

# UNITED STATES OF AMERICA NUCLEAR REGULATORY COMMISSION

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OF NRC REGULATIONS AND REGULATORY PROCESS

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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BRIEFING BY NUMARC ON INDUSTRY REVIEW  
OF NRC REGULATIONS AND REGULATORY PROCESS

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PUBLIC MEETING

Nuclear Regulatory Commission  
One White Flint North  
Rockville, Maryland

Thursday, January 21, 1993

The Commission met in open session,  
pursuant to notice, at 2:00 p.m., Ivan Selin,  
Chairman, presiding.

COMMISSIONERS PRESENT:

IVAN SELIN, Chairman of the Commission  
KENNETH C. ROGERS, Commissioner  
FORREST J. REMICK, Commissioner  
JAMES R. CURTISS, Commissioner  
E. GAIL de PLANQUE, Commissioner

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## STAFF AND PRESENTERS SEATED AT THE COMMISSION TABLE:

SAMUEL J. CHILK, Secretary

WILLIAM C. PARLER, General Counsel

EUGENE McGRATH, Chairman and CEO, ConEd Co. of NY,  
Chairman of the Board, NUMARC

E. LINN DRAPER, JR., President and COO, AEP Service  
Corp., Vice Chairman of the Board, NUMARC

JOE COLVIN, President and CEO, NUMARC

OLIVER KINGSLEY, JR., President, Generating Group,  
TVA, Member of the Board, NUMARC

WILLIAM CAVANAUGH, III, President and COO, CP&L Co.,  
Member of the Board, NUMARC

RONALD WATKINS, President and CEO, Nebraska Public  
Power District, Member of the Board, NUMARC

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

2:00 p.m.

CHAIRMAN SELIN: Ladies and gentlemen, we're very pleased to welcome members of the NUMARC Board of Directors and its President and CEO, one person, to this afternoon's Commission meeting.

NUMARC representatives will brief the Commission on an industry-wide initiative to reduce nuclear generating costs while still ensuring high levels of safety.

First of all, I'd like to thank NUMARC for its response to the Commission challenge to provide specific examples of changes to NRC regulations and regulatory practices that the industry believes are appropriate. NUMARC has provided these specific examples based on the industry's knowledge and experience in the operation and management of commercial nuclear power plants and the maturity of the nuclear technology. We appreciate these efforts. I think you've fully lived up to the admonition to be analytical and to keep the anecdotal material to as low a level as possible and really have provided very solid support for most of the recommendations. We support what you've done to date and we hope you will continue to provide your views to the Commission. In

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1 other words, that this not be just a one shot  
2 operation, but a fruitful way to continue to operate.

3 In this area, your work focused on  
4 identifying places where the industry believes less  
5 regulation would be desireable. We'd also be  
6 interested in the possibility that from here on in you  
7 broaden a little bit to get industry views on areas  
8 where NRC regulations need to be more profound in the  
9 sense of providing clearly stated objectives which  
10 will permit the development of criteria and  
11 alternative implementation strategies.

12 In addition, we'd like to encourage you to  
13 present views where existing regulations or regulatory  
14 guidance might be amenable to risk base and our  
15 performance based approaches. In other words, not  
16 just looking for specific places where things might be  
17 relaxed, but even taking a broader looking saying  
18 where one set of approaches might be substituted for  
19 another set of approaches. We hope you don't consider  
20 this to be your task to be done at this point. It  
21 looks to me, and I think to my colleagues, as a  
22 fruitful start that we'd like to see continued.

23 At this same time, the Commission would  
24 also welcome the views of interveners and of public  
25 interest groups on these important regulatory issues.

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1 Our interests are not one sided. We're interested in  
2 both effective and efficient regulation and would like  
3 to open an invitation to all parties that have  
4 recommendations in either direction to feel free to  
5 make such recommendations. As you know, we believe  
6 the public has a strong role to play in implementing  
7 clear and better balanced regulations.

8 During today's briefing, NUMARC will  
9 provide the Commission a summary of the initial  
10 results of their review of existing regulations and  
11 practices as well as your conclusions and  
12 recommendations.

13 I understand that copies of the briefing  
14 material are available at the entrance to the room.

15 Commissioners, any opening remarks?

16 Mr. McGrath, would you be chairman for the  
17 NUMARC group today?

18 MR McGRATH: Okay. Good afternoon,  
19 Chairman Selin and Commissioners. I'm Gene McGrath,  
20 I'm Chairman of Consolidated Edison of New York and  
21 Chairman of the Board of Directors of NUMARC, the  
22 Nuclear Management Resources Council.

23 I'd like to thank you for inviting us here  
24 today and I'll introduce my NUMARC colleagues who will  
25 participate in this session. We've kept the numbers

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1 down by our longstanding policy of not having anymore  
2 briefers than we can fit in one car. And as Chairman,  
3 I get to drive the car.

4 CHAIRMAN SELIN: Based on the cars I've  
5 seen this week here, you could have had about 15 or  
6 20.

7 MR. McGRATH: With me at the table today  
8 are Joe Colvin, who is President and CEO of NUMARC,  
9 and four members of the NUMARC Executive Committee  
10 Board of Directors. Linn Draper, our Vice Chairman,  
11 is President and Chief Operating Officer of American  
12 Electric Power Service Corporation. Bill Cavanaugh is  
13 President and Chief Operating Officer of Carolina  
14 Power and Light. Oliver Kingsley is President of the  
15 Generating Group of Tennessee Valley Authority and Ron  
16 Watkins is President and CEO of Nebraska Public Power  
17 District.

18 Linn, Joe and I will make brief remarks  
19 and all of us will participate in the general  
20 discussion session.

21 As you know, all of the energy companies  
22 represented at this table own and operate nuclear  
23 power plants. Nuclear energy is an important part of  
24 the fuel mix in our service areas and it's an  
25 important contributor to the fuel mix and energy

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1 security of our country.

2 We're here today because we're very  
3 concerned about the continued viability of nuclear  
4 energy in the face of escalating costs. We must take  
5 action to regain control of those costs and we must  
6 act quickly if we're going to preserve the nuclear  
7 option.

8 Many factors contribute to the rising  
9 operating and maintenance costs at our nuclear plants.  
10 In our individual companies in our industry, we're  
11 working hard to identify and address them. However,  
12 industry analysis and experience shows that two key  
13 contributors are conditions that relate to the  
14 regulatory environment.

15 First, we're affected by the regulations  
16 and regulatory processes themselves, this year  
17 quantity and variety and the manner in which the  
18 regulatory staff interpret them.

19 Second, the industry is affected by the  
20 manner in which we ourselves respond to those  
21 regulatory processes and implement them in our own  
22 operations. These conditions didn't come about  
23 overnight. They're a function of the evolution of the  
24 modern regulatory era that began more than a dozen  
25 years ago following Three Mile Island. Regulations

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1 proliferated and power plant staffs swelled  
2 dramatically, all in the interest of increased safety.  
3 Indeed, an already safe energy option has been made  
4 even more safe as a result.

5 As part of the continuing evolution, it's  
6 time now to step back and take a fresh look at where  
7 we've come and what we've done. We've got several  
8 hundred reactor years of experience in plant  
9 operations and both the industry and the regulatory  
10 community have reached respectable levels of maturity.  
11 Just like we do periodically in our businesses and  
12 professions, we've got to factor that experience and  
13 maturity back into the process. We've got to examine  
14 the structures and procedures we've created and  
15 evaluate whether they're still doing what they were  
16 intended to do or whether they're still in place only  
17 out of inertia.

18 From a perspective informed by our  
19 collective knowledge, we've got to assess whether the  
20 costs of these incidents actually achieve the  
21 commensurate safety benefit, or that safety might  
22 actually be compromised by some of the well  
23 intentioned improvements we're putting in place.

24 As you know, the nuclear utility industry  
25 has undertaken just such an evolutionary examination

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1 in the form of a comprehensive effort to regain  
2 control of rising costs. The issues we'll describe  
3 today demonstrate our commitment to maintain today's  
4 high level of safety while reducing costs.

5 Before I outline those efforts, I'd like  
6 to describe the time frame we're working with. It's  
7 a very short time frame. The situation which we find  
8 ourselves has evolved over time as I've described.  
9 Unfortunately, while the process has been  
10 evolutionary, our response to it cannot be. We simply  
11 don't have the luxury of time.

12 As we meet here today, energy companies  
13 are facing planning decisions related to future  
14 generation. As you know, new capacity projects have  
15 very long lead times. While not for a moment  
16 sacrificing safety or reasonable process, we must move  
17 quickly on cost control opportunities that will ensure  
18 the nuclear remains a part of the planning horizon.

19 As an industry, we're taking aggressive  
20 action in three board areas. First we're addressing  
21 the first contributor I mentioned earlier, the impact  
22 of NRC regulations and regulatory processes and the  
23 manner in which they were interpreted by the NRC  
24 staff.

25 When you addressed the NUMARC Board last

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1 June, Mr. Chairman, you asked the industry to identify  
2 NRC regulations and implementing practices that have  
3 unnecessarily increased costs without a commensurate  
4 safety benefit and you asked us to identify specific  
5 opportunities for changes and improvements. Last  
6 month you received the industry's initial response to  
7 your very welcome request in the form of a letter that  
8 identified many such opportunities. The letter was  
9 accompanied by detailed recommendations and supporting  
10 analyses. Shortly, Joe Colvin will discuss some of  
11 the specifics.

12 We believe that many changes can be  
13 implemented expeditiously without the need for further  
14 analysis or study. One of our goals is to make the  
15 most efficient use of both NRC and industry resources,  
16 thereby immediately reducing unnecessary costs while  
17 maintaining or even enhancing the safety of our  
18 plants.

19 Joe Colvin will also give some thoughts on  
20 fundamental changes to the regulatory framework.

21 I want to emphasize that with this  
22 initiative we're not trying to run away from our own  
23 responsibility for driving up plant costs. While our  
24 analyses show that changes in the regulatory arena are  
25 warranted and desireable, responsibility for those

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1 changes also resides with the industry itself.  
2 Regulations and the way that NRC staff apply them do,  
3 in fact, have a significant impact on our resources,  
4 but so too does the way we respond and implement them.  
5 Accordingly, the second major area the industry is  
6 addressing focuses on the way we as licensees interact  
7 with the regulatory process.

8 Linn Draper will describe our efforts to  
9 improve the manner in which utilities, individually  
10 and collectively react and respond.

11 After Linn's presentation, I will be back  
12 to describe the third major thrust of our efforts,  
13 which is also industry centered.

14 Now Joe Colvin will discuss some specific  
15 opportunities we've identified in the area of  
16 regulation and regulatory processes.

17 Joe?

18 MR. COLVIN: Thank you, Gene.

19 Good afternoon.

20 The first area I would discuss centers  
21 around instances where regulatory requirements have  
22 unnecessarily added to cost without a commensurate  
23 safety benefit. As you indicated, Mr. Chairman, we've  
24 made available as a handout the executive summary to  
25 our December 21st letter to you and in the detail

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1        attachments to that letter we've provided specific  
2        data, the supporting information and specific examples  
3        of where we think the regulatory process or regulatory  
4        requirements have unnecessarily increased costs  
5        without a commensurate safety benefit.

6                We've identified eight issues in  
7        particular where we believe prompt action can and  
8        should be taken to affect changes that would have  
9        near-term payback both in terms of reducing the  
10       unnecessary expenditures it cost as well as increasing  
11       the ability of both the NRC and the industry to better  
12       focus our respective resources on issues more  
13       important to safety.

14               We've taken a look at that data  
15       conservatively. We believe the cumulative impact of  
16       positive action on the attachments 1 through 8 to our  
17       letter would result in a net savings of about \$250  
18       million per year for the industry with no negative  
19       impacts on safety. We believe we need prompt action  
20       on these issues because many of the requirements just  
21       don't make sense given the experience we've gained and  
22       the maturity of the regulatory process. In addition  
23       in some cases to being burdensome and unnecessary,  
24       they distract both licensee and NRC focus from issues  
25       of more importance.

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1           For example, there are a number of routine  
2           and periodic reporting requirements imposed upon  
3           licensees by the regulations and by the technical  
4           specifications that are either duplicative, capable of  
5           being combined with other reports or, in some cases,  
6           clearly unnecessary. We believe consolidation of the  
7           reports could save the industry approximately a  
8           quarter of a million dollars per plant on an annual  
9           basis.

10           We need to act also because many of these  
11           requirements provide conflicting or confusing  
12           regulatory guidance. The recent revisions to 10 CFR  
13           Part 20 to incorporate the latest radiation protection  
14           concepts were appropriate to update the regulations to  
15           be consistent with today's knowledge and experience.  
16           However, other NRC regulations contained radiation  
17           standards and criteria and those have not yet been  
18           updated. The results will be duplicative programs and  
19           the potential that confusing information will be  
20           disseminated to off-site agencies in the event of a  
21           radiological release during an emergency.

22           The industry is ready to assist the NRC in  
23           making the necessary revisions to associated  
24           regulations and regulatory guidance documents in a  
25           planned and coordinated manner in order to avoid such

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1 unnecessary challenges and to achieve appropriate  
2 consistency of NRC requirements and the implementing  
3 guidance. Issues such as these are for the most part  
4 administrative matters that can be quickly remedied to  
5 eliminate a needless regulatory burden on licensees.

6 We also need expedited action because some  
7 of the requirements provide no safety benefit or, in  
8 fact, they'd be counterproductive to safety, as Gene  
9 indicated. For example, a comprehensive review of the  
10 security requirements of 10 CFR Part 73 would  
11 demonstrate that the elimination of many of these  
12 requirements would not have a detrimental impact on  
13 the security of a nuclear power plant. In fact,  
14 elimination of some of the requirements, such as  
15 locked doors in vital areas, could enhance the overall  
16 safety of the plant by facilitating the response to  
17 emergency conditions by key plant personnel.

