

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

**Title: BRIEFING ON PART I RECOMMENDATIONS FOR
 NATIONAL PERFORMANCE REVIEW PHASE II -
 PUBLIC MEETING**

Location: Rockville, Maryland

Date: Wednesday, May 24, 1995

Pages: 1 - 48

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11 Nuclear Regulatory Commission
12 One White Flint North
13 Rockville, Maryland
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15 Wednesday, May 24, 1995
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17 The Commission met in open session, pursuant to
18 notice, at 10:00 a.m., Ivan Selin, Chairman, presiding.
19

20 COMMISSIONERS PRESENT:
21

22 IVAN SELIN, Chairman of the Commission
23 KENNETH C. ROGERS, Commissioner
24 E. GAIL de PLANQUE, Commissioner
25 SHIRLEY A. JACKSON, Commissioner

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1 STAFF SEATED AT THE COMMISSION TABLE:

2

3 JOHN HOYLE, Secretary of the Commission

4 KAREN CYR, General Counsel

5 JAMES MILHOAN, Deputy Executive Director for NRR, Regions
6 and RES

7 JACK ROE, Director, NPR Steering Committee

8 THOMAS KING, Deputy Director, NPR Steering Committee

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P R O C E E D I N G S

[10:00 a.m.]

CHAIRMAN SELIN: Good morning, ladies and gentlemen.

The Commission is pleased, very pleased to have the steerers of the Steering Group here to tell us this morning about their results from the first part of the initial performance review phase II and their parts and subparts, et cetera. But over the last couple of years, there have been major changes in the federal government in the drive for regulatory efficiency. It's no secret that some of the bills that are floating around the House are not necessarily potential producers of regulatory efficiency, but rather fairly gross attempts to change the regulatory regime. But they come from what I consider to be a legitimate frustration and inability to get the regulatory agencies to manage their own shops correctly and therefore resort to blunt techniques when finer techniques haven't worked.

So far the NRC has done very well and in large part it's because we have generated internally consistent if not necessarily very fast review of our own regulatory efficiency. What we'll hear about this morning is an attempt to speed up the rate but still keep this balanced approach. In this case it's a review of our own

1 regulations.

2 At the same time, there are two other efforts
3 going forth to look at functional or organizational
4 improvements and efficiency studies and eventually to draw
5 the resource implications in a tough minded, open minded
6 approach to make sure that our resource demands get slimmed
7 down consistently with the improvements we can make in our
8 progress. And this is the right way to do things, figure
9 out a better process, whether it's regulations themselves,
10 organization or efficiency, and then make sure that we draw
11 the implications for our resources.

12 So, we still have a major task ahead. Not only to
13 finish these plans, but more importantly to turn the plans
14 into reality. You can't do anything if you don't have a
15 good road map. So, we're to hear this morning of the first
16 stage in this road map. I'm sure you will not fail this
17 broad piece.

18 Commissioners?

19 Mr. Milhoan?

20 MR. MILHOAN: Thank you, Mr. Chairman.

21 On May 15th of this year, we provided the
22 Commission a report on Part 1 of the National Performance
23 Review Phase II in SECY-95-123. In this paper, we described
24 the process and the results of the staff's review of NRC
25 regulations conducted in response to the President's March

1 4th memorandum on regulatory reinvention. All agencies and
2 departments were requested to submit two reports. The first
3 report involves a review of all agency regulations to
4 identify those that can be eliminated or modified because
5 they are overly burdensome, too prescriptive, obsolete or
6 overlap with the regulations of other federal agencies.

7 The second report involves changes to be made to
8 the agency in internal personnel performance measures to
9 focus more on results. Meetings to be held with the
10 regulated industry and public, stressing partnership and
11 greater use of negotiated rulemaking. The Commission paper
12 before you also summarizes measures taken in these areas.

13 At this time I'd like to turn the briefing over to
14 Dr. Jack Roe, Director of the NRC Phase II Steering
15 Committee, and Tom King, the Deputy Director of the
16 Committee. They will summarize the NRC's NPR review
17 efforts.

18 Jack?

19 DR. ROE: Thank you, Mr. Milhoan.

20 Before I start, I'd like to acknowledge four other
21 of our staff members who work full-time on this particular
22 review and are also working on the functions and efficiency
23 review. They are Dr. Lidia Roche from NMSS, Mr. Jeff
24 Sharkey from NRR, Ms. Irene Little from Region III, and Ms.
25 Toni Harris from NRR. I'd also like to acknowledge the

1 efforts of the other members of the Steering Committee.

2 I'd like to have the outline of the briefing
3 slide.

4 [Slide.]

5 DR. ROE: This basically goes on to discuss the
6 outline of our briefing. First of all, our purpose is to
7 present the results of our NPR-II activities. As far as the
8 background, these three items, which are listed on the
9 slide, will be addressed in the background section.

10 Next slide.

11 [Slide.]

12 DR. ROE: For our regulations review, we will
13 discuss these three items. For our discussion on results,
14 we'll focus primarily on our regulations review and discuss
15 the other items, the three items that are listed below.

16 Next slide, please.

17 [Slide.]

18 DR. ROE: As way of background, the National
19 Performance Review started in 1993 and addressed four areas.
20 Those were cutting red tape, cutting customers first,
21 empowering employees and getting back to basics. On January
22 3rd, the President announced NPR Phase II, building on the
23 activities of Phase 1.

24 Next slide, please.

25 [Slide.]

1 DR. ROE: In February, the NPR staff issued a
2 document called, "Putting it Together." It addressed these
3 three areas. The Chairman's March 6th letter to OMB
4 Director Alice Rivlin addressed the first two of these
5 particular areas. We are addressing a third, the regulatory
6 reinvention regulations review.

7 In February, the Commission directed the staff to
8 look at the agency functions and efficiencies along the
9 lines of the NPR Phase II. As a result, we established a
10 steering committee and had members from most of the offices
11 in the NRC, three regions, a member representing the NTEU
12 and the IG was an ex officio member.

13 Next slide, please.

14 [Slide.]

