putting it in  
11 the FSAR and dealing with people here at the agency over  
12 what was in the FSAR.

13 I think we're coming to a different understanding  
14 about that now, which is not necessarily wrong, but it needs  
15 to be consistent and made clear. So without digressing any  
16 further than I already have, Chairman, I would say that I  
17 think that where we need to go is to come together on an  
18 understanding that in the first instance has to stem from  
19 policy decisions that you here at the Commission endorse or  
20 make yourself relative to what these requirements are.

21 You have been engaged, I think, in the past in  
22 debates over definition of the licensing basis and to what  
23 extent it should be elevated in terms of the importance that  
24 it plays in the overall regulatory process, and I understand  
25 that. You and I have talked about that before.

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1 Design basis is one of the action items in this  
2 thing here which is terribly important. It runs to other  
3 issues as well. And, again, I apologize for wondering here  
4 a little bit in my comments.

5 But I just believe that the answer to your

6 question is that the Commission needs to set the definition  
7 of design and licensing basis as important policy objectives  
8 and to work through to a resolution of that which all of us  
9 can understand and abide by because there's no way of  
10 concluding that it isn't important in my judgment.

11 CHAIRMAN JACKSON: Thank you.

12 MR. MCNEILL: Madam Chairman?

13 CHAIRMAN JACKSON: I'll just go around the table,  
14 Mr. McNeill.

15 MR. MCNEILL: I would only add one other thing,  
16 Madam Chairman, and that is I think you need to be very  
17 careful here. Make sure that you take into consideration  
18 the regulations that were in effect at the time of the  
19 licensing of the facility.

20 Of all of the issues which I think would cause  
21 great turmoil in this industry would be to go and try and  
22 revise those to some standard and then tell everybody to  
23 come into compliance with that standard.

24 CHAIRMAN JACKSON: Let me ask you for specific --

25 MR. MCNEILL: It would -- I mean --

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1 CHAIRMAN JACKSON: Right. And I understand what  
2 you're saying. And let me ask you a specific question  
3 relative to that.

4 You know, the Commission has issued guidance  
5 relative to the updating of the FSAR and "risk informed."  
6 Is there any problem with that?

7 MR. MCNEILL: I'm not knowledgeable enough to  
8 speak to that personally.

9 CHAIRMAN JACKSON: Okay. Let me go around the  
10 table here. Commissioner Merrifield?

11 COMMISSIONER MERRIFIELD: I just want to go back  
12 to a comment that Mr. Ray made because I think there's  
13 something interesting here.

14 Part of it goes to the design basis and what  
15 you're using as a baseline. It seems to me the other  
16 problem is we move forward, and we change the way we're  
17 doing things.

18 One of the key issues beyond making sure we have  
19 the rules straight is implementation. It has always been a  
20 big concern to me that the way in which we apply that set of  
21 rules needs to be -- there needs to be some consistency.

22 Now Mr. McNeill has sort of put a little bit of a  
23 spin on that. But I think we need to think a little bit in  
24 the longer term in terms of training. To the extent we are  
25 changing the way we're doing business, we need to make sure

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1 that our folks in the field are sufficiently trained so that  
2 we're treating all of the plant operators equally, and  
3 there's not a degree of inconsistency in the way we're  
4 applying that. I think that's something we need to think  
5 about as well.

6 CHAIRMAN JACKSON: Thank you. I think Mr. Colvin  
7 indicated he wanted to make a comment, and then Commissioner  
8 McGaffigan.

9 MR. COLVIN: Chairman, I guess first of all on  
10 design basis, I had a couple comments. First is this is not  
11 a new issue. As the historian of the meeting, as you  
12 appropriately deemed me earlier, as NUMARC, we developed  
13 with the NRC Staff review and approval a design basis  
14 reconstitution guideline which in fact recognized the  
15 problem that there would be design documentation that was  
16 not available, had not been ever created, might be missing

17 and so on, and in fact allocated that within the context of  
18 risk as it tied to both core damage frequency and public  
19 health and safety.

20 So you made a decision -- I mean, when would I  
21 have to develop or go back and recreate this design  
22 documentation. Now that was in 1989 time frame.

23 Unfortunately, now time has gone by, and in fact  
24 that effort and work which I think is very sound and  
25 fundamental, we have gone in and, for a lot of reasons which

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1 we don't need to go into, have now gone into look at design  
2 basis in different ways.

3 And I guess I'd say that it is still a tremendous  
4 area of uncertainty in the field. And what we have learned  
5 from the reviews that have been conducted by the agency, not  
6 concluding the AE inspections, is it's really in the eye of  
7 the beholder, and it's changing over time. I think we need  
8 to get our handle on that as to really what's important.

9 If you look at it from a risk standpoint, there re  
10 very few, although there are a few, as has been pointed out,  
11 situations where there is a safety risk as a result of the  
12 design basis information that was missing.

13 It's the second point on PRA -- and I want to make  
14 sure I comment on that. We have a perception that the PRA  
15 is the end all, and clearly that's not correct. Certainly I  
16 want to make sure we don't have that perception. It is a  
17 tool --

18 CHAIRMAN JACKSON: I don't have that perception.  
19 Hence, risk informed regulation.

20 MR. COLVIN: Yes, I understand, Chairman. You and  
21 I have had that discussion. I just want to make sure that  
22 others in the room certainly don't hold that opinion either.

23 But I think we have to look at the robustness of  
24 the design. And we had a meeting with the staff recently,  
25 and I know I'll get quoted. I'll quote these numbers, and

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1 I'll be way off. But -- so give me a little leeway if you  
2 would.

3 But, for example, if you talk about core damage  
4 frequency and you look at the sensitivity in an assumption  
5 case to the number of unplanned SCRAMs, for example, or the  
6 diesel generator reliability, you can measure a factor of  
7 core damage frequency and, really, I mean, if you look at  
8 the analysis, for example, in an emergency diesel generator  
9 reliability, where you're looking at 99.7 percent  
10 reliability factors for diesels, if you run that number down  
11 to 30 percent, you really haven't increased the risk -- core  
12 damage frequency risk by more than one-tenth of the  
13 original.

14 I mean, I think we have to look at how the  
15 sensitivity of these various tools that we're using, and  
16 where the factors apply. The same thing is true if we look  
17 at the safety case on the loss of offsite power challenges  
18 and the concern about electric distribution system  
19 reliability. We'd have to have, if I ever get 35 or 40 loss  
20 of offsite powers a year, it's a challenge to generic safety  
21 threshold of one of the minus 5.

22 So we do have a robust set of designs, and we have  
23 to use these tools. And I think we have a lot of space to  
24 explore in how we bring these tools to benefit the decision  
25 making process both for the utilities and for the NRC.

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1 CHAIRMAN JACKSON: Dr. Remick?

2 DR. REMICK: I thought Mr. McGaffigan was going.

3 CHAIRMAN JACKSON: Okay.

4 COMMISSION MCGAFFIGAN: If you'll allow me a  
5 minute to divert to something that Mr. Ray inspired me to  
6 say, and then I will come back to your question. And  
7 although Mr. Colvin is older than I am, I also claim to be a  
8 historian on this matter.