18 In some of the cases, the industry and the  
19 NRC have been discussing and even debating these  
20 issues for many years and have not yet brought even  
21 relatively simple issues to closure, even in instances  
22 where there has been clear agreement. Utility and NRC  
23 management need to explore more efficient and timely  
24 resolution of the inevitable differences in  
25 professional opinions to ensure that beneficial

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1 changes are not unnecessarily delayed.

2 Perhaps the best example to illustrate  
3 this concern is the issue of the emergency diesel  
4 reliability. In this case, industry average  
5 reliability has been greater than .98, well above the  
6 .95 target of Generic Issue B-56, which was initially  
7 raised as a concern in 1977. This has been  
8 substantiated by industry performance data since 1983.  
9 In our view, no additional data or analysis is needed  
10 to reach the conclusion that further requirements at  
11 this area are not necessary and would be a needless  
12 drain on industry and NRC resources.

13 In another case, the industry and the NRC  
14 have agreed since 1984 that accelerated testing of  
15 diesel is contributing to premature wear and greater  
16 reliability and should be eliminated. Elimination of  
17 accelerated testing has the potential to further  
18 improve diesel reliability and save the industry the  
19 cost of multi-million dollar overhauls on diesels. We  
20 believe that expedited steps can and should be taken  
21 to provide immediate relief from accelerated testing.

22 Now, what is necessary to bring many of  
23 these issues to prompt and final closure is the  
24 continued leadership and involvement of the Commission  
25 and senior NRC management. The nuclear power industry

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1 encourages the Agency's commitment to address these  
2 issues and others like them and we ask the Commission  
3 to continue to provide the leadership to initiate  
4 expedited positive action on these issues in order  
5 that both industry and NRC can make the most effective  
6 use of our resources.

7 We have witnessed the positive leadership  
8 of the Commission with respect to the industry's  
9 concerns regarding the SALP process. We are  
10 encouraged that the NRC is reevaluating the SALP  
11 process and we are ready to respond to the Commission  
12 with additional industry input as requested.

13 In Attachment 12 to our letter, we  
14 requested a thorough reevaluation of the SALP process.  
15 As requested in your response, a group of senior  
16 industry executives met with senior NRC staff last  
17 Friday to discuss specific examples of the problems we  
18 continue to experience with the SALP program. In our  
19 view, that meeting was a very beneficial first step.  
20 We agreed with what the senior NRC staff believes SALP  
21 was intended to achieve, that is an integrated  
22 assessment of performance and feedback to the utility  
23 conducted in a way so as to achieve an active dialogue  
24 between the parties so that we fully understand both  
25 the strengths in your view that the licensees have, as

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1 well as the areas you believe that need improvement.

2 All of the industry participants agreed  
3 that the NRC feedback, even if subjective opinion, is  
4 extremely valuable. However, none believe that this  
5 was being effectively achieved by the SALP program as  
6 it is currently being implemented.

7 Another area where we see continued  
8 Commission leadership and which you commented on in  
9 your opening remarks, Mr. Chairman, was the Commission  
10 leadership and direction in the development of new  
11 concepts for future regulatory activity. We  
12 acknowledge that an equivalent or improved level of  
13 safety may be achieved by a different regulatory  
14 approach. For example, the Commission has long  
15 recognized the need for a regulatory threshold and for  
16 increased emphasis in performance-based regulation.  
17 This is embodied in your principles of good regulation  
18 and, as you have discussed at length with the NRC  
19 staff and the ACRS, the various approaches of  
20 implementing the safety goal policy risk-based and  
21 performance-based regulation.

22 In our letter, we identify actions that  
23 can be taken, as well as industry resources that can  
24 be tapped to assist in the development of a well-  
25 defined action plan that we believe will establish an

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1 explicit regulatory threshold that can be used during  
2 the review of existing regulations and the  
3 promulgation of new regulations.

4 The nuclear power industry is ready to  
5 work with the Commission and the NRC staff to ensure  
6 that we are effectively and efficiently utilizing both  
7 of our resources. We want to ensure that the NRC  
8 obtains the full benefit from focused and constructive  
9 industry input.

10 Commissioner Curtiss has suggested that  
11 consideration be given to the establishment of a  
12 mechanism similar to the approach we've used in  
13 developing implementation guidance for the maintenance  
14 rule. In that case, the industry and the staff each  
15 worked independently and shared the results of each  
16 other's efforts in a public setting. A key to making  
17 that work was the management oversight of the process  
18 and regular meetings between senior NRC management and  
19 industry senior executives. In that way, the problems  
20 were clearly defined and discussed at length so that  
21 solutions could be identified that would resolve the  
22 underlying concerns. We believe that a similar  
23 process could be beneficial in this area.

24 We have identified in our December 21  
25 letter to you an initial set of issues which we

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1 believe can and should be addressed expeditiously. We  
2 will continue to review other areas and identify  
3 additional opportunities for regulatory improvement.  
4 Success will be achieved if the Commission, senior NRC  
5 management and senior utility management remain  
6 committed to providing the leadership necessary to  
7 affect such a broad paradigm shift throughout the NRC  
8 and the industry on the whole.

9 With that, Mr. Chairman, Commissioners,  
10 I'd like to introduce Linn Draper who will discuss the  
11 second area of our initiative.

12 CHAIRMAN SELIN: Before you go on, I'd  
13 like to make a couple of remarks about your  
14 observations, Mr. Colvin.

15 First of all, on SALP, SALP clearly  
16 doesn't fit the statement of, "Can we do the same job  
17 a little cheaper or with less problem without any  
18 impact on safety." A discussion of SALP has a lot of  
19 pros and cons rather than an ability to show that some  
20 new procedure will be just dominate the old procedure.  
21 What we intend to do on this, the senior staff is  
22 meeting next week. SALP is going to be a topic.  
23 They'll brief the Commission and we'll probably have  
24 a public meeting in which either at that meeting or  
25 soon thereafter NUMARC will be asked to comment when

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1 the staff decides what recommendations to make to the  
2 Commission.

3 So, I think we ought to set that aside  
4 from this process because there it's pros and cons.  
5 Here, I think in a number of places you've just said  
6 there are no cons, we should just do this without any  
7 law. So, that's a somewhat different process. Also,  
8 it's more controversial. I think you're just going to  
9 find there are more fundamental differences between  
10 the Commission and parts of the industry than on some  
11 of the other topics that you've brought up.

12 The second is that -- on the maintenance  
13 work, one of the reasons we worked in parallel wasn't  
14 because it was an optimum procedure, it was because we  
15 didn't trust you and so we didn't want to be left  
16 empty handed if what the industry worked on ended up  
17 not being satisfactory. However, the project worked  
18 out pretty well and I think a fair amount of mutual  
19 trust was developed and we might be able to find on  
20 future jobs where it's not us versus you, but what's  
21 the most efficient way to get to an agreed objective  
22 that we can even be a little more efficient.

23 MR. COLVIN: Yes, sir.

24 CHAIRMAN SELIN: Obviously, many jobs  
25 don't meet that description, but in this case that did

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1 work out quite well as you had said.

2 The third thing is that the EDO has formed  
3 a regulatory reform task group under Mr. Sniezek's  
4 direction. They have worked up a charter. First of  
5 all, they're supposed to listen to what you have to  
6 say and what anybody else has to say and start off  
7 with some recommendations on actions so that we don't  
8 end up just with a big study and no follow-on. That  
9 which is found worthy will be implemented and that  
10 isn't will be discussed and maybe something will come  
11 out of that as well.

12 The second is that they intend to take a  
13 look at the regs. themselves, the rules, the  
14 regulations, the implementation so that we're not in  
15 the position of depending entirely on the industry we  
16 regulate for suggestions, but are generating those  
17 ourselves. We want to be in position to respond to  
18 your recommendations, but to generate some on our own  
19 part.

20 Third is that they're not going to stop  
21 just with a paper, but go on and take a look at the  
22 resources and the results because as we often discuss,  
23 sometimes the documents look good. The Soviets had a  
24 wonderful constitution for 40 years, but not much  
25 justice. But you have to take a look at the empirical

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1 results as well, both in terms of have we seen  
2 improvements in safety since certain regulations went  
3 in or as implemented either by the staff or by the  
4 industry as the implementation consistent with what  
5 must have been in mind when the regulations were drawn  
6 up.

7 They will look for opportunities for  
8 reducing prescription. They will look for  
9 opportunities for stating objectives and leaving more  
10 flexibility on how they're carried out. There were  
11 too many times when a surrogate is put in that says,  
12 "There are a number of different ways of achieving  
13 this objective. Here's one," and the surrogate  
14 becomes a prescription in itself rather than just  
15 saying, "This is a sufficient but not necessary way of  
16 doing things." And, of course, eventually, although  
17 it might take awhile, they'll be looking for places  
18 where there are performance measures rather than  
19 process measures. But that's hard. That will take  
20 awhile.

21 Finally, and here I'm not sure whether we  
22 might not do this more in a cooperative basis, I find  
23 that both your work and our work on reports is useful,  
24 but it doesn't go far enough. It basically says, "The  
25 reports are given, but can we reduce the frequency?"

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1 Sooner or later we have to get to the data elements  
2 and not just the whole report and say, "Here's the  
3 same data. Here's the same piece of information  
4 that's asked for two or three times," Instead of  
5 concentrating on reports which are really packages of  
6 data elements, is to get down to the basic data and  
7 say, "What do we use? What do we use, but we ask for  
8 it in multiple fashions and what are the basic  
9 information elements that we need?" and then to go  
10 back and say, "Are there affinities, clusters of  
11 packages to go into this? We haven't done this yet.  
12 You haven't done that in your report." It's a lot of  
13 work, but it's pretty straightforward. It doesn't  
14 take a huge amount of imagination to see if we're  
15 asking for the same bits of information in different  
16 uses.

17 So, the Commission staff is, in fact the  
18 Agency staff has organized itself to receive your  
19 report and to take more the initiative on its own.  
20 So, if things aren't implemented, I think it will be  
21 because there's a conscious decision that they're not  
22 a good idea rather than true lack of orders at issue  
23 to respond.

24 I'm sure there are others things one could  
25 say to your remarks, but I just wanted to say that

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1 there has been a kind of a dialogue struck on some of  
2 these points.

3 Mr. Draper, would you --

4 DOCTOR DRAPER: Thanks, Mr. Chairman,  
5 Commissioners.

6 Joe Colvin alluded to a paradigm shift  
7 which is an essential element of our efforts within  
8 the utility industry. We as the operators of nuclear  
9 power plants face many of the same challenges that you  
10 do. The industry is focusing its efforts through  
11 NUMARC in reviewing ways to improve the manner in  
12 which utilities carry out their responsibilities, from  
13 implementation of regulations to individual  
14 interactions between plant staff and NRC inspectors.  
15 This is a key part of our efforts because  
16 unfortunately a culture has developed within our  
17 companies in which our personnel routinely commit  
18 resources in response to NRC staff requests, often  
19 without question.

20 Our preliminary review leads us to  
21 conclude that our personnel have acquiesced to these  
22 types of requests to avoid confrontation, adverse  
23 publicity or poor numerical SALP ratings and that we  
24 as managers have allowed this to happen. The blame  
25 falls on us, the licensees, for failing to apply our

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1 operational expertise and to consider the cumulative  
2 impact of our responses, for failing to challenge  
3 those requests that we have determined have no  
4 commensurate safety benefit.

5 As part of our overall efforts, we are  
6 committed through NUMARC to assist utilities in  
7 effectively carrying out their responsibilities as NRC  
8 licensees to properly evaluate new and existing  
9 regulations and interpretations to ensure that there  
10 is an appropriate balance between the resources  
11 required and the level of safety benefit achieved.

12 We are also committed individually to  
13 bring out culture changes in our organizations. At  
14 the annual INPO CEO Conference in November, each U.S.  
15 nuclear utility CEO committed to go back to his  
16 organization and to create and sustain a climate in  
17 which our people are permitted to respond  
18 appropriately when pressured to commit resources to  
19 something that isn't justified in terms of additional  
20 safety commensurate with its implementation cost or  
21 its impact on plant operations.

22 We agreed to continue to provide you, the  
23 Commission and the NRC senior management with frank  
24 feedback on the regulatory impacts at our plants.  
25 Furthermore, we recognize our obligation to

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1 communicate through NUMARC the unified industry  
2 positions on such matters. But most importantly we  
3 committed to maintain our personal interest and  
4 involvement in these efforts.

5 What will be the results of the commitment  
6 if we are successful? First, nuclear generation costs  
7 should be able to be better managed with reasonable  
8 assurance that regulatory driven cost increased yield  
9 commensurate safety increases. Second, the overall  
10 safety and reliability of our plants will improve as  
11 the cumulative effect of unnecessary regulations is  
12 better managed and as we progress toward the more  
13 effective regulatory environment Joe Colvin described.

14 Is this going to be easy for us? No, but  
15 that should not deter us from proceeding. We should  
16 anticipate that there will be professional  
17 disagreements between licensees and NRC staff, as well  
18 as between the different offices of the NRC itself.  
19 We can minimize these disagreements and any  
20 deleterious effect that might result if we have a  
21 clear understanding of the scope and objectives of our  
22 efforts and the understanding and support of the  
23 resident inspectors, project managers, regional staff,  
24 headquarters staff and so forth.

25 For example, when we propose an

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1 alternative approach to a staff recommendation or when  
2 our analysis shows that a staff recommendation does  
3 not yield safety benefits commensurate with its  
4 implementation cost, we must be able to discuss these  
5 matters openly and professionally. The NRC needs to  
6 recognize the necessity for changes in programs,  
7 procedures or staffing levels as our efforts improve  
8 the process, efficiency and cost effectiveness.

9 Most importantly, we need the continued  
10 commitment and leadership of the Commission in  
11 providing a clear vision throughout the agency of the  
12 regulatory environment of the future.