15 DR. ROE: On March 4th, the President issued his
16 memorandum on the four points of regulatory reinvention and
17 requested a report by June 1st. The staff developed a study
18 plan to address the President's memo and the Commission's
19 staff requirements memorandum reporting on Part 1 of our
20 activities. We'll be reporting on Part 2 in mid-June of
21 this year and on Part 3 in June of next year.

22 Next slide, please?

23 [Slide.]

24 DR. ROE: The National Performance Review staff
25 held a weekly workshop with representatives of most of the

1 federal departments and agencies and they provided us
2 guidance from time to time on various aspects of our review.
3 Specifically they talked about groundrules for the review,
4 talked about format and content of the reports and the
5 schedule of the reports. They also from time to time
6 answered questions that were asked by the different
7 representatives.

8 The schedule for submittal of the responses has
9 resulted from discussions with the NPR staff by the various
10 federal agencies. We're now submitting two reports where at
11 the outset we were going to submit only one report. But
12 some federal agencies, especially the larger departments
13 that have many bureaus and a lot of activities going on said
14 they were finding it difficult to address all the aspects by
15 June 1st.

16 The results of our review, you see, is provided in
17 SECY-95 --

18 CHAIRMAN SELIN: So you're going to put us in the
19 category with HHS and the Defense Department?

20 DR. ROE: Basically that puts everybody in the
21 same category. We told them we could give them the entire
22 package on the 1st of June and they said no, they would
23 prefer that each agency --

24 CHAIRMAN SELIN: So it's not our decision?

25 DR. ROE: No, sir. No, sir. As a matter of fact,

1 we were in the minority. We desired to submit the whole
2 package on the 1st of June. They said that they actually
3 wanted it separated, regulations reviewed to go forward and
4 the other package, address the other ones to be the second
5 one.

6 CHAIRMAN SELIN: Making us as beloved as the kid
7 who gets his homework in on time.

8 DR. ROE: That's correct.

9 [Slide.]

10 DR. ROE: The goals of our regulation review are
11 on the next slide. We specifically looked at all of our
12 regulations to determine which were overly burdensome, which
13 were out of date, which were of marginal value to safety,
14 too prescriptive or overlapping with other agencies and then
15 to determine whether we could do rulemaking on our own or
16 whether there was legislative action required.

17 We have identified basically four areas where we
18 believe that legislation is required and the related
19 statutes are the Atomic Energy Act, Uranium Mill Tailings
20 Radiation Control Act of 1978, and the Omnibus Budget
21 Reconciliation Act of 1990..

22 Our approach towards regulation review is pretty
23 much a joint approach where we work together with the
24 offices and the regions and with the Steering Committee. We
25 had several meetings. We discussed a great many regulations

1 and we came down to the ones that are summarized in the
2 results section which Tom will use.

3 We used the groundrules provided by the present
4 NPR staff. We used as a base the 10 CFR that was published
5 in January 1st of 1995. We took their guidance to begin
6 with to consider removing those types of rules which are
7 administrative, repeat statutes or describe our
8 organizational structure and we do have many pages in the
9 CFR that do that. However, we discussed with the NPR staff
10 that if we undertook taking these out, went through the
11 rulemaking, that it would take valuable staff resources away
12 from higher safety priorities, also would result in fees to
13 the licensees where they had no net gain.

14 Based on those considerations, the NPR staff said
15 that it would be appropriate for us to leave them into our
16 CFR structure and not to take them out.

17 We reviewed the current 10 CFR --

18 CHAIRMAN SELIN: Was that based on an analysis
19 that there aren't savings for the one-time costs or is it
20 just sort of an observation --

21 DR. ROE: It was basically an observation.
22 Realize that we put staff effort through, that probably if
23 we took things out of the regulations we'd have to put them
24 in a management directive. That would take staff time. It
25 would result in fees to the licensees and the licensees

1 would not see the benefit to them. We're just trading
2 places.

3 CHAIRMAN SELIN: Would it make sense eventually to
4 revisit that question and see if it's worth --

5 DR. ROE: It may be on the long-term, especially
6 if there's some modification in the fee structure which we
7 thought was probably the overriding consideration.

8 MR. MILHOAN: I think to do it in the near-term
9 you're taking staff resources away from the regulatory
10 efficiency.

11 CHAIRMAN SELIN: That part's okay, but at some
12 point the structure gets shaky enough that you don't want to
13 clean it up, you want to at least consider just --

14 DR. ROE: I think as things come up as we're
15 taking a step by step approach, for example the Commission
16 has got before it recommendations associated with the
17 enforcement policy where we'll be taking Appendix C out, as
18 we go through, I think that we should take advantage of them
19 and utilize the resources that we're applying on the bigger
20 picture policy issues at that time instead of going through
21 and just taking them out. Some agencies are making
22 wholesale reductions in many, many pages of their
23 regulations that have just basically repeat their
24 organization, those sorts of things and they're taking
25 credit for them, which we didn't feel was appropriate at

1 this time. As I said, taking sort of a step by step
2 approach.

3 COMMISSIONER ROGERS: It sounds very good, what
4 you're doing, but as you documenting this in some way so
5 that at a later time, say a year or two, well, maybe later,
6 that someone could go back and review those questions that
7 you've examined and decided these are not suitable for
8 attention right now under this program, but maybe we'd like
9 to go back and look at those again in a general cleanup
10 effort.

11 DR. ROE: That's a good point. We'll do that.

12 COMMISSIONER ROGERS: So, there should be some
13 easy reference to what you've done so that somebody doesn't
14 have to go back and redo it all over again. They can start
15 on the basis of your work.

16 DR. ROE: Yes. Very good point.

17 Then we built on existing initiatives. I think
18 that's important. There is, as the Chairman has indicated,
19 a great deal that has been done by this agency over many
20 years. We are many steps ahead of I'd say our peers that we
21 discussed this matter with in the NPR context.

22 Next slide, please.

23 [Slide.]

24 DR. ROE: Early on we decided that we would
25 solicit input from the public. We issued a press release

1 where it went to 75 public interest groups which we
2 basically consulted with the various offices to determine
3 who are the appropriate groups to get it and also we sent it
4 out to 20 industry groups. We briefed the three advisory
5 committees and received a letter from the ACRS.

