

ORIGINAL

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NUCLEAR REGULATORY COMMISSION

Title: **BRIEFING ON MILLSTONE AND MAINE YANKEE**
LESSONS LEARNED - PUBLIC MEETING

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1 UNITED STATES OF AMERICA
2 NUCLEAR REGULATORY COMMISSION

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4 BRIEFING ON MILLSTONE AND MAINE YANKEE

5 LESSONS LEARNED

6 ***

7 PUBLIC MEETING

8 ***

9 Nuclear Regulatory Commission

10 Commission Hearing Room

11 11555 Rockville Pike

12 Rockville, Maryland

13
14 Wednesday, February 19, 1997

15
16 The Commission met in open session, pursuant to
17 notice, at 2:04 p.m., the Honorable SHIRLEY A. JACKSON,
18 Chairman of the Commission, presiding.

19 COMMISSIONERS PRESENT:

20 SHIRLEY A. JACKSON, Chairman of the Commission

21 KENNETH C. ROGERS, Member of the Commission

22 GRETA J. DICUS, Member of the Commission

23 EDWARD McGAFFIGAN, JR., Member of the Commission

24 NILS J. DIAZ, Member of the Commission

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1 STAFF AND PRESENTERS SEATED AT THE COMMISSION TABLE:

2 JOHN C. HOYLE, Secretary of the Commission

3 KAREN D. CYR, General Counsel

4 HUGH THOMPSON, Acting EDO

5 FRANK GILLESPIE, Director, Inspection & Support
6 Program, NRR

7 STEVE STEIN, Senior Technical Assistant, NRR

8 FRANK MIRAGLIA, Director, NRR

9 BILL BORCHARDT, Chief, Inspection Program Branch,
10 NRR

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P R O C E E D I N G S

[2:04 p.m.]

CHAIRMAN JACKSON: Good afternoon, ladies and gentlemen. The purpose of this meeting is for the Commission to be briefed by the NRC staff on the status of recent Lessons Learned activities and to explore the Staff's recommended approach to address key policy issues that have been identified.

In November of 1995, I requested that the Staff perform a Millstone Lessons Learned review to improve existing oversight processes, that is, reactor oversight processes, and/or to develop new processes to aid in earlier recognition of deficient conditions or trends at all of our powerplant licensees.

This review, although titled a Millstone Lessons Learned, has been supplemented by information from several other recent NRC inspections.

Additionally, I believe an honest assessment from the NRC would indicate that several of these areas are overdue for improvement, particularly the use and maintenance of the final safety analysis report and the implementation of 10 CFR 50.59, changes, tests, and experiments.

The Commission was provided with the Lessons Learned Part 1 report in September of last year. Recently,

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1 the Staff provided the Commission with two additional
2 reports, the Lessons Learned Part 2 report, which will be
3 discussed and is publicly available today, and a paper on
4 the implementation of 10 CFR 50.59, which, although closely
5 related, will be the subject of a future Commission meeting,
6 tentatively scheduled for March 10, 1997.

7 The Commission is very interested in the policy
8 questions being presented in today's briefing regarding the
9 important areas of licensing basis, design bases, and the
10 final safety analysis report.

11 The Commission is interested in how we got to
12 where we are, but is much more interested in ensuring that
13 there is a timely plan for integrated fixes to the processes
14 that are based on either ensuring compliance with existing
15 regulations or providing improvements with a net safety
16 benefit, dually considering costs.

17 The Commission understands that there will be
18 considerable industry interest in these topics and is
19 interested in the Staff's plan on interaction with the
20 industry and the public regarding the various topics to be
21 discussed today.

22 Now, I understand that copies of your presentation
23 are available at the entrances to the meeting, and so,
24 unless my fellow Commissioners have any additional comments,
25 please start. Mr. Thompson?

1 MR. THOMPSON: Thank you, Chairman, Commissioners.

2 With me at the table this afternoon are Frank
3 Miraglia, who is the acting director of NRR, and Bill
4 Borchardt, who is the chief of the Inspections and Support
5 Branch. To my left is Frank Gillespie, who is the director
6 of the Inspection and Support Program in NRR, and Steve
7 Stein, who you may recall headed up the Millstone Lessons
8 Learned Task Force.

9 Today's briefing focuses on the results of the
10 Staff's evaluation of four of the six issues discussed in
11 the Millstone Lessons Learned Report Part 1, which was
12 forwarded to the Commission in September of '96.

13 Chairman Jackson, as you said, this is an issue
14 that we did in response to your directions, and in fact, it
15 turns out to be a very comprehensive effort and one that
16 really does take very careful integration of our responses
17 into these, and obviously, it is an important element in
18 improving the Staff's performance with respect to oversight
19 of operating reactors.

20 The Part 2 report offers a number of recommended
21 short-term and long-term actions related to regulatory
22 oversight and improvements in the areas of the design basis,
23 the current licensing basis, and the content and use of the
24 safety analysis report. The recommendations include changes
25 to regulatory guidance and studies to determine the need for

1 rulemaking.

2 Now I would like to turn the briefing over to
3 Frank Miraglia who will begin the formal presentation.

4 MR. MIRAGLIA: Madam Chairman, Commissioners.

5 CHAIRMAN JACKSON: Good afternoon.

6 MR. MIRAGLIA: Can I have the first slide, please?

7 This first slide has the questions that were
8 raised in the Part 1 report, Lessons Learned, that was made
9 available to the Commission and to the public in September
10 of 1996. Each of these questions have policy considerations
11 and policy issues that we would like to discuss with the
12 Commission today, those issues involving licensing basis and
13 current licensing basis, design basis and design basis
14 documentation, FSAR, updates and commitment, and related
15 issues of 50.59.

16 The last two questions deal primarily with the
17 50.59 process. The fourth question also has a nexus and an
18 overlap to the 50.59 paper, and as you mentioned, Madam
19 Chairman, that briefing is scheduled tentatively for March
20 10th, and those areas will be considered in a little more
21 detail at that briefing.

22 Each of these issues and policy questions have
23 been examined by the agency as single issues over probably
24 the past decade. In the backup Vugraphs on pages 14 to 15,
25 there is a chronology. I just direct your attention to that

1 briefly.

2 FSAR considerations and 10 CFR 50.71(e) was
3 considered back in 1980. There were internal consideration
4 and documentation of commitments in '81 and '85. Certainly,
5 the '90 to '95 time period was a very, very active period in
6 terms of design basis, documentation and review, and
7 interaction with the industry and the Commission, and the
8 license renewal rule and the development of that rule
9 brought a lot of licensing basis and current licensing basis
10 issues before the agency's consideration.

11 As I have said, these issues have been looked at
12 and considered singularly by the agency over a period of
13 time, and in the context of this Lessons Learned, it has
14 certainly pointed the vulnerabilities in the process, areas
15 for improvement that the Chairman mentioned that said
16 perhaps some of these issues need to be reexamined in light
17 of the vulnerabilities that have been identified by the
18 lessons learned conducted to date.

19 As Mr. Thompson said, we have some short-term
20 actions that we propose as well as some long-term. The
21 short-term actions are some of which have been taken and are
22 underway, don't involve policy questions. Some, we will
23 have to come back to the Commission for a further review and
24 comment, and those short-term actions are aimed at
25 addressing these vulnerabilities. Closing the windows of

1 vulnerabilities, I addressed, perhaps, not completely, but
2 slightly. We are gaining information by which we can
3 further access the significance of cost benefit
4 considerations of further long-term actions, perhaps as much
5 as going to rulemaking in some areas.

6 The report that you will hear from Mr. Gillespie
7 will go over several of these major areas to discuss the
8 issue and problem, the short-term corrective actions, and
9 then the longer-term corrective actions.

10 As Mr. Thompson indicated to you in a memo that
11 forwarded both of these papers, there is a nexus between
12 these issues and the 50.59. The 50.59 is more
13 process-oriented and could move perhaps in parallel, but it
14 has to be closely coupled, and we'd like to integrate our
15 actions and get back to the Commission subsequent to some
16 initial feedback from the Commission on the issues raised
17 here and in the 50.59 process.

18 If there are no questions for me, I would like to
19 turn it over to Mr. Gillespie.

20 MR. GILLESPIE: Slide 2 just gives some
21 background, Chairman Jackson, which you already really
22 outlined. So let me go, then, immediately to Slide 3, the
23 difference between the first report and the second report.

24 The first report was organized along functional
25 lines to be able to ask questions about licensing inspection

1 enforcement, licensing reporting, management oversight, and
2 license renewal.

3 What we have extracted from that for Lessons
4 Learned 2 is those policy questions where we really needed
5 involvement, direction or guidance from the Commission, and
6 which crosscut the areas, so that the question of licensing
7 basis, design basis, and FSAR and decisions made there will,
8 in fact, then have an effect on licensing inspection
9 enforcement. So it is written in a different format.

10 There are a number of actions already undertaken,
11 and in response to recommendations from the first report, I
12 have included some samples of those as backup slide 18 and
13 19. I am not going to propose that I go through them, but I
14 will be happy to answer questions. Some of them are part of
15 the short-term actions which are already done, and they were
16 previously supplied. Many of these were previously supplied
17 to the Commission in our project's performance improvement
18 plan document, which was, I think, a very large table that
19 came up probably around 10 or 12 pages long, with a lot of
20 individual items that are being worked on.

21 Looking at the policy questions that came out of
22 Part 1 and to be addressed, 50.59 is being addressed, as was
23 said, separately. So we will go into Slide 4.

24 The objectives of the Part 2 report were, one, a
25 management review of the Part 1 report to come down to the

1 key policy question which crosscut all of those functional
2 areas which is how the Part 1 report was organized,
3 identification and discussion of the policy issues, trying
4 to get at the root cause of the problem, as was seen, some
5 possible actions and approaches. In doing that, the major
6 policy issues that came out dealt with the licensing basis,
7 design basis, FSAR questions, and these are all closely
8 linked because, by our regulations, a design basis is part
9 of the FSAR, and both the design basis and FSAR are part of
10 the licensing basis. So they are very closely interlinked.

11 The Vugraphs actually get kind of repetitive when
12 we get through them on short- and long-term actions because,
13 when you have set it for one, it shows up, again, on the
14 next several.

15 CHAIRMAN JACKSON: Let me ask a question. Does
16 that involve your getting comments from the regions as well?

17 MR. GILLESPIE: Absolutely.

18 CHAIRMAN JACKSON: Okay.

19 MR. GILLESPIE: This went through extensive
20 comment --

21 CHAIRMAN JACKSON: And all the technical branches?

22 MR. GILLESPIE: From all of the technical
23 branches, all the divisions, extensive rounds of comments,
24 and incorporating comments and recommending on those
25 comments. It was a massive consensus development process.

1 CHAIRMAN JACKSON: Okay.

2 MR. GILLESPIE: Just by background, and quickly,
3 the current regulatory process, as currently practiced, not
4 making a claim to its absolute correctness or anything, is
5 that the licensing basis is contained in a variety of
6 documents, answers to generic letters, answers to notices of
7 violation, responses to calls, requests for additional
8 information, safety evaluation reports that accompany
9 technical specifications. A variety of documents would be
10 considered in the licensing basis, if I apply the licensing
11 basis definition as given in Part 54, and that is a
12 recognition that the licensing basis is not defined in Part
13 50 and, in fact, the term is only used once, and that is in
14 our authority to issue a 50.54(f) letter to say how do you
15 comply with your licensing basis. Yet, it is left undefined
16 in Part 50, and that will come up later in one of our
17 longer-term recommendations.

18 It is unique for each plant. The SER that
19 supports the amendment, the amendment is unique for each
20 plant. The answers to generic letters tends to be unique.
21 So it is in a unique information form, but on the docket
22 file and in the public record.

23 It is continually evolving or growing because we
24 continue to correspond with licensees that continue to
25 answer letters of inspection reports, items of

1 noncompliance. So this is an ongoing process. It didn't
2 stop just for us to look at it. So this is just a thought
3 that it is there.