13 Let me turn it back to Gene for a few  
14 additional comments.

15 MR. McGRATH: Thanks, Linn.

16 In today's presentation we discussed cost  
17 control opportunities that relate to the regulatory  
18 environment on the regulatory side and on the utility  
19 side. I'd like to briefly describe the third key  
20 thrust of the industry's try to control costs, an  
21 effort that goes beyond the regulatory arena. That's  
22 our aggressive reevaluation of basic operating  
23 practices.

24 For example, over the past several years,  
25 most of us have moved toward streamlining and

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1 simplifying our company's operations and  
2 organizational structures. And, as we expected, we  
3 found that most of the time simpler equals better.  
4 The simpler organization or procedure winds up costing  
5 less, functioning more efficiently and just plain  
6 working better. In a nuclear operation, better  
7 usually equals safer.

8 So, in many cases we're achieving  
9 increased safety and lower cost not through regulatory  
10 fiat or a prescription, but through actions that  
11 reside exclusively with us as managers.

12 We're committed to intensifying our  
13 efforts of integrating knowledge and experience,  
14 including sharing with each other the best business  
15 and operating practices and the most valuable lessons  
16 learned at our plants and in our companies. I believe  
17 we've made some good progress in this area at the  
18 annual INPO CEO Conference in November. There were  
19 presentations by CEOs and senior executives and we  
20 heard from guests like Commissioner Curtiss. Among  
21 the utility heads there was extensive sharing, not  
22 only about problem areas but about specific  
23 improvements many have realized from practices like  
24 benchmarking a particular operation against the best  
25 companies in that discipline.

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1           The CEOs who attended agreed that if the  
2 nuclear option is going to continue as a vital part of  
3 our nation's energy future, the industry's cost  
4 control initiatives must be implemented and they  
5 agreed that two factors are essential to implementing  
6 them throughout the industry within each utility,  
7 leadership and personal commitment. They pledged to  
8 provide both.

9           During the past several months, NUMARC has  
10 been encouraged by the Commission's attention to the  
11 industry's concerns about cost control. You have  
12 shown a keen awareness of the scope and seriousness of  
13 the problem and a growing understanding of its  
14 urgency. We're confident you will provide the  
15 commitment and leadership needed to address it  
16 expeditiously and effectively, including priority  
17 consideration and resource allocation.

18           Although ever mindful of our separate and  
19 serious responsibilities in this area, we look forward  
20 to working with you in an environment of continuing  
21 candor and cooperation. Working together, we can  
22 preserve the vital contribution of nuclear energy in  
23 the best interests of our customers and in the best  
24 interest of our country.

25           At this point we'd be happy to discuss

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1 anything that's on your minds, any aspect of the  
2 industry's efforts as well as examples from specific  
3 companies and plants. Feel free to direct your  
4 questions to any one of us.

5 Thank you.

6 CHAIRMAN SELIN: We'll go down the line.

7 For the record, I should have said  
8 something right at the beginning. Two points. The  
9 first is we don't believe that the main reason costs  
10 are out of control is regulatory. It seems to me we  
11 want to make sure that our contributions are well  
12 thought out but that the main job of controlling costs  
13 is the industry's responsibility. Nothing that we  
14 said should seem that we're willing to take major  
15 responsibilities for these changes.

16 The second is that we're all cognizant  
17 that a lot of what we do is sort of aimed at the worst  
18 performer of the 40 some utilities that are in this  
19 business. To the degree that the industry as a whole  
20 can reduce this or we can work out ways to sort of  
21 make sure that the fellows who are running really well  
22 don't get subject to the same kind of heavy regulation  
23 that people aren't, there could be some overall  
24 savings. But I think there's attention to excellence  
25 which has been so controversial in the past. It

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1 really could reduce overall regulatory costs by  
2 putting the weight only at those performers who need  
3 that kind of regulation.

4 Commissioner Rogers, would you like to  
5 start?

6 COMMISSIONER ROGERS: Yes. I think this  
7 is a very important new development in the  
8 relationship between the industry and the NRC. It's  
9 being forced by the question of cost and the future of  
10 the industry, on the part of the industry. But it's  
11 also timely in terms of NRC's development that we look  
12 at what we do and take stock. Even if there were no  
13 question of a threat to the industry, it seems to me  
14 this is a salutary activity that we should engage in  
15 from our point of view just as a matter of good  
16 practice.

17 So, I think that the two are coming  
18 together and I think that that can bring benefits to  
19 all, but I think it's very important to understand  
20 that safety has to be very clearly maintained and  
21 addressed at each stage of this process. It's going  
22 to be very easy to develop a considerable public  
23 concern about diminution of regulatory requirements  
24 leading to a less safe rather than an equivalently  
25 safe or even safer operation. I think that as you

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1 folks proceed, you really have to address that in a  
2 public way. We assert that that's our responsibility  
3 and we're going to be looking at it, but I think you  
4 have to address the public concerns that may be  
5 directed towards your initiatives.

6 The kinds of things that you're doing, the  
7 way you've emphasized different aspects of addressing  
8 this overall problem I think are very interesting.  
9 They're quite different though in their implications,  
10 in my view. I think that the address of specific  
11 regulations and what might be improved with respect to  
12 them that Mr. Colvin touched on seems to me to be,  
13 while subject to some professional disagreement, a  
14 little bit less controversial or less difficult to  
15 deal with than the kind of paradigm shift that Doctor  
16 Draper was talking about. I think that I'd like to  
17 say some words on that because it seems to me that  
18 this is a time to identify more clearly a much more  
19 professionally mature relationship that I think has  
20 evolved and has further to go between the industry and  
21 the NRC, between the regulatory and the industry.

22 Some years ago it seemed to me coming into  
23 the regulatory business that there was what I would  
24 call an almost knee jerk reaction of the industry to  
25 regulatory initiatives of almost any kind. If they

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1 came from the regulator, they are probably going to  
2 lead to trouble and they probably ought to be stopped.  
3 I don't think that's the case today, although I  
4 wouldn't say that there isn't some element that seems  
5 to possibly creep up from time to time in the  
6 relationship of that sort.

7 I think that what we have to recognize is  
8 that we have to base everything that we do here in how  
9 you respond to NRC initiatives in a very professional  
10 way. I think these things have to be documented in  
11 terms that professionals agree upon, even if they may  
12 not agree upon the final result, that they agree that  
13 the way it's being approached is not, "Well, we want  
14 to cut costs, so therefore this looks like a good one  
15 to get rid of," but that there really can be a clearly  
16 demonstrated area that NRC should legitimately be able  
17 to look at from a professional basis and the industry  
18 professionals should be able to look at.

19 So, what I'm saying here is that I think  
20 that there's some subtleties in the relationship  
21 between the NRC and the industry that have to be  
22 worked at very carefully because while it is, I think,  
23 important for the industry to make it very clear when  
24 they have a very good professional basis for  
25 questioning an NRC initiative, that that then be dealt

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1 with in a very professional way. But it's important  
2 to try to avoid anything that looks like a  
3 standardized approach that is an initiative that  
4 either NRC should oppose just because we're suspicious  
5 of it or an initiative from NRC that you ought to  
6 oppose because it's going to lead to more problems.  
7 I think that we have to move away from that and I  
8 think we've moved a great deal away from it in the  
9 last decade, of that kind of an approach.

10 But I think what's called for here is a  
11 full recognition and a constant reevaluation of a new  
12 kind of professional relationship that safety plays a  
13 very important role in, but cost is also a factor  
14 between the utility industry and the NRC. It seems to  
15 me that that's where the biggest difficulties are  
16 going to come in carrying it out. I think that  
17 because there are personal relationships that are  
18 involved here between the regulator and the regulated  
19 industry and that we just have to find a new paradigm  
20 for that professional relationship. It seems to me  
21 that's going to be the most difficult one to deal  
22 with.

23 DOCTOR DRAPER: Could I respond to that,  
24 Commissioner? I couldn't agree with you more and I  
25 hope that the words that I said didn't give the

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1 impression that it was our objective to become  
2 confrontational or adversarial in any way. I simply  
3 meant that both at the dealings with the NRC people at  
4 the staff level at our plants and your staff and at  
5 the CEO level, that we do need to take a careful and  
6 organized look at things that are occurring because  
7 particularly on our side of the fence in the  
8 interactions with the NRC, there has developed at the  
9 plant level over a long period of time an inclination  
10 to do what is suggested simply because it is  
11 suggested.

12 I think that that practice has developed  
13 in large part because of the very high capital cost of  
14 a nuclear plant. In the days that the plants were  
15 under construction, people had a very clear  
16 recognition that a day's delay was a million bucks,  
17 and that sort of thing is a great incentive to do what  
18 is necessary to get the plant finished. The plants  
19 are still expensive. They are still expensive to  
20 operate, but we have to look at all the costs that are  
21 attendant to that plant's operation and give a  
22 professional evaluation of whether or not something  
23 makes sense. As the Chairman suggested, there are a  
24 lot of ways to do things and simply because one is put  
25 out as a surrogate, it doesn't mean it's the best one.

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1 It's that sort of thing that I would like to convey  
2 that we will be taking a look at.

3 COMMISSIONER ROGERS: Well, I fully  
4 subscribe to the notion that very often, and Mr.  
5 McGrath cited it, that simpler is better, safer and  
6 possibly cheaper. I think that's generally true, but  
7 we have to make sure that the safer is very clearly  
8 demonstrated when we go to the simpler.

9 DOCTOR DRAPER: No question.

10 COMMISSIONER ROGERS: That's all I have.

11 CHAIRMAN SELIN: Commissioner Curtiss?

12 COMMISSIONER CURTISS: I'll just be fairly  
13 brief in my comments here and commend you for the  
14 presentation. I've had a chance to look at the eight  
15 specific issues that you've raised here and it's  
16 obvious that you've put a good deal of thought and  
17 attention into areas that might be pursued for further  
18 regulatory relief. And I think from my perspective,  
19 you make some reasonable suggestions in areas that we  
20 ought to take a look at. If the recommendation  
21 survives scrutiny by the staff and by the public, with  
22 the appropriate opportunity for interested members of  
23 the public to comment, these are issues that, as I  
24 say, in many respects strike me as reasonable areas  
25 for further improving the regulatory process.

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1           There is one exception that I'll come back  
2 to and discuss just briefing having to do with B-56  
3 because I have some questions about what you're  
4 proposing there and I'll come back to that in a  
5 minute.

6           My own personal view is that these issues  
7 can and perhaps should be addressed in a fairly  
8 expeditious fashion, consistent with an opportunity  
9 for the public to take a look at it, comment on what  
10 you're suggesting here, but in the long-term, and I  
11 think Commissioner Rogers has alluded to this as well,  
12 in my view the more fundamental questions having to do  
13 with the regulatory process and the issues that you  
14 raise in one of your long-term initiatives in this  
15 package, suggestions about regulatory thresholds and  
16 the use of performance-based and results-oriented  
17 regulation are really the area that, in my view, is  
18 the most fruitful to pursue for long-term inquiry by  
19 the Agency.

20           I will say that the process that we  
21 established in the context of implementing the  
22 maintenance rule was not, in my view, so much a  
23 function of the fact that we didn't trust you,  
24 although there may have been some who didn't, but  
25 rather that the maintenance rule represented a

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1 fundamentally different way of regulating for the  
2 Agency.

3 Recognizing that, we felt at the  
4 Commission level that it was appropriate to have  
5 senior attention both from the Agency and within the  
6 industry conducted in a fully open public process to  
7 ensure that the concept of performance-based  
8 regulation reflected in that rule, which is really, as  
9 I say, the first time that that had been adopted in  
10 such a comprehensive way, was actually carried out in  
11 the development of the implementing guidance.

12 In that respect, there may in fact be some  
13 areas here, particularly in these longer term areas,  
14 where we're talking about the potential for  
15 fundamentally different ways of regulating  
16 performance-based and risk-based regulation where  
17 applied selectively and perhaps not across the board,  
18 but applied selectively and for that reason that it  
19 may be worth considering that kind of an arrangement  
20 in this context as well.

21 The one area that I wanted to come back  
22 to, B-56, let me just ask you a couple of questions  
23 because you know I have a special interest in B-56 and  
24 probably suspected that I'd ask you a question about  
25 it. There are really two aspects of that issue that

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1 you raise, one having to do with accelerated testing  
2 and the second having to do with the question of the  
3 commitments to a specified reliability level. Let me  
4 take the accelerated testing issue first.

5           Could you expand upon what it is that  
6 concerns you on accelerated testing and in particular  
7 focus on the question of how pervasive the problem is,  
8 to what extent the 1984 generic letter has provided a  
9 vehicle for relief, and what, in your view, needs to  
10 be done beyond that in the accelerated testing area?

11           MR. COLVIN: Yes, sir, and I do recognize  
12 your interest in the B-56 issue and as a result  
13 brought Bill Raisen, our Technical Division Vice  
14 President here in case I get too far abroad.

15           In the accelerated testing issue area,  
16 we've had basically agreement both from a scientific  
17 perspective, from an analysis and data standpoint that  
18 accelerated testing required by technical  
19 specifications is, in fact, causing some reliability  
20 problems with the diesels. It's been recognized by  
21 the Commission, by the industry, as I said, since  
22 1984.

23           What we requested from the Commission and  
24 what we believe the Commission gave direction to the  
25 staff to do was in fact provide expedited relief from

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1 accelerated testing. The recommendation that we had  
2 was to provide that through a generic letter such that  
3 it could be put in place by the industry in a very  
4 easy and expeditious manner, and that is through a  
5 generic letter the Commission can then provide the  
6 industry the opportunity to submit changes to  
7 technical specifications where they currently exist  
8 and to have those changes be approved at the NRC  
9 project manager level without requiring a complete  
10 reevaluation and reanalysis on an individual plant or  
11 plant specific basis. So, we think that that is an  
12 issue that can in fact be given relief and done in a  
13 fairly simple manner.