6 The ACRS letter made three points. First, they
7 said that those rules and regulations that rely on input
8 from other agencies, such as the EPA, NCRP, DOE, DOD, DOS
9 and DOT, should be identified for future reconciliation with
10 changes that may be rising from those agencies. An obvious
11 example is the NRC's interaction with EPA and NCRP on 10 CFR
12 Part 20.

13 Next, the Steering Committee report should make it
14 clear that the NRC had launched its intensive review of
15 regulations well before the beginning of NPR-II and that is
16 clearly spelled out in a letter to the President.

17 Third, as the NRC scrutinizes regulations, it's
18 imperative that the criteria be established for the tradeoff
19 between requirements of the public health and safety mandate
20 and the goals of NPR-II.

21 We agreed basically with these three points made
22 by the ACRS and will respond to them in short order.

23 [Slide.]

24 DR. ROE: The next slide shows the public and
25 industry input received. We received six letters from

1 interested parties. We had an extensive telephone
2 conversation call with the Independent Wireline Well Logger
3 Association and we met with the National Nuclear Safety
4 Network, received input from those people.

5 The next slide will address the suggested
6 regulatory changes.

7 [Slide.]

8 DR. ROE: We received suggested changes from the
9 industry. The first 11 on this particular list are those
10 from the Nuclear Energy Institute and have been actively
11 discussed with the staff and the NEI group over a period of
12 time. Additionally, but not listed here, were suggested
13 changes to Part 40 that were brought up by the National
14 Mining Association associated with the regulation of uranium
15 mills.

16 Next slide.

17 CHAIRMAN SELIN: Every one of those is something
18 that's been underway except for the last two. At least
19 something has been going on for a long time.

20 DR. ROE: Yes, sir, for a considerable period of
21 time and some of them, as a matter of fact, were towards the
22 end of what the desired outcome is.

23 [Slide.]

24 DR. ROE: On the next slide, overall the industry
25 in their discussions with us stated that our regulations

1 were not a problem, with a few exceptions, but that our
2 implementation was more of a burden. Several commenters
3 also were concerned about cutting back and others were
4 concerned about overlap with the EPA and the states.

5 At this point I will turn the meeting over --

6 CHAIRMAN SELIN: If you just could expand on that
7 last point a little bit about the overlap, the concern that
8 ours is okay but when they have to deal with us and EPA at
9 the same time it's too hard.

10 DR. ROE: Basically that was the nature of the
11 discussions. For example, there were three areas that were
12 addressed in our meetings, primarily coming from NEI. The
13 first point is that there is overlap in at least four areas
14 with the Environmental Protection Agency. The desire of the
15 NEI group was that the NRC -- their desire would be that the
16 NRC would have sole jurisdiction over those particular
17 matters.

18 The next area that they indicated there was some
19 interest is that our overlap with the Department of
20 Transportation in the transportation of materials. In that
21 particular area they said that they thought that the
22 relationship between the NRC and the DOT was fine. They
23 would like to leave it that way and suggested no changes.

24 The third area, they indicated that there are
25 multiple agencies involved in export licensing, the

1 Department of State, Department of Commerce, and the NRC and
2 they would like to see less federal presence in the multiple
3 agencies and they would like to see maybe central focus in
4 that particular area.

5 CHAIRMAN SELIN: Could I come back to this EPA
6 question for a minute? It is possible that, to use the
7 vernacular, we leave too much on the table when we negotiate
8 with EPA. But the practical effect of getting EPA to
9 withdraw and have the NRC be the sole agency is to move us
10 closer to EPA positions. EPA won't just walk away. We need
11 to make some accommodation to them. There are people who
12 think maybe the accommodations are too much, but
13 nevertheless if you look at what we've done, we have gotten
14 the removal of redundant regulation but at the cost of
15 moving away from a pure NRC Part 20 focus. Is there any
16 sense that that's a bad bargain that they would just as soon
17 leave us do our stuff and then have to deal with EPA
18 separately to get any reaction that way?

19 DR. ROE: I can give you our judgment because we
20 did not argue the point, debate the point with the industry.
21 We listened to what their concerns were. We looked at the
22 current situation. The current situation I think is working
23 well. That's why you will find out that we're not seeking
24 any legislative changes. To have them establish their
25 standards, for us to develop regulations, to negotiate to a

1 point where they will rescind them we think is the
2 appropriate way. It has been laborious, but it has worked
3 for us in the past and we think that that is the better path
4 in the future. From our judgment, it is more stable and
5 predictable.

6 COMMISSIONER JACKSON: How many of your suggested
7 regulation changes were self-identified versus externally
8 identified?

9 DR. ROE: Tom might have a better answer, but I
10 think --

11 COMMISSIONER JACKSON: You don't have to give me
12 exact numbers.

13 DR. ROE: I would think the majority of them were
14 self-identified. As a matter of fact, there was one group
15 of regulations that had to do with uranium mill tailings
16 that when we met with industry group we were somewhat
17 surprised that they did not bring them up and we told them
18 that we had captured them in our review and they
19 acknowledged that those were ones that maybe should be
20 looked at and those are the criteria for Part 40.

21 COMMISSIONER de PLANQUE: Before you go on,
22 implementation has been identified for a long time now as a
23 much bigger problem than the rules themselves. Are you
24 planning to pursue that at all any further as part of NPR?

25 DR. ROE: As specifically part of NPR, no, because

1 we acknowledge all the activities that are going on with the
2 staff now, especially the review of the Towers-Perrin report
3 and other activities. We didn't see anything that we would
4 suggest to do in addition to what has already been
5 acknowledged. We've had a program for a considerable amount
6 of time to look at these particular issues and I think
7 they're still ongoing.

8 MR. MILHOAN: Tom?

9 CHAIRMAN SELIN: If you hear a pause, continue.

10 MR. KING: All right. What I want to do is talk
11 about the results of the regulations revision and highlight
12 some of the key points from the review, including the other
13 topics that were addressed in the President's March 4th
14 memorandum.

15 If I could have slide 13, please.

16 [Slide.]

