

UNITED STATES OF AMERICA NUCLEAR REGULATORY COMMISSION

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ON REACTOR SAFEGUARDS (ACRS)

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NUCLEAR REGULATORY COMMISSION

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PERIODIC MEETING WITH THE
ADVISORY COMMITTEE ON REACTOR SAFEGUARDS (ACRS)

- - - -

PUBLIC MEETING

Nuclear Regulatory Commission
One White Flint North
Rockville, Maryland

Thursday, September 9, 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

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STAFF SEATED AT THE COMMISSION TABLE:

SAMUEL J. CHILK, Secretary

JOE SCINTO, Deputy General Counsel

DR. J. ERNEST WILKINS, JR., Chairman, ACRS

MR. CARLYLE MICHELSON, ACRS

MR. JAMES CARROLL, ACRS

DR. IVAN CATTON, ACRS

DR. HAROLD LEWIS, ACRS

DR. THOMAS KRESS, ACRS

MR. CHARLES WYLIE, ACRS

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

2:00 p.m.

CHAIRMAN SELIN: Good afternoon.

We're pleased to welcome members of the Advisory Committee on Reactor Safeguards to brief us on issues of mutual interest. We're particularly pleased to welcome Doctor William Shack, the latest addition to the Committee.

Today we'll hear from the Committee on three general issues. First, I understand that you'll be discussing the status of your review of the evolutionary and passive light water reactor designs, including the EPRI utility requirements document and selected policy issues associated with these designs. You last discussed the status of these reviews with us on May 14th of this year. Since then, we understand you visited the GE facility in San Jose in addition to your subcommittee meetings and we're particularly interested in whether or not you got satisfactory answers to the questions that you need to proceed.

We appreciate all of the effort, review and comments that you've spent on the advanced reactor designs to date. We rely on your considerable technical expertise in review of these advanced designs and in considering the key technical issues

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1 that have to be looked at from a regulatory
2 perspective.

3 Finally, we're to hear the Committee's
4 views on the regulatory review group report. As I'm
5 sure you're aware, this is the fifth time in the last
6 decade that there's been some kind of a regulatory
7 review group, but this one seems to have initiated or
8 at least been -- well, you know, in our business,
9 cause and effect is hard to count on, but there's
10 correlation between the review group's activities and
11 some considerable amount of effort on the part of the
12 industry. So, your comments on the review group will
13 be particularly timely.

14 In the meantime, we appreciate hearing
15 your views as well as the detailed comments that will
16 come after the initiatives have been put into final
17 form.

18 The Commission will also hear from the
19 staff on this review group issue in October, so we
20 look forward to hearing your views and the staff's
21 views as well.

22 We're looking forward to your briefing.
23 We welcome you, of course, Doctor Wilkins.

24 Copies of the Committee's letters to the
25 Commission on today's topics are available at the

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1 entrance to the room.

2 Commissioners?

3 COMMISSIONER ROGERS: Fine.

4 CHAIRMAN SELIN: Fine.

5 Doctor Wilkins?

6 DOCTOR WILKINS: Thank you very much, Mr.
7 Chairman and Commissioners. We, as always, welcome
8 the opportunity to speak to you about issues that are
9 of interest to you as well as to us.

10 I'd like to, if I may take 30 or 45
11 seconds just to comment on an initiative that the ACRS
12 is engaged in with the IRM. I used to know what IRM
13 stood for. Information Resources Management. All
14 right. Dealing with management systems and bringing
15 the ACRS into the 21st Century or something like that.
16 I know this is a subject that is of some interest to
17 you and I wanted to just advise you that we are
18 actively pursuing this --

19 CHAIRMAN SELIN: Good.

20 DOCTOR WILKINS: Particularly in
21 connection with the design of our facilities at the 2
22 White Flint Building which we hope to occupy sometime
23 next year.

24 Having said that, let's proceed to the
25 status of the ACRS review. There are several of these

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1 designs, so we'll have several of our subcommittee
2 chairmen address them. I think we'll start out with
3 the ABWR, which is the most advanced one. I'm sorry,
4 not the most advanced reactor, but the most advanced
5 in our deliberations. Carl Michelson will begin this.

6 MR. MICHELSON: Okay. Thank you. I think
7 you've stole a little bit of my thunder already. We
8 did meet with you and discuss the schedule last May
9 and indeed we were at the ABWR -- or we visited the GE
10 San Jose facilities in June and had extensive
11 discussions with GE on the final design of the ABWR.
12 I will go through the remainder of where we're at and
13 then I would like to make a couple of comments --

14 CHAIRMAN SELIN: Of course.

15 MR. MICHELSON: -- and then the questions.

16 Okay. Now, the meeting in San Jose did
17 provide most of the information that we still had
18 outstanding, the questions that we still had
19 outstanding. But we did have a follow-up meeting in
20 Bethesda in June to finish up the last of the
21 questions and to look at some of the latest amendments
22 that were in at that time. Since the meeting in
23 Bethesda, we had planned a meeting in severe
24 accident -- or Severe Accident Subcommittee has
25 planned a meeting in Portland to discuss severe

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1 accident considerations and the PRA for the ABWR.
2 That's scheduled for the towards the end of this
3 month.

4 We also have scheduled in consideration of
5 the I&C design and the I&C DAC, the ABWR, and also as
6 time permits the other three DACs that are being
7 prepared for ABWR. There's also going to be as a part
8 of our Security Subcommittee meeting on November 3rd,
9 we'll include the security considerations for the
10 ABWR.

11 Our ABWR Subcommittee is still planning to
12 prepare a proposed draft of our ACRS report in January
13 and anticipation of full Committee's consideration in
14 February. However, we have a scheduling problem in
15 that we asked the staff to supply us draft final
16 safety evaluation reports as soon as possible to meet
17 the meetings that we have set up for October and
18 November. By and large at our meeting yesterday they
19 had provided a schedule that will provide most of the
20 information, but not all of the information that's
21 needed. There will still be several chapters that
22 will come in in December. We had not planned on
23 anything beyond November in terms of reviewing FSERs,
24 so we'll have to see where we can fit the December
25 material in. The next meeting that we had proposed

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1 was in January, at which time we were going to write
2 the final report. So, we now have a scheduling
3 problem perhaps because we've got to fit in this
4 additional material and still try to put together a
5 report at the same meeting and that may be a little
6 more than we can handle. It also depends upon the
7 quality of the material we get in October and
8 November.

9 CHAIRMAN SELIN: Well, we would, of
10 course, ask you to be fully satisfied on a substantive
11 basis before you set your thoughts down and not try to
12 make a premature decision. On the other hand, from a
13 procedural and availability point of view, if that
14 were the issue as opposed to having enough time to
15 consider the substance of the piece, we hope you'll be
16 able to accommodate the schedule. I'm sure the staff
17 will do all they humanly can to get you the material
18 as soon as it's ready.

19 MR. MICHELSON: Yes. We plan on sort of
20 playing it by ear at the end. It will depend very
21 much on the quality of the material, what issues come
22 up at that point and so forth. But our basic plan is
23 still to try to prepare the final report in February,
24 if we can get it all done.