4 Current licensing basis, again, I said it's used
5 once, and we used the Part 54 definition to baseline
6 ourselves here.

7 Design basis is defined --

8 CHAIRMAN JACKSON: It's used in Part 50 without
9 ever having been defined in Part 50?

10 MR. MIRAGLIA: Just a phrase.

11 MR. GILLESPIE: Just the phrase "current licensing
12 basis," yes.

13 MR. MIRAGLIA: Yes.

14 MR. GILLESPIE: Design basis is defined in Part
15 50. It is also presented in the FSAR as to be in 50.34(b)
16 that the design basis is to be included in the FSAR. So the
17 relationship is fixed in our regulations.

18 We do recognize that there is important
19 information. It is not necessarily in the FSAR, which could
20 be considered design basis information, and this would be
21 material that potentially -- and if I could use maybe the
22 Maine Yankee example, the items over in the SER that were
23 conditions on the use of a code, the conditions did not find
24 their way into the FSAR. Yet, those conditions could have
25 been viewed as a design restriction on the use of the code

1 in design work.

2 Policy statements for supporting information. In
3 1992, there was a Commission policy statement on design
4 basis, design basis reconstitution, and in that policy
5 statement, the Commission was very careful in their use of
6 terminology of design basis and design documentation, and in
7 fact, it is very consistent with the regulations, the
8 definition of design basis, and then it refers to the policy
9 statement to design documentation, which is even another
10 layer of supporting information.

11 FSARs. The FSAR is initially part of the license,
12 that initial licensing. It does present the design basis.
13 By regulation, that relationship is established. It is
14 unique to each plant in a temporal sense, as well as in a
15 design sense. There is a uniqueness plant-to-plant based on
16 their design and the basic engineering, but there is also a
17 significant uniqueness based on when in the history of the
18 agency that a particular plant was licensed, and this was
19 also evolving, but we'll find in -- I think everyone is
20 familiar with the anecdotal information about the one-volume
21 FSAR at the early sights, licensed in the late '60s or early
22 '70s, and I think it's the 31 Volume FSAR that belongs to
23 Comanche Peak.

24 So a big span -- that is what I mean, a temporal
25 nature. So the level of the detail was affected by time,

1 but they are all controlled by updates required by 50.71(e).

2 CHAIRMAN JACKSON: Let me ask you this question.
3 What's the relationship between the FSAR that is part of the
4 license application, the 50.34 FSAR, and the updated FSAR,
5 and what regulatory function does the updated FSAR serve
6 relative to --

7 MR. MIRAGLIA: The FSAR is the initial
8 documentation, and 50.71(e) provides for updating that to
9 reflect modifications and changes. So it would be the
10 starting point for each of the documents.

11 CHAIRMAN JACKSON: Okay. And which one serves the
12 regulatory function in terms of any current regulatory
13 action we would have with licensees?

14 MR. MIRAGLIA: It would be the updated, plus any
15 changes that they had made since the last update that would
16 impact on that information.

17 CHAIRMAN JACKSON: Okay.

18 MR. GILLESPIE: In fact, the relationship between
19 the original FSAR and the updated FSAR, 50.71(e), is
20 actually spelled out in the regulation where it refers to
21 the FSAR originally submitted is part of the application for
22 operating licenses. So that relationship is fixed, so that
23 the updated FSAR is, indeed, the operable document today.

24 And 50.71(e) -- and I'm going to cover this also
25 later -- has really two parts. It has a reporting

1 requirement and it also has words in it that talk to the
2 substance of what should be reported, and those are two very
3 unique and important pieces.

4 Going on to the licensing basis, starting from the
5 most broad terminology that we have, the identified problems
6 with the licensing basis where some practices of some
7 licensees differ from the licensing basis -- and this is a
8 statement which reflects both good and bad. It's not
9 necessarily bad that they're not doing it. They might have
10 changed it. They might have done it a different way, but
11 it's just different than those documents which may, in fact,
12 be on the docket file.

13 On the other side, they might be -- they might
14 have stopped doing something we really wanted and continue
15 to do, but it's different. So the root problem here was
16 that it was different.

17 They have difficulty in identifying or locating
18 some licensing basis information. I mean, even ourselves,
19 when you go in and try to manually go through and mind the
20 docket file, it is a very tedious, tedious effort, and to do
21 it in a complete manner for any given system is extremely
22 difficult, but we could do it.

23 CHAIRMAN JACKSON: Let me ask you a couple of
24 questions on these points. On page 7 of the report that you
25 actually sent, there is a statement that the NRC and the

1 industry, however, did not implement -- or fully, I guess,
2 implement the FSAR update rule. Would you elaborate a
3 little on that and say how that came about?

4 MR. MIRAGLIA: We are going to cover that later.

5 CHAIRMAN JACKSON: You are?

6 MR. MIRAGLIA: Yes. It is in the presentation
7 later, and we will talk to that.

8 CHAIRMAN JACKSON: All right, okay.

9 Well, then, let me ask a question on your current
10 page 7 of the Vugraph. If some of the licensees -- or
11 there's been difficulty identifying or locating some
12 licensing bases or some have not been incorporated into
13 plant procedures, how have we been able to adapt in terms of
14 our inspection program to these variabilities that have come
15 about as a consequence of this?

16 I mean, how have we handled that from the point of
17 view of inspection if one can't identify the licensing basis
18 or locate it or it is not incorporated in the plant
19 procedures? What do our inspectors, then, inspect against?

20 MR. MIRAGLIA: The inspectors will go out and they
21 will go and look, and more recently, I guess it was last
22 March -- February or March where we put the guidance out --
23 to specifically start with the FSAR.

24 Some of the difficulties in identified issues with
25 respect to the differences and practices and such have been

1 reported to the Commission in terms of the spent fuel
2 cooling FSAR survey and the first four months of the FSAR
3 inspections, but we get at it by the FSAR and by some of the
4 inspections that get into information design and by pushing
5 to say what is the licensing basis, and most places come up
6 with the information. The difficulty is having it readily
7 accessible.

8 If you go back to the Commission's policy
9 statement on accessibility, it talks in terms that it should
10 be readily accessible, and I think there's a variability out
11 there with the licensees.

12 Certainly, we don't have ready access to all of
13 the information because it's in a multitude of databases,
14 essentially maintained by the licensees. We depend upon the
15 licensees' systems, in large measure, and use what we have
16 in our independent knowledge going in on that area as to
17 what we understand the basis, and we root around in that.

18 One of the issues that we talked about in the last
19 week or so at Maine Yankee was the off-site power and the
20 electrical lines and what was the licensing basis. It
21 wasn't clear. We kept asking questions, and looking at
22 questions, we came to a resolution what the licensing basis
23 was. So we can get at it, but it's not always easy or
24 readily accessible, and I think that's what Frank was
25 alluding to in the comments here.

1 CHAIRMAN JACKSON: So, I mean, is the statement,
2 then, that it, in fact, does have or has had some effect,
3 then, relative to our inspection function? Because if it's
4 not readily available or you have to root around, then you
5 don't have it readily available to use.

6 MR. MIRAGLIA: In terms of our inspections, they
7 are audit-type functions. We look in those areas that we
8 are auditing. The licensee has the responsibility for --

9 CHAIRMAN JACKSON: No, I understand that, but I'm
10 just saying if it's not there, even where we look, then it's
11 not there where we look. Okay. I think you are going to
12 deal with some of this.

13 MR. THOMPSON: And I think as we progress, there
14 were some times we had commitments in subsequent licensings
15 that earlier plants may not have had in their licensing
16 basis or their tech specs.

17 So, as we said earlier, in the temporal nature of
18 the licensings, we were able to inspect at a different level
19 of detail to different licensees, but obviously, the
20 operating tech specs is kind of like the fundamental thing
21 that we start and always make sure the licensees follow the
22 tech specs.

23 As you get further and away from the operating
24 tech specs and more into the details of the FSAR and the
25 other licensing basis, the more you have to dig down into

1 what you are really looking for.

2 CHAIRMAN JACKSON: Except that I recall when there
3 were these original inspections and studies done, there were
4 some instances where there were things in the FSAR -- I'm
5 not saying it was widespread, but there were at least a
6 couple where there was essentially a conflict between what
7 was in the FSAR and what was in the tech specs, and the one
8 seemed to speak against the other. So there was, in fact,
9 A, areas where they overlapped, and, B, where they were
10 inconsistent.

11 MR. MIRAGLIA: And what we found in those areas --
12 Bill, you can help me with some of the statistics -- there
13 was a number of discrepancies found. Very few resulted in
14 noncompliance or escalated enforcement. Some were as simple
15 as the documentation in one area was updated and the other
16 wasn't. So you have to go in and look and evaluate.

17 One of the areas where the vulnerability is broad
18 is in the design area because we don't -- as we have talked,
19 our operational focus has been -- I mean, it has been on
20 operations. So we don't probe into design area, and to get
21 into those areas, and an operational focus, we're looking
22 basically from the broad performance base or the procedures
23 doing the job or the tests showing that the equipment works,
24 and that vulnerability has been discussed with the
25 Commission in the context of our areas of design, and that's

1 where the design basis and licensing basis becomes harder to
2 root out. You have to really look and dig in certain kinds
3 of areas.

4 I think some of the special inspections that --
5 Millstone had demonstrated that. The ISI, the Maine Yankee,
6 the ISA, ISI.

7 CHAIRMAN JACKSON: No, I agree with you, and I'm
8 not disagreeing with anything you have said.

9 MR. MIRAGLIA: I just want to give the right kind
10 of context.

11 CHAIRMAN JACKSON: Right, but let me give you my
12 context, and that is, we have done these focused special
13 inspections, and they've told us certain things, and in some
14 ways, they've given us more comfort, and in some others,
15 they've shown some vulnerabilities.

16 It is very difficult at a certain level, though,
17 if we talk about the variability in the FSARs to start with
18 and then we talk about difficulty in identifying and
19 locating design basis information or it hasn't been
20 incorporated into plant procedures. You can't give an
21 unequivocal statement in the absence of some particular
22 focus look that you have actually been able to satisfy or
23 could satisfy the public or perhaps the Commission or
24 yourselves that you know, I mean, in spite of what you say
25 about tech specs that everything that has any safety

1 significance, you know, we know about, and I think that's
2 the vulnerability we are trying --

3 MR. MIRAGLIA: And I think that is fair. I think
4 what we are talking about is putting actions in place to get
5 a better dimensioning of those issues and concerns, how many
6 of them in safety were significant and what measures and
7 next steps we should take.

8 CHAIRMAN JACKSON: Right.

9 MR. MIRAGLIA: And I think that goes to some of
10 the short-term actions and long-term actions.

11 CHAIRMAN JACKSON: Okay.

12 MR. GILLESPIE: Overall, in the licensing basis
13 area, we included in the report, and I'm going to repeat it
14 here, what we're intending to try to get at, and that's to
15 provide increased assurance that licensees know and are
16 complying with their licensing basis without imposing undue
17 regulatory burden, and the burden I am talking about there
18 is the kind of burden we would have to analyze under 51.09,
19 which is our backfit rule.

20 In addition, improve NRC's systems to
21 independently verify and retrieve plant licensing basis.

22 COMMISSIONER ROGERS: What does that mean? I
23 mean, how do I understand how big that effort is? It seems
24 to me that it could be very big.

25 MR. MIRAGLIA: I think it is a global statement,

1 Commissioner Rogers. I think you are correct.

2 What we are indicating in some of the short-term
3 actions are first steps, and the longer-term actions would
4 perhaps be a more global. In order to take those
5 longer-term actions, we need to do some of the shorter-term
6 so we could fully access and dimension that. This is a very
7 broad goal, as stated. You are correct.

8 COMMISSIONER ROGERS: Well, yes. When you say
9 independently identify and retrieve plants licensing basis,
10 that means you should be able to do it without any reference
11 to the plant itself.