9 But the issue of the safety analysis report. As a  
10 licensee, I participated in the discussions, if I remember  
11 correctly, in the early 1960's when it was realized that  
12 safety analysis reports which at that time I remember were  
13 called hazards analysis were too diverse and so forth. They  
14 were not specific enough for licensing of a plant.

15 So the concept of technical specifications arose.  
16 And I remember participating in those discussions, and the  
17 views at that time were that the technical specifications  
18 for a power plant should probably be five or six pages and,  
19 for an non-power reactor, maybe one or two pages, and they  
20 should consist only of things that were directly measurable  
21 or observable.

22 But the idea was that these safety analysis report  
23 was not specific enough. And so you needed these things so  
24 licensees knew exactly what was important. And I don't if  
25 you recall, at the first stakeholders meeting, I referred

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1 kind of complaining about strict adherence to the  
2 regulations and documents never intended for that purpose.

3 And when I said documents not intended for that  
4 purpose, I was thinking of final safety analysis reports.  
5 The tech specs were to be very specific where final safety  
6 analysis reports were not.

7 Now to get to your question, design basis are  
8 extremely important, and design basis events. And they  
9 served a purpose back in the day when knowledgeable people  
10 really didn't have risk perspectives and so forth, so on  
11 their best engineering and scientific judgment came up with  
12 certain hypothetical type of accidents and situations in  
13 transience that they thought should be addressed.

14 And certainly the ACRS at that time, the  
15 regulatory staff and others participated in developing those  
16 hypothetical events that I think they served a very useful  
17 purpose. But we do now have better analytical techniques,  
18 and we do have risk insights from competent PRAs which does  
19 call into question some of those design basis events.

20 So I think with that information -- and one comes  
21 to mind is the double-ended yellow team break of the larger  
22 system which drives so many other things in the plant either  
23 in the design or the operational plants. So I think we  
24 arrived at that time that we can really go back and adjust  
25 some of those because perhaps some of the things that at

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1 that time were thought to be the most significant type of  
2 events and transience we now have better insights.

3 And some of those things, I think, can be revised  
4 and relaxed probably as a way of providing alternative  
5 approaches. Now I like the way, although I haven't seen the  
6 specifics of the new source term regulation, but as a  
7 commissioner participated in the early discussions of those  
8 where people have an alternative of using another source  
9 term makes sense to me.

10 So design basis events are extremely important.  
11 Design bases are extremely important. But I think we're at  
12 a point in knowledge in this industry that some of those  
13 things could be revised carefully.

14 CHAIRMAN JACKSON: Commissioner McGaffigan.

15 COMMISSIONER MCGAFFIGAN: Two points. Number one,  
16 I hope one metric of success will be whether we can finally  
17 after decades or whatever define these terms so that  
18 everybody at least acknowledges that we have common  
19 definitions. I think this Commission really before my time  
20 getting to it, taking on the 5059 and trying to define some  
21 of these issues, what has happened in the past, I think,  
22 reading the histories, not having participated in it, is the  
23 process is gone through, and at the end of the process, the  
24 industry and the staff are not in agreement.

25 And it's a time bomb waiting to come off the next

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1 time something comes along. So I hope the metric of success  
2 is that we do indeed get these things resolved.

3 The second point I was going to make really in  
4 response somewhat off topic to Commissioner Merrifield's, I  
5 think it's inevitable that we have proliferating standards.  
6 But we really do treat folks differently. I mean, risk  
7 informed regulations -- some people are going to want to  
8 participate in it, and some aren't.

9 The ACRS sent us a letter recently making that  
10 point. People late in their life aren't going to do license  
11 renewal, just aren't going to incur a bunch of costs for  
12 returns that are somewhat distant. And so there's going to  
13 be some plants that take advantage of risk informed  
14 regulation.

15 The source term that rule making that Commissioner  
16 Remick just referred to, that is going to be optional. It  
17 is not mandatory. There's no bad fit issue with it. But  
18 some licensees are going to take advantage of it. Some  
19 aren't, Appendix R programs.

20 We have a very, very complex regulatory scheme at  
21 the current time. It is very different, say, from France  
22 where there's a single company running a bunch of fairly  
23 uniform plants all the same type.

24 And depending on the time they were licensed,  
25 depending on taking advantage of rules, Option B to Appendix

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1 J or not, source term or not, you have different regulatory  
2 schemes. And it's a massive undertaking, I mean, to  
3 understand who's under which scheme at the moment. And I  
4 think it's only going to get worse in terms of -- and,  
5 therefore, there's an information issue or management issue.

6 But the consistency, then, is consistency within  
7 the rules that apply to that plant that were consistent, and  
8 maybe consistent for that group of people who were taking  
9 advantage of the source term, or that group of people that  
10 are moving to risk-informed regulation.

11 But we're not going to have consistency across the  
12 whole industry because it's almost impossible.

13 COMMISSIONER MERRIFIELD: No, that's true. And I  
14 recognize that and the differences. I think the point I was  
15 trying to make inartfully as I did was that we should be  
16 trying to treat -- I think we need to make sure that our  
17 training is consistent, that what we're doing here in these  
18 changes gets down to the regions, and the folks at the very  
19 front line -- our front line folks have a clear message from  
20 us.

21 And we should be treating equally situated folks  
22 equally. And where you have two different facilities of the  
23 same profile, they shouldn't -- you should try to avoid  
24 their having different outcomes.

25 CHAIRMAN JACKSON: Mr. Lochbaum.

1 MR. LOCHBAUM: I have hopefully three examples of  
2 where we're concerned that this large database of reactor  
3 experiences not being used consistently or properly.  
4 There's no real order to these -- just the way I remember  
5 them.

6 In March of last year, the Pilgrim Plant  
7 experienced an event where some transformer oil got backed  
8 up in through the duct work into the plant. It didn't catch  
9 on fire, but it could have because it was flammable. It  
10 would have wiped out both divisions of power of AC and DC.

11 We went and looked at the risk assessment for that  
12 plant, and there was no fire risk at all for those areas  
13 because there were no combustibles in those areas. But the  
14 combustibles found there were in that area through an actual  
15 event, not through any weird postulated event. It actually  
16 occurred. It's just fortunate it didn't catch on fire. So  
17 that's example of what we think were risks inside were  
18 somewhat not bonding.

19 The second example was D.C. Cook -- the event that  
20 initially brought the plant down, not some of the events  
21 that were later identified was the staff's feeling that  
22 under certain situations there wasn't enough water to handle  
23 post-local loads.

24 That risk or that concern is the same as it was  
25 affecting boiling water reactors with the section strainer

1 issues. To this day, we can't figure out why the staff  
2 required D.C. Cook to be shut down for an issue that didn't  
3 require the B.W. owners to shut down their plants. The risk  
4 seems identical to us.

5 The big difference seemed to be that the NRC found  
6 the problem at D.C. Cook, and the B.W. owners found the  
7 problem at their plant. That seemed to be the only  
8 difference in how the NRC handled those events. And since I  
9 didn't write it down -- no, I didn't.