25 COMMISSIONER REMICK: Is that slightly

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1 ahead of your previous schedule?

2 MR. MICHELSON: No. That was our
3 schedule. No.

4 COMMISSIONER REMICK: I thought it was
5 March.

6 DOCTOR WILKINS: February is when the
7 Committee will start its discussion and March is when
8 we will finish it. We anticipate this will be a
9 fairly difficult letter to -- not difficult, lengthy
10 letter, detailed letter.

11 MR. MICHELSON: We left a pad in the
12 schedule to the extent that we hope to get it out in
13 February, but recognizing it may be March.

14 CHAIRMAN SELIN: I see a little bit of the
15 Charles Lamb line about, "I'm sorry this is such a
16 long letter. We didn't have time to write you a short
17 one."

18 MR. MICHELSON: I believe that those are
19 the only scheduler things that have happened. Now, I
20 would like to make a couple of comments and then other
21 members -- our Subcommittees on ABWR have been
22 attended by a vast majority of the membership, so
23 they're almost full Committee meetings.

24 For my own part, I think it's important to
25 convey concerns that are developing. First of all,

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1 I'd like to say that GE resubmitted the entire SSAR as
2 a new set of books. Perhaps you've seen them.
3 They're in much more readable format. They're much
4 better prepared. They're the same words yet, but just
5 put into an arrangement that certainly made it more
6 user friendly.

7 MR. CARROLL: They even have drawings that
8 are big enough to read.

9 MR. MICHELSON: Yes. I got rid of my
10 magnifying glass when we got this set because they're
11 17 by 22s and it makes it a whole lot easier.

12 The meeting we had in San Jose I thought
13 was very satisfactory. They were well prepared and we
14 moved through the issues. We got everything. We
15 stayed right on schedule and got everything done on
16 time. I think by and large we were satisfied with
17 some of their answers, although in some cases we felt
18 that perhaps they'd even gone further than they should
19 have, but that's their business.

20 The meeting we had yesterday was not as
21 satisfactory. Before the meeting we sent to them
22 eight pages of questions which I think were just
23 questions of -- here it says something one place, the
24 same thing differently in another place. Which is
25 right? They should have come prepared to just say

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1 which is right and that's it. But we ran into a great
2 deal of difficulty because they didn't seem to be well
3 prepared as to which was going to be right and at this
4 stage of the game there should be no doubt.

5 CHAIRMAN SELIN: Were they the same people
6 that you met with?

7 MR. MICHELSON: Oh, yes. Yes. So, I at
8 least felt kind of uneasy about the situation because
9 it then began to become an aggravation. As the day
10 wore on, we ended up quitting at 6:30 instead of 5:00.

11 MR. CARROLL: Carl, in response to the
12 Chairman's question, he said were they the same
13 people. I guess my perspective is that it was the
14 same project manager sort of people --

15 MR. MICHELSON: Yes.

16 MR. CARROLL: -- but I don't think we had
17 anything approaching the depth of technical people
18 that we had at San Jose.

19 MR. MICHELSON: No, no. That's the reason
20 for going to San Jose, of course, was to talk to the
21 people who are really doing the work. When we went --
22 the people yesterday were presumably just bringing
23 back the answers and I thought the representation was
24 probably right but I think -- I have a feeling that
25 they were not well prepared, for whatever reason.

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1 They just did not have the answers.

2 We have run into a couple of interesting
3 problems in looking at their flood analysis, which is
4 both the external site floods and internal pipe break
5 type floods. I began to look for a little bit --
6 they've got a series of tunnels around the plant that
7 go between the rad waste building and the turbine
8 building and the reactor building. These tunnels show
9 on two of the three buildings, but they don't show on
10 the reactor building. Clearly, I thought there must
11 be one there.

12 So, upon enquiring, which we sent the
13 question ahead of time and asked about it, asked where
14 the interfaces, where is it to begin with because it
15 doesn't show on the drawings and where is the
16 interface, what kind of seals that are provided, how
17 to keep flood water out and simple questions like
18 that. They didn't even come prepared to tell me where
19 the tunnel was for sure. At least I sensed that.
20 Maybe the other members thought it was a little
21 clearer. They didn't seem to know where the tunnel
22 was. They didn't seem to know for sure what was in
23 the tunnel. They didn't seem to know for sure what
24 the design requirements were. We'd ask them about
25 things like, "Well, if you're going to seal it you've

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1 got to have drains or something."

2 CHAIRMAN SELIN: Sure.

3 MR. MICHELSON: The people who had ever
4 dealt with tunnels know you have to do something about
5 water.

6 CHAIRMAN SELIN: I think these are very
7 important points because this is a process that is
8 really without precedent. The idea is not to just get
9 some good answers one time or another, it's that the
10 Commission, and of course the Committee in advising
11 the Commission, has got to have high confidence that
12 designs have been well thought out, well understood.
13 Even with your thoroughness and your experience, all
14 you can do is audit the designs. I think these are
15 very important points that you bring up, Mr.
16 Michelson.

17 MR. MICHELSON: I think on the positive
18 side though, I believe they have a design that is
19 basically very good and I think they have done a good
20 job in many areas, but they have not been paying
21 attention to enough detail to make sure this thing
22 comes out scrubbed clean. This is a comment we gave
23 them several months ago when we started seeing a lot
24 of inconsistencies and were assured that this would
25 all appear in this final version cleaned up. And

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1 finding that it wasn't cleaned up is a serious
2 aggravation at that point. So, they've got a clean-up
3 job on it. It's not clear how that will be done yet.
4 They assure us it's ongoing and it's going on now.

5 Now, you might ask, "Well, how about under
6 Part 50, didn't you have the same problem?" The
7 answer is yes. It was two years after the plant was
8 operating before the SAR ever caught up with it.

9 CHAIRMAN SELIN: I don't believe the
10 Commission --

11 MR. MICHELSON: But you had the real plant
12 then.

13 CHAIRMAN SELIN: I don't think the
14 Commission went to all this trouble just to repeat the
15 experiences of Part 50. So, I don't think that's a --
16 I think you're right not to be satisfied with that
17 answer.

18 MR. MICHELSON: Yes. Some people argue,
19 "Well, gee, this is nothing new," and it's true, but
20 it's not acceptable under Part 52.

21 CHAIRMAN SELIN: Right. I think that's
22 exactly right.

23 Doctor Catton, did you want to say
24 something here?

25 MR. MICHELSON: Any other members would

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1 like to -- most of them attended yesterday. I don't
2 know if they share the same observations, but that's
3 it.

4 DOCTOR WILKINS: All right.

5 CHAIRMAN SELIN: Thank you very much, Mr.
6 Michelson.

7 DOCTOR WILKINS: Let's go on to the CE 80,
8 for which Jay Carroll is the appropriate subcommittee.
9 Jay is also the subcommittee chairman for the SBWR.
10 So, it might be convenient for him to talk about one
11 and then the other.

12 MR. CARROLL: All right, I'll do that.

13 I think since we last met with you we have
14 had no additional meetings on System 80+. We did --
15 or some of our members of the subcommittee did, on
16 April 13th, visit the dynamic mock-up of the 80+
17 control room in Winsor. That's worth seeing. That's
18 an interesting mock-up. It looks like a very good
19 control room.