17 MR. KING: The two draft reports that we proposed
18 to send to the President were included as Attachments 1 and
19 2 in our SECY paper 95-123. They follow the format, content
20 and groundrules guidance provided by the President's staff.
21 That includes the format at the table that was presented as
22 well as the scope and depth of the written material that are
23 in those reports. Attachment 1 is the regulations review
24 report that's due June 1st summarizing the results of that
25 which was in the letter to the President. It basically says

1 there are 62 parts, subparts or sections that we're working
2 on now to be affected by the ongoing efforts and the results
3 of the NPR. There are 20 parts of the regulations that
4 remain unchanged by all this activity.

5 Basically most of the things that are in that
6 table are ongoing things. We think that's good news in that
7 the substantial items the staff had already identified and
8 there are already activities underway. There are 16 new
9 items that we identified. Some of those are cleaning up
10 obsolete requirements or technology that's discussed in the
11 regulations, but most of the major ones are underway.

12 Now, let me say a couple of things about the
13 report and the table. The way we reported was pretty much
14 left up to each individual agency. The fact that we
15 reported by part, subpart or section was our choice. We
16 tried to keep things simple. We tried to put general
17 descriptions in considering the level of review that this
18 report was directed toward. We tried to lump minor changes
19 together. We tried to -- where there were conforming
20 changes in other parts, we tried to just count that once
21 against the major part of the regulations that was affected.

22 The schedule we put in just fiscal year,
23 recognizing that to be any finer than that is probably doing
24 a lot of guesswork given the fact that a lot of these
25 rulemakings are in the very preliminary stages. We tried to

1 keep the accounting simple. Wherever in the table you see
2 the word "eliminate" or "reinvent," if you go through and
3 count those up, you should come up with the same count we
4 have in the letter to the President.

5 Also looked at the schedule over the next four
6 years in terms of what rulemakings, level of rulemaking
7 activity that we're proposing in this table and it's fairly
8 uniform over the next four years with 10 to 15 rulemakings
9 per year. So, that's, we believe, a reasonable level of
10 effort to commit to.

11 Table 1 describes the 16 new items that we propose
12 that came out of the NPR review. It's attached to the
13 package. We're going to highlight a few of those when we
14 get to the end of the presentation. We had included in the
15 SECY paper an Attachment 3 that describes these, recognizing
16 that regulatory agenda and other documents you have do not
17 have a description of what these are, so we provided a
18 description of those.

19 [Slide.]

20 MR. KING: If we go on to page 14, some of the
21 other key points from the review, we based the status of the
22 ongoing rulemakings and the status of the information that's
23 in the table to President is based primarily upon the May
24 10th letter that the EDO sent to the Commission called the
25 Rulemaking Plan. We've included from that report what's

1 called category 1, 2 and 3 items. Those are items that are
2 already ongoing where the staff is recommending to initiate
3 activity. There was also one item from the Office of
4 International Programs that was not in the May 10th package
5 that's included in our letter, then as well as the 16 new
6 ones.

7 There were seven ongoing rulemakings in that May
8 10th package you will not see in our letter to the President
9 and that's because of one of the groundrules from the NPR
10 staff and that was -- the baseline is the existing set of
11 regulations. If we have rulemakings that are adding
12 something new, totally new that doesn't show up in there,
13 don't count those. They didn't want those included in the
14 report. So, we had seven in that category. That's why you
15 won't find them in the table.

16 COMMISSIONER de PLANQUE: I understand why you
17 have to set the clock at some point with respect to
18 reporting. Did they suggest that the kind of criteria that
19 you're using to look at current regulations should also be
20 applied to those that are ongoing or in process?

21 MR. KING: Yes. Yes. Table 2 includes a list of
22 those seven, by the way, and that's attached to this
23 package.

24 Basically as Jack has said, the new candidate
25 rulemakings, the 16 new ones, were based upon judgment,

1 considering obsolescence, prescriptiveness and was there any
2 risk connotation that ought to be updated. And given the
3 time of this review, we didn't have a chance to do any
4 detailed analysis. So, a lot of this is based upon
5 judgment. Eight of 16 new candidate rulemakings would
6 eliminate requirements and, as the report to the President
7 said, that would eliminate 55 pages from our current 10 CFR.

8 [Slide.]

9 MR. KING: Moving on to page 15, legislation was
10 not to be a roadblock to our review. That was another
11 groundrule from the NPR staff. So, four of the 16 new
12 candidate rulemakings would require legislation. They're
13 identified in the table. They're identified on slide 15.
14 Just quickly, change to Part 1 to change NRC's mailing
15 address would require a change to the Atomic Energy Act.
16 Change to Part 2 and Part 50 to eliminate NRC's involvement
17 in anti-trust reviews would require a change to the Atomic
18 Energy Act. Change to Part 150 to eliminate duplication
19 between NRC and state review of reclaimed land upon
20 termination of licenses would require a change to the
21 Uranium Mill Tailings Radiation Control Act and then to
22 modify the collection process would require a change to the
23 Omnibus Budget Reconciliation Act of 1990.

24 CHAIRMAN SELIN: You know, these changes are such
25 a small change compared to your task. Are you sure you

1 weren't deterred from looking at things because they
2 required larger statutory changes or is it really the case
3 that our rulemaking regime is really a feature of our own
4 creation and we can make such major changes without changing
5 the statutes?

6 DR. ROE: We focused on the fact that within
7 bounds was legislative changes and we looked at things. We
8 told the industry also and there were very few things that
9 came up.

10 CHAIRMAN SELIN: Well, let's talk about it
11 specifically. Are you coming to a different conclusion from
12 the one we've had about the medical regulation or is it just
13 that the kind of changes we're talking about are beyond the
14 scope of your review?

15 DR. ROE: I think that the answer is that it would
16 be premature for us to say it needs legislative change. It
17 very possibly could be required based upon the results of
18 Commission's deliberations on the National Academy of
19 Science's review, report and the staff's recommendations.

20 CHAIRMAN SELIN: You just haven't taken a position
21 on what the policies ought to be. Are there others in that
22 category where --

23 DR. ROE: That's about the only one that I can
24 think of.

25 MR. KING: That's the only one where we haven't

1 taken a position and recognize the ongoing activity in Part
2 35.