10 The third event was there's some talk today about  
11 diesel generators and greater risk during shutdown as  
12 opposed to plant operation. We would agree with that. The  
13 chances of station blackout or the chances of losing normal  
14 power is greater during shutdown than it is during when the  
15 plant's up and running.

16 Unfortunately, I've looked at every station black  
17 out response procedure I've looked at, and I haven't looked  
18 at all of them. But I have looked at enough to see that  
19 it's somewhat consistent anyway. It only considers the  
20 event occurring from the plant running.

21 It talks about starting up the diesel-driven  
22 auxiliary free water pump to put water into the steam  
23 generator or something like that. But the plant is shut  
24 down, and those actions may not be the right actions. And  
25 the operators are not given the right guidance to handle the

1 event even though it's recognized that's when it's most  
2 likely to occur.

3 So there's a disconnect between what we know to be  
4 the greatest concern and the guidance we give to operators  
5 on how to handle or respond to that event. So those are the  
6 areas that we feel are problematic in terms of design and  
7 risk assessment.

8 CHAIRMAN JACKSON: Mr. Colvin?

9 MR. COLVIN: Well, I was just going to comment on  
10 the loss of offsite power procedures and station blackout if

11 just for clarification. I think that the guideline which  
12 was designed which is embraced by NRC through our regulatory  
13 guide really talks about the transition, the challenge when  
14 the plant is operating to put the plant in a safe condition  
15 because that period -- I think we need to look at the  
16 difference between the plant operating or the plant shut  
17 down, but more importantly, we need to look at the condition  
18 of how to get the operating plant when it has a loss of  
19 offsite power which means it will trip. The plant is in a  
20 shutdown condition and make that transition to safe  
21 shutdown. And that's the way the procedures are designed,  
22 and that's where the risk profiles were looked at.

23 CHAIRMAN JACKSON: Mr. Ray?

24 MR. RAY: I just wanted to intervene here in  
25 response to what Mr. Lochbaum had said, much of which I

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1 agree with. But it seems to me like it all argues in favor  
2 of greater use of risk insights and risk information in the  
3 regulation of the plants, not less.

4 And I think most of the criticisms that are levied  
5 are in terms of what exists today, not necessarily what  
6 could exist by way of risk insight. And insofar as the  
7 nexus that you made, Chairman Jackson, between design and  
8 use of risk insights, I've already acknowledged that and  
9 others have as well that that is very, very important.

10 But these conditions that we're talking about  
11 would have existed whether or not we applied PRA. The  
12 chance that we have of finding out what's important and  
13 going and verifying that in fact it is as it should be is  
14 greatly enhanced by using risk insights.

15 Perhaps at Big Rock Point, had it been seen how  
16 important the section line integrity was, attention might  
17 have been drawn to that. There's no chance of that  
18 happening absent the use of risk insights.

19 CHAIRMAN JACKSON: Thank you. We've been talking  
20 for a long time, and we advertised that the meeting would  
21 end at twelve o'clock. It is after twelve. But I would  
22 like to then propose the following that I'm going to offer  
23 my colleague, Commissioner Diaz, an opportunity to speak  
24 because he was -- didn't have the opportunity earlier.

25 Then I'm going to suggest that we take a 15 minute

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1 break. What we will then do is have a greenlight session to  
2 see if anyone has any final comments he or she wishes to  
3 make. We will in fact take a few comments from the floor.  
4 And then I will attempt to summarize, and we will close. So  
5 we will begin with Commissioner Diaz. We will take a  
6 15-minute break after that. Then we will come back, have a  
7 greenlight session which will include comments from the  
8 floor. I will then summarize, and we will close. Okay.  
9 Mr. Diaz.

10 COMMISSIONER DIAZ: Thank you, Madam Chairman.  
11 You know, I'm kind of dropping in and kind of not knowing  
12 where the lights are. But I have a reasonable idea of what  
13 has been going on. At least my staff gave me all the  
14 information.

15 It seems to me like, you know, a lot of the things  
16 that we're talking really goes and zeroes in on what is the  
17 techno-legal framework in which the NRC works, and that  
18 isn't the obvious question. Which way do we work, which way  
19 do we want to work, and what do we do in between is not a  
20 minor issue.

21 Obviously, I am fascinated by the idea of the  
22 design basis and risk information. I would just like to

23 bring a little bit of historical perspective of that. I was  
24 six years ago when I designed my first reactor, as you  
25 probably know some 40 years ago.

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1 And it's an interesting thing. We actually, you  
2 know, require to have the design basis because we needed  
3 something to hang our hat on. There was no other way in  
4 which legally we can say this is what we have to comply  
5 with, and that's the way it happened.

6 It's not that we really knew all that much about  
7 it. But it was a good thing to do. It was a good way of  
8 saying here is a focal point. Here is how we're going to be  
9 guided by it. This is why this is important. And then we  
10 created a techno-legal framework around it.

11 I think all we hear is that that served us well,  
12 but it might not serve us well in even the near future and  
13 definitely not in the long term because we know better. And  
14 so when we look at how do we change that techno-legal  
15 framework, all kinds of things become apparent. What do we  
16 use instead.

17 And I think that we can come to the conclusion  
18 that fundamentally the only thing that can fill the void of  
19 something you can hang your hat on is something that is a  
20 little more objective, something that has developed,  
21 something that has risk information in it, and something  
22 that ties to the legal framework.

23 We really are at odds frequently when we want to  
24 get something done and then we cannot get it done. We want  
25 to do it. We want to do rulemaking, and then it takes us

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1 two years because the rules aren't there. Even if there is  
2 obvious benefit for health and safety, or if we want to get  
3 rid of one that has no obvious health and benefit, we still  
4 tie in. And when we look at the tie in, we'll find that it  
5 is the design basis or there is something that is really  
6 creating a no pass, you know, condition in which we can no  
7 longer work. I think one of the things that we need to do  
8 is after we get a little bit of time is look at what the  
9 things we have discussed, okay, and do the specifics that we  
10 need to do now including what do we change now and how do we  
11 implement it.

12 But we need to look at the techno-legal framework  
13 and say this served us well, this doesn't serve us well.  
14 And I think that the obvious thing is that we will find out  
15 is that risk insights will serve us better in the new times,  
16 that the design basis is actually going out and it's  
17 becoming as obsolete as some of us become with time. I'm  
18 talking about myself, okay.

19 And then the issue is how do we make this into a  
20 reasonable, working framework that licensees will see the  
21 advantage, the NRC will see the advantage, the public  
22 interest above all will be well served, okay. We will be  
23 able to do our work.

24 This goes into, you know, simple things as license  
25 amendments. Do we need to get hearings on the license

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1 amendments to change steam generators? I mean, is that  
2 something that is really, you know, that substantial hazard,  
3 or is it something that in reality, you know, we have  
4 analyzed, we know it's going to be better, and we need to  
5 actually go ahead and establish a techno-legal framework  
6 that would allow us to make those things in a simple manner.  
7 If we want to take critical demonitors out, do we need to

8 spend two years doing that when the Commission can decide  
9 that this has no health and benefit consequences.  
10 So in the big scene, I might suggest that once we  
11 go from this very important short term specifics, we need to  
12 look at the overall techno-legal framework in which we work,  
13 and we need to change those things that need to be changed.  
14 We need to keep and enhance those that we have. And since I  
15 came late, I'm going to finish with that.