12 MR. THOMPSON: To the licensee, you mean?

13 COMMISSIONER ROGERS: Licensee itself, not the
14 plant license.

15 MR. THOMPSON: Right.

16 I think we will discuss some of the steps.

17 COMMISSIONER ROGERS: It sounds like a very big
18 bite.

19 MR. THOMPSON: Right. And I think we'll discuss
20 some of the steps that we are going to be taking to enable
21 us to be able to do that as we go through this and to
22 identify those licensing basis issues up front, up early, as
23 we impose them, as there are new ones, and then we will have
24 to decide how we would follow that in backfit space, but
25 certainly, for the forward-looking, I think we will be able

1 to address some of the short-term efforts.

2 MR. GILLESPIE: That is the reason we have this
3 organized in the short- and long-term actions, and it was
4 exactly that same question that the managers in the NRC
5 wrestled with a lot before this report came out, how do we
6 sort through that question, given that there are things we
7 can do in the short term and done now to minimize our
8 exposure and fix the problem from here into the future, but
9 looking retrospectively back, we have to first gage the size
10 of the problem we are dealing with, both the size and the
11 physical potential, physical work that has to be done to
12 achieve it, and the safety size, how much safety do we
13 perceive we are going to get for the benefit.

14 As I go through the short-term actions on
15 licensing basis we are proposing, we would identify future
16 licensing basis commitments, and the example of this would
17 be we would change our internal procedures on the way we are
18 dealing right now with license amendments.

19 Right now, when we issue a tech spec amendment, we
20 generally issue a new tech spec, and there will be an SER
21 attached, maybe a brief SER in some cases and maybe longer
22 in others, and in that SER, there will tend to be what the
23 Staff considered in approving the technical specification
24 that was changed, and in that approval, the Staff will
25 generally recognize what I'll call might be conditional

1 statements that the licensee committed to in correspondence
2 in order for us to give them that tech spec.

3 The more easier one, I'll just keep using it
4 because it's a good illustration, is the SER that was on the
5 computer code. The Maine Yankee had 12 conditions for use.
6 The 12 conditions were, in fact, in the SER. We are now
7 looking at those and trying to understand how we might
8 change our own practices, which would cause those 12
9 conditions to be incorporated into the FSAR, so that they
10 potentially get into a controlled document, or if there are
11 important enough conditions incorporated into the license
12 itself.

13 Now, how might that change? It is a procedural
14 question we are working with OGC right now to work up what
15 might be kind of a standard format to do that on a regular
16 basis with each license amendment. That way, we get into a
17 control document as a forward fit on license amendments.

18 Using NEI guidelines for managing commitments,
19 this is still -- we have endorsed the guidelines. The
20 Commission has endorsed the guidelines, and this is to deal
21 with the retrospective question because we have done it,
22 with the chronology in the past, a number of inspections on
23 industry commitment and management processes, and so we do
24 have some feel that, in general, we have a working system
25 out there. It is not a perfect system, but we found no

1 fatal flaws in looking at the past, and this was a further
2 refinement on that.

3 This was put in place about a year ago. Our
4 intention now would be we're developing an inspection
5 procedure now to go out and look and inspect it for
6 goodness, if you would, to see if it's doing what we think
7 it's going to do. So that's, in the short term, to keep
8 dealing with the past commitments.

9 Continue implementing the process improvement
10 plant which was sent, the project's process --

11 CHAIRMAN JACKSON: Let me stop you. For past
12 commitments, I think we talked about this once before. This
13 NEI guideline for managing commitments does have one
14 vulnerability in that it would allow deletion of old
15 commitments u sing 50.59 criteria; is that correct.

16 MR. MIRAGLIA: For certain classes. This was a
17 program that the industry came up with and we endorsed, and
18 I believe we -- I don't believe we briefed the Commission,
19 but I think the Commission was informed by a Commission
20 paper about a year ago.

21 In that process, there is classification of
22 commitments, commitments that are important to the agency,
23 that cannot be changed without our knowledge. Then, there
24 is commitments that can be changed within the context of a
25 50.59 process, and they would have to inform us and document

1 and keep records of those, pretty much like they have to do
2 for a 50.59-type process within the context of 50.59.

3 Then, there are commitments that would not
4 necessarily fall within the control process, that they could
5 change, but they would need to document and keep records of.
6 So it does have that type of discipline.

7 The inspection program that Frank is talking about
8 is to go out and say are the -- is the industry utilizing
9 that program in a way that they are putting the commitments
10 in the right kind of categories and are they maintaining and
11 controlling those commitments with the right kind of
12 processes that we can audit and inspect and we would test
13 those elements of the program, and that is one way of
14 looking back at commitment management that is in place at
15 this point in time.

16 CHAIRMAN JACKSON: Okay. COMmissioner?

17 COMMISSIONER DIAZ: Is that very well defined, our
18 licensing commitments?

19 CHAIRMAN JACKSON: That is what I was going to
20 say. That is right.

21 COMMISSIONER DIAZ: The protocol of the initial
22 structure?

23 MR. MIRAGLIA: The program that we looked at,
24 Commissioner Diaz, had those kinds of elements that sort of
25 defined the threshold and the control elements. It is well

1 over a year. We can certainly provide more information and
2 detail and update on that to the Commission.

3 I am doing that from memory right now, but I think
4 it did establish a threshold. It did establish a
5 categorization and the control processes to be used in each
6 of those categories and what records the utility would have
7 to keep, such that it would be subject to NRC review and
8 audit.

9 CHAIRMAN JACKSON: How much -- oh, I'm sorry. Go
10 on.

11 COMMISSIONER DIAZ: I was going to say, are those
12 consistent with present knowledge and established -- have we
13 reviewed them without our present Lessons Learned?

14 MR. MIRAGLIA: This was a program that the
15 industry said that they would implement about a year ago,
16 and we indicated we would give them time to get that in
17 place. We certainly haven't looked at those programs at
18 all. We would look at them at this point in time.

19 I think the inspection program would have to say
20 we need to probe in certain areas based upon the lessons
21 learned, and that can be factored into the inspection of
22 that kind of activity.

23 CHAIRMAN JACKSON: How much of the categorization
24 and the protocols associated with that are dependent upon
25 the definition of terms that show up in 50.59, such as

1 shudder margin, you know, probability, other things?

2 The reason I am asking is that we are talking of
3 having a follow-on Commission meeting in March and a more
4 explicit discussion and potential Commission action on
5 50.59. So, if we are talking about a commitment management
6 scheme that relates to criteria laid out in 50.59 in terms
7 of both the categorization and the protocols for managing
8 and disposition of those, is this putting the cart before
9 the wheel, the horse?

10 MR. MIRAGLIA: It depends on one's perspective.
11 In terms of 50.59, those issues on 50.59 exist minus this
12 commitment management issue.

13 CHAIRMAN JACKSON: No. I guess I understand that.
14 I agree with that. The issue is --

15 MR. MIRAGLIA: And we do --

16 CHAIRMAN JACKSON: But are these things affected,
17 the way you would actually -- the commitments would be
18 managed relative to what's in here, are they affected by
19 what you are going to be bringing forward to the Commission?

20 MR. MIRAGLIA: Yes. To the extent that the 50.59
21 process would be changed, then we would have to make --
22 codify the same kind of --

23 CHAIRMAN JACKSON: The corresponding changes.

24 MR. MIRAGLIA: The corresponding changes with
25 respect to the change process of the commitment management.

1 CHAIRMAN JACKSON: Okay. Commissioner McGaffigan?

2 COMMISSIONER MCGAFFIGAN: I was just going to keep
3 on this analogy that Mr. Gillespie has been using.

4 If this commitment management system were in place
5 and Maine Yankee had found these 12 commitments or these 12
6 conditions we put in the license and entered them and then
7 did a 50.59, is that the notion?

8 MR. GILLESPIE: Yes.

9 COMMISSIONER MCGAFFIGAN: Could they have just
10 declared that whatever tweaks they needed to get to where
11 they wanted to go were unreviewed safety questions and,
12 therefore, not require -- I mean, could they have ended up
13 where they would have been, anyway, using this process?

14 MR. MIRAGLIA: I think the answer is probably yes,
15 but it would have been done -- it would have had an
16 auditable trail. It would have had an auditable trail.

17 I mean, you're talking about absolutes and
18 guaranties, and I don't think I'm prepared to say there is a
19 guaranty about anything.

20 COMMISSIONER MCGAFFIGAN: Right. So we would have
21 an auditable trail.

22 MR. MIRAGLIA: Well, but in this case here, if we
23 --

24 MR. GILLESPIE: If we go back to the philosophy --

25 MR. MIRAGLIA: That's right.

1 MR. GILLESPIE: -- of 50.59 and the word of a term
2 is giving us problems with industry and that is the word
3 "any decrease in safety," if you take 50.59 as -- the thing
4 that tries to maintain the safety envelope that is
5 prescribed by the FSAR and someone does that in good and
6 reasonable faith, then something that would end up reducing
7 safety shouldn't happen, and if it does, yes, we should have
8 the auditable trail that someone crossed the line.

9 COMMISSIONER McGAFFIGAN: So giving up these
10 conditions or tweaking them, if we had audited it, we would
11 have said no, that wasn't an -- that there is an unreviewed
12 safety question here --

13 MR. GILLESPIE: Yes.

14 COMMISSIONER McGAFFIGAN: -- and it should have
15 come in for an amendment.

16 MR. GILLESPIE: It is likely with the strength of
17 those 12 conditions that were placed in the code, that if we
18 inspected it, we would have made that finding.

19 COMMISSIONER McGAFFIGAN: Okay.

20 MR. GILLESPIE: But it is not an absolute.

21 CHAIRMAN JACKSON: I mean, there are two pieces, I
22 think, that come out of the Commissioner's comments. One,
23 will this create the auditable trail? Two -- would it have?
24 -- two, then, would we have done the audits? to have caught
25 things that we should have caught?

1 But again, this seems like a going-forward
2 solution. I'm interested in the going-backwards solution.

3 I mean, you've outlined, I think, with talking
4 about identifying future licensing basis commitments using
5 the NEI guidelines, what we have been talking about, and
6 having a system to track planta-specific license and basis
7 commitments and reviewing selected issues as going forward.
8 How are you going the backward look? Because that is the
9 space in which we exist.

10 MR. MIRAGLIA: And I think what we are attempting
11 to say, Madam Chairman and Commissioners, is that these are
12 reasonable short-term steps that we can implement rather
13 quickly to try to build a fence around the vulnerability.

14 In addition, some of these short-term solutions
15 will provide us with additional insights as to the scope of
16 the issue out there, the risk significance and safety
17 significance of those, so that we can make reasoned
18 discipline judgments in terms of the longer-term solutions.

19 CHAIRMAN JACKSON: I understand, but all I am
20 asking is a simple question, Frank. Are we talking about it
21 on a going-forward basis? Is putting this fence around it
22 going to cover the backward look and allow us to do the risk
23 significance, you know, look, or is it merely going to cover
24 the fence, put the fence around the going-forward?

25 MR. MIRAGLIA: I think it is aimed at doing both,

1 Madam Chairman, and if the commitment out there -- and it's
2 a voluntary program, and we have to also -- this is not a
3 regulatory program. This is an NEI program that the
4 industry would voluntarily implement on their own.
5 Consistent with Commission guidance, where we do have a
6 voluntary program, we have been asked to follow up on is
7 that program working.

8 The sense of the inspections would answer the
9 question, is it an effective program, is it working, are
10 they being categorized, the commitment is being categorized
11 in the right way, are they being controlled in the right
12 way.

13 If those answers are all positive, then maybe we
14 would have enough confidence to say -- and this is
15 supposedly for all the commitments that are in place -- then
16 that might give us the basis for saying, well, that gives us
17 some confidence that this is sufficient, and then maybe what
18 we would have to say for places that weren't voluntarily
19 doing it is that maybe we need to have it made a mandatory
20 program or extend it further and change rules or regulations
21 or specific requirements.

22 CHAIRMAN JACKSON: So is everything you have up
23 here under the short-term voluntary actions?

24 MR. MIRAGLIA: No, no. In terms of the first one,
25 the licensing basis, this would be something we would

1 initiate and impose in the future for all future things.