14 COMMISSIONER CURTISS: And the problem  
15 with the 1984 generic letter is that you have to get  
16 tech spec relief in order to obviate the accelerated  
17 testing requirement?

18 MR. COLVIN: Under the current  
19 requirements, the technical specifications, you would  
20 have to submit a license amendment for a technical  
21 specification change that then would have to be  
22 reviewed by, as we understand it, the branch or the  
23 various entities involved and could potentially  
24 involve a hearing on that particular issue. Since  
25 that issue has been dealt with, it seems that there

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1 might be a more expeditious approach to be taken.

2 Secondly, this is addressed within the new  
3 standard tech specs and tech spec improvement program.  
4 There is some consideration that the staff has  
5 indicated to utilities that in order to grant relief  
6 from accelerated testing that one would have to agree  
7 to other changes within your diesel programs, which  
8 also has been a consideration in some utilities, not  
9 going forth and requesting the license amendment in  
10 that area.

11 COMMISSIONER CURTISS: Okay. Well, at the  
12 risk of not getting you or me in over our heads, I'll  
13 turn to the second aspect of the issue, the question  
14 of the reliability level for the diesels that's  
15 addressed in the Station Blackout Rule in the  
16 submittals, just a comment and a question.

17 I will say that, while the industry at  
18 large is to be commended for the average reliability  
19 that you have achieved of .98, I think is the figure  
20 that you've cited -- actually, two comments. One,  
21 that is an industry-wide average figure and doesn't  
22 reflect instances where diesels may not be achieving  
23 the .95 or the .975 numbers and there have in fact  
24 been some instances, I think, where diesels on an  
25 individual plant basis haven't achieved the levels

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1 required in the submittals.

2 Secondly, in comparing the .98 to the .95  
3 and .975, recognize that those later numbers are  
4 individual plant numbers and not industry-wide average  
5 numbers, so we're talking a little bit about apples  
6 and oranges here.

7 I guess the question that I have here, and  
8 I'm not unsympathetic to the argument that we ought to  
9 take advantage of the steps that have been taken  
10 particularly in the context of the maintenance rule to  
11 see if we can't address the diesel generator  
12 reliability question in that framework, let me just  
13 ask you if you're prepared to comment on it at this  
14 point. If we were to establish an approach whereby in  
15 the guidance implementing the maintenance rule we were  
16 to establish a requirement that there be a goal under  
17 A-1 of the maintenance rule that reflects the .95 or  
18 .975 numbers that individual licensees are committed  
19 to, is that an approach that in your view would bring  
20 about an effective harmonization of those two  
21 initiatives?

22 MR. COLVIN: We have taken a look at that.  
23 Given the fact that we do have a maintenance rule and  
24 the fact that the diesels, when you screen for risk  
25 significance, always screen, that they are a risk-

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1 significant system and obviously that's why we have a  
2 station blackout rule, because of the contribution  
3 that the diesels provide. We are in the process of  
4 evaluating that right now and in fact are considering  
5 placing as an example within the industry's  
6 implementing guideline on the maintenance rule to  
7 address the diesel issue directly.

8 I think it's clear that each utility, as  
9 you indicated, has a commitment as part of the station  
10 blackout rule to either a .95 or .975 reliability. In  
11 addition to that, we as an industry took an initiative  
12 for every utility to implement trigger values on the  
13 diesels to give us not only a measure of the  
14 reliability so we would not drop below the target  
15 reliability, but also to provide the specific actions  
16 that each utility would take when you have a single  
17 diesel that gets either a single trigger exceedance or  
18 perhaps a double trigger exceedance.

19 One of the concerns we have with focusing  
20 on the diesels specifically, Jim, as you indicated, as  
21 I heard your recommendation, was that we would put the  
22 diesels under A-1 within the maintenance rule. They  
23 would always remain in A-1 with the goal. I think  
24 that that is an area that I'm not sure we would  
25 believe is correct treatment for the diesels, because

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1 then the same argument would apply to ECCS systems,  
2 RHR, et cetera, so on and so forth.

3 The way the Commission has structured the  
4 maintenance rule is that certain things would go into  
5 A-1 and as their performance was acceptable and  
6 continued monitoring, only when there were potential  
7 problems or failures of that equivalent maintenance  
8 preventable functional failures would then that move  
9 back, would then be forced into A-1 and then it could  
10 go back into the standard monitoring. So, I'm getting  
11 a little bit too specific at this point, but it's  
12 something we are considering, we believe is a correct  
13 treatment. The diesels are very important and we  
14 believe they ought to have the appropriate focus  
15 within the maintenance rule.

16 COMMISSIONER CURTISS: We can talk about  
17 that in more detail when I think you come back to  
18 brief us on the maintenance V&V effort later this  
19 month.

20 MR. COLVIN: Yes, sir.

21 COMMISSIONER CURTISS: I would note,  
22 perhaps, for you to think about between now and then,  
23 that the diesels may be unique in that they are the  
24 only component or only system that has a regulatory  
25 requirement of a quantitative nature and that's what

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1 distinguishes them from ECCS or aux feed or what-have-  
2 you. There's a specific requirement that you've  
3 alluded to in the submittals that addresses diesel  
4 reliability.

5 CHAIRMAN SELIN: Do you have more to say  
6 about diesels specifically?

7 COMMISSIONER CURTISS: No. Different  
8 subject. Go ahead.

9 CHAIRMAN SELIN: I've been somewhat  
10 concerned from a different point of view on the way  
11 diesels have been handled. I don't think the  
12 statistics are competent, to put it simply, and I  
13 would suggest that you think about the following line  
14 of reasoning. The reason I bring up this line of  
15 reasoning is that it also would address this whole  
16 question of excellence in reducing the range, and that  
17 is to take the overall testing -- you know, we have a  
18 very small sample for each particular diesel in each  
19 particular plant and the conclusions that are drawn  
20 from the sample are really hard to support on a  
21 statistical basis, but we do have a large sample for  
22 the diesels throughout.

23 So, a reasonable approach would be some  
24 form of testing, whether it's the accelerated testing  
25 or another version, which gets industry-wide

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1 statistics that could be held with a large degree of  
2 confidence, even though one cannot conclude that each  
3 plant is meeting its own individual specification.  
4 You take these as the a priori probability of failure  
5 and then you look and say, "Given that before we test  
6 an individual plant we believe the overall reliability  
7 is .975 that you start," and that's your a priori  
8 probability and then you say how is that affected by  
9 the individual test.

10 Then the second question is what makes  
11 sense on a plant basis to test the hypothesis that the  
12 diesel and the plant differs from the industry-wide  
13 population by more than a certain margin, and there  
14 are ways of doing that that haven't been done in this  
15 piece. So far it's pretty straightforward.

16 The part that bothers me the most is that  
17 when you have reasonable confidence that a given  
18 diesel was outside of an acceptable bound and some  
19 work is done, how do you convince yourselves and us  
20 that you've fixed it? In other words, what's the  
21 testing procedure? If you find a diesel, if you test  
22 it, if you have some confidence that it's not within  
23 the band where you want it to be and then you do  
24 something to it, how do you convince yourselves and us  
25 that you've fixed it from a testing point of view. I

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1 mean, a series of four out of ten or what-have-you is  
2 very unsatisfactory from a statistics point of view.

3 And it's not unique to diesels, but an  
4 approach that uses the overall testing and then tries  
5 to find out how can we test an individual diesel  
6 within this population is what I think makes sense and  
7 there's not enough of that in what I see.

8 Mr. Cavanaugh?

9 MR. CAVANAUGH: Chairman Selin, I would  
10 also submit that while we're looking at the diesels we  
11 take a look at the requirement that certain licensees  
12 have to essentially completely tear down their diesels  
13 every fueling outage, no matter how many hours, no  
14 matter what the reliability is. In my opinion, when  
15 you do that you potentially are reducing the  
16 reliability of those diesels as well as you're driving  
17 up the cost, and I also believe you're impacting your  
18 shut-down risk.

19 CHAIRMAN SELIN: That's a reasonable point  
20 of view. I guess what I'd like to summarize is you've  
21 made a pretty effective argument that B-56 doesn't  
22 exactly achieve what we want to achieve, but the  
23 conclusion that therefore we should drop it I don't  
24 think is called for.

25 I think the right conclusion is, if this

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1 isn't quite getting what we want, is there a better  
2 way to get, namely, high confidence that the overall  
3 population is working well, reasonable confidence that  
4 no particular diesel is too far outside that  
5 population, and then once -- if that confidence isn't  
6 given, what to do about it, which covers both the  
7 testing and the maintenance approach.

8 In other words, I think there's a lot more  
9 work to do in diesels than just say, "Well, we have  
10 some problems with the statistics both in B-56 and the  
11 overall approach, so let's just drop that."

12 MR. COLVIN: Well, certainly, Mr.  
13 Chairman, we'll take your comments into consideration  
14 and have some further discussions with you.

15 If I could make two points, one is we do  
16 collect industry-wide reliability and availability  
17 data and each utility is committed to report that on  
18 a quarterly basis to INPO and INPO collects that and  
19 analyzes it and provides that back.

20 From B-56 closure issue, B-56 was to  
21 address diesel reliability to a .95 level. I think  
22 all the statistics indicate that on average the  
23 industry has been maintaining far in excess of that  
24 and we are analyzing it from a statistical basis. The  
25 single and double trigger exceedance levels were in

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1 fact statistically based to come up with an approach  
2 not to dissimilar from what you've described, so we  
3 will take that into consideration and certainly have  
4 some additional discussions with the staff.

5 CHAIRMAN SELIN: I could respond to your  
6 responses, but I think from the point of view of pure  
7 simple mercy we'll go on to the next.

8 COMMISSIONER CURTISS: I'll be merciless.  
9 Let me respond to them. Actually --

10 MR. COLVIN: You're going to force me to  
11 call Bill Raisen up here in about 30 seconds.

12 COMMISSIONER CURTISS: -- I'll just  
13 comment. I won't ask a question. Between the issues  
14 or reliability and unavailability, what our AEOD  
15 Office is telling us is unavailability is probably the  
16 bigger problem and perhaps for the reasons that Mr.  
17 Cavanaugh referred to, tearing down diesels during a  
18 period of time when events like Vogtle demonstrate  
19 that we really do need those diesels available.

20 In my view, the maintenance rule in  
21 paragraph 3 in particular will go a long ways to  
22 addressing the unavailability question.

23 Then the remaining issue is what sort of  
24 reliability concerns do you have? My only observation  
25 there is that I think the Chairman raises some fair

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1 questions about the statistical issues which will  
2 arise whether or not we have a rule because you're  
3 proposing to implement initiative 5-A as the vehicle  
4 for evaluating diesel performance from a statistical  
5 standpoint, but maybe this would be an issue that we  
6 can pursue in more detail when the maintenance  
7 briefing is scheduled for later this month.

8 I did have one final question that I  
9 wanted to ask. It had to do with the backfit issue.  
10 You, I think, are aware that I have raised the  
11 question in the past about whether the backfit rule  
12 needs to be reexamined in particular from a  
13 perspective that arises in the context of three of the  
14 suggestions that you've made here.

15 Most of your recommendations for action  
16 here in the eight areas that you've identified call  
17 for relief from existing requirements, straightforward  
18 sort of garden variety. Eliminate a requirement.  
19 Don't go forward with an initiative. Delete something  
20 from the regulations, reporting requirements, what-  
21 have-you.

22 There were three recommendations, fitness  
23 for duty, Appendix J, and Part 21, commercial  
24 rededication, as I read them, and I confess I may not  
25 have read them carefully enough, were a little bit

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1 more complicated from a backfit standpoint in that  
2 they would have us eliminate some requirements,  
3 replace those requirements with a different approach,  
4 maybe a performance-based approach as you've suggested  
5 in the context of Appendix J. And the question has  
6 arisen, or I should say I've raised the question about  
7 whether in a case like that given the current  
8 requirements of 50.109, the backfit rule, which in  
9 particular requires you to demonstrate that you have  
10 a cost beneficial change, first, and secondly that  
11 will lead to a substantial increase, protection of the  
12 public health and safety. It's that latter point that  
13 I guess in my view has stood in the way of making  
14 changes that we may all agree are reasonable.  
15 Appendix J and fitness for duty are two good examples  
16 that have gotten hamstrung over exactly this issue,  
17 but that under a fair and I think objective reading of  
18 the backfit rule as it's currently constituted  
19 couldn't be permitted absent an exemption unless we  
20 could determine that there's a substantial increase in  
21 protection.

22 Now, take my description of the backfit  
23 rule as a given. I don't want to debate whether I've  
24 described it right, but simply ask you the question if  
25 that's what the backfit rule provides, in cases like

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1 this how would you propose to proceed with these  
2 initiatives where additional requirements might be  
3 added on the books in order to effectuate what you  
4 have in mind that could not in turn meet the current  
5 backfit rule? Would you amend the backfit rule?  
6 Would you exempt these requirements from the backfit  
7 rule? What is your current thinking on that issue?

8 MR. COLVIN: Well, the honest answer is  
9 that we haven't given it the thought that we need to  
10 and haven't taken into account some of the questions  
11 or tried to come up with the answers to the questions  
12 you have. We have done some evaluation of that and  
13 have had a number of interactions with the NRC Office  
14 of General Counsel staff and the legal community  
15 within the industry on that issue. I think at the  
16 root of that issue comes back to part of your  
17 constraint on our answer, which is a question as to  
18 whether it does or does not apply. I think we need to  
19 get that out and have some interactions on that, talk  
20 about that and then go forth.

21 The industry and the Congress put a lot of  
22 effort into putting in place the backfit rule, as well  
23 as the Commission and staff, to provide the checks and  
24 balances on that process. We think we still need to  
25 have those checks and balances and appropriate and we

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1 need to figure out a mechanism to affect the changes  
2 needed, not be limited by virtue of the literal  
3 reading of the rules.