16 CHAIRMAN JACKSON: Thank you very much. I would  
17 like to say, however, that steam generator replacements have  
18 been done, if I'm not mistaken, under 5059.

19 COMMISSIONER DIAZ: Some of them have been done.  
20 But then some of them has been challenged.

21 CHAIRMAN JACKSON: [Laughing.]

22 COMMISSIONER DIAZ: And the question is which  
23 ones, you know, are we going to have.

24 CHAIRMAN JACKSON: We will take a 15-minute break.  
25 But let me just remind you for the greenlight session that

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1 there were three additional questions that went out with the  
2 invitations to the stakeholder meeting that I've not heard  
3 anyone speak to.

4 And they are what legislative changes might be  
5 useful or necessary. What are the potential costs of the  
6 plan. And in particular, an example was, for instance, the  
7 need for higher investment in risk information  
8 infrastructure and/or potentially less forgiving regulatory  
9 process because of reliance on a more objective set of  
10 performance indicators and other measures.

11 And then the third is wither to now. While the  
12 plan -- Mr. Colvin, I might say, did speak to the longer  
13 term. But either in response to what he said or relative to  
14 your own thoughts, what are your views with respect to where  
15 NRC should be in the longer term.

16 So we'll take a 15-minute break, have the  
17 greenlight, then we will summarize. Thank you.

18 [Recess.]

19 CHAIRMAN JACKSON: We will now have a greenlight  
20 session meaning we're going to open the floor to any  
21 comments. But we will do it in a somewhat structured way.  
22 I'm going to begin to my left and just go around the table  
23 for any final comments that any of the participants wish to  
24 make, and then I will open the floor for about ten minutes  
25 for any commentary from the floor, and then we will close.

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1 Mr. Collins.

2 MR. COLLINS: Chairman, I have just two remarks to  
3 add, and one is just to acknowledge two areas where the  
4 staff has ongoing actions, and one is to define rather the  
5 design bases which is contained in the tasking memorandum.  
6 We're working amongst the staff for that, and NEI has a  
7 proposal also in that area. So I think stakeholders are  
8 involved in that process, and hopefully shortly after the  
9 first of the year we'll have a product.

10 The other is the revised source term package which  
11 was proposed. The package has been completed the first part  
12 of October. That was referred to earlier as an initiative.  
13 Other than that, I appreciate the comments and will take  
14 them under advisement.

15 CHAIRMAN JACKSON: Thank you. Mr. Colvin.

16 MR. COLVIN: Chairman, you asked three questions  
17 at the beginning, and I'd only like to address one and make  
18 one other comment.

19 With respect to legislative changes, I think we

20 have already provided the Commission a list of those  
21 changes. And I would say that in areas where you may seek  
22 other legislative changes, we -- in a dialogue with the  
23 industry, with the stakeholders and others would be  
24 important so that we can try to provide appropriate support.

25 I mean, for example, if the Sunshine Act comment

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1 that Forrest Remick made requires some change or support, I  
2 think that certainly I would encourage the Commission to  
3 seek that to improve the efficiency and the effectiveness of  
4 the agency.

5 The one issue that we haven't covered and I don't  
6 want to steal Harold Ray's thunder, but I may, but he's at  
7 the end of the table. So I'll take the opportunity. And  
8 that's really in Harold's comments that he provided to the  
9 Commission earlier.

10 We have a number of issues in the action plan that  
11 are being dealt with. And there are a number of policy  
12 issues that will be dealt with individually within the  
13 issues or may better be addressed as policy issues by the  
14 Commission and the senior staff once instead of each and  
15 every time there's an issue.

16 Now I think if I would encourage the Commission to  
17 look at some of the policy aspects of the various pieces of  
18 the plan, identify those, and try to come to grips with  
19 those early, that would make the process more effective and  
20 also get out the guidance earlier.

21 CHAIRMAN JACKSON: So an earlier more holistic  
22 approach --

23 MR. COLVIN: A holistic review of the plan. And  
24 really the policy issues that must come before the  
25 Commission that if otherwise were not dealt with would delay

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1 the implementation of the plan might be an issue to look at.

2 CHAIRMAN JACKSON: Thank you. Commissioner  
3 Merrifield.

4 COMMISSIONER MERRIFIELD: Yeah, the only thing I  
5 want to say is right now I think this has been a wonderful  
6 meeting, very instructive, and I think the participants  
7 should be thanked for their participation.

8 CHAIRMAN JACKSON: Thank you. Dr. Remick.

9 DR. REMICK: Just a closing comment. Many years  
10 ago when I was stressing the need to treat operations as a  
11 profession and nuclear reactor operators as a professional,  
12 somebody gave me a little card. It was entitled a  
13 professional and must be 25 or 30 words, and there have been  
14 times when I have mentioned that in speeches, and it always  
15 chokes me to read it.

16 But the important point is I've kept that on my  
17 desk ever since that time, even during the time I was a  
18 commissioner, and it's still on my desk at home. And what I  
19 would like to see of this agency, I guess, is from top to  
20 bottom you have a set of principles of good regulation which  
21 developed which stimulated the initiatives by Commissioner  
22 Ken Rodgers, but a number of us participated in it.

23 I think it's an excellent statement. I'd like to  
24 see the day that everyone in this agency has that on their  
25 desk. And when they're interacting with the various

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1 licensees and one another that they carefully read the words  
2 in that principles of good regulation. I think there's some  
3 very good words there to guide this agency.

4 CHAIRMAN JACKSON: Thank you. Dr. Lipoti.

5 DR. LIPOTI: There were a couple of things that I  
6 wanted to address. First of all, I wanted to compliment you  
7 on the way that KI was handled in the paper. I think that's  
8 a very good process. It involves all the partners that are  
9 relevant, the states that are issuing KI like Alabama and  
10 Tennessee and Arizona, the CRCPD Committee E-6, and the FDA  
11 and EPA and FEMA. And I think that that might be a model  
12 for how you might involve stakeholders in specific issues  
13 where it's important.

14 The second thing I'd like to mention is the use of  
15 performance indicators. That really is the bottom line  
16 here, and I'm very anxious to see what your performance  
17 assessment, performance indicators might be.

18 And I understand from the work plan that the  
19 contractor is supposed to develop indicators starting in  
20 November of 1998, and the industry's going to propose  
21 indicators in June of 1999. And it's confusing to me about  
22 how these indicators will be integrated and which ones will  
23 actually be used.

24 And I think that this group's comments on those  
25 indicators could be very valuable. So I was going to

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1 suggest that if you're considering these stakeholders  
2 meetings to be repeated that another one between, say, 3/99  
3 and 6/99 might be a very good time.

4 CHAIRMAN JACKSON: I'm going to speak to that.  
5 Thank you

6 DR. LIPOTI: Because that really is a critical  
7 point when comments should be received. On the three  
8 questions that you asked, legislative changes? I think  
9 there is an interesting legislative change that I would like  
10 to see, and it is to remove the 100 percent fee funded from  
11 the NRC's budget process.