20 I'm presently working with the assigned
21 ACRS staff engineers and with Combustion and the NRC
22 staff on putting together a schedule of meetings where
23 we will take up the SSAR. The first of these meetings
24 was tentatively scheduled for December 8th. As I
25 think I've mentioned before, we have had a number of

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1 meetings of the subcommittee and most recently a
2 meeting with the full committee to get up to speed on
3 a lot of the issues. I think this review is going to
4 go a lot more smoothly than what Carl has been faced
5 with on ABWR because we're coat tailing a lot of
6 issues. I also think it's a somewhat cleaner design
7 to deal with ABWR because of its involvement with the
8 Japanese.

9 So, I, at the moment, think we'll be able
10 to meet our commitments in terms of ACRS review. I'll
11 have to see how it works out.

12 COMMISSIONER REMICK: Jay, will the System
13 80 have DAC? I've heard from time to time that
14 perhaps it will not have any DAC.

15 MR. CARROLL: We asked that question the
16 last time we met with Combustion and they indicated
17 that they would have the same four DACs that ABWR has,
18 although they might be somewhat different in scope.

19 COMMISSIONER REMICK: I see.

20 MR. CARROLL: On the four same general
21 subjects.

22 CHAIRMAN SELIN: Before you go on, Mr.
23 Carroll and Mr. Michelson, are you getting the
24 administrative support from the staff that you need?
25 Do you have whatever --

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1 MR. CARROLL: From our staff?

2 CHAIRMAN SELIN: From our staff, from both
3 the ACRS staff and from the NRC staff? I'm not
4 talking about the substantive reviews, I'm just
5 talking about the administrative support and
6 resources. We're asking you to do an awful lot in a
7 short amount of time and want to make sure that the
8 logistics are adequate to what you need.

9 MR. CARROLL: I certainly am because we
10 have one of our better ACRS staff members working on
11 it, Doug Coe.

12 CHAIRMAN SELIN: Mr. Michelson?

13 MR. MICHELSON: Yes, same way. We also
14 have a very good staff member working on it. Of
15 course, the NRC staff. I know of no case that I've
16 asked them to provide something that it wasn't
17 provided immediately. That's not where the problem
18 is.

19 CHAIRMAN SELIN: Okay. Thank you.

20 MR. CARROLL: Well, on SBWR we have had
21 some briefings of the subcommittee and I think the
22 full committee just to get a general idea of what the
23 design is all about. But to date, in terms of actual
24 subcommittee meetings, on anything other than that
25 it's been restricted to the thermal hydraulics issue.

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1 Ivan, do you want to talk about the status
2 of that for a little bit?

3 DOCTOR CATTON: I can give you a brief
4 status report. We've met twice to review the thermal
5 hydraulics of the SBWR and our initial focus is just
6 to make sure that the test programs will be properly
7 supportive, what they have to do with their codes to
8 predict the behavior of a full sized reactor when it's
9 built.

10 We've had some concerns about their
11 program, had lots of promises of answers to our
12 questions and are now attempting to arrange for a
13 future meeting where we can address the issues.

14 CHAIRMAN SELIN: Okay.

15 COMMISSIONER REMICK: Excuse me. Go
16 ahead.

17 COMMISSIONER ROGERS: Before you leave
18 that, in your letter of June 10th, '92, you raise some
19 questions about scalability of the test facilities.
20 Can you say anything more on that now?

21 DOCTOR CATTON: We have not had any
22 response to any of our questions. We still have some
23 concerns about the scaling.

24 COMMISSIONER ROGERS: Can you press on
25 that a little bit more? I mean is there any way to

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1 try to see about getting something? This is --

2 DOCTOR CATTON: Well, we ask and we don't
3 get anything.

4 COMMISSIONER REMICK: Have you looked at
5 the NRC confirmatory research for the SBWR thermal
6 hydraulics?

7 DOCTOR CATTON: Well, I really didn't know
8 much about it until I was at the National Heat
9 Transfer Conference a couple of weeks ago and some of
10 the losers in that game told me about it. So, I don't
11 know very much about it.

12 COMMISSIONER REMICK: I see. So, you
13 haven't looked at the test program?

14 DOCTOR CATTON: No. No.

15 COMMISSIONER REMICK: Okay.

16 DOCTOR WILKINS: It is a fact that the
17 ACRW was not in the loop on the Purdue facility and I
18 didn't learn about it until after Ivan learned about
19 it, for example.

20 DOCTOR CATTON: I suspect that we plan to
21 meet on Rosa, I think, somewhere near the end of
22 October and at that time we'll ask the Office of
23 Research to tell us a little bit about it.

24 CHAIRMAN SELIN: It was not clear to me
25 from whom you were not getting the answers that you --

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1 DOCTOR CATTON: GE. There were several --
2 well, first there's the issue of scaling and we have
3 seen no attempts to justify what their experiments
4 look like. The second was a question of sort of
5 boundary conditions on the tests they were running,
6 and in particular the amount of nitrogen when they
7 start the tests. See, the passive heat removal
8 system, it's a condenser and the condenser is full of
9 nitrogen. Now, they plan to start their test with
10 some -- I don't recall exactly how much, but it's like
11 20 or 30 percent by volume of nitrogen when they
12 initiate their tests. My feeling was that they ought
13 to start their test with it being 100 percent nitrogen
14 to clearly demonstrate that this thing is going to do
15 what it's supposed to do.

16 They were to get back with us with the
17 rationale for what they were doing. This has been --
18 I believe I just heard it was June 10th that we wrote
19 the letter, '92. So, it's been over a year and we've
20 had no response. Now, we haven't agitated too much
21 because my subcommittee has been more active with the
22 AP-600.

23 CHAIRMAN SELIN: Well, I mean, it's the
24 responsibility of the vendor to get the information
25 that's been asked for.

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1 DOCTOR CATTON: Well, I was promised it
2 again when I -- I went on a trip with Doctor Murley
3 and Ashok Thadani to Italy. When I was there, the
4 person who promised again promised, but we still have
5 nothing.

6 MR. CARROLL: That was what, like a couple
7 of months ago?

8 DOCTOR CATTON: That was April.

9 COMMISSIONER REMICK: The isolation
10 condensers in the early BWRs did not have nitrogen
11 in --

12 MR. CARROLL: They're steam filled.

13 COMMISSIONER REMICK: Steam filled?

14 MR. CARROLL: No, they aren't. They're
15 not condensible gas filled if you don't vent them
16 because the hydrogen and oxygen will displace the
17 steam supply line.

18 COMMISSIONER REMICK: I think Ivan is
19 correct, it's the outlet valve that's closed. So, it
20 would be a combination of steam and --

21 DOCTOR CATTON: If there's some steam,
22 then it will start.

23 COMMISSIONER REMICK: To keep them on.

24 MR. CARROLL: Well, the way that was dealt
25 with on the early ones was to have a vent at the

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1 entrance to the tube bundle.