4 We have analyzed both the exemption and  
5 the Commission has taken a position that the  
6 Commission can exempt a regulation from the backfit  
7 rule, it could do so. I think that that can open a  
8 number of things, other things, to question. So,  
9 we'll take a look at that and continue to have some  
10 interactions.

11 CHAIRMAN SELIN: I would pose that  
12 question a little differently from the way  
13 Commissioner Curtiss posed it. I for one would not  
14 accept the policy that needed broad scale exemptions  
15 from a rule and we're talking about a continuing  
16 process. So, in my opinion, you can't handle that  
17 through exemptions.

18 On the other hand, it's not so clear to me  
19 that if you reduced the cost then you don't increase  
20 the safety that you're bumping up against the backfit  
21 rule. So, there really is -- the rule is not as  
22 artfully drafted as it might be, but there really is  
23 a reason to address Commissioner Curtiss' question  
24 directly on the face of it, which is if you have a  
25 series of actions which are demonstrated not to reduce

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1 safety whatsoever and reduce cost, can those be  
2 squared with the backfit rule because that's basically  
3 what a lot of these steps call for.

4 I personally would not countenance a whole  
5 range of exemptions. It's fine when you have one here  
6 or --

7 MR. COLVIN: No, sir. I think nor would  
8 the industry propose that. I was trying to respond  
9 to --

10 COMMISSIONER CURTISS: Yes. Just an  
11 observation. Given the history that led up to the  
12 adoption of the most recent version of 50.109 in the  
13 mid-'80s, two comments. One, a literal interpretation  
14 of what the backfit rule provides is probably a good  
15 thing in my view, and I say that not just as a lawyer  
16 but because there was a long and painful experience  
17 where the backfit rule was ignored by the Agency prior  
18 to the most recent modification and it's been applied,  
19 I think, in a balanced way but in accordance with the  
20 letter of the backfit rule as it's currently written.  
21 I think that ought to be a constraint.

22 Secondly, the backfit rule, I think, given  
23 the circumstances at the time, was in fact a  
24 reasonable approach to address the problem that  
25 existed, which I won't recite here in terms of what

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1 the problem was. But the examples that I've cited  
2 here indicate that talking about issues like this  
3 which are different from the kinds of concerns that  
4 led to the adoption of the backfit rule may suggest  
5 that the backfit rule as it's currently structured,  
6 reasonable at the time but as it's currently  
7 structured in the light of these kinds of  
8 considerations, might itself deserve reexamination and  
9 perhaps modification to address an issue that we  
10 didn't anticipate back in the mid-1980s.

11 That's all.

12 CHAIRMAN SELIN: Commissioner Remick?

13 COMMISSIONER REMICK: I thought you  
14 handled that very adroitly, Joe. It is an excellent  
15 question.

16 All three of you talked about addressing  
17 the regulatory issue, but you certainly have a number  
18 of external influences that I would classify as  
19 regulatory or quasi-regulatory. You have utility  
20 commissions. INPO is not a regulatory organization,  
21 but has some of the same impacts. You must have OSHA  
22 and many state and government organizations that I  
23 can't even dream of, I'm sure.

24 First question, to what extent do they  
25 influence your resources compared to the NRC? And the

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1 second question, are you doing anything to address  
2 those type of influences like you are doing to address  
3 the influence of the NRC on your resources?

4 MR. McGRATH: Well, I'll start while  
5 everyone else is thinking.

6 We have no lack of --

7 CHAIRMAN SELIN: I don't like the  
8 implication of that.

9 MR. McGRATH: We have no lack of  
10 investigators and agencies looking at our operation.  
11 I one time visited a plant and I counted 28 different  
12 groups auditing the plant manager and his operation.  
13 So, that hasn't been one of our problems.

14 We're looking at all of those areas  
15 because when you look at any one group incrementally  
16 it doesn't sound like it has the impact that you see  
17 when you look at it in total.

18 As far as a comparison between the NRC and  
19 others, the NRC presence is there all the time. INPO  
20 certainly isn't there all the time. So, the NRC's  
21 influence is more pervasive. There's also good  
22 reasons for that. We do work with INPO and we work  
23 with the state regulators and we work with the  
24 auditors and everybody else to try to make them  
25 sensitive to the tension between them doing their job

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1 and then taking the time away from the management that  
2 the management could apply to safe operation of the  
3 plant. There's always that balance that we try to --

4 COMMISSIONER REMICK: Now, when you "we,"  
5 are you talking individual utilities or NUMARC?

6 MR. McGRATH: Well, both in some cases.  
7 With the state PUCs, it's the individual utility.  
8 With INPO it's NUMARC.

9 Any others have comments?

10 MR. WATKINS: I'd like to address that and  
11 I think I'm in a unique position to address that  
12 because as a political subdivision of the State of  
13 Nebraska, we are not subject to OSHA regulation and we  
14 do not have a PUC that regulates us. Yet, in a  
15 general sense, we are, as far as cost is concerned and  
16 in the impact of regulation, we are seeing information  
17 at our plant very typical of the rest of the industry.  
18 So, in our particular case, we can definitely say that  
19 it's not OSHA and PUC that is a problem.

20 COMMISSIONER REMICK: Could you put it in  
21 perspective? Are we 80 percent of your resource  
22 demands, are we 60 percent?

23 MR. KINGSLEY: I'll respond to that and  
24 say you're somewhere on the order of probably 60 to 75  
25 percent. We do have insurance, special inspections.

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1 We do have the INPO evaluations which are on usually  
2 an 18 month cycle, and we have the accreditation  
3 process which you're very familiar with. But the  
4 difference with the NRC is that you're there. There  
5 are a number of special inspections. The TVA is not  
6 a good example because we have had our plants on the  
7 trouble list and special recovery. But we have a  
8 large number of special inspections and you have to  
9 prepare for those. You have to run dry runs and that  
10 is a significant drain our resources.

11 MR. CAVANAUGH: Commissioner Remick, I  
12 would say this with regard to INPO, having sat on the  
13 Board of INPO for the last number of years and also  
14 having been subject to their evaluation. I think  
15 INPO, first of all, has been very instrumental in  
16 helping the industry improve its performance over the  
17 last number of years. But with INPO, as with NRC,  
18 there are various ways you can meet a criteria. You  
19 might apply one way to meet an INPO criteria. It  
20 could be very expensive. You would meet it very well,  
21 but it would be very expensive. I think there that  
22 INPO offers us a resource in terms of those within the  
23 industry who basically are doing the right job. They  
24 have the best practice and they are meeting the  
25 criteria with the least amount of resources and cost.

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1 COMMISSIONER REMICK: But I read you in  
2 areas where you feel that there are savings from  
3 demand on your resources in which there's not a  
4 compensatory improvement in safety, you are addressing  
5 those whether they are INPO or whatever? In other  
6 words, you're directing your efforts more broadly than  
7 just the NRC. Is that correct?

8 MR. CAVANAUGH: Yes.

9 COMMISSIONER REMICK: Were you going to  
10 say something, Joe?

11 MR. COLVIN: Yes, sir. I was just going  
12 to comment that as part of the NRC's regulatory impact  
13 survey that was done in 1989, the NRC staff did a  
14 survey of utilities to assess the amount of management  
15 time at each utility that was affected by NRC, INPO,  
16 the insurance agencies, state regulatory agencies, so  
17 on and so forth. I don't remember the exact  
18 statistics, but it came out with some conclusion of  
19 about 25 percent of the management's time, management  
20 supervision time at the plant was responding to  
21 outside agencies or authorities. The NRC was the  
22 major contributor to that, at least based upon that  
23 assessment. Obviously we could take a look at that  
24 and it might assist in the answer to your question.

25 COMMISSIONER REMICK: Okay. Thank you.

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1           One, I want to compliment you on the paper  
2       you did send in identifying the various suggested  
3       areas. That was very helpful to me because the  
4       examples help one focus in on areas of possibilities  
5       for looking where we might consider some changes. I  
6       did pull out the NUREG document that you referred to  
7       on reports and requirements and it's 183 pages of  
8       reports and requirements. But I must admit as I go  
9       through there at the level within the Commission that  
10      I am, I can't identify specific areas where there  
11      might be overlaps. So, I think these are areas out in  
12      the plants where you know you're getting duplicate  
13      requests and so forth that you can be specifically  
14      very helpful in identifying or raising questions about  
15      is this data really needed. I agree with the Chairman  
16      that we need to address what are the data  
17      requirements, not necessarily the reports. I think  
18      that's a much better approach. But it is kind of eye  
19      opening to leaf through 183 pages with many, many  
20      requirements on each page, an average of seven or  
21      eight per page, somewhere between 1200 and 1500  
22      reporting and recordkeeping requirements that are  
23      imposed upon you.

24           It's my own feeling that probably when we  
25      go through this process that it's questionable whether

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1 in many of the cases it's the regulations that are  
2 perhaps the biggest problem, although I certain  
3 support the efforts toward more performance-based and  
4 risk-based regulations. But I doubt if it's the  
5 regulation itself. It's probably the implementation  
6 through regulatory guides, inspection modules,  
7 personal interpretations or your reaction to them out  
8 in the industry. I think that's what we're going to  
9 find. Those are a little bit more diffuse in  
10 attempting to get our hands on in many cases. But my  
11 guess would be that the regulations in general perhaps  
12 aren't as big a problem as the various means of  
13 implementing or outdated implementing them.

14 So, therefore, once again, I urge that you  
15 make us aware of those. I for one welcome people  
16 standing up in a professional manner and differing  
17 with us when we are proposing doing something or if  
18 we're already doing something that you think from a  
19 technical and professional standpoint does not make  
20 sense. I certainly encourage you to do it. You  
21 should be able to do it without fear of retribution  
22 and I think through that all of us can attempt to  
23 improve the process, make it a more efficient process  
24 while, I believe, it can indirectly affect safety.

25 Back in 1963, I wrote an article in

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1     Nuclear News, something like operating reactors within  
2     the myriad of federal, state and local regulations and  
3     the bottom line was there every minute that somebody  
4     who's supposed to be responsible for the safety of  
5     that facility is spending time on other activities, it  
6     detracts from safety. I thought it was very bright at  
7     that time, but looking back I was pretty naive. But  
8     at that 1963, it was also perceived as a problem and  
9     probably never adequately addressed.

10                 So, I encourage you to continue. I know  
11     our staff is very sincere. They've met now with a  
12     number, perhaps all the Commissioners to get our input  
13     and they're very sincere in approaching and they're  
14     very optimistic that there are things that should be  
15     done and they seem to be enthusiastic because they  
16     feel that it will also improve our efficiency and  
17     perhaps improve safety while we're doing it.

18                 So, I compliment you on the activity and  
19     I agree it's ongoing. It will have to continue for a  
20     long time and we'll have to work together to identify  
21     these. Thank you.

22                 CHAIRMAN SELIN: Commissioner de Planque?

23                 COMMISSIONER de PLANQUE: Yes. I was very  
24     pleased to see your report. I appreciate -- can very  
25     well appreciate all the work put behind it, especially

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1 in the detail and the specifics that you've put  
2 forward. I think there's a great deal of material  
3 here. It's very timely and I assume our group that's  
4 performing their regulatory review will indeed be  
5 going through all of these items.

6 I also noticed the same thing that  
7 Commissioner Remick did. Especially here in your  
8 report, a lot of your suggestions deal with  
9 regulations and rules. It does seem to me in talking  
10 to many of you, either at your facilities or here,  
11 that the real problem is in the implementation, more  
12 so than the regulations in the rule. I'd like to ask  
13 you a question along those lines. Do you have any  
14 feel for the proportions? I didn't see much in here  
15 in terms of implementation, just the rules, and it's  
16 easier to get at those than it is at the  
17 implementation. But any feel for the proportion of  
18 the problem?

19 MR. McGRATH: I'll let Joe answer that,  
20 but I would like to make a general comment. In my  
21 experience, if the audience you're talking with is  
22 responsible for a particular aspect, they don't see  
23 themselves as the problem. All right? So, I'm sure  
24 if we went to the inspector out in the field, he would  
25 say it's not the inspection, it's that regulation.

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1 Right? That's kind of a human nature thing. So, I  
2 think we need to, as Chairman Selin said earlier, we  
3 need to really look carefully at our own  
4 responsibility and we're trying to do that from an  
5 industry point of view, and honestly look at what our  
6 problem is.

7 When I go around my company and meet with  
8 various groups, inevitably the group I'm meeting with  
9 is not the problem, it's someone that's not in the  
10 room. And I've met with everybody, so I guess I'm the  
11 problem. But I think we need to look at it honestly  
12 and each of us has a stake in this thing.

13 Joe may have more statistical information.

14 MR. COLVIN: Well, I was just going to  
15 comment. We haven't done an analysis to look at the  
16 proportion. We do recognize, I think as the  
17 Commission has recognized, that that is a large  
18 portion of the problem from our view. We did do a  
19 quick look to try to convince ourselves that in fact  
20 that was true and if you really look at Title 10 of  
21 the Code of Federal Regulations and what governs a  
22 utility day to day in the operation of one of their  
23 plants, there are only 93 regulations or major parts  
24 that, in fact, govern that. Now, without taking into  
25 account the impact or the burden that any one of those

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1 applies or trying to measure that as compared to the  
2 number of requirements or just documents such as  
3 regulatory guides, generic letters, bulletins, staff  
4 positions, et cetera, that in fact then take that rule  
5 or part of a rule and then broaden it out and to  
6 implement it, each one of those is certainly open to  
7 interpretation.

8 So, we are going to try to work on all of  
9 that and identify those areas. There is a little bit  
10 of that in the package that we presented. In fitness  
11 for duty, for example, there are some things specific  
12 to rules and there are a few things that are really  
13 interpretive issues, but for the most part, you're  
14 correct, the focus was on the regulations themselves.