12 I think there are some NRC projects which are  
13 appropriately funded through a general appropriation rather  
14 than through a 100 percent fee funded. My examples are on  
15 the material side, but I would think if we focused on the  
16 reactor side that there would be additional appropriate  
17 things.

18 So I would like to see that as consideration.

19 MR. MCNEILL: Madam Chairman, I second that issue.

20 CHAIRMAN JACKSON: Madam Lipoti, Monsieur McNeill,  
21 your colleagues said you're out of order. But I would just  
22 for the record like to because Commissioner McGaffigan's  
23 going to speak to it anyway. We have in fact those who know  
24 worked hard in that arena, and we have put a commission made  
25 a decision, and we put up a legislative proposal before the

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1 Congress. So we've not been asleep on this issue.

2 And so if you all wish to help us, we're more than  
3 happy to have your help.

4 DR. LIPOTI: That's why I wanted it on the record  
5 here.

6 CHAIRMAN JACKSON: Thank you.  
7

8 DR. LIPOTI: In terms of the cost of the plant, I  
9 can't really speak to the costs of the licensees. But I  
10 know that states will have costs in trying to oversee how  
11 the plan is working. And that's why I'm so interested in  
12 these performance indicators because I think that's the way  
13 we can tell if things are working or where we need to jump  
14 in and get involved.

15 CHAIRMAN JACKSON: Thank you. Commissioner  
16 McGaffigan.

17 COMMISSIONER MCGAFFIGAN: I'd like to focus on the  
18 first of the questions -- the third on the list, but the  
19 first you mentioned. The legislative opportunity next year.  
20 One problem this agency has had historically is that it  
21 hasn't had a lot of attention from Congress. We now have  
22 that attention. And I think there's an opportunity to  
23 actually get some authorizing legislation and to get some  
24 things done and some issues resolved that are long festered.  
25 I have not seen Mr. Colvin's -- if he sent us

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1 something recently in the way of legislative proposals, I  
2 guess I haven't seen it. And I need to find it. Let me  
3 list what I know of it at the moment, and you can add.

4 CHAIRMAN JACKSON: It's here.

5 COMMISSIONER MCGAFFIGAN: It's here? Okay.

6 CHAIRMAN JACKSON: So it will come through SECY.

7 COMMISSIONER MCGAFFIGAN: Okay. Foreign ownership  
8 and control is an issue that Mr. Ray mentioned particularly.  
9 The fee issue is one that we've heard frequently. The  
10 antitrust issue which the Commission is already on record on  
11 in the context of restructuring legislation.

12 Tax treatment of decommissioning funds is an issue  
13 I've heard about. The hearing process the Commission has  
14 already in an SRM said that we would like to clarify Section  
15 189 -- our interpretation of Section 189 allows informal  
16 hearings for license amendments. And we're currently  
17 considering things like the one place in the law that  
18 absolutely requires a full blown adjudicatory hearing is  
19 Section 193 with regard to enrichment facilities.

20 There are other issues. High level waste is  
21 clearly an issue that clearly goes beyond this Commission.  
22 Senator Murkowski has asked GAO to comment about the  
23 adequacy of the low level waste statutes at the moment.

24 In the materials area, there may well be issues --  
25 the definition of 11(e)(2) byproduct material comes to mind.

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1 But I'd encourage people -- I mean, the way Congress works,  
2 we really have to have this legislative package by early  
3 next year, and there may well be other things that come out  
4 of implementing the full plan. But if we can get on with  
5 having a good comprehensive legislative package that may or  
6 may not be endorsed by the Congress as a whole and on which  
7 this group may or may not have unanimity -- probably won't,  
8 then we need to get on with it. And so I look forward to  
9 seeing what NEI has apparently just very recently sent to us  
10 and see if there's some things on the list that I haven't  
11 mentioned already. Is there additional things?

12 MR. COLVIN: They are all on the list.

13 COMMISSIONER MCGAFFIGAN: Okay. I was hoping  
14 there would be. And I also encourage people in the  
15 materials area that just as this group has been --  
16 legislation is not just focused on the reactor issues.  
17 There may well be long festering issues in materials space  
18 that CRCPD or the agreement states should be calling to our  
19 attention.

20 When I came to the agency, there was great, you  
21 know, every year we'd put together our authorizing  
22 legislation. And I can tell you the degree of enthusiasm in  
23 doing that was not high because everybody knew it would not  
24 be read once it was received.

25 And so, you know, this time I think it will be

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1 read. And I think there's a chance it may actually get

2 enacted in some form or another. So we should really take  
3 the opportunity seriously. One reason nothing was enacted  
4 in the past, we didn't deal with these big issues. They  
5 tended to be fairly trivial things that we sent forward to  
6 the Congress. So, therefore, you get into a Catch-22. Why  
7 should the Congress read it when we're not sending anything  
8 with any umph to it. This time we may well be, and we need  
9 to have a process to put that together where we're very open  
10 as to what we're doing.

11 CHAIRMAN JACKSON: Thank you. Mr. Lochbaum.

12 MR. LOCHBAUM: I think the shareholders meetings  
13 like this are important. But I think an annual survey of  
14 shareholders that could not attend these meetings would be  
15 helpful to get a broader consensus or a broader perspective  
16 on some of these issues.

17 As far as legislative changes, we can recommend  
18 two that might be on NEI's list, although I doubt it. One  
19 would be in the area of the 2.206 process. That process is  
20 bent --- or not bent. It's broke. And perhaps a  
21 legislative change to make it effective would be a useful  
22 thing at this point.

23 The second change would be in the area of  
24 increasing the authorization for the Inspector General's  
25 Office that would allow the Office of Investigations to be

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1 eliminated. We would think both of those things would be  
2 necessary.

3 CHAIRMAN JACKSON: Okay. Thank you. Mr. Nye.

4 MR. NYE: Yes, thank you, Chairman. As to the  
5 three questions, I would defer to NEI's list. I've looked  
6 at it, and it seems pretty comprehensive from my  
7 perspective. On the potential cost, I think we could spend  
8 a lot of time considering what additional costs may be  
9 involved. Certainly there would be some associated with  
10 investment in additional risk based information.

11 It's clear to me, however, that the benefits fall  
12 outweigh the burden, and I think that relatively small cost  
13 ought not to be an impediment at all.

14 With respect to the wither to now, the long term  
15 goal, it seems to me that we need to remember that this is  
16 hopefully a process and not a task, that we ought not be too  
17 quick to try to draw some loop around the conclusion.

18 Cultural changes are difficult. They're difficult  
19 for the industry. They're difficult for the agency. And I  
20 think we all ought to be about it in a fashion which I sort  
21 of noted my three hopeful objectives here -- purity of  
22 purpose, consistency in the process, and openness to all  
23 constituencies.

24 I guess my final comment would be in the form of a  
25 question. The question ought to be are we making progress

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1 towards a strong, effective and credible regulatory  
2 authority that will ensure safety and a fashion that will  
3 permit efficiency, innovation and performance by the  
4 industry. Thank you.