2 In terms of the NEI guidelines, it's a voluntary
3 program. I don't believe it met the initiative category
4 where it was an initiative that they all agreed to
5 implement.

6 It would be, it's out there, a program that's been
7 developed. The NEI coordinated this activity with the
8 agency, and it's an approved -- and it has an endorsement.
9 So utilities could look at and use that program, and now
10 what we are saying, consistent with Commission guidance, we
11 would go out and look to make some judgment of the
12 effectiveness of that program, to manage commitments, such
13 that we can use that information to say what reasonable next
14 steps, including going to some of the longer-term issues,
15 should we do when considering further back for
16 consideration.

17 CHAIRMAN JACKSON: And how long would you expect
18 to have this voluntary program go on before you would be
19 coming back to make some decisions about what next steps to
20 take?

21 MR. MIRAGLIA: I think we would need some
22 inspection results at a variety of utilities with a variety
23 of commitment, management tracking systems out there, and I
24 would say that we would probably, six months to eight months
25 of inspection experience out there before we have enough

1 information to come forward.

2 CHAIRMAN JACKSON: Let me ask you this kind of a
3 bomb question. You know, given that, in a certain sense, we
4 got to where we are because we thought there were voluntary
5 things that were being done by the industry relative to
6 design basis, one could argue this is a deja vu kind of a
7 set of statements. What comfort do we take that this would
8 be any different from what got us to where we are in the
9 first place, you know, always keeping the focus on what is
10 most risk-significant? But if you don't have the basis here
11 in the first place, you can't pars it to talk about what has
12 a risk or safety feature.

13 MR. MIRAGLIA: And what we are doing is we are
14 integrating a number of judgments, Madam Chairman, in this
15 kind of regard.

16 Certainly, the voluntary programs in terms of the
17 design basis didn't appear to work based upon some of the
18 samples, and that is why we went out with the 50.54(f)
19 letter, specifically on design basis, to further assess
20 where the industry is and to assess their implementation of
21 that type of program.

22 In addition, that led to the Commission giving the
23 Staff guidance on voluntary programs that, when they are in
24 place, we need to follow up to see and to test the orders,
25 and what we are proposing here in the short-term solution is

1 to say, given we have endorsed this commitment management
2 process, given nominally it's in place for about a year or
3 more at most facilities who voluntarily use it, we can get
4 some information on that.

5 In addition to the concerns that have been raised,
6 we have found FSAR. We did look at commitments. If you go
7 back to the chronology, there were at least two audits that
8 were reported to the Commission in the '92-'94 time frame
9 about how commitments were being managed.

10 CHAIRMAN JACKSON: Right, nine plants, as I
11 recall.

12 MR. MIRAGLIA: There were two -- I think there was
13 one audit of nine or 10 plants and one of around seven.

14 CHAIRMAN JACKSON: But there are 109 plants.

15 MR. MIRAGLIA: I understand. So, based upon that,
16 there was some recognition that there were commitment
17 management things in place. They appeared to be managing
18 the commitments, and they might provide a basis, and that
19 got extended to the endorsement of this commitment
20 management program.

21 In addition, some of the things that we have been
22 finding where we have found discrepancies in issues in terms
23 of significance in that, not all of them are significant.

24 In terms of the FSAR discrepancies, we have
25 provided the report on spent fuel pool cooling to the

1 Commission and on the FSAR inspections. So I think we need
2 to get a better -- based upon what we see, in terms of
3 saying should we go further, we feel that we need to have
4 some sample to make the assessment that the next step is a
5 cost-effective step and that we are getting the safety
6 increment that we need and that burden on --

7 CHAIRMAN JACKSON: I know, and I am telling you, I
8 am sure you told the Commission, you know, five years ago
9 the same thing.

10 MR. MIRAGLIA: Yes.

11 CHAIRMAN JACKSON: And I don't disagree with
12 everything you said, but the issue is I want to understand
13 what is going to be different so that, you know, 5, 10 years
14 from now, you know, the next Commission that is sitting here
15 isn't, you know, hearing --

16 MR. MIRAGLIA: I think one of the things we are
17 committing to is that we will go look, and then we will
18 report back to the Commission and say, in our judgment, it
19 should continue or should we go further, and I can't offer
20 any more than that.

21 CHAIRMAN JACKSON: Okay.

22 MR. BORCHARDT: The only other point that I would
23 add is that the short-term actions that are under NRC
24 control here --

25 CHAIRMAN JACKSON: Right.

1 MR. BORCHARDT: -- identifies some concrete steps
2 that can be taken that will add a lot of discipline --

3 CHAIRMAN JACKSON: Okay.

4 MR. BORCHARDT: -- to what we had previously
5 exercised, and those are directly under our control, and
6 those are the four short-term actions, minus the one that
7 talks about NEI commitment.

8 We can inspect that, but we can't enforce it, nor
9 can we mandate that a licensee use those.

10 CHAIRMAN JACKSON: So you are saying that Points
11 1, 3, and 4 --

12 MR. BORCHARDT: Right.

13 CHAIRMAN JACKSON: -- are specific things that we
14 would do, and are they different than what we have done in
15 the past?

16 MR. BORCHARDT: Yes.

17 MR. MIRAGLIA: Yes, they are.

18 MR. BORCHARDT: No. 1, for example, talks about
19 specifically identifying licensing basis commitments. Well,
20 we have never pointed directly at a commitment and said
21 that's --

22 MR. MIRAGLIA: Yes, we have, see, and -- don't say
23 never. "Never" is an absolute word. In terms of if you go
24 back to the chronology in 1981, for 1985, for the --

25 CHAIRMAN JACKSON: That's when I was a child.

1 MR. MIRAGLIA: I was fairly young then, too. In
2 fact, I might have had black hair back then.

3 But at that point in time, it was recognized for
4 near-term operating license, and it was internal directives
5 that the Staff, in preparing its SER, needed to identify
6 those things that were significant enough to be captured
7 when in technical specifications, those things that were
8 significant enough to be captured within license conditions,
9 those things that were significant enough that needed to
10 have verification in the field prior to licensing, and we
11 had that discipline for near-term OLs, and that discipline
12 -- we didn't carry through and follow through on what we are
13 saying.

14 As I said, these issues were looked at and
15 examined by the agency in the past. We have had programs.
16 I think Bill makes a good point. It is adding discipline,
17 and I think what I was trying to say in my opening remarks
18 with respect to vulnerabilities, the short-term actions
19 close the window somewhat.

20 Does it close it completely on all of the issues?
21 No. Some of the short-term actions, we'll say, we've closed
22 the window or is it closed, give us the information to
23 determine whether it's been closed enough.

24 CHAIRMAN JACKSON: One second. I think
25 Commissioner McGaffigan wants --

1 COMMISSIONER McGAFFIGAN: I was just going to ask
2 two questions. On the issue of commitments, whose
3 responsibility is it to know, track, and identify these
4 commitments? Is it the project manager. Is it the
5 resident? is it both? Who is going to have this
6 documentation?

7 MR. MIRAGLIA: In terms of the process that we are
8 talking about here, that that licensing commitment -- it
9 would be the technical staff to identify to the project
10 manager and the project manager to put in the appropriate
11 part of the licensing and then track from there on out.

12 COMMISSIONER McGAFFIGAN: So the project manager
13 will be responsible?

14 MR. MIRAGLIA: That is the intent.

15 COMMISSIONER McGAFFIGAN: Then, on the NEI
16 guideline for managing commitments, it is voluntary within
17 NEI. It is not an initiative, as you said. Do you have a
18 sense as to how many of the 108 or 109 plants are utilizing
19 the NEI guideline?

20 MR. MIRAGLIA: No, I don't, but I know there is an
21 industry group that is -- I don't know its acronym, but it's
22 called the commitment management utility group where they
23 have been sharing the information on how they track
24 commitments. So there is a significant number of utilities
25 engaged in that activity. That was the principal body that

1 NEI operated through.

2 So I would say that at least the members of that
3 group, which was a significant number of utilities -- and we
4 can provide that paper and some of that background.

5 CHAIRMAN JACKSON: But we really don't know,
6 really, how many --

7 MR. MIRAGLIA: No, I couldn't answer it.

8 CHAIRMAN JACKSON: -- are using the NEI
9 guidelines.

10 COMMISSIONER McGAFFIGAN: Would NEI know? Would
11 NEI tell you?

12 MR. MIRAGLIA: We could ask. We could ask.

13 CHAIRMAN JACKSON: Commissioner Diaz?

14 COMMISSIONER DIAZ: It seems to me that looking at
15 this, that the only real bridge that we have between the
16 past, the present, and the future would be this tracking
17 system, to plan a specific licensing basis, and that would
18 be the one that could actually provide you, if we do it
19 right and if we put enough resources on it and maybe if we
20 not only do it by ourselves independently, but jointly with
21 the licensee, that that would be a bridge that would allow
22 you to determine where you are, where you were, and where
23 you are going, and that is the only thing that remains. Is
24 that correct?

25 MR. MIRAGLIA: I think that is what we say is a

1 reasonable starting point to assess those things, to say is
2 the bridge complete and do we have enough knowledge to close
3 it.

4 COMMISSIONER DIAZ: Is this tracking tool
5 something that we are committed to maintain? Because I
6 think that is the heart of the issue. If we maintain a
7 tracking tool, then 5 years from now, 10 years from now when
8 we get a few gray hairs like you --

9 MR. MIRAGLIA: Let the record show that it is more
10 than a few and growing by the moment.

11 [Laughter.]

12 CHAIRMAN JACKSON: Speak for yourself.

13 MR. GILLESPIE: If I could, this is the intent
14 here. It is really more than a tool. It is a process.

15 If I could talk through a license amendment that
16 comes in, it gets an SER. There is an amendment -- let me
17 say there are several what we would now call commitments in
18 it, that we would now say deem to be appropriately
19 incorporated into the FSAR.

20 The project manager will keep track of those, and
21 then when the FSAR update comes in, as required, he would
22 reconcile. Once he reconciles and it gets into the FSAR and
23 we're assured it is in a controlled document, then the 50.59
24 philosophy, maintaining the licensing envelope described in
25 the FSAR takes hold, and the individual commitment then

1 takes on as an individual sentence or requirement less
2 importance and it is now part of a hole, now 50.59 or the
3 change process is supposed to be the process we were relying
4 on to control that level of safety. Again, it is that catch
5 word.

6 It maintains the envelope of the FSAR. It gives
7 the licensee the freedom to move around within that safety
8 envelope.

9 So once you reconcile -- and the words of 50.17(e)
10 are, "Six months after each refueling outage, you get an
11 SFAR in." Once you reconcile, you should not have to
12 maintain an interminable list of those things that get
13 incorporated into the document.

14 In fact, the amendment package itself might have a
15 tech spec amendment, and then there might be what looks like
16 a boilerplate license condition as a companion to it that
17 says incorporating the six following conditions into your
18 FSAR is the contingency upon this amendment being approved.

19 As soon as they put it in their FSAR, that becomes
20 a moot license amendment. The tech spec carries. We
21 reconcile to the FSAR, and we have a system that closes.

22 CHAIRMAN JACKSON: Yes, but that is the whole
23 point. The system has not always.

24 MR. GILLESPIE: It has not closed in the past.

25 CHAIRMAN JACKSON: All we want to understand is

1 what you are proposing either in the short term or the
2 longer term is going to close the system.

3 MR. GILLESPIE: Okay. If I --

4 CHAIRMAN JACKSON: Maybe we should let you talk,
5 but I think Commissioner McGaffigan wants to say something.

6 MR. GILLESPIE: Okay.

7 COMMISSIONER MCGAFFIGAN: I am just trying to -- I
8 mean, I'm putting myself in a project manager's position for
9 a moment, and I know they turn over. There, the person
10 responsible also for keeping the updated FSAR, you know, the
11 agency's copy of it. Is that correct? Or, who is
12 responsible?

13 MR. GILLESPIE: Yes. The project managers keep a
14 copy. The official FSAR is in the official docket file, and
15 we have a replicate working copy with the project managers.