15 COMMISSIONER de PLANQUE: Well, and I know  
16 it's much harder to quantify and get your arms around  
17 the implementation problem, but you do intend to go  
18 down that route as well? Okay.

19 I have some more general or philosophical  
20 questions. You mentioned earlier that one of the key  
21 problems is that issues, even if there's agreement on  
22 both sides, are not always brought to closure in a  
23 timely or in an effective manner. You mentioned that  
24 this needs senior management and Commission attention.  
25 But could you elaborate a little more on what you see

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1 as the problem there? Is it staff resources? Is it  
2 resistance to doing something? Could you just tell us  
3 a little more of what happens in between?

4 MR. COLVIN: Well, I can give you some  
5 examples perhaps, but it seems to me that the real  
6 issue is that there is a difference of opinion and  
7 probably a valid difference of opinion between various  
8 either offices within the NRC, between NRC and another  
9 federal agency, or between the industry and any one of  
10 all of those. In many cases, that's driven by some  
11 scientific uncertainty.

12 I think the issue that we have to deal  
13 with in managing a utility or managing a company is  
14 that you've got to take all that into account and make  
15 a decision and get on with the business at hand. Many  
16 of the issues that we've been dealing with in the  
17 regulatory arena we've dealt with for an enormous  
18 number of years and we just haven't brought them to  
19 closure or, in many cases, we haven't kept them  
20 closed. Once we've solved the problem, then it  
21 reopens at some later time. So, that's what we're  
22 really trying to get at and I think we need to --  
23 given all the facts and the data, we need to then go  
24 on and make a decision.

25 Now, the Commission and the staff have

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1 done this in a number of areas. The severe accident  
2 arena is one where we could probably study the  
3 phenomenological issues related to severe beyond  
4 design basis accidents for the next 20 or 30 years.  
5 The Commission has taken and the staff has taken and  
6 made the decisions necessary to move on in that arena.  
7 But there are many other examples, perhaps, where we  
8 ought to be able to bring these to closure. And some  
9 of these things ought to be fairly easy, in our view,  
10 to close and maybe we need to look at the  
11 prioritization as was indicated and try to raise those  
12 up and take some of these things and put them to rest  
13 that should be easy to do with management involved on  
14 both sides.

15 COMMISSIONER de PLANQUE: So you think  
16 it's mainly the idea of getting the attention at the  
17 proper level to see that it's carried out?

18 MR. COLVIN: I don't think it's a matter--  
19 let me be clear. I don't think it's a matter of  
20 resources. I think it's a matter of raising it to the  
21 high enough level where the issue can be decided and  
22 a decision carried forth.

23 COMMISSIONER de PLANQUE: Okay. Moving on  
24 to the security area, which is one that I've been very  
25 interested in, I agree with your observation that

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1 security at plants abroad is somewhat different than  
2 it is here. I will just tell you a funny anecdote.  
3 I saw a difference and that was Super Phoenix where  
4 after going through with the plant, my assistant said  
5 to me, "We went through more doors per hour and more  
6 check points per hour than we ever have anywhere." I  
7 thought it was an interesting quantity, but didn't  
8 know if it translated into SI units.

9 I've seen a lot of differences among the  
10 plants in the U.S. My main question has to do with  
11 not so much those differences, but how do you as  
12 NUMARC deal with a wide diversity of opinion on an  
13 issue among utilities, wide differences in how  
14 security is handled? I'll give as an example  
15 differing opinions on SALP, not that I want to get  
16 into SALP, as we agreed earlier. But how do you deal  
17 with it as a group if you've got a large diversity of  
18 opinion in coming forth to us with a recommendation?

19 MR. COLVIN: Well, let me start and then  
20 I'm sure that members of our Executive Committee and  
21 Board will correct me and add to my comments.

22 First of all, we typically use a senior  
23 level working group on an issue where we believe there  
24 is a large diversity of opinion, a highly contentious  
25 issue, a difficult issue to come to grips with. I

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1 mean the issues -- fitness for duty is probably a  
2 perfect example of that issue where we as industry had  
3 many programs in place in the fitness for duty. The  
4 industry had taken a number of initiatives, but we did  
5 not have random testing across the industry. The  
6 Commission, in its establishment of the fitness for  
7 duty rule, in developing our response to that, we had  
8 to get the senior management of the industry together  
9 and try to look at the issue of principally random  
10 testing. Through the leadership of Phil Clark, who  
11 chaired that working group, we actually provided the  
12 Commission a set of industry comments that articulated  
13 the industry's view. Although they might have been in  
14 a particular individual utility's case perhaps still  
15 opposed to random testing because of some bargaining  
16 unit agreement or other agreement, the industry as a  
17 whole supported that fitness for duty drug testing.

18 So, we have a process that from that  
19 working group then leads us to the Executive Committee  
20 of NUMARC and to the full NUMARC Board of Directors  
21 which is, in fact, either the Chief Executive Officer,  
22 the Chief Operating Officer or the senior nuclear  
23 executive from every utility that operates or  
24 constructs nuclear plants. So, we have in effect as  
25 that Board the industry to make that decision and we

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1 have the processes that lead us to conclude that.

2 COMMISSIONER de PLANQUE: But there still  
3 can be some minority views.

4 MR. COLVIN: Oh, there are always minority  
5 views, even perhaps within the NUMARC staff on these  
6 issues.

7 The one point that Gene alluded to though  
8 or made -- I shouldn't say alluded to, actually made  
9 was this issue of within the various companies. When  
10 we go to work on security, if we set up a security  
11 working group that included no one but corporate  
12 security managers, we would not have any problems with  
13 security. I think that's a given. As a result, we  
14 set up a working group that consisted of a wide  
15 diversity of people, senior executives, middle level  
16 managers, plant operations people and security  
17 individuals that had that expertise to look at what  
18 was really needed and that's where we develop the  
19 recommendations that we provided to the Commission in  
20 this paper related to security.

21 We also have on formal industry positions  
22 or policies an 80 percent rule where we take a vote on  
23 an issue of the full Board and if 80 percent or more  
24 conclude that that's what's best for the industry,  
25 then that in fact is the industry position and all the

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1 utilities agree to support it.

2 COMMISSIONER de PLANQUE: I have a  
3 specific question in the security area. You talk  
4 about doing a current assessment based on federal  
5 intelligence gathering agencies of the real or the  
6 potential threat. Do you feel that NRC is not up to  
7 date in this area? Do you have information otherwise  
8 that leads you to make that comment?

9 MR. COLVIN: The basis for the comment was  
10 that the industry has in its briefings of the various  
11 agencies, including the NRC, has been told that there  
12 is not and has not been in the United States a  
13 credible terrorist threat against a nuclear power  
14 plant. We, prior to the submittal of this document,  
15 we in fact had briefings with the Federal Bureau of  
16 Investigation on exactly that issue and, based upon  
17 those briefings, we made the recommendation that we  
18 believed it would be beneficial for the Commission in  
19 its evaluation of the design basis threat, which is  
20 what we requested, that the Commission ensure that it  
21 got the full briefing of the federal family to have  
22 the proper background on which to base any changes  
23 that might exist, so it was really coming from that  
24 perspective.

25 COMMISSIONER de PLANQUE: Okay. I have

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1 just one last comment. Sometimes it's easier to  
2 ensure that rules that are not really useful for  
3 safety and raise costs are stopped in the very  
4 beginning and I think of the draft proposed rules that  
5 go out and some hue and cry at some of the issues that  
6 show up in the proposed rules. And I realize there's  
7 the phenomenon of once it's in print it has a life of  
8 its own, but I for one would say that I think  
9 extensive comments on those proposed rules are very  
10 important. They certainly are to me when I would make  
11 a decision on something, so I would strongly encourage  
12 really thorough review and comments as extensive as  
13 possible at that point. I don't feel because it's in  
14 print it's necessarily cast in concrete. I know it is  
15 difficult at that point, but I would encourage that.

16 I would just like to reiterate that I  
17 commend your effort, as do my fellow Commissioners.  
18 I think this is a wonderful step. Thank you.

19 CHAIRMAN SELIN: I know have some specific  
20 comments I would like to make.

21 First of all -- well, they're general  
22 specific comments. I mean, they're specific, but they  
23 cover more than one piece. First of all, it's  
24 important as we go forward with this to realize when  
25 we talk about performance measurements we use two

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1 quite different senses. The first is the performance  
2 of the industry as a whole, like diesel reliability,  
3 et cetera, where it is possible to make arguments as  
4 has been made in the fitness for duty that since the  
5 overall positive testing has been below a certain  
6 level we should relax the pieces. I think those are  
7 important arguments and we haven't really thought  
8 about that very much as opposed to the performance of  
9 a given train in a given plant where, as long as the  
10 total reliability of a train is quite high, you  
11 shouldn't have to do a lot of prescriptive things.

12 I would be very interested in our  
13 developing in a full open fashion with everybody  
14 having a chance to comment some elaboration of the  
15 first approach, whether it's in diesels -- as the  
16 overall reliability goes up we should be relaxing the  
17 tests on a given plant to see if they're far off  
18 because the a priori assumption is that they're like  
19 everybody else -- or whether it's in fitness for duty  
20 or even the security.

21 And so, in each of these measures, the  
22 fitness for duty, the security, diesel generator,  
23 containment lead testing, dedication of commercial  
24 grade items, not the others, I think there's room to  
25 go back and take a look at industry experience overall

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1 and say the yield just can't be very high, because  
2 we're doing so well in these places that therefore it  
3 would be safe to relax some of these standards or the  
4 yields would be high because the overall performance  
5 isn't high.

6 The reason I say that, first of all, it's  
7 obviously better statistics to use the full universe.  
8 But second, it would encourage you the industry to  
9 move in a direction that puts a lot of pressure on the  
10 laggard performers because they'll mess it up for  
11 everybody. In other words, if the overall  
12 probabilities aren't high because you have five or ten  
13 plants that aren't performing, that's going to raise  
14 the cost to everyone. As you know, I'm very  
15 interested in the industry doing some -- I don't want  
16 to say self-policing, but encouraging people to get up  
17 to the better performance level.

18 The second point I'd like to make is that  
19 following up on Commissioner Curtiss' arguments,  
20 you're basically arguing that we review the backfit  
21 rule for tech specs. If we're going to do that, that  
22 might not be a bad time to review the language of the  
23 backfit rule so that the change which reduced cost and  
24 has zero impact on safety in the small be positively  
25 looked at in the sense that something that frees up

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1 resources would, in the large, probably improve safety  
2 because you're not going to spend all that money in  
3 dividends. Some of it you'll reinvest elsewhere.  
4 Conversely there are other places you'd like to do  
5 something, but you don't have enough money.

6 So, I think if, in fact, we end up  
7 following your suggestion to review the backfit rule  
8 from the point of view of the tech spec, we might  
9 consider reviewing it from a somewhat broader sense,  
10 as I just said. As I understand the history of the  
11 backfit rule, there was a certain feeling that the  
12 industry wanted to put the burden of proof on the  
13 Commission to really show there was an improvement in  
14 safety before we could put in a rule. That's going to  
15 backfire on you because there are places where there's  
16 no improvement of safety in the small, but there's a  
17 decrease in cost. If the suspicion of the  
18 Commission's desire to write rules all the time were  
19 abated, maybe we could get back to what we really want  
20 to do, which is to get a lot of safety but on an  
21 efficient basis.

22 The third point is just to repeat my point  
23 about reports. I don't think you can get very far by  
24 looking at whole reports. I think you have to get  
25 down to the data elements. That's how you find

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1 duplication, et cetera. This is an admonition to the  
2 staff more than it is to NUMARC.

3 The fourth is I'm upset about the sort of  
4 cozy sense of this meeting. I want to make it clear  
5 that for purposes of discussion, we're sort of  
6 agreeing because you've done a good job. But, in  
7 fact, a lot of these things aren't clear and we have  
8 to make sure that all points of view -- upset is the  
9 wrong word, but I'm concerned -- all points of view  
10 are thoroughly vented on this. I mean there may be  
11 traps in changing the backfit rule that aren't obvious  
12 to the Commissioners because we were looking at it  
13 from one point of view. Where we can unequivocally  
14 reduce costs without affecting safety we'll move as  
15 quickly as we can, but where tradeoffs are involved,  
16 even if they're judgments about which scenario is more  
17 likely, I would like to make sure we can package this  
18 broadly, get broad public comment and carry it out.  
19 Not to go through adjudicatory hearing on each of 14  
20 changes in the FFD, but not to just go ahead. It's  
21 really important that these small changes not add up  
22 to an unexamined change in policy as opposed to a  
23 determination to carry out what are, in fact, our  
24 principles of good regulation, which is not to impose  
25 costs inadvertently.

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1           The last general comment, and I realize  
2           that this could conceivably be taken as a compliment  
3           by Mr. Colvin and I don't intend it as such. But I am  
4           impressed in the time that I'm here with the  
5           improvement in NUMARC's performance in trying to meet  
6           our objective, where instead of getting either  
7           platitudes or the anti-SALP stuff, which I consider to  
8           be a little more reflex than some of the other things,  
9           you do seem to be doing quite a bit better job of  
10          pulling together on specifics and truly, controversial  
11          or not, examining issues and meeting things on what I  
12          would consider our grounds, analytical, substantive  
13          grounds. I hope that continues, not only in these  
14          areas but in particular on applying to 80/20 rule to  
15          your operations. If 80 percent of the people think  
16          that the other 20 aren't doing something right, you  
17          get the other 20 pulled up.