3 DR. ROE: It could result in some legislative
4 changes, but it depends upon the outcome of the study and
5 the Commission's decisions.

6 MR. KING: There's also the business process
7 reengineering going on in NMSS in the materials area. I'm
8 not sure what's going to come out of that, but again that's
9 something that has to take place before we would go forward
10 with a position in that area?

11 COMMISSIONER de PLANQUE: I think you're right to
12 say it's premature with respect to the medical. Well, I
13 think several of us agree with the way that should go. I
14 think you need to be very careful about prejudging the
15 outcome. I did notice that you are cautious in most of what
16 you say except in attachment 3 on page 12. It gets into the
17 area of slightly prejudging. So, I would urge you to be
18 careful whenever you write anything on this aspect.

19 MR. KING: The other baseline document we used was
20 the regulatory agenda, the February '95 version which listed
21 the ongoing rulemakings. We wanted to take note in our
22 report to the President that things have changed there, some
23 as a result of NPR, some as a result of other ongoing
24 things, and 13 items in there that were reported in the
25 February version are now proposed for termination. We

1 recognize that some of those may -- there may be a separate
2 paper coming into the Commission on some of those, but we
3 did want to acknowledge that we weren't just looking at
4 existing regulations, we were also looking at ongoing things
5 and trying to apply the same principles.

6 COMMISSIONER ROGERS: I was just a little bit
7 troubled with some of the items in that table. I wasn't
8 exactly sure what they were, but I recognized the topic as
9 something that we had considered to provide regulatory
10 relief. Now, whether the particular rulemaking that you're
11 addressing here has that feature or not, I'm not sure. But
12 for example, containment leakage testing. There's been a
13 request that there be a change in that frequency. Is that
14 what we're talking about here or is this something else?

15 MR. KING: This is something else. The regulatory
16 agenda has two items on containment leakage testing. One is
17 being proposed for termination. The one that's proposed to
18 continue is the one where it's a less prescriptive method.

19 CHAIRMAN SELIN: The two are actually completely
20 inconsistent with each other.

21 MR. KING: That's correct, yes.

22 CHAIRMAN SELIN: At one end we would tighten the
23 screw and the other we would loosen it.

24 MR. KING: That's correct, yes.

25 COMMISSIONER ROGERS: So we got rid of the right

1 one.

2 MR. KING: We got rid of what we believe is the
3 right one. You'll make that determination.

4 COMMISSIONER ROGERS: Well, some of the topics,
5 for example clarification of Commission's rules with respect
6 to discrimination on the basis of sex, what was involved
7 there?

8 MS. CYR: I think that's one of the ones that
9 duplicates the language of the statute, the proposal to take
10 it out, but the question sort of fell into this efficiency
11 category, whether it was something they needed to pursue at
12 this point in time.

13 COMMISSIONER ROGERS: Well, let me just hit the
14 ones that I've checked. The RCP seals?

15 MR. KING: Yes.

16 COMMISSIONER ROGERS: Right. Okay. The night
17 firing qualifications, was that an addition? Was that
18 something --

19 DR. ROE: That was going to be an addition and
20 what the staff was looking at is a performance-based
21 approach. This was a prescriptive, maybe overly
22 prescriptive approach. So, they would look more to a
23 performance-based rule, not drop the entire concept.

24 COMMISSIONER ROGERS: And the packaging and
25 transportation?

1 DR. ROE: In that particular area, the request by
2 the Department of Energy can be accommodated with an
3 exemption to the regulations, take probably less time and
4 effort than the entire rulemaking process.

5 COMMISSIONER ROGERS: That doesn't touch on this
6 question of the manifest, or does it?

7 DR. ROE: I do not believe. I think it has to do
8 with --

9 COMMISSIONER ROGERS: We had a concern there that
10 that was -- there was some discussion about it, but many of
11 the things that I saw I thought were very good activities in
12 trying to come to a uniform manifest. This does not involve
13 that?

14 DR. ROE: I don't believe so.

15 MR. MILHOAN: We'll get back to you.

16 COMMISSIONER ROGERS: Okay. I'd be concerned
17 about that one if it discards the initiative to develop a
18 uniform manifest.

19 MR. KING: Okay. We also proposed some changes
20 you'll see in the table that do affect overlap with other
21 federal agencies and state agencies as well. The idea is to
22 be more efficient. Just quickly, those were in the access
23 authorization area to give credit for reinvestigations by
24 other agencies, the fitness for duty area to give credit for
25 Department of Transportation testing, the anti-trust area I

1 already mentioned, and then in Part 150 to eliminate the
2 duplicate NRC and state reviews of reclaimed land, which I
3 had mentioned previously.

4 One final point on slide 15 is that the
5 implementation of everything in that table will follow the
6 normal rulemaking process. New items you will see added to
7 the next update of the regulatory plan. They'll eventually
8 at the right time be put in the regulatory agenda.
9 Terminated items will be dropped from the regulatory agenda
10 and everything in there will go through the normal public
11 comment, ACRS, CRGR type review process.

12 [Slide.]

13 MR. KING: Moving onto page 16, attachment 2 to
14 our SECY paper was the second report called the summary
15 report. It basically has five parts. The first part
16 deals -- it's just a description of the agency mission and
17 goals of the straight five year plan is what's in the
18 proposed report to the President. They also wanted a repeat
19 summarized version of the results of the regulations
20 reviews. It repeats many of the same words that are in the
21 first report. Then the last three parts, reward results,
22 grassroots partnership, and negotiated rulemaking, were
23 separate items addressed in the President's March 4th
24 memorandum and we have a section in this report that deals
25 with each one of those. Each of those sections builds upon

1 a report that was sent to the President back on March 30th
2 that talked about each of these topics as well. What we've
3 done is just built upon that and add a little more
4 description.