5 CHAIRMAN JACKSON: Thank you. Dr. Rhodes.

6 DR. RHODES: Well, Chairman Jackson, as you well  
7 know, the mission of the organization I represent, INPO, is  
8 the focus on the excellence in the day-to-day operation of  
9 nuclear plants, and we do not normally get involved in  
10 regulatory and certainly not legislative matters. So our  
11 comments here today have not been extensive.

12 But I would just say we certainly will continue to  
13 cooperate with the NRC in certain areas where we think we

14 can add value. Performance indicators may be one. And as a  
15 final comment, you talked about metrics measuring the  
16 success of the endeavor you're undertaking, certainly  
17 meetings like this -- periodic regular meetings like this  
18 are to me a very important measure of success, or you'll get  
19 a good indication of the feelings of the stakeholders on  
20 your success. And that may be very important to you. Thank  
21 you for asking me to be here.

22 CHAIRMAN JACKSON: Thank you very much.  
23 Commissioner Dicus.

24 COMMISSIONER DICUS: Thank you again. It's good  
25 to be back, and that includes being at a stakeholders

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1 meeting on Friday the 13th. But I think we've had a very  
2 good one.

3 And I also agree that one of the measures of our  
4 success are the feedback we get at these stakeholder  
5 meetings, but also the feedback we get in between the  
6 stakeholder meetings. And so we need to hear from all of  
7 our stakeholders along those things.

8 One thing I do want to bring up the Commission,  
9 the policy issues that were raised by Mr. Ray. I think  
10 they're important, and we need to address those in a timely  
11 fashion.

12 And I'd also agree with Commissioner McGaffigan  
13 that I don't think the NRC is acting with the  
14 characteristics of a bad plant, and that we are in fact  
15 trying to do this to appease not only stakeholders, but the  
16 Senate.

17 I think what we have done are identifying the  
18 issues and challenges that we face, and we must address.  
19 And I think we have, as I mentioned earlier, the capability  
20 to do that effectively and with a great deal of quality as  
21 well.

22 Certainly, at least one of those challenges is to  
23 ensure that the understanding internally with our  
24 stakeholders and certainly with the public on what the NRC's  
25 culture is. Rapidly, we fill in that blank sheet that Dr.

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1 Lipoti gave us. So I think we're well on our way to doing  
2 those sort of things, and I'm really glad to be back and to  
3 be part of the resolution.

4 CHAIRMAN JACKSON: Thank you. Mr. McNeill.

5 MR. MCNEILL: Thank you, Madam Chairman. I again  
6 appreciate the opportunity to be back and participate for a  
7 second time. I'm not going to comment on the individual  
8 questions you have. But I would like to make one  
9 observation and maybe issue a longer term challenge.

10 As you look through the table of contents of the  
11 tasking memorandum, with the exception of the first topic  
12 area on the risk informed, most of them are very focused on  
13 specific issues that have plagued the Commission for a  
14 number of years.

15 And I'm very pleased to see that there has been a  
16 lot of momentum of them. But I also would draw a conclusion  
17 after having been here twice that while our existing  
18 framework of regulation is not broken, it certainly may be  
19 outmoded to a certain extent. And that if the challenge is  
20 really to head in a different direction on a longer term  
21 basis, I think we need a comprehensive vision or framework  
22 to establish that of which risk informed regulation is one  
23 element.

24 And that I personally criticized the NEI here for

25 a number of years of telling you all the things they don't

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1 like but never telling you what is the appropriate framework  
2 in a mature industry now. I see that NEI is in fact, as you  
3 saw from Mr. Colvin's recent outline the number of steps  
4 that I think are also parts of that advanced framework. And  
5 I would suggest that sometime maybe in the second quarter of  
6 next year because that's a point in which I think you're by  
7 a lot of the activities in here to begin to consider how to  
8 develop a framework, a different framework, if that's  
9 appropriate, solicit input in meetings such as this, decide  
10 on that which is appropriate, lay out a plan, a long term  
11 plan of five plus years and begin to chip away at that.

12 I think that will benefit all of the stakeholders,  
13 that they'll get a chance to really summarize what their  
14 issues are and be forced to think about what is the  
15 appropriate thing and make those. Thank you.

16 CHAIRMAN JACKSON: Thank you. Dr. Travers.

17 DR. TRAVERS: Thank you, Chairman. In my view,  
18 this has been an excellent session even though I haven't  
19 heard any suggestions for things we ought not to be  
20 including on our list. In that regard, I would make note of  
21 the fact that this is a challenging time for the NRC staff  
22 and certainly the management team. We are addressing a  
23 number of issues. We've identified those in our tasking  
24 memo response, and I'm glad that Commissioner McGaffigan  
25 pointed out a number of other issues really that are ongoing

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1 and of import as we proceed.

2 I'm also glad to see Mr. Colvin's suggestion about  
3 the need to identify near term, intermediate and longer  
4 range goals. Certainly from our perspective, we need to  
5 make sure that what we are doing is done well, and that we  
6 do it in a way that doesn't necessitate a significant  
7 visiting once we've made the progress that we can.

8 We have many milestones and deliverables due  
9 within the next several months. So in this period of time  
10 in particular, I think we are going to have the advantage  
11 and continuing advantage of interactions with our  
12 stakeholders. This we view again as a fundamental element  
13 in our thinking, in our planning. So we certainly  
14 appreciate this meeting, and we look forward to those  
15 somewhat more detailed stakeholder meetings to address the  
16 specifics of those issues at these meetings. Thank you.

17 CHAIRMAN JACKSON: Thank you. Commissioner Diaz.

18 COMMISSIONER DIAZ: Thank you, Madam Chairman. I  
19 think that most of my thunder somebody has already taken.  
20 But I'll go ahead and make a strike anyhow.

21 Obviously, we must realize that progress has been  
22 made, that just the fact that we are here is a very good  
23 sign. And in fact, things have been happening in the time  
24 that we first met now is also a very good indication.

25 I've been traveling around a little bit, and all I

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1 can hear is that things are happening. That is very good.  
2 I mean, that's something that we should not lose sight of.  
3 I think it's important to continue the change we're doing  
4 that.

5 I think it has to be open. I think that what I  
6 see more and more is that our stakeholders, both industries  
7 and licensees and all the stakeholders are now coming and  
8 saying we can actually provide information. We can access  
9 the NRC. We are going to be listened. And I think the  
10 ability to be listened to is a fundamental change that has

11 happened. I think one that we should keep.  
12 I think, like everybody said, there is a lot of  
13 specific issues at hand. I think it's critical that we  
14 concentrate in resolving those issues and avoid  
15 proliferation during the next six months. We need to be  
16 able to get those things that we said we're going to do and  
17 do them well.

18 However, I caution you that -- and this is an old  
19 thing of mine that, you know, the enemy of the good is the  
20 better, and that the enemy of the better is the best. And  
21 that we need to be able to come up with solutions that might  
22 not be the most ideal or comprehensive but will get us to  
23 the next stage.

24 And in getting to the next stage, I think that I'm  
25 going to borrow a little bit from the principles of

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1 regulation. The principles are great. What we need to do  
2 is actually focus on two areas. What are the obstacles to  
3 having those principles being achieved, and can those  
4 obstacles be removed, and can they be removed timely.