2 DOCTOR CATTON: So somebody would open a
3 valve?

4 MR. CARROLL: No, the vent was continuous.
5 There was a little problem with that in that it was a
6 bypass of the containment that had to be closed once
7 a --

8 COMMISSIONER REMICK: Okay.

9 DOCTOR WILKINS: Since Ivan is on the
10 floor, he might --

11 DOCTOR CATTON: I can talk a little bit
12 about AP-600.

13 DOCTOR WILKINS: -- continue about AP-600,
14 yes.

15 DOCTOR CATTON: In this area the
16 subcommittee has been fairly active. We've had three
17 or four meetings with Westinghouse to review their
18 many test facilities and also their plans for computer
19 validation, code validation. We communicated our
20 concerns to them at our last meeting and at our last
21 meeting we attempted to address them. It was not a
22 very rewarding exercise. The primary problem again
23 has been documentation of the basis for the various
24 experiments. You have a number of test facilities
25 that are to supply the information that you're going

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1 to use to verify the goodness of your tools and then
2 you've got to put it all together and predict the
3 behavior of the full size system. Yet we have had a
4 lot of difficulty in getting documentation from them
5 that tells us how they decided on what the experiment
6 is that they're going to use. These test facilities
7 are built and I believe some of them are actually in
8 operation, yet we don't have that information.

9 What that means to me is that there's
10 going to have to be a lot of comparison of code
11 calculations of data. If you go through the exercise
12 in a systematic way, you can argue that you don't need
13 to do too much computation to verify your codes. But
14 if you just sort of build facilities and you've got to
15 exercise the facilities over a wider range and
16 demonstrate that your code can deal with it, in the
17 long run you have a better code, but it's a higher
18 price.

19 We plan to have two more meetings before
20 our review of the Westinghouse thermal hydraulics of
21 the AP-600 is completed. And not next week but the
22 following week we will go to Oregon State to review
23 their facility. We have the documentation on its
24 scaling, I believe, and we will have a second meeting
25 where we're going to bring all of this together to try

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1 to ascertain how good their codes are. That should
2 complete the thermal hydraulics part of it, if all
3 goes well.

4 COMMISSIONER ROGERS: Now, the
5 documentation that you don't have is both on ROSA-V
6 and SPES or just ROSA or --

7 DOCTOR CATTON: Well, on SPES we had some
8 preliminary scaling documentation. I didn't discuss
9 ROSA at all here. It's the OSU facility. We got the
10 first five or six chapters and then nothing. I just
11 got back from Vienna. It's probably in the mail, the
12 completed scaling document for the OSU facility and we
13 plan to review it when we're at Oregon State.

14 If you look at SPES, SPES has problems.
15 As far as using it for a system by itself and that's
16 because in the cold leg, where the two cold legs come
17 together, they put this big splinter plate. What that
18 does is it stops the loop to loop flow. So, somehow
19 information associated with that will have to come out
20 of the OSU facility and we hope to address that
21 question when we're there.

22 DOCTOR WILKINS: Ivan, is it fair to say
23 though that the staff has a pretty good plan for doing
24 all this?

25 DOCTOR CATTON: NRC staff?

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1 DOCTOR WILKINS: Yes.

2 DOCTOR CATTON: I think so. As a matter
3 of fact, we've been working pretty much hand in hand
4 with the NRC staff in this area and I think when I
5 went with them to Italy and I wrote a trip report, I
6 think that the observations -- we were pretty much in
7 agreement.

8 CHAIRMAN SELIN: Okay. Thank you.

9 Doctor Wilkins?

10 DOCTOR WILKINS: Let's go on then to the
11 EPRI documents, the requirements documents, and that's
12 Charlie Wylie.

13 DOCTOR WYLIE: Okay. I'll comment on the
14 URDs. First we completed our review of the URD for
15 the evolutionary plant and wrote our report in August
16 of '92. The staff plans to issue a supplement to its
17 FSER and we plan to review that, comment on that when
18 we receive it. We don't know exactly when that will
19 be at this time. Regarding the URD for the passive
20 plant, we received the document some time ago and
21 individually have been reviewing those. We were
22 briefed by EPRI on those documents and we received the
23 staff draft safety evaluation report and at that time
24 there was something like 800 open items. So, we've
25 not had any subcommittee meetings. We're waiting for

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1 the resolution of a lot of those items.

2 We've been reviewing and commenting on the
3 key policy and technical issues which pertain to those
4 passive designs. At the present we're awaiting the
5 staff's final safety evaluation report which is due
6 presently. We have a meeting scheduled in October and
7 plan an ACRS report in November of this year, assuming
8 we get the staff's final safety evaluation report in
9 time.

10 So, that's basically the status of the
11 review of those EPRI documents.

12 CHAIRMAN SELIN: Would you care to comment
13 on the timing between the requirement documents and
14 the two actual designs? Is that holding up pretty
15 well? As you remember, the requirement document was
16 supposed to answer a number of questions needed in
17 doing the design reviews.

18 DOCTOR WYLIE: I think -- as regards to
19 the requirement document being factored into the
20 designs?

21 CHAIRMAN SELIN: Yes.

22 DOCTOR WYLIE: I think that the thing has
23 sort of changed as the key policy and technical issues
24 that have come along since the EPRI documents were
25 produced. I assume that the supplements that the

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1 staff -- I mean that -- yes, the supplements to the
2 staff that go to issue on the SERs will include those
3 requirements. But otherwise, I think they correlate
4 pretty well.

5 CHAIRMAN SELIN: Thank you.

6 Doctor Wilkins?

7 DOCTOR WILKINS: Okay. Unless some of my
8 colleagues have anything more to say, I think that
9 disposes of the first item -- or you gentlemen have
10 any additional questions.

11 COMMISSIONER REMICK: I had a question
12 about are you doing anything in reviewing the staff's
13 analysis of the preliminary safety information
14 documents for MHTGR, advanced liquid metal reactor,
15 PIUS or CANDU-III? Have any of those --

16 DOCTOR WILKINS: We did have a
17 subcommittee meeting and a full committee meeting and
18 wrote you a letter on some of the policy issues that
19 are associated with those. That's been the last
20 activity that we've engaged in. Since that time, as
21 you know, the Department of Energy has thrown cold
22 water on some of the concepts that it was financing.
23 That's not the way to say it, but you know what I
24 mean.

25 CHAIRMAN SELIN: Thermal shock is what you

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1 mean.

2 DOCTOR WILKINS: Something like that. And
3 we haven't really taken any further action on it. We
4 have received some material quite recently on PRISM
5 and are trying to decide what, if anything, we ought
6 to do in response to that. Our resources and our time
7 and energy and so on are limited and there's a real
8 question as to how much effort we should put into
9 reviewing something. It's my understanding that the
10 staff would like to tidy up that package and put it on
11 the shelf so that it will be available in a coherent
12 form some years later, if necessary. Well, I suppose
13 we could use some guidance from the Commission on
14 that. How important do you think that activity is for
15 us?