18                 Now, as far as specific goes, on the FFD  
19          you basically come up with a whole lot of different  
20          ways for shaving little pieces of our rule which we  
21          make a pretty good argument don't make sense. Now, is  
22          there a way to go further? Is there some kind of  
23          overall measure that you would like to see considered  
24          that as long as the overall testing is below a certain  
25          level things happen one way and then when and if it

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1 gets above that level it happens another way? Your  
2 arguments are loosely based on overall figures.  
3 You're basically saying the standards apply to the  
4 nuclear operators are tougher than those that are  
5 applied to pilots and a lot of other people.

6 But we might, for a second stage, even  
7 think about going further and trying to come up with  
8 explicit criteria for tying overall performance to  
9 measures. I personally would be interested if, upon  
10 reflection, you have something to say in that regard.  
11 I even feel the same way about security, although  
12 there it's harder to see exactly what we might do. In  
13 other words, as some of these reviews are gone  
14 through, when would we know that we'd gone too far?  
15 You know, you have to think of that in advance. Now,  
16 in some of these cases, you're arguing there are  
17 internal inconsistencies and for those you don't need  
18 performance measures. But in others you're just  
19 saying the threat isn't that bad. We've never had an  
20 incident, a serious incident. Do we have to have a  
21 serious incident before we go too far or are there  
22 ways to measure, short of a terrorist getting into one  
23 of the plants, that performance is appropriate?

24 Diesel generators we've talked about  
25 already. Radiation protection is pretty clear on the

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1 face of it. Routine and periodic reports we've talked  
2 about. Containment leak rate testing, it's not clear  
3 to me that you're actually proposing a performance  
4 rule or just proposing that we follow a performance  
5 rule. Do you have a specific recommendation as to  
6 what the rule ought to look like or is it just that we  
7 ought to --

8 MR. COLVIN: We're in the process of  
9 developing some recommendations for the Commission and  
10 would submit those through the normal processes,  
11 through a petition for rulemaking in those areas to  
12 provide the industry's views on how that might be  
13 accomplished.

14 CHAIRMAN SELIN: Okay. So --

15 MR. COLVIN: Yes, sir, we are --

16 CHAIRMAN SELIN: -- this is basically an  
17 advanced notice that in principle you'd like us to be  
18 looking towards this, but we're not -- I mean if we  
19 said, fine, there's not a thing to implement from your  
20 point of view --

21 MR. COLVIN: We have not provided that as  
22 yet to the Commission. We have that issue as well as  
23 perhaps one of the two, the next ones you're going to  
24 come to, which in fact we are preparing a formal  
25 petition for rulemakings for the Commission's

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1 consideration.

2 CHAIRMAN SELIN: On the tech spec?

3 MR. COLVIN: On the tech spec and also on  
4 the Part 21 issue.

5 CHAIRMAN SELIN: See, the Part 21 to me is  
6 the most bothersome of all because it's clear that  
7 we're doing something wrong, but it's not clear  
8 exactly what to do about it. It seems to me that we  
9 ought to be systematically putting PRA-type  
10 calculations into these procurement decisions and also  
11 be -- of all the places, this is the one where you  
12 would think that we could have some empirical rules  
13 and to see whether rules are too tight or too loose  
14 based on what kind of results are coming out of these  
15 safety-based tests compared to the commercial-based  
16 tests. But nobody has recommended this. Nobody has  
17 said, "As long as rejection rates are below such and  
18 such on the commercial base, we don't have to go to  
19 safety-based or vice versa."

20 It seems to be that here's a quantitative  
21 problem with a qualitative solution. You know, Mr.  
22 Brons has given some horrible examples, but you can  
23 always find horrible examples. What I'm looking for  
24 is more systematic guidance that says we should relate  
25 our procurement requirements more directly towards the

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1 risk analysis or towards some kind of overall  
2 performance analysis. If anything, here would be a  
3 place to take industry experience on procuring nuts,  
4 bolts, fasteners, whatever it is and say, "Here's a  
5 case where we really do feel safety-based procurement  
6 is called for. Here's another case where it can't  
7 possibly be high enough yield."

8 So, what I'm really saying is I don't  
9 think we're to the point where there's something we  
10 can say, "Here's a clear improvement." You've made  
11 very strong arguments in the fitness for duty that  
12 here are 14 steps which are just sort of silly or so  
13 far out of line with what everybody else is doing that  
14 it's almost a prima facie case to carry it out. But  
15 in this area where there's much more money to be saved  
16 if done right, but much more risks to be implied if  
17 done wrong, we I think need to follow up on  
18 quantitative tests to say how much more testing versus  
19 how much safety improvement.

20 You're basically very clear on the  
21 standard tech specs and then on the longer term  
22 pieces, other than the SALP stuff, I think those are  
23 fairly self-standing arguments.

24 Commissioners Rogers wanted to add a  
25 point.

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1                   COMMISSIONER ROGERS:     Yes.     It just  
2     occurred to me that it seems as if there is a change  
3     in your view towards how acceptable non-prescriptive  
4     regulation is versus prescriptive regulation, although  
5     that may not be correct.   What we're dealing with is  
6     more emphasis on performance-based regulation where we  
7     have quantitative measures that might be applied and  
8     I'd just ask you to think but not necessarily respond  
9     at this point as to whether in any areas of regulation  
10    that are dealt with in qualitative ways whether a non-  
11    prescriptive approach is equally acceptable to you to  
12    a prescriptive approach.

13                   I think this is an issue that some years  
14    ago I know I discussed with a number of your CEOs who  
15    were quite uncomfortable with non-prescriptive  
16    regulation because they felt that it opened the door  
17    to arbitrariness on the part of inspectors and others.

18                   I wonder as you go through this process of  
19    looking at regulations whether you might find it  
20    useful to review your position on that and see whether  
21    in fact it is possible and maybe even desireable to  
22    consider non-prescriptive regulations in any areas  
23    that are not immediately amenable to a purely  
24    quantitative measure, performance-based measure.   I'd  
25    simply throw that out as a suggestion because I think

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1 we are learning a great deal about these matters that  
2 through looking at specific cases that I don't think  
3 we'd ever get to by arguing about generalities. But  
4 it does seem to me that maybe some generalities are  
5 starting to emerge here with respect to the virtues of  
6 non-prescriptive regulation outside of those areas  
7 that purely can be addressed by a quantitative  
8 performance-based statement of regulation.

9 CHAIRMAN SELIN: That's what a statement  
10 of principles and a surrogate do for you. You know  
11 that if you do the surrogate you're home free absent  
12 some extraordinary situation, but it still leaves you  
13 the flexibility of proposing some different approach  
14 to meeting a specific objective.

15 COMMISSIONER ROGERS: I just wanted to  
16 say, although I didn't initiate my remarks, I think  
17 your hard at work here in identifying these issues is  
18 very, very useful. It's most timely and most helpful  
19 to the whole process.

20 CHAIRMAN SELIN: Mr. McGrath, did you want  
21 to have any wrap-up comments?

22 MR. McGRATH: You know there is obviously  
23 a big difference between new regulations and  
24 regulations that have been in place for ten years. I  
25 don't know that we as a group have benefitted as much

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1 from our experience with existing regulations, do they  
2 do what they were intended to do and do they do it  
3 efficiently, and we're gaining a lot of knowledge. We  
4 need techniques and I think we need to feed that back.  
5 We need to have the receptiveness to feed that back  
6 into the process to fine tune the regulations and  
7 perhaps make them more efficient. I think that's one  
8 of the points we wanted to make.

9 CHAIRMAN SELIN: Just in following up,  
10 it's really something I said at the beginning, but I'd  
11 like to, in summing up, bring up this point. If we're  
12 going to in fact reopen the backfit in order to do the  
13 tech spec question, in order to take a look at the  
14 case where cost can be reduced with no impact on  
15 safety in the short-term, et cetera, we ought to be  
16 thinking whether it's a change in the reg. or not  
17 about substituting one package of regulations or tests  
18 for another one. These are all sort of unilateral,  
19 can you change this rule without hurting things.

20 In the longer run, there's not much sense  
21 in imposing a performance-based rule if you don't also  
22 withdraw the prescription rule at the same time. So,  
23 not so much in the short run, but if we do succeed in  
24 moving to performance-based rules and moving to PRA-  
25 based analysis and emphasis and dropping the arbitrary

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1 distinction between safety related and non-safety  
2 related and just say, "It's safety related insofar as  
3 it adds to risk," then we need to be able to look at  
4 larger clusters of reg. guides and practices than just  
5 stand alone procedures. Also with the stand alone  
6 procedures, you're always at the risk that the cost is  
7 small and the benefit is small and therefore if you do  
8 them one at a time, you start a trend but you don't  
9 realize you've started the trend until it's too late.

10 Anyhow, obviously we're all pleased with  
11 this work. We don't want you to go away feeling too  
12 encouraged because although we'll follow up on this,  
13 we do want to make sure that all parties have a fair  
14 view not just in the detail, but we have a large  
15 enough package to get some comments so that we do need  
16 to do that. That's why I want to get a large enough  
17 package so we can get the comments all at one time and  
18 not have what amounts to a rule change for each of 50  
19 different pieces.

20 We hope you'll follow up on this work.  
21 It's been very -- I think just very rewarding.

22 Anything else?

23 Thank you.

24 (Whereupon, at 3:41 p.m., the above-  
25 entitled matter was concluded.)

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TITLE OF MEETING: BRIEFING BY NUMARC ON INDUSTRY REVIEW  
OF NRC REGULATIONS AND REGULATORY PROCESS  
PLACE OF MEETING: ROCKVILLE, MARYLAND

DATE OF MEETING: JANUARY 21, 1993

were transcribed by me. I further certify that said transcription  
is accurate and complete, to the best of my ability, and that the  
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Carol Lynch

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**NUCLEAR MANAGEMENT AND RESOURCES COUNCIL**

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**Joe F. Colvin**  
President & Chief  
Executive Officer

**December 21, 1992**

**The Honorable Ivan Selin**  
**Chairman**  
**U. S. Nuclear Regulatory Commission**  
**Washington, D. C. 20555**


**Dear Chairman Selin:**

At the June 25, 1992, NUMARC Board of Directors' meeting you discussed the status of the Commission's review of NRC regulations which have unnecessarily increased costs to licensees without a commensurate safety benefit. You requested specific examples of changes to NRC regulations and regulatory processes that the industry believes were appropriate based upon the industry's knowledge and experience in the operation and management of commercial nuclear power plants and the maturity of the nuclear technology. The purpose of this letter is to provide you with our initial response and, because of the importance of this matter, to request expedited Commission action in the areas identified.

The Executive Summary (enclosed) provides a brief description of the initial results of our review. Attachments 1 through 8 discuss specific issues where we believe immediate action can be taken without further study or analysis. Attachments 9 through 11 address longer-term issues where efforts need to be commenced in the near future to effect positive change in the needed time frames. In addition, we ask the Commission's consideration of the industry's comments on the Systematic Assessment of Licensee Performance (SALP) program, which were submitted on October 20, 1992 (copy included as Attachment 12), where we believe significant changes are also warranted. We will be forwarding information on other issues for your consideration as our evaluations continue.

We look forward to working with the Commission and the NRC staff to address these matters, which are of critical importance to the industry. Because cost control is an urgent problem to the industry, we would like to meet with the Commission in early January to discuss these and related issues to facilitate their timely resolution.

Sincerely,

  
Joe F. Colvin

## **EXECUTIVE SUMMARY**

Nuclear energy is a key component of our national electrical energy supply mix. However, the availability of nuclear energy in the future is at risk due to continually escalating nuclear generation costs. In order for nuclear energy to remain a viable energy source in the future, the impact on generating costs of the regulatory environment in which it currently operates must be reexamined. To assure the continued safe and reliable operation of nuclear energy plants in a cost-effective manner, the overall regulatory environment, including the practices of the NRC and its licensees, must be reevaluated to ensure that they serve their intended purposes effectively. That will enable licensee resources to be redirected to safety-significant or operationally-important issues, or for unnecessary costs to be reduced.

The NRC has acknowledged that it has the responsibility to require only those measures that reasonably contribute to an adequate level of nuclear safety and has initiated actions to review its regulations to eliminate unnecessary requirements which do not provide corresponding safety benefit. In an address to the NUMARC Board of Directors, NRC Chairman Selin described the status of the initiative that the NRC has undertaken and, in recognition of the nuclear energy industry's knowledge and experience in the operations and management of nuclear power plants, requested that the nuclear industry provide specific examples of regulations and regulatory processes which have unnecessarily increased costs to licensees without a commensurate safety benefit.

The industry has conducted an initial review of existing regulations and regulatory processes to identify such areas. The results of that initial review, and associated recommendations for Commission action, are the subject of this submittal and summarized below. The primary propose of this response is to identify areas and provide data where expedited actions can be taken on important near-term issues facing the NRC and the industry. In addition, this response identifies several longer-term issues where timely action needs to be taken in the near future. In each area, recommendations were developed to facilitate expeditious Commission action to eliminate or modify those regulations or practices that do not serve their intended purpose.

## **NEAR-TERM ISSUES**

The following near-term issues are regulations and regulatory processes that unnecessarily increase costs without corresponding safety benefit and where sufficient data exist to take immediate action to correct the situation without further study or analysis.

### **Fitness-For-Duty (FFD) - (Attachment 1)**

The nuclear power industry has acquired three years of experience in the implementation of FFD regulations. The industry has concluded that the current regulations often exceed what is necessary to provide reasonable assurance of freedom from drugs or alcohol, or are in conflict with related requirements in other NRC regulations. Based upon this experience and the knowledge gained from implementing the requirements, the industry has developed a number of recommendations for the modification of those regulations. Those recommendations fall in two major categories: (1) where implementation experience has identified areas where clarification is warranted or changes should be made to more effectively achieve the intended purpose; and (2) where modification is appropriate to eliminate conflicts with related requirements established in the access authorization regulations, or to bring the nuclear power industry's FFD program into alignment with programs in other comparable industries.