5 Just quickly, let me go through those. The reward
6 results topic, the President's memorandum asks that we
7 change the way the agency and front line regulator
8 performance is measured to focus on results, not process and
9 punishment. What we've done in the report is describe what
10 the agency is doing in terms of agency performance measures,
11 basically what's currently now reported under the Chief
12 Financial Officer's Act and the fact that we're now working
13 also on agency performance measures under the Government
14 Performance and Results Act and working with OMB to have
15 those in place by September '97.

16 Under personnel performance measures, we are
17 looking at the performance measures in the performance
18 appraisals of front line regulators, that we are trying to
19 make those more performance oriented and that we hope to
20 have those in place by the next performance appraisal
21 period.

22 One other item of note was that the President
23 issued another memorandum on April 21st, '95. It was not
24 addressed to NRC, it was addressed to a number of agencies
25 but we were not included. But it dealt with small

1 businesses and its topics were reduced reporting and waiver
2 of penalties on small businesses. We felt we were, in the
3 enforcement area, doing things consistent with that
4 memorandum and we described that in -- actually it's in both
5 reports to the President under the changes to the
6 enforcement program, that we do waive civil penalties if
7 corrective action is prompt and comprehensive and if also
8 they have a previous good record and these were things that
9 were the thrust of the President's memorandum. So, we'll
10 see that discussed.

11 COMMISSIONER de PLANQUE: Before you go on to the
12 next subject, I'm a little confused at what you have in
13 attachment 2 in the SECY on this issue because as I read the
14 President's letter of March 4th, they're looking for agency
15 performance and personnel performance, how you reward people
16 performance appraisals, yet there's a lot of content here
17 that has to do with performance of licensees. I'm not sure
18 why that's there.

19 MR. KING: Currently, right now, what we report
20 under the Chief Financial Officer's Act is performance
21 measures. Seven of them are performance indicators that
22 measure the industry performance and then there's some
23 others that measure NRC performance, time to process
24 licensing actions and so forth. Whether those items will
25 remain in as we go forward and try and meet the Government

1 Performance and Results Act I guess remains to be
2 determined, but right now that's what we report. I guess
3 you could look at it that the performance of the industry is
4 a reflection on the performance of NRC. If we're doing our
5 job, industry performance ought to be getting better. So,
6 in that sense, I think there are appropriate indicators, but
7 whether we want to change those or not and go to something
8 different I think is still a subject that's being worked on.

9 COMMISSIONER de PLANQUE: But I see things in here
10 on the performance of regulated utilities, regulatory -- you
11 see that as still part of what they were looking for? I
12 just saw the President's letter as being much more narrowly
13 construed.

14 DR. ROE: Especially based on follow-on
15 conversations we had with the NPR staff about what they were
16 really looking for in particular areas, whether it would be
17 appropriate to talk about for those who are regulators, we
18 go into that particular area, and they saw that that was
19 appropriate.

20 COMMISSIONER de PLANQUE: Okay. So, it is
21 supplemented because of the discussions with the NPR staff?

22 DR. ROE: Yes.

23 COMMISSIONER de PLANQUE: Okay. Thanks.

24 DR. ROE: For example, when we talk about the
25 memorandum from the President that addresses small

1 businesses, we indicated it wasn't addressed to us and we
2 asked them if it would be appropriate that we address it in
3 a letter to the President. They said, "Of course, if you
4 wish to."

5 COMMISSIONER de PLANQUE: Okay.

6 MR. KING: Grassroots partnership was another
7 topic discussed in the President's memorandum. It basically
8 said get out of Washington, discuss with the people that are
9 affected by regulations what you're doing and utilize
10 partnership where possible to result in a better regulatory
11 framework. What we described in there was our past and
12 ongoing efforts in that area. We discussed the regulatory
13 impact surveys. We discussed the periodic meetings we had
14 with the industry, for example the Organization of Agreement
15 States, the Regulatory Information Conference, Water Reactor
16 Safety Meeting. We discussed the set of meetings that were
17 also discussed in the March 30th memorandum, specific
18 meetings where NPR was discussed as well as the specific
19 ones that we had with the NEI and these other organizations
20 that responded to our press release. They also wanted in
21 the report some success stories and we felt we had some to
22 report. In the partnership area, the Organization of
23 Agreement States being one, the operator training and
24 licensing program being others. So, you'll find paragraphs
25 on those in the report.

1 COMMISSIONER de PLANQUE: I have to comment on
2 this one. You have a statement in there with respect to the
3 states that such interaction also includes early
4 consultation with agreement states on development of policy
5 regulations and implementing guidance. That's listed as a
6 success. While I applaud that as a goal, I hardly think we
7 could consider that a success to date. I think there's an
8 awful lot of work to be done in that area as we've heard
9 when the agreement states people were here. So, I certainly
10 think that's a goal, but hardly a huge success story to
11 date.

12 MR. MILHOAN: We've had some mixed successes, yes,
13 in that area.

14 COMMISSIONER de PLANQUE: So, we shouldn't
15 consider it a victory and go home by any means.

16 MR. KING: The last topic discussed in the report
17 was they call "negotiate, don't dictate," and that was that
18 agencies were asked to expand their efforts to promote
19 consensual rulemaking, negotiated rulemaking. What we
20 described there in our report was our previous history of
21 attempting negotiated rulemaking and the fact that we're now
22 concentrating on the enhanced participatory rulemaking
23 process and the rule that's being taken through that process
24 right now.

25 COMMISSIONER de PLANQUE: Again on that issue, I

1 think the concept is right. It agrees with what they're
2 trying to achieve. But I would have great difficulty
3 calling the enhanced participatory rulemaking a consensual
4 process. It's a problem with the word because we state very
5 clearly that the purpose of that is not to arrive at
6 consensus. So, if we can come up with some better
7 terminology that still fits into the goals of the NPR, I
8 have no problem including that as a program for meeting that
9 goal, but I would encourage you to be careful of those
10 words.

11 MR. KING: Yes. One of the comments we got back
12 through the SRM on the first report was to change the word
13 "consensual" to "partnership" and we've done that. That's
14 the draft report that went down to the President. It has
15 the word "partnership," not "consensual" in it.

16 [Slide.]