16 COMMISSIONER REMICK: Speaking personally,
17 it makes logical sense that you look at it. But
18 giving it a priority to the things you just talked
19 about, I wouldn't put it that high, but I think if it
20 is a matter of tidying up what has been done over the
21 years in reviewing MHTGR and the --

22 DOCTOR WILKINS: This is PRISM I'm
23 specifically talking about, Forrest.

24 COMMISSIONER REMICK: Well, both of those
25 basically. It seems to me that if you do have the

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1 time it's something that would be very helpful on the
2 presumption that you have had some continuous
3 knowledge over the years. Certainly back some years
4 ago ACRS looked at what I guess was the preliminary
5 safety evaluation reports on both of those designs and
6 I think there have been some modifications to the
7 designs since that date. I must admit I wouldn't say
8 that from the standpoint of the other items you've
9 just talked about, the four other reviews, I wouldn't
10 personally put a high priority, but as a tidying up
11 operation I think it would be very helpful.

12 I don't know how others feel.

13 DOCTOR WILKINS: I share those views
14 myself.

15 CHAIRMAN SELIN: It's something to do on
16 a long airplane ride, but not to interfere with --

17 DOCTOR WILKINS: All right.

18 CHAIRMAN SELIN: I'd like ask you, before
19 we get off this topic. This whole topic of design
20 certification, the interaction between the vendors,
21 the staff and the Committee was laid out a long time
22 ago and we had only the vaguest idea as to what we
23 would be doing. I get the impression from your
24 reports that this is crystallizing pretty well, that
25 the different efforts are coming together quite well.

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1 There's a lot of uncertainty at the end. There are
2 questions that should have been answered awhile ago,
3 particularly in the GE area, but that if you sit back
4 and take a look, I get a generally favorable
5 impression of how this process is going. Is that an
6 accurate reading of what you're telling us?

7 DOCTOR WILKINS: That's my impression, but
8 let's -- we'll put Carl and Jay in particular.

9 MR. MICHELSON: I feel the process is
10 working pretty well. In fact, a little better than I
11 might have anticipated it would work. The
12 shortcomings are, of course, that there's a limit to
13 the process because there are limited resources going
14 into it and I think that they're shortchanging some
15 areas where a little more effort would have given a
16 lot better product.

17 CHAIRMAN SELIN: Right.

18 Mr. Carroll?

19 MR. CARROLL: I think it's working very
20 well. I guess I was less pessimistic than Carl was at
21 the start.

22 CHAIRMAN SELIN: So you're not as happy as
23 he is.

24 MR. CARROLL: I'm not as happy.

25 COMMISSIONER ROGERS: Well, if you had to

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1 just make a general horseback observation, do you feel
2 that the process as you see it for the review of the
3 advanced designs is coming to closure? Do you see
4 that it's closing or do you see it as stalled out in
5 some way?

6 DOCTOR WILKINS: Let me give you just a
7 yes.

8 COMMISSIONER ROGERS: Are there
9 differences between different designs?

10 DOCTOR WILKINS: There's a lot of
11 difference in the various designs.

12 COMMISSIONER ROGERS: Well, let's pick the
13 ABWR.

14 DOCTOR WILKINS: It wouldn't surprise me
15 if we ultimately look at these advanced designs like
16 PRISM and the MHTGR, that that process will turn out
17 two years from now to look different than it does
18 today.

19 COMMISSIONER ROGERS: Yes.

20 DOCTOR WILKINS: But with respect to the
21 ABWR and the CE System 80+, I think it's pretty much--

22 CHAIRMAN SELIN: Well, we shouldn't be
23 congratulating ourselves until it's over.

24 DOCTOR WILKINS: Yes, indeed.

25 CHAIRMAN SELIN: But really you're ability

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1 to concentrate your efforts on a small number of very
2 large projects and issues is highly appreciated.
3 You've really -- not only have you identified a lot of
4 small issues and some large issues early over the
5 years, but the amount of attention that you've been
6 concentrating on this area and the ability to set
7 priorities and stick to them, we recognize and
8 appreciate that very much, Doctor Wilkins.

9 DOCTOR WILKINS: All right. The next item
10 that was on your agenda was the selected advanced
11 light water reactor policy issues. We wrote you a
12 letter in April 26th dealing with SECY-93-087 in which
13 we expressed our general agreement with the staff's
14 position in that SECY, but had some concerns about
15 seven specific items. Now, we went through these
16 items this morning in our Committee and had really
17 only one of them that we felt that we wanted to say
18 something to you about and that's the hydrogen control
19 area. But, of course, we'll be delighted to answer
20 any questions that you may have about any of the other
21 issues and Ivan Catton will speak about the hydrogen
22 control.

23 DOCTOR CATTON: We still have concerns
24 about how the hydrogen issue will be dealt with. The
25 EDO response to our comments didn't address them. I

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1 have since had conversations with the staff, however,
2 and it was really just a misunderstanding. I now
3 believe that although we don't really agree, the
4 issues that we've raised will be addressed.

5 I might mention I joined Ashok Thadani and
6 Jack Kudrick in their visit to Siemens where we spent
7 a good deal of time talking to the people there with
8 respect to how they dealt with hydrogen. They've
9 dealt with a great many of the issues that we have
10 raised already and they've done it in a rather
11 complete way. I think that the trip reports that come
12 out of this will be interesting reading. They've done
13 things like laid down prescriptions for where to put
14 ignitors and how many ignitors or how many of these
15 catalytic hydrogen burners do you need in order to
16 achieve a certain result. I think they've done a very
17 good job. We have no disagreement with the staff.

18 MR. CARROLL: That's circa the last week
19 or two when you were with them in Europe.

20 DOCTOR CATTON: That's correct. The
21 letter was a little unsettling, but that got taken
22 care of right away.

23 COMMISSIONER REMICK: Since you wrote that
24 letter, the Commission has addressed 20 of those
25 issues. Any comments?

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1 DOCTOR WILKINS: In an SRM. Well, we have
2 the SRM. At least it ought to be in here someplace.
3 Never mind, we have it. We haven't really --

4 CHAIRMAN SELIN: Graded the paper yet.

5 DOCTOR WILKINS: We haven't really
6 graded -- that's a good way to put it, yes.

7 MR. MICHELSON: Do you really want our
8 comments on your SRM?

9 COMMISSIONER REMICK: I thought you might
10 have some and I'm giving you an opportunity.

11 MR. MICHELSON: I could give you some, but
12 I didn't know if you wanted them or not.

13 DOCTOR WILKINS: Well, as a Committee, we
14 haven't really come to grips with that.

15 CHAIRMAN SELIN: To answer your question,
16 Mr. Michelson, yes. The fact that the Commission
17 responds to the staff guidance doesn't make us any
18 less interested in your professional judgment.

19 MR. MICHELSON: Well, in looking at your
20 SRM, I was concerned about -- we addressed in our
21 issue the point that they're using common ventilation
22 systems on the ABWR and yet you seem to -- you didn't
23 address that issue on the fire protection, so I assume
24 you're accepting them. It's still an issue with GE.
25 We tried again yesterday to pursue the design

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1 requirements for those interconnecting ventilation
2 systems and we have yet to get any real answers from
3 them. It relates to the same problem as with the
4 doorways between divisions. We didn't do too well
5 there either. But these are still being pursued.
6 They promised to get back with us with a response and
7 then we'll see. But I was surprised you didn't pick
8 up on it at all, unless you agree with the
9 acceptability of interconnecting ventilation systems,
10 unless they felt that we would keep the staff's feet
11 to the fire anyway and the vendors. More
12 appropriately the vendors.