The major FFD issues of concern are described in Attachment 1. The appendices to Attachment 1 provide copies of prior correspondence describing other issues of importance. The 14 major issues addressed are the following:

- Reducing the rate of random testing to 50 percent of the total plant work force for all personnel who have unescorted access;
- Modifying the definition of "suitable inquiry" to include a time period for updating that is consistent with the access authorization rule;
- Modifying the rule's application to personnel who have infrequent or periodic unescorted access;
- Extending the refresher training interval from annual to biennial and eliminating the 60-day retraining requirement;
- Modifying the rule to be consistent with the access authorization rule for persons responsible for administering FFD testing programs;
- Authorizing an "alcohol-only" for-cause test in specific circumstances;
- Modifying the requirement for submission of FFD data from individual sites to the utility and from semi-annual to annual reporting;
- Eliminating the second breath test for alcohol when the first test is negative;

- Modifying the preaccess testing requirements to allow equivalency for personnel who have been subject to random testing within the past 60 days;
- Extending the FFD program audits from annual to biennial;
- Modifying the rule to clarify FFD record retention requirements;
- Clarifying requirements for follow-up testing after a first confirmed positive drug test;
- Deleting the requirement for licensees to audit HHS-certified laboratories; and
- Eliminating three unnecessary proposed changes to Part 26 resulting from NRC staff's perceived FFD program shortcomings.

### Security - (Attachment 2)

Seven revisions to 10 CFR Part 73 have been recommended. These revisions will bring the regulation into line with the current security environment, which has changed significantly since the design basis threat concept was initially promulgated in 1977. The recommended changes will also reduce unnecessary administrative burdens associated with the implementation of these requirements.

First, the industry is recommending that the design basis threat be reassessed to correctly relate to the current radiological sabotage threat. Even though significant terrorism has been experienced in other countries, security requirements for overseas plants are far less prescriptive than NRC requirements. The Commission is strongly encouraged to avail itself of the current assessment by federal intelligence gathering agencies of the terrorism potential at U.S. commercial nuclear power plants.

The industry is also recommending the removal of the following six administrative requirements that have proven to provide no measurable benefit to safety:

- the requirement to maintain vital area door locks;
- posting a guard at any containment entrance to monitor access of personnel and material;
- the requirement that all vehicles be escorted by a member of the security organization while in the protected area;
- the requirement that armed, on-duty security guards be searched before re-entry into the protected area;
- the requirement for security events to be reported before confirmation; and
- the requirement for quarterly submittal of safeguards events logs.

Elimination of these portions of the regulation could be done immediately to eliminate unnecessary, unrealistic, or overly burdensome requirements.

### Emergency Diesel Generator (EDG) Reliability - (Attachment 3)

Generic Issue B-56, EDG Reliability, was identified by the NRC in 1977, and an objective was established of improving EDG reliability to a level of 0.95. Industry performance data demonstrates that an average EDG reliability of 0.98 has been achieved since 1983. Further, the NRC now has docketed commitments from all utilities to maintain either a 0.95 or a 0.975 reliability level, based upon the coping assessment conducted as part of the implementation of the station blackout rule. In light of this demonstrated performance and the industry program for monitoring and maintaining EDG reliability that has been established and effectively implemented in order to ensure that industry performance continues to exceed a reliability rate of 0.95, the industry recommends that Generic Issue B-56 be closed and that no further rulemaking or other regulatory action be taken.

The industry has implemented an initiative to address NRC concerns regarding an individual EDG that exhibits poor performance. However, many licensee technical specifications still require that accelerated testing programs be conducted, notwithstanding conclusive evidence that accelerated testing is detrimental to EDG performance, reliability and availability. Continued accelerated testing is unnecessary and requires the significant expenditure of limited industry resources without any measurable added benefit to public health and safety. Expedited relief from current accelerated testing requirements is requested.

### Radiation Protection - (Attachment 4)

10 CFR Part 20, "Standards for Protection Against Radiation," was issued in May 1991. To date, many other NRC regulations and regulatory guidance containing radiation protection standards and criteria primarily applicable to nuclear power plants (e.g., Part 50) have not yet been revised to be consistent with the current revisions to Part 20. Licensees will be required to maintain and operate with a dual system of radiation protection concepts and methods until such time as standards and guidance are made consistent with the revised Part 20, which will result in impacts unique to nuclear plant licensees without any appreciable benefit to public health and safety. Having two different systems for computing dose projections if an emergency were to occur could potentially lead to confusion of off-site officials and the public. Currently, an NRC generic letter is being developed to provide guidance to licensees on making applications for needed conforming changes to technical specifications. This approach will impact industry and NRC staff resources during the preparation, submittal, review and associated issuance of license amendments. The draft generic letter should be issued for public comment as soon as possible and NRC priorities established to assure timely implementation of the proposed actions. Further, the industry recommends that the NRC pursue expedited rulemaking to allow licensees to defer the changes to technical specifications until 10 CFR Part 50 and related-regulatory guidance are updated.

Piecemeal or uncoordinated efforts in rulemaking, development of guidance, or implementation of requirements pose unnecessary challenges to resources and priorities without commensurate benefit to health and safety. All pertinent regulations and related guidance must be revised in a planned and coordinated manner to achieve consistency throughout NRC radiation protection standards. Schedules should be developed to provide for correct, effective and efficient implementation.

#### Routine and Periodic Reports to NRC - (Attachment 5)

As a result of regulations or as part of technical specifications, licensees are currently required to submit a large number of routine and periodic reports to the NRC. Many of these reports are duplicative or request information that is never used. They could be eliminated or reduced in scope without any impact on safety or the NRC's ability to analyze safety significant information.

The industry recommends that the NRC develop a set of criteria for data collection and review all reporting requirements in relation to those criteria. The subsequent elimination or restructuring of certain reports would result in a set of reporting requirements that are properly focused on information that is significant and thus necessary to be reported. Current ongoing activities, which are addressing specific reporting requirements but without the benefit of evaluation against consistent criteria, should be integrated into this larger effort in order to ensure that overall policy guidance is consistently applied in determining the need for pertinent information to be reported.

#### 10 CFR Part 50, Appendix J, Containment Leak Rate Testing - (Attachment 6)

The NRC is currently considering a revision to 10 CFR Part 50, Appendix J, which contains both clarifications of current requirements and new requirements that will, in some cases, unnecessarily increase occupational exposure and contamination and increase utility implementation costs without a corresponding increase in safety. The industry recommends that leak rate testing requirements be established on a performance basis, similar to the approach being taken in the NRC's Maintenance Rule.

#### Dedication of Commercial Grade Items - (Attachment 7)

The current provisions of 10 CFR Part 21 relating to the dedication of commercial grade items for use in safety-related applications, and the associated reporting requirements for manufacturers, suppliers, and sub-tier suppliers, are ineffective and cause unnecessary delays in obtaining equipment or replacement parts needed for use as basic components. These provisions, therefore, may inadvertently have

the potential to adversely affect safe operation of nuclear power plants as well as unnecessarily increasing costs.

The industry recommends that Part 21 be revised to make it more practicable and to assure that it does not inadvertently interfere with safe plant operations. Changes to Part 21 are proposed in three areas:

- the replacement of the existing definition of commercial grade items with a more practicable definition;
- the inclusion of a flexible generic process for dedication of commercial grade items for safety-related use; and
- the clarification that the entity performing the dedication of a commercial grade item is responsible for discovering, evaluating and reporting deficiencies pursuant to Part 21 requirements.

The industry intends to file a petition for rulemaking to request that Part 21 be appropriately modified, as described above, to accommodate the current procurement environment in a way that will not adversely impact plant safety.

#### Adoption of Improved Standard Technical Specifications - (Attachment 8)

The NRC and the nuclear industry efforts to develop improved standard technical specifications have now been completed and those technical specifications are now ready to be implemented. However, under current regulatory requirements, licensees electing to adopt the improved standard technical specifications must obtain a license amendment pursuant to 10 CFR 50.91. Because of the nature of the current licensing process, significant and unnecessary resources must be expended by licensees and the NRC on duplicative license amendment reviews to enable the standard technical specifications to be adopted. This impedes the achievement of the goals to improve plant technical specifications.

The industry recommends that a new section be added to the regulatory process for license amendments to facilitate the adoption of the standard technical specifications. The industry intends to file a petition for rulemaking that will recommend an additional subsection be added to § 50.91 to establish a new regulatory process for the adoption of the improved standard technical specifications. The proposed additions would provide a structured, predictable and administratively efficient process that would promote the adoption of the improved standard technical specifications.

## **LONGER-TERM ISSUES**

The following are longer-term issues where efforts need to be commenced in the near future to effect positive change in a timely manner:

### **Independent Spent Fuel Storage Installations (ISFSIs) - (Attachment 9)**

Physical security requirements for ISFSIs, as specified by 10 CFR Part 72, impose an excessive burden on licensee resources with no commensurate safety benefit because they do not reflect probable effects of credible acts of radiological sabotage. Limited licensee resources are unnecessarily spent procuring, operating, maintaining, and testing security equipment that provides marginal safety benefit.

Current activities are underway in the NRC to revise the safeguards requirements for ISFSIs. In doing so, the industry recommends that the NRC ensure that it realistically evaluates credible security threats and establishes required security measures accordingly. The revised requirements should be applied on a consistent basis for all ISFSIs, regardless of whether the facility is under the jurisdiction of the Office of Nuclear Reactor Regulation or the Office of Nuclear Material Safety and Safeguards. The review schedule of the likely consequences of radiological sabotage to ISFSIs and the revisions to the physical security provisions of Part 72 to make it consistent with credible threats should be accelerated in order to reduce the significant resource burden that current regulations impose without realistic justification.

### **Regulations Marginal to Safety - (Attachment 10)**

The NRC is currently undertaking efforts to identify, assess, and eliminate regulatory requirements that have a marginal importance to safety and yet impose a significant regulatory burden on licensees. The review currently includes the following regulations:

- 10 CFR Part 50, Appendix J - Containment Leak Rate Testing
- 10 CFR Part 50, Appendix R - Fire Protection
- 10 CFR Part 50, Appendix B - Quality Assurance
- 10 CFR 50.44 - Combustible Gas Control
- 10 CFR 73.55 - Security
- 10 CFR 50.49 - Environmental Qualification
- Post-Accident Sampling Systems (NUREG-0737 and Regulatory Guide 1.97)
- 10 CFR 50.54(f) - Requests for Information



The regulations should initially be prioritized in terms of cost impact and benefit. The NRC's safety goal policy statement and Principles of Good Regulation should be utilized when evaluating the regulations, keeping in mind the possible application of risk-based and/or performance-based approaches to the regulations. In addition, the review should consider not only the regulations themselves but also the associated regulatory documents and processes that effect the implementation of the regulations. An expeditious plan of action, including milestones and schedules, should be developed for the modification or elimination of these regulations to enable unwarranted burdens on industry or NRC resources to be eliminated promptly. The goal should be to complete all necessary changes by 1995.

#### Regulatory Threshold - (Attachment 11)

In recent years, the Commission, the Advisory Committee on Reactor Safeguards and the NRC staff have become interested in various concepts, such as risk-based or performance-based regulations, that have been developed to improve the implementation of the Commission's safety goal policy (SGP). These activities have promise but have not yet met with success because of the broad and detailed consideration each requires.

Methods must be established to effectively implement the objectives of the SGP and apply, where appropriate, the concepts of risk-based and/or performance-based regulation. These methods should include extensive use of probabilistic safety assessment techniques as an alternative or supplement to the use of subjective judgement and deterministic, conservative analyses that formed the basis of many of the existing regulations.

Extensive interaction among the industry, the NRC and the public will be necessary to establish a new regulatory threshold. However, based on the operational experience gained since the current body of regulations was adopted, it is appropriate to take the time and expend the resources to examine the status quo and assess how reactor and public safety can be achieved in a more efficient and effective manner.

#### Systematic Assessment of Licensee Performance (SALP) Program - (Attachment 12)

On October 20, 1992, the industry submitted its views on the SALP program in response to the Commission's request for public comments. A copy of those comments is attached. The industry believes that it is in the public interest that an effective and efficient regulatory process, based on objective criteria, be established and administered fairly. The manner in which the SALP program is currently administered and used should be an important component of the NRC's review of whether the current NRC regulations and the associated regulatory environment that have developed appropriately serve the public interest.

## Conclusion

The industry intends to continue to provide its views to the Commission as it reviews regulations and regulatory activities in order to eliminate unnecessary burdens associated with NRC regulation while continuing to assure the current high levels of safety. Additional information will be compiled and presented as the industry's efforts mature.

In an equally important effort, the nuclear industry is reviewing ways to improve the manner in which utilities react to and implement NRC regulations and regulatory processes. As a result of working within the current regulatory environment, a culture has developed within nuclear utilities in which it has become acceptable for personnel to accede to an NRC staff demand or expectation, regardless of whether it is truly necessary or provides a significant benefit to the overall safety of the plant. When viewed on an overall cost basis, the total impact of these decisions is very significant.

The industry intends to analyze this situation to assist utilities in more effectively carrying out their responsibilities, both as NRC licensees to operate their reactors safely, and to their ratepayers to provide electrical energy at the lowest reasonable cost. Furthermore, the industry intends to review the extent to which utility personnel, knowingly or unknowingly, contribute unnecessarily to costs. The use of external resources to conduct regulatory work and the effectiveness of special issue groups on regulatory issues will also be evaluated. Because licensees bear the ultimate responsibility for day-to-day plant operations, decisions regarding the most prudent commitment of resources can only be made by the licensee.

It is expected that this introspective evaluation will be performed both throughout the industry and individually within each utility. As results are compiled, information will be provided to the Commission for its consideration, where appropriate.

The actions being initiated through these activities are vital first steps to controlling the increasing costs of nuclear generation, without compromising public safety. Though the responsibilities of the NRC and its licensees are much different, they are complementary. Effective communication and interaction between the NRC and the industry is necessary to effect the positive changes the public interest requires.