5 And second, what are the enabling factors that  
6 will allow us to do the things that we want to do. Look at  
7 the things that are fundamental to get things done. And I  
8 think what I would personally like to hear in the next few  
9 months when we resolve these things is an answer to those  
10 two things. Thank you.

11 CHAIRMAN JACKSON: Thank you. Mr. Ray.

12 MR. RAY: Thank you, Chairman Jackson. Let me  
13 pick up on the first thing that Commissioner Diaz just said.  
14 I've been remiss in not acknowledging, as others have had  
15 the grace to do, the many positive things that are going on,  
16 and probably it's the result of my long experience, I guess,  
17 in focusing on the opportunities for improvement at the  
18 expense of acknowledging what's positive going on. I don't  
19 want to do that.

20 And I really meant what I said about not  
21 complaining about things as they are, and particularly I  
22 want to underscore that it's not complaining with regard to  
23 the motives or the ability which has been commented on here  
24 a number of times of the agency and its staff which is  
25 outstanding.

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1 Finally, I guess I would say that as regards the  
2 future stakeholder meetings, I too think that they are  
3 important. And I just would suggest maybe as inferred by  
4 something Dr. Travers just said that as helpful as the five  
5 questions were for this stakeholders meeting, maybe  
6 something even more narrow would be fruitful next time to  
7 explore within some bounds one or more of these policy  
8 issues that there seems to be agreement that it would be  
9 helpful to grapple with.

10 CHAIRMAN JACKSON: Very good. Thank you. Mr.  
11 Ricco.

12 MR. RICCIO: Well, I'll try to be as close as  
13 succinctly as I opened it. First I want to acknowledge the  
14 fact that I realize there are very good individuals in this  
15 agency. We're trying to do a good regulatory job.

16 I had to confront this issue a while ago after  
17 we'd done our Lemons reports, and we were able, by using  
18 your information and your data, to determine that Millstone  
19 and Salem were in trouble.

20 Now to me, I don't understand why it was that if  
21 we could figure it out using your data, you couldn't figure

22 it using your own data which brings me back to supporting  
23 Dr. Lipoti's emphasis upon performance assessment and  
24 performance indicators.

25 I realize that in this agency you start out as a

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1 regulatory agency. But as you move up the ladder, it  
2 becomes very much a political agency as well. And at a  
3 certain level, the decisions stop being regulatory decisions  
4 and are political decisions.

5 And I think I'd be remiss not to really recognize  
6 that we're here today because of politics and because of the  
7 industry's ability to influence the Congress and have them  
8 put pressure on the manner that this agency is able to use  
9 in regulating this industry.

10 The reason they're doing that is because nearly  
11 half of the reactors in this country are no longer  
12 competitive. To answer some of your more direct questions,  
13 I do believe there's a need for legislation to address the  
14 2.206 issue. Almost a decade ago, we participated in  
15 hearings on 2.206, and very little has changed.

16 I would also echo David's assessment that OI needs  
17 to be done away with and move those resources over into the  
18 Inspector General's Office. That being said, it's been very  
19 much a pleasure to participate on this panel and to be  
20 considered, in my opinion, my opinion being considered with  
21 such esteemed individuals.

22 CHAIRMAN JACKSON: Thank you very much. In  
23 closing, let me thank -- well, I guess I didn't do what I  
24 said I was going to do, and that is to open it to the floor.  
25 Are there any comments anyone wishes to make. Please.

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1 Please go to one of the microphones and, if you don't mind,  
2 identifying yourself.

3 MS. KRUSLICKY: Madam Chairman, members of the  
4 Commission, I'm Mary Ann Kruslicky. I'm an assistant  
5 director with the Resources Community and Economic  
6 Development Division through the General Accounting Office.

7 We were very pleased to be invited to participate  
8 today. And when we sent our regrets that we could not  
9 participate, we did ask to be considered for in the future.  
10 So I do not want to leave the impression that GAO did not  
11 want to participate today.

12 The reason we declined the invitation that was  
13 extended to us is because we're in the middle of a review  
14 that in fact is covering a lot of the issues that were  
15 discussed here today.

16 It is GAO's policy not to make a public  
17 presentation until we have a GAO position about that  
18 position. And we have not done that yet because we have not  
19 completed our work.

20 But we would like you to keep us in mind for any  
21 subsequent stakeholders meeting that you may have. Thank  
22 you.

23 CHAIRMAN JACKSON: Thank you. Are there other  
24 comments? Please.

25 MR. PIETRANGELO: Tony Pietrangelo, NEI. As

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1 someone who deals very frequently with the staff and has  
2 complained about maybe trying to get some office space over  
3 here lately, I just want to give --

4 CHAIRMAN JACKSON: Not going to happen.

5 (Laughter)

6 MR. PIETRANGELO: I'd just like to give the  
7 Commissioner some feedback about the interactions we've had

8 with the staff over the past several months. And it's like  
9 night and day, and I think picking on what Commissioner  
10 McGaffigan said, the communications process is so essential  
11 to making the entire process better and more responsive.  
12 And from the senior management on down, we've worked with  
13 people in the Office of Research, AEOD, NRR, OGC. To a  
14 person, we found their conduct to be very professional and  
15 constructive in trying to solve and resolve a lot of the  
16 problems and issues that are in the tasking memorandum. So  
17 for us, we see this as just tremendous improvement in terms  
18 of the atmosphere in which we try to interact with all the  
19 stakeholders and the agency.

20 I just wanted to give the Commission that  
21 feedback.

22 CHAIRMAN JACKSON: Thank you very much. Anyone  
23 else?

24 MR. CANNON: I'm Jim Cannon. I'm from Senator  
25 Domenici's office, legislative fellow. I would like to

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1 respectfully disagree with those people that say that all  
2 these activities are just in response to the Senate.

3 I've spoken with, I don't know, it's got to be on  
4 the order of 200 people in the agency. I'm very impressed.  
5 The best part of all is that they say they appreciate the  
6 interest of the Congress. They appreciate the chance to  
7 talk to us, and that they feel it's been long overdue. And  
8 for too long, there wasn't any interest, and that doesn't do  
9 the NRC any good. So I don't think the tasking memo -- I  
10 think it's great. I don't think it's just in response to us  
11 because a lot of the activities clearly did not start just  
12 from the summer months. And I've been meeting with  
13 licensing people, assessment people. I've attended stuff  
14 with NEI, and I follow what was said that there's a lot of  
15 interest, a lot of dedication and such a pronounced interest  
16 by individuals at the lower levels which is really where it  
17 counts to make changes and to improve the process and the  
18 metrics. Thank you, Chairman.

19 CHAIRMAN JACKSON: Thank you. Anyone else?

20 MR. MAINGI: I'm Stan Maingi from the Commonwealth  
21 of Pennsylvania, Bureau of Radiation Protection. It is a  
22 great pleasure to see this meeting to go in such a forum.

23 Sometimes we used to wonder why it is taking --  
24 why there are not meetings. Finally, I guess you saw the  
25 wisdom and did it. And in the second meeting itself, we can

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1 see good exchanges and good interaction and hopefully  
2 leading to some good results.