13 DOCTOR WILKINS: Found it?

14 MR. MICHELSON: No. I don't know if we've
15 got a copy of it.

16 DOCTOR WILKINS: The copy of the SRM?
17 Here, it's page 22 of this one.

18 MR. MICHELSON: Well, that doesn't have
19 pages on it.

20 DOCTOR WILKINS: Sure it does.

21 MR. MICHELSON: Does it? All right.
22 Maybe I'm wrong. Yes, you're right.

23 DOCTOR WILKINS: I apologize for the
24 confusion, Mr. Chairman.

25 The last of the -- well, let me back up.

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1 Are there any further questions that any of you would
2 like to raise on --

3 CHAIRMAN SELIN: I don't think so.

4 DOCTOR WILKINS: On this issue? All
5 right.

6 The last topic is the regulatory review
7 group report about which we wrote you -- I've
8 forgotten the date, but fairly recently. Hal Lewis is
9 chairman of that subcommittee.

10 DOCTOR LEWIS: Okay. The reason my
11 friends are laughing at me is that I predicted before
12 we came over here that we would spend so much time on
13 the other subjects that it wasn't necessary to prepare
14 for this one because it wouldn't come up.

15 MR. CARROLL: And he was overruled.

16 DOCTOR LEWIS: There's no incentive like
17 proving me wrong that drives people.

18 As you said at the beginning, Mr.
19 Chairman, there are two specifics that make this a
20 particularly good time to talk about the regulatory
21 review report. One is that, as you say, it has been
22 done before. But on the other hand, this is a good
23 time to reinvent government, reinvent regulation,
24 reinvent all those good things.

25 MR. CARROLL: Throw out the quill pens.

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1 DOCTOR LEWIS: And so forth. The other
2 comment you made at the very beginning about not
3 having enough time to write a short letter, you've
4 looked at the regulatory review report. You obviously
5 didn't give them enough time. It's about that thick,
6 so none of us have read it.

7 But, in any case, we did write you a
8 letter in July on this subject. We had a variety of
9 briefings from the people. We spoke to them. We
10 talked about it among ourselves and it's clear that,
11 if we were to address that report at anything like the
12 level of detail that's being lavished on some other
13 subjects, we would be here for months.

14 So it's just not possible, nor was it
15 possible for us at subcommittee meetings or at full
16 committee meetings to talk about all the details, so
17 we tried to function as an advisory committee and
18 isolate the big picture from the details, especially
19 bearing in mind that we anticipated that there would
20 be a fair amount of -- I won't say "resistance," but
21 staff response to some of the detail proposals, and
22 that in fact if anything were implemented they were
23 bound to change appreciably over a period of time, so
24 there's no point in wasting your time or our time on
25 it. So what we did instead was to try to ask what the

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1 major proposal was and what it's significance was.

2 We wrote you a letter and what I'll try to
3 do is pretty much stick to the letter and throw as
4 little as possible of my own views into what I'm about
5 to say. I'll do my best.

6 The report has many proposals. It's
7 responsive to many complaints that have been made over
8 the years, made by more than the industry, made by us,
9 made by other people. But the people who wrote the
10 report tried themselves to isolate what the rationale
11 for regulation was, what the mechanism for regulation
12 was and how is this worked out, so we tried to put
13 that in order and put that into our letter.

14 As we see it, as evidenced in the letter,
15 the regulatory rationale begins with your safety goals
16 as the objective of the whole business. The safety
17 goals are then implemented through a set of rules and
18 regulations which are written down, may be ambiguous
19 in some cases and over-prescriptive in others, but
20 they're at least written down and they are binding on
21 everybody. And then on top of that there's a whole
22 batch of what you might call "case law," with
23 apologies to ten lawyers. There are lots of
24 decisions, lots of branch technical positions, lots of
25 regulatory guides, lots of more or less formal or

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1 informal directives, commitments written into the
2 plant licenses, all sorts of things that make a body
3 of rules, not really rules but a body of commitments
4 that the licensees have to deal with.

5 As we view it, these things are really not
6 required in the sense that the regulations are
7 required or in the sense that your safety goals are
8 supposed to be the underlying policy. They just
9 exist. For example, if you speak of regulatory
10 guides, the reg guides to people, almost everybody --
11 it's almost like blessing Stalin. Almost everybody
12 says, "Well, of course, they're not really required.
13 They're just a way to satisfy the NRC staff." But if
14 you say to a licensee that it's just a way to satisfy
15 the NRC staff, they say "Yes, they're not required,
16 ho, ho, ho," and everybody knows they really are
17 required. You can get away with not conforming to
18 them if you have a good case and are willing to put in
19 the time and jeopardize the livelihood of your
20 stockholders, but it's an uphill struggle if you do.

21 So there is, on top of the regulations,
22 this extra structure, and this is leaving aside a
23 thing that people have always complained about which
24 is sort of informal direction, of which everyone who
25 visits a plant hears lots of horror stories. You

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1 know, it's a real problem, but it isn't dealt with in
2 the regulatory review group report.

3 So, what the report proposes is really a
4 major step, but it's a step that has to be taken by
5 the Commission. It cannot and will not be taken by
6 the staff. Even if it could be, it wouldn't be.
7 Can't be taken by us, we're your advisors. So, it's
8 a case in which the Commission has to be proactive if
9 it wants to.

10 Now, the Committee, on thinking it over,
11 decided that you really ought to look at it very
12 seriously and more seriously than you'll probably be
13 urged to by your staff. The recommendations that we
14 isolated were the two recommendations to make a
15 declaration which is a declaration in the direction of
16 risk-based regulation. It really is, which is
17 something again to which everyone pays lip service
18 these days. That is to declare that, by golly, it
19 really is the set of rules and regulations that are
20 the governing structure for the industry than all the
21 other stuff that's been put onto it, if you like the
22 case law or things like that, are simply
23 interpretations or efforts to implement what is
24 inevitably incomplete and inadequate language in the
25 rules and regulations.

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1 The way we do that in law, of course, is
2 that that's, of course, the way it is with laws too
3 and with court decisions. They're sort of challenged
4 on a sampling basis from time to time to see whether
5 they conform to the underlying laws or to the
6 Constitution and the last analysis. Not in every
7 case, but it's done on a sampling basis.

8 If you were to make that declaration, it
9 would -- and we don't recommend that you do it, but we
10 recommend that you take it seriously -- you would
11 essentially switch the structure of regulation within
12 the agency by edict because right now conformity to
13 the case law is the driving force. The people who go
14 out and look at the plants, people who regulate the
15 inspectors are enforcing the case law, they're
16 enforcing the positions that have been taken and
17 written down, the commitments that have been made by
18 the licensees and so forth. A simple declaration that
19 all these are adjuncts to the set of rules and
20 regulations might be significant and we wrote that in
21 our letter.