16 COMMISSIONER MCGAFFIGAN: These are very large
17 documents, as you said. How does a person -- have you all
18 looked at computerization?

19 We had a meeting yesterday about computerization
20 and tracking commitments made and materials licenses. Is it
21 important that they be able to see why so and so did such
22 and such maybe five years before, maybe three project
23 managers before, in evaluating an issue that might come
24 before a project manager?

25 MR. GILLESPIE: If I can keep this in kind of a

1 number perspective, if you allow me, we do on the average 10
2 to 12 licensing actions per facility per year.

3 COMMISSIONER McGAFFIGAN: Right.

4 MR. GILLESPIE: So, if there are three or four
5 commitments for each one, we are only dealing with 30 or 40
6 items. So it is manageable. It is doable in the short
7 term, but for the most part, without going to an
8 over-computerization initially.

9 The FSAR report, when it comes in, is supposed to
10 be a summary of all changes to the FSAR. So, lining up what
11 might be a list of 50 or 60 items long to a summary report
12 that is also 50 to 60 items long, it is doable, and it is
13 probably -- even if you used a computer to pull the text up
14 on the screen, someone still has to read and compare the
15 text and say, okay, that is this commitment and that is this
16 commitment, because the machine isn't going to be able to do
17 that for you.

18 COMMISSIONER McGAFFIGAN: Right.

19 MR. GILLESPIE: So I think, short term, we are in
20 a doable range, within the way we are functioning, and it is
21 a discipline we haven't really exercised, the reconciliation
22 to the FSAR.

23 Now, if you find something not in the FSAR, then,
24 of course, a letter to the licensee or a phone call says,
25 you know, you have lost this commitment, where is it, would

1 take place, but it is definitely a future fit.

2 The short-term actions throughout this
3 presentation are, from here, forward. The longer-term
4 actions are trying to address what we would do to develop
5 information to make the decision on potential rulemaking in
6 the future.

7 CHAIRMAN JACKSON: Commissioner Diaz?

8 COMMISSIONER DIAZ: I think following Commissioner
9 McGaffigan, I think -- and I know you know this, but it is
10 important to point out that even as large as the FSAR is, it
11 is still manageable. What becomes very difficult is when
12 you add the design basis to the FSAR and you have all of
13 these and all of those, the references and things. That
14 makes it very complicated, and that interface is the one
15 that eventually we will need to define, how much of the
16 design basis are we going to have or constituted so we can
17 address it, and that is a very difficult issue.

18 CHAIRMAN JACKSON: That is what they want to bring
19 to us, you see.

20 MR. GILLESPIE: And that is where the Commission
21 was extremely careful, I believe, in the policy statement of
22 1992 in distinguishing between the word "design basis" and
23 "design documentation."

24 It was never anybody's intent that all the design
25 documentation be incorporated into the FSAR, but

1 conceptually, I think we had a thought on what the design
2 basis was, and it is defined in the regulations as to
3 higher-level definition. It is those key parameters and
4 functions that really must work in a certain way. It is
5 those key setpoints. It is those key things that go into
6 the safety analysis.

7 I am not saying that is a real clear line because
8 I would be the first to admit that the difference between --

9 MR. MIRAGLIA: But I think it is always recognized
10 the design basis didn't require all the drawings, all the
11 design calculations and all of those type of --

12 COMMISSIONER DIAZ: And that is where the
13 distinction is made.

14 CHAIRMAN JACKSON: That is where the line may be
15 able to be drawn.

16 MR. MIRAGLIA: If you go back to that policy
17 statement, as Frank said, that was clearly articulated in
18 the NUREG that supported some of the studies in that, and we
19 recognized --

20 CHAIRMAN JACKSON: Does that provide us a basis
21 for going forward and beginning to address the issue, that
22 distinction that the Commissioner is talking about?

23 MR. MIRAGLIA: I believe so because I think the
24 50.2 definition that is in the rule is that higher-level
25 definition.

1 COMMISSIONER DIAZ: And I believe that the
2 position that was taken at the time was very reasonable at
3 the time. It was understood. It is just that now we have
4 all of this additional knowledge.

5 I think the clear definition of the interfaces
6 must be restated so we can manage.

7 CHAIRMAN JACKSON: Okay. Why don't you go -- the
8 longest it's been, half an hour per page.

9 [Laughter.]

10 MR. GILLESPIE: The long-term is definitely the
11 retrospective look. It is a prospective look in a sense in
12 my first bullet, and that is defining current licensing
13 basis in Part 50.

14 We have referenced the term which is not clearly
15 designed in Part 50. It is designed in Part 54. And if we
16 would re-read it, we may, in fact, not want the same
17 definition in Part 50 as part 54, and I think that needs
18 some definite thought put into it.

19 The Part 54 definition was done in a certain
20 perspective, and the Part 51 might be in a different
21 perspective.

22 Compilation of the licensing basis has been
23 addressed in license renewal space, and decisions were made
24 that it would be at that time not beneficial, basically;
25 that it was too costly an effort to have to go to actually

1 list every commitment that ever was and how it was disposed.

2 To establish regulatory controls for all licensing
3 basis commitments, this is really a bullet that is an
4 expansion, the potential expansion of the base to which
5 50.59 would apply. 50.59 clearly right now applies to the
6 FSAR, and included in the FSAR is a design basis, but if we
7 were going to pick up answers to generic letters that
8 currently are not in the FSAR or responses to items that are
9 on compliance or confirmatory action letters, clearly, that
10 is an expansion of the use of 50.59, whatever process that
11 ends up evolving not, and that is just in lock-step with
12 what do you want those controls to apply to.

13 MR. MIRAGLIA: And I think at this point, I would
14 just make a note that these long-term issues were considered
15 just a few years ago in the context of license renewal in
16 that kind of context.

17 Now the information that we have says we need to
18 go back and revisit some of those, where were we and how did
19 we get to where we are and what do these vulnerabilities say
20 and what should we do with it.

21 CHAIRMAN JACKSON: Well, I think you have new
22 information. You have a new Commission.

23 MR. MIRAGLIA: Yes.

24 CHAIRMAN JACKSON: And you have a new ability to
25 parse things in a way that might allow some --

1 MR. MIRAGLIA: That is what I said. They need to
2 be reexamined and reconsidered, but we have to recognize
3 where we have been and how we got to where we are and what
4 does the new information now suggest.

5 COMMISSIONER MCGAFFIGAN: I am afraid I have two
6 questions. Number one, I don't want to let you off so easy
7 on why there would be a difference in definition between
8 Part 50 and Part 54, why you would not just take the Part 54
9 definition that presumably people labored over in the
10 license renewal context and plug it in here.

11 MR. GILLESPIE: If I could, let me give you an
12 example. The definition we are talking about, 10 CFR 50.3,
13 is actually backup slide 21.

14 When in doubt, I didn't want to paraphrase. In
15 the definition of current licensing basis, it has got a
16 hierarchy of requirements in current licensing basis. It
17 goes from the regulations to the license to technical
18 specifications to the FSAR, and then it goes on, and the
19 licensee's commitments remaining in effect that were made in
20 docketed licensing correspondence, such as licensee
21 responses to NRC bulletins, generic letters, and enforcement
22 actions, as well as licensee commitments documented in NRS
23 safety evaluations or licensee event reports.

24 Let me take the one on compliance, just as an
25 example. If someone writes in a response to an item of

1 noncompliance and says they are going to do certain
2 corrective actions, if they didn't do those actions and we
3 went back six months later and found that it wasn't done,
4 would we take action because they didn't do what they said
5 or would we take action because they didn't fulfill the
6 fundamental requirement?

7 What this definition -- I think our action would
8 be, as a former inspector, the citation would be against the
9 fundamental requirement again. You wouldn't be creating a
10 new requirement through the inspection process. So there
11 are some questions like that, that you might say, because
12 there is a lot of paper and a lot of what would be
13 considered commitments coming out of inspection reports;
14 that the way this definition was written, it was
15 intentionally written to be all-inclusive, basically all
16 documents on the docket file, to make sure it encompassed
17 all the information there.

18 Would we want to continue that in the future?

19 MR. MIRAGLIA: I think what Frank was saying --

20 MR. GILLESPIE: That's all I'm saying. In fact,
21 you may reconcile --

22 MR. MIRAGLIA: You need to go back and reexamine
23 it.

24 COMMISSIONER MCGAFFIGAN: Okay.

25 MR. GILLESPIE: If you're going to reexamine the

1 definition for Part 50, let me say it a different way. We
2 might have to reexamine a consistent definition also in Part
3 54. I didn't mean to imply they would be different, but
4 they could be.

5 COMMISSIONER MCGAFFIGAN: They could be for the
6 two purposes.

7 MR. GILLESPIE: Yes.

8 COMMISSIONER MCGAFFIGAN: The second item, and I
9 am not sure I am going to paraphrase you properly, but you
10 may be about to get to it, but the notion as to -- that
11 there is a fundamental issue as to what we have and haven't
12 been requiring in the 50.71(e) updates.

13 And what you said a moment ago, and I won't try to
14 paraphrase it, I think, is consistent with the Staff
15 interpretation that has been propounded occasionally over
16 the years or maybe consistently over the years as to what
17 should and shouldn't be in the FSAR, but you sort of get
18 into the problem of the plain reading of what 50.71(e) says.
19 A plain reading of it isn't necessarily consistent with what
20 the Staff has been saying over the last 15 years.

21 MR. GILLESPIE: That's true.

22 CHAIRMAN JACKSON: I think they're going to come
23 to that. I think now is the time for me to become the
24 chairman again. Let's move along.

25 MR. GILLESPIE: We have eventually touched upon

1 the design basis. Some licensees not appropriately
2 maintaining the design basis, we continue to see problems
3 with numbers, calculations being incorrectly applied or
4 incorrect ones used.

5 Some licensees are not appropriately implementing
6 some bases, and some bases are not consistently incorporated
7 into the FSAR, and that statement gets the essence of
8 potentially a literal reading of 50.71(e), which is the FSAR
9 document of which this is a subset. So I will try to
10 rapidly get to that.

11 What we need to do is provide increased
12 understanding of the design basis, make sure everyone
13 understands the difference between design basis and design
14 documentation because we sometimes use our terms maybe too
15 freely, and greater assurance of facilities or controlling
16 and are in compliance with their design basis.

17 It is not that they have to necessarily control to
18 our satisfaction every detail and every drawing, but there
19 are certain key things that are designated design basis that
20 should be controlled.

21 Short term, provide guidance on the use of design
22 basis. We should be identifying in things like generic
23 letters when we expect the reply will, in fact, affect the
24 design basis and be very clear about what it is.

25 Implement 10 CFR 50.71(e) as basically literally

1 read as a future --

2 COMMISSIONER McGAFFIGAN: It was in the statements
3 of consideration.

4 MR. GILLESPIE: Yes.

5 And I didn't include 50.71(e) as a backup slide,
6 but I did bring it so I could read it without my reading
7 glasses in big print because it is a good, well-worded rule.

8 Use the responses to 50.54(f) letters to guide us
9 -- provide some guidance on how we are going to be looking
10 at designs specifically in the future and what level of
11 inspection will be appropriate for what facility.

12 We clearly cannot do the maximum amount of
13 inspection at every facility, and we'd continue the design
14 inspections that we are currently doing, which are basically
15 at two levels. We are doing our more traditional design
16 inspections of system inspections, which are run by the
17 regions, with one or two contractor support people, and we
18 are running the architect engineer programs, which are much
19 narrower, actually, looking specifically at design, will the
20 system carry out its function as intended and is it being
21 carried out as described in as best we can understand the
22 design basis to be included in the FSAR.

23 Long term, determine if policy or design basis
24 should be -- if the policy on design basis should be
25 codified in regulations. The 1992 policy would probably --

1 wording-wise, if I just literally read the policy -- could
2 be edited and turned actually into a rule. That's a
3 long-term option to be looked at.

4 Determine the benefits of incorporating all
5 existing design basis that backfit into the FSAR, including
6 information which may not currently be there.