17 MR. KING: Page 17, our remaining activities, the
18 regulations review completes Part 1 of what we talked about
19 in the March 15th study plan. We still have Part 2 and 3
20 ahead of us. Part 2 is what we call the functions review.
21 We're planning to give a report to the Commission in mid-
22 June on that and that's basically going to provide our
23 recommendations for further evaluation in certain areas
24 where we think there are approved deficiencies to be gained.
25 Part 3, which we call efficiency review, is basically a

1 progress report on those evaluations and the implementation
2 that comes out of those evaluations. That's scheduled for
3 June of next year.

4 MR. MILHOAN: Again, there's no presidential
5 report required on that Part 3.

6 MR. KING: Nor Part 2 at this point.

7 MR. MILHOAN: Nor Part 2.

8 MR. KING: The remaining part of the package are
9 the tables. Table 1, the 16 candidate new rulemakings and
10 Jack was going to just highlight a couple of the more key
11 items.

12 DR. ROE: I'd like to highlight a few of these to
13 expand upon it.

14 First of all, in Part 1 seems to be a simple
15 issue. It's focused on the service of our legal papers and
16 I think it shows that as we change over time things become
17 obsolete. At one time, obviously, we were very much located
18 in the District of Columbia and now we're very much located
19 in Rockville, Maryland, and it may be in the future that all
20 of our activities will be located here in Rockville,
21 Maryland.

22 In the service of legal papers though and in
23 accordance with our regulations, they're served in the
24 District of Columbia. When the staff needs to take prompt
25 action, especially if there's a deadline involved, those

1 papers have to be brought out here for the technical staff
2 and the legal staff to evaluate them, review them and make
3 proposals to respond to them. This does eat up the time and
4 it's a burden on the staff and it's inefficient. Hopefully
5 we can make the legislative change to help out that.

6 The next one I'd like to highlight is in Part 26.
7 This is an interesting one where we have had discussions
8 with the industry, we had made some changes in the Part 26
9 that have been proposed by the industry and discussed with
10 them. We in our original look determined that maybe a
11 longer term program to become more performance oriented was
12 appropriate. In the short-term, we couldn't accomplish that
13 because there are a lot of interrelated issues with respect
14 to labor contracts, state and local laws, and we need to
15 evaluate all the requirements, look towards a prescriptive
16 approach, discuss it with the industry and the public,
17 modeled against maybe like the training rule, make changes,
18 for example, that are risk-based that might be appropriate
19 for different positions that have different relevance to
20 nuclear safety be randomly tested at different frequencies.
21 That was a thought in the review of Part 26 on the long-
22 term basis.

23 [Slide.]

24 DR. ROE: Part 35 was one that we were -- on the
25 next page of Table 1 continued, that we were going to

1 highlight, but we've had discussion this morning that we
2 believe that we have to await the National Academy of
3 Sciences review and evaluate it and make a determination of
4 what changes we should make at that particular time.

5 And Part 40 is also to highlight. This is one
6 that I think that I related earlier in the discussion with
7 Dr. Jackson. We identified this as being overly restrictive
8 as this particular regulation is basically based on the EPA
9 standards. In criteria 4 it talks about earthquake
10 requirements, siting requirements associated with
11 earthquakes that are more stringent; and criteria 12 says
12 that no active maintenance can be conducted on the tailings
13 pile and that's not required by the EPA standards, so we're
14 more stringent and obviously would require greater burden on
15 the licensees and expenditure of funds to have that kind of
16 a design. So we feel it's appropriate to go ahead and make
17 those sorts of changes.

18 [Slide.]

19 DR. ROE: On the next page, I'd like to highlight
20 Part 73. We're looking at modifying security requirements
21 for spent fuel shipments to ease the burden on the NRC and
22 also on the licensees, to remove the safeguards information
23 category from certain information associated with the
24 schedule itinerary of those particular shipments.

25 The next one in Part 150, here's where we

1 duplicate our efforts. The state takes an effort to
2 determine that the license is ready for termination and the
3 NRC duplicates that effort, and we believe it's appropriate
4 to allow the states who have the authority now, give them
5 the sole jurisdiction and responsibility for that instead of
6 duplicating.

7 Of interest is that there were two regulations
8 that got the most amount of discussion with us. One was
9 Part 35 and the second one was Part 170. Whoever you talked
10 to felt that it was unequitable and that the burden should
11 be shifted to some other location, either to the taxpayer,
12 to the reactors, someplace else than themselves.

13 COMMISSIONER ROGERS: Anybody but us.

14 DR. ROE: Just not us. Next I'd like to go --

15 COMMISSIONER de PLANQUE: Before you go to the
16 next heading, I'd like to go back to the Part 20.

17 DR. ROE: Yes.

18 COMMISSIONER de PLANQUE: And I know you say
19 evaluate moving all or part of Appendix B. Just one flag of
20 caution there. I think the alleys and the docks that are in
21 that are derived from basic standards.

22 DR. ROE: Right.

23 COMMISSIONER de PLANQUE: And these are typically
24 matters of category 1 compatibility with the states.

25 DR. ROE: Yes.

1 COMMISSIONER de PLANQUE: So, I would see a
2 problem with removing them from the rules because they
3 wouldn't have the same impact if they were elsewhere. In
4 addition, that kind of removes the ability to get broad
5 public comment on them and be forced to act upon that broad
6 comment if you remove them from the rules. So, I guess I
7 would think very carefully before something like that was
8 done.

9 DR. ROE: I understand. I think that's why we
10 said evaluate, is because there are pros and cons to
11 removing all that information or some of that information
12 from Appendix B to guidance documents.

13 COMMISSIONER de PLANQUE: I realize it's a nice
14 target because it's pages of stuff, but if you think about
15 the impact of that, I would think twice.

16 DR. ROE: Understand.

17 [Slide.]

18 DR. ROE: Go to Table 2. I think the point I'd
19 like to make here on the ongoing rulemakings which add a new
20 section to 10 CFR is that the Commission will be sending a
21 letter associated with our regulatory agenda to OMB, to the
22 Office of Information and Regulatory Affairs. In that
23 letter to Ms. Katzen is that we will state that these are
24 being added to 10 CFR but are not addressed in the
25 President's letter. We're trying to be consistent. We know

1 that the Office of Information and Regulatory Affairs is the
2 one that's going to be analyzing both the President's letter
3 and the letter that they will get on this particular topic.