22 The second issue would be hot to go beyond
23 a declaration, how to make procedural changes that
24 would implement such a statement. Obviously you
25 cannot be in a position in which everybody who does

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1 any little thing, sweep a floor, has to go back to the
2 Constitution and find out whether it's an okay thing
3 to do, although sometimes even on minor matters it's
4 necessary to go back to the underlying laws. It's not
5 something you want to do as a matter of habit. You
6 can't get the licensees into a position in which
7 they're making gross -- taking gross exceptions to the
8 body of knowledge that has been built up. But you do
9 want to make it possible and make it essentially a
10 normal structure.

11 That is really what the heart of the
12 recommendation -- the 50.54 recommendation in the
13 regulatory review group is. There's a lot of stuff in
14 there about questions of how you implement this.
15 There are questions of response to how you do
16 backfits, what you judge against what and we really
17 didn't comment about that. We really didn't review
18 it. We have individual views you could explore. But
19 if you isolate this particular step toward risk-based
20 regulation, we think it would be worth looking at.

21 Now, since our letter in July, you've had
22 responses from your staff, so you know pretty much.
23 The staff, it seems to me -- and now I'll speak for
24 myself for a moment, seems to be a little bit divided.
25 That is to say the people who are most responsible for

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1 erecting and enforcing the structure that we now have
2 are most defensive of it and most unwilling to see
3 change. That's an important fact for you.

4 The others have an open mind. I don't
5 think it's fair to describe the Committee's position
6 as one of saying you should obey instantly, but it's
7 one that says you should not say, "Aw shucks, this has
8 been looked at so many times," and just let it go by
9 the board. This looks like a serious one. It's in a
10 direction that is a healthy direction, I think by
11 nearly everybody's evaluation. How you go about being
12 proactive on it I really don't know. We have other
13 subjects that suffer from that same problem --

14 CHAIRMAN SELIN: Sure.

15 DOCTOR LEWIS: -- but we would urge you to
16 take it seriously. That's the end of my speech.

17 MR. CARROLL: I would add to this that my
18 understanding is that there's quite a bit of industry
19 activity --

20 CHAIRMAN SELIN: Absolutely.

21 MR. CARROLL: -- that this would very much
22 support and be congruent with.

23 DOCTOR LEWIS: That's right, and I should
24 have said that.

25 CHAIRMAN SELIN: Well, what's happening

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1 really is that new case law is being established, to
2 use your analogy. We'd gotten quite a few requests to
3 follow the logic of the report and skim off a number
4 of places where conditions have been put into -- let's
5 just call it into reactor operations, whether they're
6 in technical specifications, commitments, what have
7 you. My impression is the staff is doing a pretty
8 energetic job of stripping these away when the
9 requests seem sensible, although it's just the
10 beginning of the approach.

11 I really had two questions for the
12 Committee. These are a little off your technical
13 expertise, but you've been watching this regulatory
14 activity for a long time and I think they'd be useful.

15 The first is our regulatory review group
16 specifically proposes extending the 50.54 to some new
17 areas. Do you believe it's a good idea, bad idea or
18 are agnostic about this?

19 MR. CARROLL: You're referring to
20 extending it to security?

21 CHAIRMAN SELIN: Security, fire safety, et
22 cetera.

23 MR. CARROLL: And QA --

24 CHAIRMAN SELIN: Right.

25 MR. CARROLL: -- and emergency plans and

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1 so forth?

2 CHAIRMAN SELIN: Yes, sir.

3 MR. CARROLL: Yes, I personally do and I
4 think I've seen some red herrings thrown up about it.
5 Obviously you couldn't allow a utility to change its
6 emergency plan and only tell us about it once a year.
7 Well, I don't think anybody has a problem keeping the
8 emergency planning up to date on either side. The
9 same with security. So, I personally have always
10 viewed it that way. I haven't always won my arguments
11 with the NRC when I had a licensee hat on, but I
12 always thought that these things should be approached,
13 a graded sort of thing compared to more substantial
14 safety issues.

15 DOCTOR WILKINS: I might comment, Mr.
16 Chairman, that the Committee really didn't address the
17 issue that you've raised as a Committee. So, you get
18 Jay's personal opinion and I'll give you mine right
19 now, which is that I think there are a number of areas
20 into which 50.54 could be extended. I'm not sure I'd
21 know how to characterize them, and that's part of the
22 fact that we haven't really sat down and come to grips
23 with the details of the RRG report.

24 CHAIRMAN SELIN: Well, 50.54 really is a
25 precursor of performance-oriented regulation. It

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1 doesn't say, "Thou shalt do this and this." It says,
2 "If the effect is such and such, you may go ahead and
3 do it," and it puts the weight on the licensee to be
4 prepared if requested to show that that's the --

5 DOCTOR WILKINS: Yes, to defend his
6 position.

7 CHAIRMAN SELIN: To defend his position.

8 The second is the regulatory review group
9 made a couple of, to me, rather surprising
10 observations. Not recommendations, but observations.
11 They were -- I don't want to say pessimistic, but they
12 were quite realistic in denoting the limitation of
13 generic improvements. They felt that most of the
14 improvements would have to be done on a site specific
15 basis, that there was a limit to what you could do
16 through generic statements, improvements in rules, et
17 cetera. In fact, have encouraged and the industry
18 seems to have responded, industry to come in and make
19 specific requests and essentially establish a new set
20 of cases, maybe to counteract some of the older cases.
21 They suggested some ways this could be done through
22 2206 petitions as well as license amendments, et
23 cetera.

24 I thought that was an interesting
25 observation and I wondered if you'd care to comment on

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1 that. I don't have any experience to know if this is
2 true or not.

3 DOCTOR WILKINS: I'll make the same
4 general comment I just made. We really haven't
5 discussed that in any detail as a Committee. The
6 program to create additional case law though strikes
7 me as incompatible with the program to reduce the
8 impact of case law. It's a different way to solve the
9 same problem. But I have a feeling that you need to
10 decide or someone needs to decide which way to go. If
11 the way to go is to give the licensee more license, so
12 to speak, to do the things that will produce the
13 desired results, then you don't pursue this other
14 course. On the other hand, if as a matter of
15 practical tactics it's felt that that's not feasible,
16 then perhaps encouraging the licensees to come in with
17 specific suggestions, specific license amendments and
18 so on, and creating an environment within the NRC and
19 the industry that gives some expectation that these
20 requests will be considered quickly and expeditiously,
21 that's a different way to approach the same problem.

22 If I were sitting in your seat, I wouldn't
23 want to do them both. I'd try to decide which way I
24 wanted to go. I think there's some danger of mixing
25 them up. You might get some nice fruit salad, but

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1 you'll get apples or oranges.

2 CHAIRMAN SELIN: You have the Napoleonic
3 model at one end and the Talmudical model at the other
4 end. We're someplace between.

5 DOCTOR WILKINS: That's just my personal
6 reaction, of course.

7 DOCTOR LEWIS: No, no, I agree with you.
8 Just to follow-up on what Ernest just said, you're
9 undoubtedly familiar with Norm Augenstein's marvelous
10 book. When I first came onto this Committee, which is
11 back in the mists of antiquity, I remembered that Norm
12 had in his book a chart which plotted the growth of
13 the procurement code, the Armed Forces procurement
14 regulations, against a canonical curve which is sort
15 of a logistic curve which came from a journal called
16 Weed Research, which showed the growth curve of a weed
17 and the number of pages in the Armed Forces
18 procurement regulations exactly matched the growth
19 curve of a weed.