7 CHAIRMAN JACKSON: Go back on the top of that page
8 of implementing 50.71(e) as explained in the statements of
9 consideration. What is that going to fix?

10 MR. GILLESPIE: In the short term, we are looking
11 at -- it would be probably appropriate to potentially issue
12 a generic letter that says from here on, it would be the
13 Commission's intention to --

14 CHAIRMAN JACKSON: A generic letter implies a lot
15 of things. Why is that necessary?

16 MR. MIRAGLIA: It may not be necessary in the
17 classic sense.

18 MR. GILLESPIE: It may not be necessary.

19 MR. MIRAGLIA: I mean, I think if you look at
20 50.71(e), there were two distinct pieces. It is a reporting
21 requirement, and it is also fairly clear in terms of what
22 the content that that update should be, and I think we have
23 been pretty consistent on the reporting requirement and
24 pretty inconsistent as terms of looking at the quality of
25 the content as to whether all of the material that would be

1 implicit and explicit based on the rule to be there.

2 I think the only thing one would have to do is to
3 be, if you want to characterize, some sort of generic
4 communication to indicate to the industry. Perhaps that
5 hasn't been consistently implied. That was always the
6 intent. And be warned, that is what we are going to start
7 enforcing.

8 CHAIRMAN JACKSON: But it is not a backfit.

9 MR. MIRAGLIA: And we would defer to the Office of
10 General Counsel in the application of the 109 process as to
11 how that would play out.

12 COMMISSIONER DIAZ: How would the design control
13 as explained in 10 CFR 50 Appendix B match into this?

14 CHAIRMAN JACKSON: Can I just --

15 MS. CYR: I don't believe it would be back. I
16 mean, demanding compliance with the rule, as it is written,
17 is not a backfit. I'm sorry.

18 COMMISSIONER DIAZ: Yes, because you are talking,
19 really -- you are differentiating with the design basis and
20 the design recommendation and 50.71(e) as applied to the
21 SFAR. It is design control on -- is it found on the
22 Appendix B list?

23 MR. GILLESPIE: Well, Appendix B still applies.

24 COMMISSIONER DIAZ: Yes, but if it is somehow used
25 also by the agency specifically enough, that will provide us

1 some guidance in what the interfaces are.

2 MR. MIRAGLIA: I think the 50,71(e) would then
3 incorporate certain material clearly within the FSAR, and
4 then that would clearly put it within a control process of
5 50.59.

6 COMMISSIONER DIAZ: Okay, 50.59.

7 MR. MIRAGLIA: I think that's --

8 MR. GILLESPIE: That's the control process. It
9 becomes 50.59.

10 MR. THOMPSON: And I think that is one of the
11 other elements that we talk about, the revisions of 50.59
12 and to bring closure to that as such an integral part of
13 this whole approach.

14 COMMISSIONER DIAZ: Thank you.

15 MR. GILLESPIE: Going on to Slide 11, FSAR, which
16 virtually repeats the entire presentation for a design basis
17 because one is contained in the other, but the FSAR is
18 slightly larger, that we found many discrepancies between
19 facilities in the FSAR because the FSAR is the design basis,
20 but it uses the words in what it contains. It is also a
21 facility description. So that's a little more extensive,
22 and in fact, the words "facility description" may in a
23 longer term need to also be looked at by way of
24 understanding what 50.59 specifically applies to in an FSAR
25 and what it doesn't, and the simplistic example would be if

1 the color of a building or something was referred to.
2 Clearly, we don't want someone doing an analysis of the
3 color of a building, but yet, it may be described at that
4 level of detail.

5 FSARs are not consistently updated relative to
6 their content. They are consistently updated relative to
7 the frequency required, which is something that Frank has
8 already mentioned.

9 CHAIRMAN JACKSON: Have we provided any guidance
10 for exactly what information? Well, I guess if we haven't
11 been consistently doing it, we haven't been providing any
12 guidance as to what information would be required in the
13 update.

14 MR. MIRAGLIA: I think within the context of
15 50.71(e) in terms of the rule and the statement of
16 consideration, there is pretty explicit -- I think you could
17 read -0-

18 CHAIRMAN JACKSON: So we just haven't been doing
19 it.

20 MR. MIRAGLIA: And we haven't been consistent. I
21 think it could be rearticulated clearly for everyone to
22 understand what the desire is and to go out and start
23 implementing it in that kind of context.

24 CHAIRMAN JACKSON: Okay.

25 MR. GILLESPIE: The intended result of our action,

1 short term and long term, would be to ensure licensees are
2 updating their FSARs with the appropriate information, to
3 determine if it is necessary to establish a standard level
4 of detail for FSARs because we do have a variability from
5 when they were issued, determine if additional information
6 should be added to updated FSARs.

7 I might comment on "determine if it is necessary
8 to establish a standard level of detail for FSAR updates."
9 I believe I could say the general practice has been that the
10 FSAR updates tend to update that which is already in the
11 FSAR and tend not to add additional detail.

12 So, if a system is changed, but a specific set
13 point or something was not originally in the FSAR, it
14 generally would not get put in because of the change. The
15 change would be focused in the change of material already
16 there, which gives you a very reduced scope of what you are
17 changing in your FSAR and leave some things outside of the
18 FSAR.

19 CHAIRMAN JACKSON: Is that consistent with what
20 the statement of considerations --

21 MR. MIRAGLIA: I think some of that would be
22 captured by a consistent -- but there are also -- when
23 50.71(e) was first promulgated, it was recognized that the
24 update applied to the FSAR. In other words, the
25 understanding of variability of content was taken as a

1 given, and it was to say as you make changes that needed to
2 be -- could be interested to be in the content. That should
3 be included, and that is what haven't consistently
4 implemented.

5 So I think, to a large measure, it would capture
6 most. We need to make sure, I think, what Frank is saying
7 that are there pieces that aren't being captured that we
8 need to be assured need to be in.

9 CHAIRMAN JACKSON: Right. One big piece of it is
10 inherently already there in the existing regulation.

11 MR. GILLESPIE: Yes.

12 Short-term actions, implement previous actions --

13 CHAIRMAN JACKSON: Short-term actions.

14 MR. GILLESPIE: Short term, implement 50.71(e).

15 [Laughter.]

16 MR. GILLESPIE: I didn't think I'd ever get to
17 that bullet. I'm sitting here tense.

18 It would be to do what we need to do to implement
19 50.71(e), as written, including any kind of appropriate
20 notifications. It says, hey, this is what we are going to
21 do. Whether that is generic communications or whatever -

22 CHAIRMAN JACKSON: Send out the statements of
23 considerations.

24 MR. MIRAGLIA: We need to make sure the Staff
25 understands what we're doing. We'd have to do all those

1 things, but yes, it can be done.

2 CHAIRMAN JACKSON: Yes, please.

3 COMMISSIONER DICUS: You want my question?

4 Could you give the Commission some insight on what
5 seems to be a very simple question? Why didn't we enforce
6 this regulation? Was it some feeling that it wasn't
7 worthwhile, some reason it was not necessary, or did we just
8 not do it?

9 MR. MIRAGLIA: The only reason that I can come up
10 with, it is the result of unintended consequences.

11 I think when terms of FSAR updates -- when we
12 shifted away from the normal licensing function -- and I
13 think it's a matter of evolution, if you look at points in
14 time -- FSAR amendments and updates were very critically
15 looked at up through the point in time of initial licensing.

16 We became sensitive again after the pause, after
17 TMI-2 in terms of making sure the commitments and the
18 material was put in and commitments were put into the FSAR.

19 Then, subsequent to the big licensing activity to
20 get the TMI requirements in there, we started to shift to
21 operational focus and design issues. I think, to the extent
22 that commitments dealt with operating procedures and those
23 kinds of things, we would probably have a better line
24 because we looked harder in that area. I just think it is
25 an error of omission as opposed to an error of commission.

1 That doesn't make it any -- it wasn't conscious
2 decision-making. I think it was just the circumstances at
3 the time and the focus of the agency at that time, and it
4 happened over a period of time, and there is some
5 inconsistent application. That is the best explanation I
6 can offer.

7 COMMISSIONER DICUS: Just a very quick statement,
8 then. Being consistent is extremely important. I think we
9 all recognize that in everything we do, certainly for the
10 Commission, certainly for our licensees, and certainly for
11 the public.

12 And then the other thing, I think I have raised
13 this concern previously, so I think it is important to raise
14 it again, and I think you have heard it from other
15 Commissioners and from the Chairman, the balance. We are
16 shifting now over more to the licensing issues, but let's
17 not forget, we still have to do the operational parts, too.
18 So let's be sure we try to stay balanced, as we move forward
19 in this.

20 MR. MIRAGLIA: That is a consistent theme, and we
21 appreciate it, we understand it, and I think we recognize
22 the responsibility to maintain the focus as well.

23 COMMISSIONER McGAFFIGAN: Could I get a --

24 CHAIRMAN JACKSON: Okay.

25 COMMISSIONER McGAFFIGAN: It's just a short

1 question, and I hope Karen will be able to answer it.

2 The memo pending before the Commission says there
3 is a possibility that we would also be subject to the Small
4 Business Regulatory Fairness Act, and I will read the
5 bullet, provide guidance to licensees, to implement 10 CFR
6 50.71(e) as explained in the rule, statement of
7 consideration, and to include an FSAR's new design bases
8 developed at the Commission's request.

9 Is it the "and" part?

10 MS. CYR: Right. The question, to the extent that
11 we were trying to look at whether we needed to require more
12 design detail or try to catch something broader in terms of
13 the design bases, that we would have to look to see whether,
14 in fact, that would rise to the level.

15 We weren't necessarily concluding that it did. It
16 just meant that we needed to look to see whether the Small
17 Business Regulatory Fairness Act would have some application
18 in that context.

19 CHAIRMAN JACKSON: But for the first part --

20 MS. CYR: The 50.71, as written and understood and
21 described in 81.10 and so on, I don't believe so.

22 CHAIRMAN JACKSON: Okay. Thank you.

23 Okay. Frank, get going.

24 MR. GILLESPIE: We will continuing auditing the
25 FSARs through the inspection program, and in fact, our

1 intent would be to reverse a cleansing we did in the late
2 '80s and early '90s. We took the FSAR references out of a
3 lot of our inspection guidance because we are really forcing
4 to focus on operations, and we are now integrating not all
5 of it back in, but pieces back in, to say, for example, when
6 you look at --

7 MR. THOMPSON: The admonition of balance.

8 MR. GILLESPIE: Yes. Well, we are being very
9 careful.

10 Identifying information to be added to FSARs
11 through generic communications and licensing actions, this
12 would be when we issue a generic communications. When you
13 read 50.71(e), there are words in here which would affect
14 that any time someone basically answers a generic
15 communications, that if that answer affects what is in the
16 FSAR and a design basis, then that answer in and of itself
17 needs to be incorporated into the FSAR, and that is already
18 in the rule.

19 This would be -- the Staff, when we write a
20 generic letter, showing the discipline when we write it, to
21 make sure we recognize up front what is it we expect from
22 people that will also be in there, be incorporated into the
23 FSAR.

24 Long-term actions. A relook at our previous
25 actions on defining a compiled licensing basis, and the

1 potential of revising Regulatory Guide 170 is, in fact, the
2 format and content guide of what goes in an FSAR for an
3 operating license or an NTOL.

4 It is very thick, but this would be the guidance
5 that we would probably pick to amend to -- if we needed to
6 amplify any more, what is the process for maintaining the
7 FSAR once you pass the operating license issuance point, and
8 now you are an operating plant, what is the level of detail
9 expected to be in it, is the level of detail consistent with
10 original detail, or is it consistent with the detail needed
11 to describe what you are going to do. It is the different
12 level of detail.