3 Actually, the adversarial things are gone, and a  
4 cooperative mode should be the way to go. And I think that  
5 will bring a lot of -- make the plants more safer, and the  
6 public will have better confidence in you.

7 I think one aspect which you can emphasize is when  
8 you change some of the things like policy decisions to  
9 advertise to the public and try to educate them through your  
10 communication wheels, that is the utilities realize as well  
11 as NRC. Actually, I also want to compliment that you do  
12 have all the ingredients. NRC has a very competent staff,  
13 and the utilities are committed to safe operation.

14 The guys who are sitting at the bottom who shut  
15 down the plants are there in the process of finding new  
16 buyers to take over the plants so that we can run them more  
17 efficiently for them. And I think in this environment, the  
18 culture is such that it will be conducive to have safe

19 operations if both of you join together and pull your  
20 resources to make the plants more safe.

21 The only thing we want is that when you have these  
22 meetings, the self-assessment parameters that are developed  
23 would like to be the states as interested parties would like  
24 to be part of that when those meetings take place, and the  
25 process of validation of those assessment, that is, those

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1 indicators when those are done, we would like to be a part  
2 of it. Thank you.

3 CHAIRMAN JACKSON: Thank you very much. Any other  
4 comments? Well -- yes, please.

5 COMMISSIONER MCGAFFIGAN: Could I perhaps make one  
6 brief comment. The reference to communication. I think one  
7 thing I get complimented on a lot and didn't come up today  
8 is our home page. I mean, if you want to know what this  
9 agency is about, that there's a vast amount of information  
10 that we are trying to put out including papers oftentimes  
11 that we're not yet voting on. The West Valley paper I  
12 mentioned earlier that we put out yesterday. So there's  
13 lots of opportunity to engage this agency, and the staff  
14 just does an outstanding job of putting information out that  
15 I hope everybody utilizes.

16 I mean, sometimes I'm disappointed that the  
17 information's been out for some time, and it's news to  
18 someone

19 CHAIRMAN JACKSON: Absolutely. Thank you. Well,  
20 let me in closing thank each of you and all of you for your  
21 participation today, for your comments and insights. I was  
22 impressed actually.

23 This is a time of fundamental change for the NRC.  
24 I believe that change is necessary and healthy for any  
25 organization. And to the extent and to a great extent, you

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1 have helped us to identify areas for NRC improvement. You  
2 have our gratitude.

3 And while the Commission intends to take the  
4 actions we can to address all stakeholders' concerns, I ask  
5 and I think the comments today reflect that that you  
6 understand that we are first and foremost a health and  
7 safety regulator. It is our intention to take those actions  
8 that are required and necessary and, yes, no more than is  
9 necessary, to satisfy our legislative mandate.

10 I think as you've heard, change must be managed.  
11 They're going to take on change to the extent that it can be  
12 absorbed, and inculcated by all of us, by the staff in  
13 particular, but in a way that doesn't break them or break  
14 their spirit because we do have an excellent staff, and we  
15 don't have a regulatory program without them.

16 I believe the Commission's in agreement with many  
17 of the statements made today out of which I have distilled  
18 the following. This is not meant to be comprehensive, but a  
19 distillation.

20 We further identified the need for further  
21 clarification of definitions and/or the dissemination of old  
22 definitions in ways that are consistently implemented. We  
23 talked about the importance of a plant assessment process  
24 that is based on objective performance indicators. That was  
25 reinforced, and with appropriate inspection input.

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1 An enforcement process that does not unjustly  
2 accuse coupled with a regulatory process that justly acts  
3 when called for. An NRC corrective action process that  
4 works effectively over time for us, that deals not only with

5 the plan in question for all aspects of our regulatory  
6 program.

7 In addition, we've talked about and reinforced the  
8 need for a timely and appropriate resolution of issues,  
9 whether it has to do with endorsement or non-endorsement of  
10 guidance that has been around for a long time as well as one  
11 I threw in -- generic safety issues. Resolution, DPOs and  
12 DPVs, 2.206 and other even higher level policy issues.

13 We talked about the need for clear metrics,  
14 understanding that they can be qualitative as well as  
15 quantitative, that survey instruments properly structured  
16 may have a role, that scope, independence and a public  
17 airing of metrics are important considerations.

18 And that compilation of lessons learned through  
19 this and propagation into the improvements of our regulatory  
20 process is important.

21 With regard to stakeholders, I think the point has  
22 been made of the need for continued and constant  
23 communication. I think the case has also been made that  
24 there are many stakeholders, and there are stakeholders  
25 beyond our licensees. I think there was a strong statement

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1 from a number of quarters with respect to keeping in mind  
2 the role of the states, but in addition -- and this is why  
3 they are here, the role of public interest groups as well as  
4 others.

5 The point was made that our own staff are  
6 important stakeholders, particularly vis-a-vis the regions.  
7 And this understanding that there are other stakeholders are  
8 not only important to the success of what we do, they are  
9 the key to our credibility.

10 We talked about licensing and design basis issues,  
11 the need, again, for clear definition and need for a  
12 consistent clear understanding of what constitutes  
13 Commission policy in this area.

14 With respect to the plan, I think there's a  
15 recognition that it does not include everything, that it  
16 needs to be a living plan, but that self-assessment needs to  
17 be built into that.

18 That change management needs to occur, that  
19 discussion comes about and focuses on not only the  
20 cumbersomeness of our existing processes, but as  
21 Commissioner Diaz so eloquently explained, that we need to  
22 look at the overall technical legal framework.

23 And that in general, we need an earlier and  
24 holistic approach to dealing with policy issues.

25 Let me close the meeting, if you will indulge me,

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1 by reiterating a comment that I used at the INPO CEO  
2 Conference that had been made by Mr. Nye at our previous  
3 stakeholder meeting in July. And he said strong, effective  
4 and credible regulatory oversight is essential and not  
5 subject to compromise. But safety is not inconsistent with  
6 efficiency, nor is regulatory assurance inconsistent with  
7 innovation and flexibility.

8 I like that. I'm plagiarizing. It is our  
9 intention to be true to this sentiment. The Commission  
10 desires to regularize these meetings, and I've talked to  
11 many of you about appropriate time frames and meeting and  
12 what meeting participants there should be.

13 I think it is fruitful is there is a core or,  
14 shall I say, in popular parlance today, a cornerstone group  
15 to ensure continuity. But I expect that we can and we will

16 vary meeting participants.  
17           As for the timing, I'm going to throw out a straw  
18 man that I'm going to try, and that is that we have perhaps  
19 four to five-month interval which would make our next  
20 meeting in the March to April time frame.

21           So I thank you again for your participation, and  
22 in the meantime our staff will continue to work its plan as  
23 well as all of the other many things that have to be done.  
24 The Commission will continue to assess and act upon the  
25 policy issues. And I ask that we all stay energized and

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1 stay engaged.

2           And since I won't see you -- some of you before  
3 then, I wish you an enjoyable and safe set of holidays. And  
4 if there are no further comments, we're adjourned.

5           [Whereupon, at 1:25 p.m., the public meeting was  
6 concluded.]

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