20 So, I came back to ACRS and asked what
21 about 10 CFR and it fitted the curve very well too,
22 the weed curve. So, one is, in a sense, trying to
23 beat entropy by going back to first principles.
24 That's the only addition.

25 CHAIRMAN SELIN: Mr. Carroll?

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1 MR. CARROLL: I had nothing.

2 CHAIRMAN SELIN: Gentlemen?

3 COMMISSIONER REMICK: I might make a
4 comment --

5 DOCTOR LEWIS: I think your lawyer wants
6 to say something.

7 COMMISSIONER REMICK: Oh, yes, please.

8 MR. SCINTO: I just wanted to make a
9 comment. Some discussion has used the term "case
10 law." In the context of this, I think it is fairly
11 fair that the kind of discussion we're talking about
12 was the day to day application or implementation or
13 guidance by the agency as a whole and that does have
14 a different status than its regulations. But the
15 Commission's formal adjudicatory decisions, case law
16 in that sense, has a status and dignity of --

17 CHAIRMAN SELIN: Precise meaning.

18 MR. SCINTO: -- roughly the same status
19 and dignity as its regulations. So, in that sense --

20 DOCTOR WILKINS: I don't think there's any
21 disagreement between us. We were not using the --

22 MR. SCINTO: That's what I understood, but
23 I just wanted to make the record clear because we're
24 using case law in a different sense.

25 DOCTOR LEWIS: Just to make sure I

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1 understand what you're saying, for example the 55 mile
2 speed limit which we have in California and which it
3 is well known that the highway patrol won't bother you
4 below 65 is an example of the difference between case
5 law and day to day application.

6 MR. SCINTO: No, that's the difference
7 between a regulation and day to day application. A
8 decision by the California Supreme Court that the 55
9 mile an hour limit does not apply in the case of an
10 emergency with somebody going to a hospital, for
11 example, would have equal status and dignity with the
12 55 mile an hour statutory limitation.

13 CHAIRMAN SELIN: That fact that you didn't
14 get a ticket doesn't mean you won't get a ticket.

15 DOCTOR LEWIS: I should never have raised
16 a legal question.

17 MR. SCINTO: I didn't accept it in that
18 sense.

19 MR. CARROLL: I don't know that that
20 situation is going to prevail since they've raised the
21 fines for traffic violations by a factor of three in
22 California for revenue purposes recently.

23 I do have a comment, I guess. I think
24 you've all heard it before, but I'll say it anyway.
25 Those of us who came from industry or in talking to

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1 people that are presently in industry, I think you
2 find most of them say, "I don't have any problem with
3 the regulations. They're never even an issue. It's
4 the implementation of the silly things." That's the
5 point, I think, that Frank Gillespie and company
6 really did a nice job of focusing on and providing at
7 least a mechanism for dealing with.

8 COMMISSIONER REMICK: Yes, I agree --

9 DOCTOR LEWIS: Well, sometimes -- I'm
10 sorry.

11 COMMISSIONER REMICK: Go ahead, Hal.
12 Please go ahead.

13 DOCTOR LEWIS: I was just going to say
14 that sometimes the application is very idiosyncratic
15 and very personalized and sometimes not even by the
16 NRC. We've been through recently a number of events
17 that have to do with good old digital upgrade things.

18 MR. CARROLL: I thought you promised, Hal,
19 not to --

20 DOCTOR LEWIS: In which we've heard from
21 industry about review teams having come out which
22 consists of two NRC people and three contractors to
23 NRC in which the contractors are functioning as
24 appliers of standards to the utilities and have just
25 as much push as the NRC does itself. So, that's

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1 another layer of submergence of the application or
2 separation between the application and the actual
3 rule. Sometimes it's very hard to find what the basis
4 is for some of the decisions.

5 COMMISSIONER REMICK: I just wanted to say
6 that I certainly have been impressed with both the
7 enthusiasm and sincerity with which the staff
8 approached this review. Although we haven't had our
9 meeting with them, my reading of the report in
10 general, I'm quite pleased. In fact, going back to
11 your statement that we start out with the safety
12 goals, after two or three times reminding them that
13 the Commission SRM said that this should be done using
14 the prospective of the safety goal, in the most recent
15 version there's no three pages that address a safety
16 goal. So, I'm happy from that standpoint.

17 At one point, when Carl mentioned that the
18 Security Subcommittee was going to meet, I was going
19 to suggest, well, maybe they should look at what the
20 regulatory review group has to say about Part 73
21 because I personally thought that that was on the
22 right track. But going back to what Hal said, I'm not
23 sure that's the best use of your time and expertise to
24 go into detail in this report. I think it's better to
25 give your overall perspective of whether you think

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1 it's in the right direction and I think the advice
2 that you've given us, now it's up to us to see that
3 something is done with these recommendations is the
4 proper type of use for the Committee in this situation
5 faced with the many other responsibilities and
6 activities that you have underway.

7 So, I think, at least from my own
8 perspective, although I certainly welcome any comments
9 you have in any detail, I'm not sure that that's the
10 best use of your time at this particular time in your
11 overall activity.

12 While I have the floor out of order here,
13 I would add comments to the -- that Chairman Selin
14 made. I really sincerely appreciate the effort that
15 you folks have put into the review of the new designs.
16 You really have made contributions and they've been
17 very, very helpful to the Commission and I'm sure to
18 the staff.

19 One thing I'm impressed as I travel around
20 and thinking of international travel, and I know the
21 other Commissioners experience the same thing.
22 Everywhere you go in the world, people know about this
23 process and are very curious about is it working and
24 how it's working. That's true in China also.
25 Detailed interest about how the process is going,

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1 people watching to the best of their ability, very
2 closely what's going on within the agency and that
3 means what you folks are doing, contributing to it.
4 So, you're doing a good job and your efforts certainly
5 are appreciated. So, I join the Chairman in giving
6 you those comments.

7 DOCTOR WILKINS: We always like being
8 stroked, Commissioner.

9 DOCTOR LEWIS: I was going to say he's the
10 designated stroker.

11 DOCTOR WILKINS: I did make a remark
12 yesterday about it's nice to get a pat on the back,
13 unless it's too low on the back and administered with
14 a foot.

15 CHAIRMAN SELIN: Thank you very much.

16 DOCTOR LEWIS: I think we're finished with
17 this.

18 DOCTOR WILKINS: Yes. We are actually a
19 little bit earlier on our time table.

20 CHAIRMAN SELIN: You're trying to make up
21 for your overrun last night.

22 Well, this report has been very timely.
23 It's very helpful and whether it's through your
24 Chairman or through Doctor Larkins, please keep
25 closely in touch on these schedule as well as

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1 substantive issues since they are very important right
2 now and an awful lot is riding on pieces coming
3 together in a simultaneous time.

4 Thank you very much.

5 (Whereupon, at 3:10 p.m., the above-
6 entitled matter was concluded.)
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