13 CHAIRMAN JACKSON: This reg guides dates back to
14 1978.

15 MR. GILLESPIE: That is correct.

16 MR. MIRAGLIA: That is correct.

17 CHAIRMAN JACKSON: It is 20 years old. Okay.

18 MR. GILLESPIE: The recommendations -- and this is
19 really right from the paper -- that we continue to implement
20 the short-term actions, following the short-term actions,
21 using information that we gain to evaluate the need for
22 different pieces of the long-term action relative to looking
23 at a redefinition or a definition in Part 50 of licensing
24 basis, and the expansion of what might be considered the
25 applicability of 50.59 to a broader base, and that would be

1 the licensing basis that would be defined, and that we would
2 make individual recommendations on the long-term action
3 relative to things like defining licensing basis, 50.59,
4 level of detail, redoing the reg guide if that's deemed to
5 be appropriate, or picking a different reg guide number and
6 putting the guidance out in that form.

7 With that, that really concludes the presentation.
8 We have included some backup slides.

9 CHAIRMAN JACKSON: Commissioner Rogers?

10 COMMISSIONER ROGERS: Yes. I think that some of
11 the things, Lessons Learned here, that have to be emphasized
12 involve -- are lack of consistency. Commissioner Dicus has
13 emphasized that a number of times, and I think it is really
14 important.

15 This comes back to fundamental definitions of
16 things, and I think that as we get into this, this type of
17 activity, I think it is terribly important that we try to
18 make sure we are looking at everything we do that is
19 connected. Most of these things are connected in some way,
20 and to see where are, employing words, that we know what we
21 mean, and we don't imply that the meaning in one place is
22 going to be the same as in another place unless we are sure
23 we want it to be that way. It could be. It might not be.

24 I think that many of the things that we are doing
25 here reflect a recognition that we could have done some

1 things better in the past, but for various reasons, life
2 doesn't always go that way.

3 I think one of the things that I would like to see
4 come out of this is a very high-level look at these issues
5 from a policy perspective. That is what you are trying to
6 do, but a lot of these are getting into nitty gritty
7 applications of policy very soon.

8 So I think that the attention to consistency and
9 detail and definitions and, in fact, being very clear on
10 what we mean by terminology, that somehow we have employed
11 in the past in a way that, well, we all know what it means,
12 except we don't all know what it means, 10 or 15 years
13 later.

14 We talked about the project manager role in this.
15 I think the shifting of project managers that we talked
16 about, rotation of project managers makes it all the more
17 important. The documentation available to every project
18 manager really says what has to be known about that plant.

19 My understanding is that when a new project
20 manager takes over, it takes several years to become really
21 familiar with just the documentation of the plan. I think
22 we have got to find a better way to do that, and I think our
23 information systems can help us there, new electronic
24 information systems, and we ought to make sure that we
25 employ them so that one doesn't have to plow through tons of

1 paper to get at the essential understandings that are
2 necessary.

3 So I think these are all things very important to
4 keep in mind, and one other point that I feel very strongly
5 about is I think we have to understand what the resource
6 demands are going to be on the Commission and on our
7 licensees in carrying out this full program. It has a
8 beautiful completeness to it and it's very appealing, but I
9 have to tell you, I am very worried about what the resource
10 demands are going to be in actually carrying this out, both
11 in-house and on our licensees.

12 I would really like to see how we answer the
13 question, what are the safety benefits that we are going to
14 buy, by doing this. I think it is a very fine kind of
15 activity, but I would really like to see what the safety
16 payoff is, and I would really like to know what the cost in
17 FTEs and dollars is going to be.

18 CHAIRMAN JACKSON: I would think that most of the
19 longer-term actions that you proposed have built into them
20 the cost benefit backfit-type requirements, at any rate,
21 would force us to address those issues that Commissioner
22 Rogers raised in terms of resource implication.

23 MR. MIRAGLIA: And our intent was, after initial
24 feedback, since these -- these things are, as you said,
25 Commissioner Rogers, very interrelated, and as I said, we

1 have I looked at these issues singularly before in
2 discussions, some of the debating on approaches. Well, what
3 are we saying different here than we have said here? We
4 said, well, gee, we haven't really said it different. It is
5 consistent, but we have never really put the two together
6 and take an integrated look. So you have a slightly
7 different context.

8 I think your comments are well taken. I think
9 what we are trying to do here is identify those high-level
10 issues, some reasonable first short-term steps that, as I
11 say, narrow the vulnerabilities and provide us some input to
12 make those kinds of -- provide the regulatory analysis in
13 terms of the longer term, to understand what the full
14 implication is, not only on ourselves, but also our
15 licensees, to get some measurement of the risk and safety
16 benefits. That is so we can make some conscious decisions.

17 So it has to be a disciplined process. What we
18 need to do is try to integrate these short-term actions and
19 how do they feed these and over what time frame would we be
20 prepared to come forward. I think the memo from the EDO to
21 the Commission says 90 days after feedback, we will try to
22 come up with an integrated plan saying how the pieces come
23 together and what we would plan to come forward with at each
24 point in place.

25 COMMISSIONER ROGERS: Excuse me just for a second.

1 Let me touch on one more point, and then I will be finished.

2 I notice that we touched on the use of the
3 statement of considerations in one connection here, and I
4 would like to just point out that we haven't always been
5 entirely consistent in what we say in the statement of
6 considerations and what the rules say. It has tripped us up
7 a couple of times in the past when somebody points that out
8 to us, and I think that this is also a time to look at that
9 kind of consistency.

10 Sometimes I've had the feeling that whoever wrote
11 the rule and whoever wrote the statement of considerations
12 were just different people, and they chose to use different
13 language because it seemed to explain things a little bit
14 more clearly or a little differently, and the net result is
15 a difference.

16 I don't think there should be any differences at
17 all. There was no intent, but it does creep in. So, again,
18 it is an issue of consistency that is very important.

19 MR. MIRAGLIA: That is a fair comment.

20 CHAIRMAN JACKSON: Commissioner Dicus?

21 COMMISSIONER DICUS: Just to emphasize quickly, I
22 think the actions that seem to be laid out here are going to
23 be useful, but emphasize that short-term actions are,
24 indeed, short term, and the Commission could expect to see
25 some definitive activity in the very near future on them.

1 CHAIRMAN JACKSON: Commissioner Diaz?

2 COMMISSIONER DIAZ: Thank you.

3 Let's see. I have a statement. I don't know
4 whether I can read it because I never read any of my own
5 notes, a statement on that challenge.

6 I think what we are seeing is an increased level
7 of awareness on the part of the Staff and Commission, and
8 hopefully the licensee, about how these different parts
9 interact with each other, and I believe that looking at the
10 word balance is that we actually have a mechanism to provide
11 balance.

12 I am going to read something I just wrote a moment
13 ago. It says the balance between the licensing base is the
14 FSAR, the design basis. An operational safety comes through
15 the inspection and assessment process. That balance is
16 reflected in what we do, and it is reflected on resource
17 utilization. Therefore -- and it comes to challenge.

18 When we talk about integration, which is really
19 needed, we need to integrate the entire process of
20 inspection from, you know, the resident inspector to how we
21 process it through the licensee events reports, through the
22 SALPs, through all the other different levels, simplify that
23 so that every level can be as clear and as independent of
24 the next level as possible. We will repeat information
25 continuously from the inspection process all the way through

1 the end, and we can magnify it rather than simplify it.

2 So, if we are concerned about resources and
3 balance, we have the mechanisms if we simplify them to
4 introduce the balance and balance the design basis with
5 operational safety and resources, but that means that -- and
6 here is the challenge -- that we need to look at all of
7 these things together. We cannot look at 50.59
8 independently of how we do inspections. Every one of these
9 things is part of the whole, and I agree with Commissioner
10 Rogers that these are major policy decisions, and we should
11 look at them together, not as independent points, and that
12 the total effort is going to result in a much better
13 product.

14 CHAIRMAN JACKSON: Commissioner McGaffigan?

15 COMMISSIONER MCGAFFIGAN: I want to just follow up
16 on one point that Commissioner Rogers made, and I do think
17 statements of consideration and rules sometime differ, but
18 in this case, I think they don't. I mean, unfortunately for
19 the Staff and the interpretation that has been used for the
20 last 15 years, the rule itself, which I have in small print
21 in front of me and can still read, you know, is -- the
22 updated FSAR shall be revised to include the effects of a
23 lot of things, but the last of them is all analyses of new
24 safety issues performed by or on behalf of the licensee at
25 the Commission request, and that's things that we haven't

1 been asking for clearly, you know, the effects of new rules
2 and generic letters and all that. I mean, it just clearly
3 falls under that language.

4 MR. MIRAGLIA: The Staff has put itself on report,
5 sir.

6 COMMISSIONER MCGAFFIGAN: Yes. This is not a case
7 where there is a disconnect. It is clear.

8 CHAIRMAN JACKSON: Well, thank you.

9 As you have heard, on behalf of the Commission, I
10 want to thank you for briefing the Commission on your
11 overall approach and recommendations in each of these areas
12 related to licensing basis, design basis, and FSARs, and you
13 have given us summaries of both short-term -- proposed
14 short-term and long-term possible corrective actions related
15 to the various deficiencies or vulnerabilities.

16 The beauty is it has helped to clarify for the
17 Commission how these issues, as you have heard, are
18 intertwined and obviously interdependent.

19 Now, we do recognize that you need additional time
20 to develop the details of your integrated plan, particularly
21 relative to the long-term actions, particularly as they are
22 fed by the shorter-term ones, but the long-term changes in
23 particular and certain aspects of the short-term changes are
24 actually dependent on whether th changes will be made to
25 certain existing regulations, 10 CFR 50.59 being the most

1 obvious example.

2 So I think the Commission will be better prepared
3 to discuss the future direction, particularly relative to
4 the longer-term changes, and evaluate them to address
5 conditions that exist because of past practices following an
6 integrated review of your Lessons Learned paper and the
7 50.59 paper.

8 As I indicated in my opening comments, that
9 Commission meeting to discuss the 50.59 issues will be on
10 March 10th, and we will consider release of the paper
11 associated with that meeting as soon as possible.

12 As you have heard over and over again, and you
13 said yourselves that these issues have digressed to this
14 point in one decision at a time, and as you have heard from
15 essentially everyone at the table, they obviously now are
16 being considered in an integrated fashion, which is the way
17 they need to be considered.

18 Licensees have recognized the importance of
19 commitments and that plant changes should be evaluated
20 against, in fact, more than the FSAR. The NRC has
21 recognized the importance of 50.59 for various reasons and
22 has struggled to provide adequate guidance, but the bottom
23 line is kind of this. You know, the plant system engineer
24 who is preparing an evaluation of a system modification or a
25 procedure change and the NRC inspector in the field who is,

1 quote/unquote, "looking over the engineer's shoulder,"
2 perhaps, both need clear guidance, and this clear guidance
3 should be rooted in a firm regulatory and safety basis.

4 It is interesting because I think the difficulty
5 of dealing with things one at a time, at a time, at a time,
6 is that when there finally is a comeuppance about something,
7 there is a tendency to throw the baby out with the bath
8 water.

9 We have heard various ones talk about balance and
10 consistency. What happens is, if we don't do the integrated
11 look and don't really try to fix the problems, when we go
12 out to redress a problem, it looks like we are actually
13 having to swing the pendulum or people worry about our
14 swinging it too far back because we have gone too far in the
15 other direction.

16 The only way to do that is to have the kind of
17 consistency and balance and risk-informed judgment, but also
18 to enforce our regulations that we have, particularly when
19 there isn't some inconsistency between what the statements
20 of consideration may say and what the regulations say.

21 You know, there is no reason not to do that, and
22 we get ourselves into trouble in terms of apparent lack of
23 consistency and lack of balance when we don't do it because,
24 when we don't do it, we lose our way. When we don't do it
25 and we redress it, people say we don't have balance, that we

1 are somehow swinging the pendulum too far the other way, and
2 all it had to do with is whether we were consistently in a
3 consistent way using what tools we already had, that is,
4 even as we talk about the need or no need to develop more
5 tools.

6 So that is the thing that strikes me in all of
7 this, is that if we have tools available to us and we don't
8 use them and things get out of whack, to bring them back
9 seems to be so very difficult, and it strikes me that yes,
10 we should be dealing with the resource demands on the
11 Commission and the licensees for a full program,
12 particularly with respect to the longer-term actions, but
13 there is no need not to get on with most of the short-term
14 things.

15 The only thing I would add is I agree with
16 Commissioner Diaz that the connection of what ties licensing
17 basis, design basis, and FSAR together is inspection and
18 assessment, and in the end, our enforcing our own
19 regulations.

20 So, unless there are some additional comments, we
21 are adjourned.

22 [Whereupon, at 3:40 p.m., the briefing was
23 adjourned.]

24
25

CERTIFICATE

This is to certify that the attached description of a meeting of the U.S. Nuclear Regulatory Commission entitled:

TITLE OF MEETING: BRIEFING ON MILLSTONE AND MAINE YANKEE
LESSONS LEARNED - PUBLIC MEETING

PLACE OF MEETING: Rockville, Maryland

DATE OF MEETING: Wednesday, February 19, 1997

was held as herein appears, is a true and accurate record of the meeting, and that this is the original transcript thereof taken stenographically by me, thereafter reduced to typewriting by me or under the direction of the court reporting company

Transcriber: Jennie Malley

Reporter: Jon Hundley



MILLSTONE LESSONS LEARNED

PART 2: POLICY ISSUES

February 19, 1997

Frank J. Miraglia, Acting Director, NRR
Frank Gillespie, Director, DISP, NRR

MILLSTONE LESSONS LEARNED PART 2

INTRODUCTION

- What should be the licensing basis for an operating plant and in which documents should it be located?
- What information should be in the FSAR?
- Has the NRC done enough to ensure the design basis is sufficiently understood and is being used properly?
- What information, if any, may licensees remove from their FSARs without a corresponding change to the facility?
- What should be the scope and threshold of 10 CFR 50.59?
- Should the agency more formally establish its position on degraded or nonconforming conditions?

MILLSTONE LESSONS LEARNED PART 2

BACKGROUND

- November 30, 1995: Commission Requests Lessons-Learned Review
 - New or Improved Oversight Processes
 - Earlier Identification of Problems
- Review in Two Parts
 - Part 1: Staff Review of Inspection, Licensing, Enforcement, Licensee Reporting
 - Part 2: Management Review of Part 1 Recommendations and Findings, Discussion of Policy Issues
- September 1996: Part 1 Report Issued

MILLSTONE LESSONS LEARNED PART 2

PART 1 MAJOR ISSUES

- Recommendations
 - Licensing
 - Inspection
 - Enforcement
 - Licensee Reporting
 - Management Oversight
 - License Renewal

- Questions of Policy
 - Licensing Basis
 - Design Bases
 - FSARs
 - 10 CFR 50.59

MILLSTONE LESSONS LEARNED PART 2

PART 2 REPORT

- Objectives
 - Management Review of Part 1 Report
 - Identification and Discussion of Policy Issues
 - Possible Actions or Approaches
- Major Areas of Policy
 - Licensing Basis
 - Design Bases
 - FSARs

MILLSTONE LESSONS LEARNED PART 2

CURRENT REGULATORY PROCESSES

- Licensing Basis
 - Variety of Documents
 - Unique for Each Plant
 - Continually Evolving
 - “Current Licensing Basis” Used Once in Part 50
 - Definition of CLB in Part 54 (License Renewal)
 - Recognized the Above

- Design Bases
 - Defined in Part 50
 - Presented in FSARs (50.34(b))
 - Important Information Not in FSAR
 - Policy Statement for Supporting Information

MILLSTONE LESSONS LEARNED PART 2

REGULATORY PROCESSES (CONT.)

- **FSARs**
 - **Part of License Application (50.34(b))**
 - **Presents Design Bases**
 - **Unique for Each Plant**
 - **Changes to Facility Controlled by 50.59**
 - **Updates Required by 50.71(e)**

MILLSTONE LESSONS LEARNED PART 2

LICENSING BASIS

- Identified Problems
 - Some Practices of Some Licensees Different Than Licensing Basis
 - Difficulty Identifying or Locating Some Licensing Basis
 - Some Licensing Basis Not Incorporated into Plant Procedures
- Intended Result of Actions

Provide increased assurance that licensees know and are complying with their licensing basis without imposing undue regulatory burden on them. In addition, improve NRC's systems to independently identify and retrieve plants' licensing bases.

MILLSTONE LESSONS LEARNED PART 2

LICENSING BASIS (CONT.)

- **Actions**

- Short-Term**

- Identify Future Licensing-Basis Commitments
 - Use NEI's Guideline for Managing Commitments
 - Continue Implementing ADPR PIP Items Related to Licensing Basis
 - System to Track Plant-Specific Licensing-Basis Commitments; Review Selected Issues

- Long-Term**

- Definition of "Current Licensing Basis" for Part 50
 - Compilation of Licensing Basis
 - Establish Regulatory Controls for all Licensing-Basis Commitments

MILLSTONE LESSONS LEARNED PART 2

DESIGN BASES

- Identified Problems
 - Some Licensees Not Appropriately Maintaining Some Bases
 - Some Licensees Not Appropriately Implementing Some Bases
 - Some Bases Not Consistently Incorporated into FSARs
- Intended Result of Actions

Provide increased understanding of design bases and greater assurance that facilities are controlling and are in compliance with their design bases.
- Actions
 - Short-Term
 - Provide Guidance on Use of Design Bases

MILLSTONE LESSONS LEARNED PART 2

DESIGN BASES (CONT.)

- Identify Future Design Bases
- Implement 10 CFR 50.71(e) as Explained in SOC
- Increased Attention to Licensees' Compliance with 10 CFR 50.71(e)
- Use Responses to 10 CFR 50.54(f) Letters
- Continue Design Inspections

Long-Term

- Determine if Policy on Design Bases Should be Codified in Regulation
- Determine Benefits of Incorporating All Existing Design Bases into FSAR

MILLSTONE LESSONS LEARNED PART 2

FSARs

- Identified Problems
 - Many Discrepancies Between Facilities and FSARs
 - FSARs Not Consistently Updated

- Intended Result of Actions

Ensure licensees are updating their FSARs with the appropriate information; determine if it is necessary to establish a standard level of detail for FSAR updates; determine if additional information should be added to updated FSARs.

- Actions

Short-Term

 - Implement Previous Action on 10 CFR 50.71(e)
 - Continue Auditing FSAR Accuracy Through Inspections

MILLSTONE LESSONS LEARNED PART 2

FSARs (CONT.)

- Identify Information to be Added to FSARs Through Generic Communications and Licensing Actions

Long-Term

- Previous Actions on Defining and Compiling Current Licensing Basis
- Revise RG 1.70 to Include FSAR Updates

MILLSTONE LESSONS LEARNED PART 2

RECOMMENDATIONS

- Continue to Implement the Short-Term Actions
- Following Short-Term Actions, Use Information to Integrate and Evaluate the Long-Term Actions
- Make Individual Recommendations to Commission on Long-Term Actions Based on Integrated Evaluation

MILLSTONE LESSONS LEARNED PART 2

CHRONOLOGY

- 1980 10 CFR 50.71(e) Issued (GL 80-110)
- 1981 Office Letter on Commitments
- 1985 Revised OL on Commitments
- 1990 Policy on Inspection of Design Reconstitution
Programs
Proposed License Renewal Rule, Part 54
- 1991 NUREG 1397, Design Control Practices
GL 91-18, Degraded, Nonconforming Conditions
Final License Renewal Rule, Part 54
- 1992 Policy Statement on Design-Basis Information
SECY 92-314 on CLB
OPP Report on CLB
Response to Commissioner Questions on CLB

MILLSTONE LESSONS LEARNED PART 2

CHRONOLOGY (CONT.)

- 1993 RRG Formed
Millstone LER 93-011
- 1994 SECY 94-066, Follow Up to SECY 92-314
- 1995 Revised License Renewal Rule, Part 54
SECY 95-300, NEI Commitment Management
OIG Event Inquiry at Millstone
- 1996 Maine Yankee Lesson-Learned Task Group
SECY 96-024, Commitment Management and
Definition of CLB
Millstone Lessons-Learned Task Group
OIG Event Inquiries at Millstone and Maine Yankee
50.54(f) Letters on Design-Basis Information

MILSTONE LESSONS LEARNED PART 2

EXAMPLES

- Important Design-Basis Information
 - Analysis for Switch Over of ECCS Pump Suction from BWST to Sump under Post-Accident Conditions
 - Lack of Procedures and Circuit Breaker Testing for Transfer of DC Control Power to AFW Turbine Pump
 - Problems with Design Control of Calculations
- Identified Problems - Licensing Basis
 - Spent Fuel Pool Review Findings
 - License Condition Review
 - SER Conditions at Maine Yankee
- Identified Problems - Design Bases
 - Spent Fuel Pool Review Findings
 - Special Inspection Team Findings
 - Implementation of 10 CFR 50.71(e)

MILLSTONE LESSONS LEARNED PART 2

EXAMPLES (CONT.)

- Identified Problems - FSARs
 - FSAR Inspection Re-Emphasis
 - ACR 7007

MILLSTONE LESSONS LEARNED PART 2

ACTIONS COMPLETED OR UNDERWAY

- **Actions Related to Recommendations**
 - **ADPR PIP: Approximately ½ Completed**
 - **Inspection Re-Emphasis on FSARs**
 - **Strengthened Enforcement Guidance on FSARs**
 - **Special Design Team Inspections**
 - **10 CFR 50.54(f) Letters**
 - **Review and Analysis of 10 CFR 50.59**
 - **Compilation of Licensing Basis for Millstone Unit 1**
 - **Developing Process for Identifying, Tracking, and Verifying Certain Commitments Made by Licensees**
- **Other Actions**
 - **Job Task Analysis for Inspectors and PMs**

MILLSTONE LESSONS LEARNED PART 2

- Technical Guidance for Inspection Manual and Associated Generic Letter 91-18
- Disseminated Office Director's Staff Expectations and Conducting Periodic Workshops for ADPR Staff

MILLSTONE LESSONS LEARNED PART 2

10 CFR 50.2 DEFINITION

"Design bases means that information which identifies the specific functions to be performed by a structure, system, or component of a facility, and the specific values or ranges of values chosen for controlling parameters as reference bounds for design. These values may be (1) restraints derived from generally accepted 'state of the art' practices for achieving functional goals, or (2) requirements derived from analysis (based on calculation and/or experiments) of the effects of a postulated accident for which a structure, system, or component must meet its functional goals."

MILLSTONE LESSONS LEARNED PART 2

10 CFR 54.3 DEFINITION

“Current licensing basis (CLB) is the set of NRC requirements applicable to a specific plant and a licensee's written commitments for ensuring compliance with and operation within applicable NRC requirements and the plant-specific design basis (including all modifications and additions to such commitments over the life of the license) that are docketed and in effect. The CLB includes the NRC regulations contained in 10 CFR Parts 2, 19, 20, 21, 26, 30, 40, 50, 51, 54, 55, 70, 72, 73, 100 and appendices thereto; orders; license conditions; exemptions; and technical specifications. It also includes the plant-specific design-basis information defined in 10 CFR 50.2 as documented in the most recent final safety analysis report (FSAR) as required by 10 CFR 50.71 and the licensee's commitments remaining in effect

MILLSTONE LESSONS LEARNED PART 2

that were made in docketed licensing correspondence such as licensee responses to NRC bulletins, generic letters, and enforcement actions, as well as licensee commitments documented in NRC safety evaluations or licensee event reports."

MILLSTONE LESSONS LEARNED PART 2

ELEMENTS OF CURRENT LICENSING BASIS AS DEFINED IN PART 54, LICENSE RENEWAL

- NRC Rules and Regulations
- License (Including Technical Specifications, License Conditions, Orders, Exemptions)
- Plant-Specific Design Bases Required to Be in the Updated FSAR
- Written and Docketed Commitments Made by Licensees for Ensuring Compliance with and Operation Within Applicable NRC Requirements and the Plant-Specific Design Bases