4 The last one we've touched on is Table 3, those
5 that are terminated.

6 Commissioner Rogers, from my notes it shows that
7 this issue with respect to Part 71 is one that's associated
8 with the canisters and is not on the manifest. But if it
9 does impact that part, we'll let you know. But from what I
10 know right now, it's just on the canister issues.

11 Basically, that concludes our briefing.

12 CHAIRMAN SELIN: Commissioner Rogers?

13 COMMISSIONER ROGERS: Well, I'm sure everybody
14 else here has been equally impressed. I think we've done a
15 superb job in a short time and I think it's a very excellent
16 piece of work and I really want to commend everybody that
17 was involved. It certainly requires excellent management
18 leadership to keep such a thing on track and on schedule and
19 you've done a very fine job and I think you all should be
20 commended for that.

21 A couple little questions. One, not really part
22 of the effort, but have you done any analysis, just a quick
23 and dirty analysis of what the cost of these rulemakings
24 would be? What would be the cost of doing these
25 rulemakings, the impact on our budget? I think we ought to

1 know that and take a look at what fraction of our resources
2 in the future are going to have to be devoted to carrying
3 out this rulemaking. I'm not objecting to it, but I think
4 we ought to know what it is and I think we ought to make it
5 very clear to people what that cost is because that's got to
6 be in the mix of the things that we do within the limited
7 budget that's going to be available to us.

8 So, I think the FTE and dollar costs of these
9 rulemakings should at least be estimated and --

10 DR. ROE: That's a good point. We did not
11 specifically analyze the cost of rulemaking. However, when
12 we went through some of the proposed changes that we
13 initially came up with and had discussions with the offices,
14 they indicated that they could have other activities that
15 cost far less than rulemaking that would solve the problems
16 that we saw. So, that was considered, but as far as the
17 overall cost of the rulemaking. We did look. The fact is
18 that we're dropping some, about 13, and adding 16. So, it
19 might be --

20 COMMISSIONER ROGERS: Oh, yes. A little
21 perspective like that might be helpful even to OMB and to
22 recognize that there might be another way to accomplish
23 their overall goals and that what the price tag of that is.
24 It's certainly a perspective that anybody taking an overview
25 of the entire program, I would think, would like to know.

1 DR. ROE: The only way where we explicitly took
2 into consideration that cost is, as we briefed you earlier,
3 is those things that are repeats of statute, administrative
4 in nature. To take them out, we just didn't feel was
5 worthwhile.

6 COMMISSIONER ROGERS: Yes.

7 DR. ROE: Now, some agencies are doing that. But
8 in our case --

9 COMMISSIONER ROGERS: No, I think your approach
10 seems to me like a very sound one and a clearly thought out
11 one.

12 Just a comment on the letters and the structure of
13 the attachments. I would suggest that you look them over
14 once again. Of course, there were some comments already for
15 consistency. For example, one of the letters that the
16 topical areas to be listed are not all given the same titles
17 as in the report itself. I think that should be identical.

18 DR. ROE: Yes, sir.

19 COMMISSIONER ROGERS: The headings of some of the
20 sections, some are partly roman numerals and partly other
21 numbers. So, I'd just suggest that you take a look at it
22 once again --

23 DR. ROE: We'll do that.

24 COMMISSIONER ROGERS: -- for that kind of
25 editorial improvement. But I think in general it's been a

1 very fine job.

2 COMMISSIONER de PLANQUE: I have a question. I
3 probably should know the answer to this, but it's not
4 obvious to me offhand. In attachment 1 on page 8, review of
5 the NRC regulatory agenda, it ends with, "The internal NRC
6 process for initiating rulemaking has been revised for
7 greater control." What is that referring to, control over
8 the rulemaking process?

9 MR. KING: It's really referring to the fact that
10 we're now going to provide the Commission what's called this
11 regulatory plan. You got the first one on May 10th.

12 COMMISSIONER de PLANQUE: Okay. Fine.

13 One of the general things that disturbs me a
14 little bit is that many of our successes are in the reactor
15 area and there's not a lot in here that talks about some of
16 the things we've done in the materials area. That's
17 probably because it reflects reality. But I think there's a
18 little bit of a message in that, that we need to look at
19 little harder in the materials area.

20 DR. ROE: It may be a matter of timing. Dr.
21 Paperiello is carrying out a very extensive business process
22 reengineering. He's going to capture a lot of things, but
23 they're premature and it's too early for us to report on it.
24 I think if we were to take a look a little bit later there
25 would be a much more balanced picture.

1 COMMISSIONER de PLANQUE: Okay. Well, you know,
2 there's another area where we do a lot that I'm surprised
3 you never claim success because I think we ought to claim
4 success and it's an area where we're ahead of many of the
5 federal agencies. That's when you talk about risk-based
6 regulation. I think we had this tendency to think only in
7 terms of engineering and equipment and making things risk-
8 based. So, the successes are usually pointed to in the
9 reactor area. But if you think about it, almost all of our
10 regulations are risk-based in the sense of radiation
11 protection. They all go back to protecting the public and
12 the workers and they are based on sound risk-based values
13 that come out of ICRP and NCRP. So, the underlying basis
14 for almost everything we do is indeed risk-based and I would
15 like to see us claim more credit for that. I think you
16 easily can because that's certainly not true for some of the
17 other agencies.

18 DR. ROE: I understand.

19 MR. KING: Risk-based regulation is mentioned in
20 the second report to the President as a future activity
21 that's going more toward a partnership and focusing on
22 what's important. But you're right, it's not in the first
23 report.

24 COMMISSIONER de PLANQUE: I see that on page 15
25 and again it's more directed towards the engineering aspects

1 of reactors. I think there's another whole category here
2 where we can claim really a great victory and I don't know
3 why we don't brag about this. But it's certainly true that
4 almost everything that goes back to a radiation protection
5 standard is on a better risk basis than many other things
6 done by the federal government. So, I think we should stand
7 up and be proud of that and say more about it.

8 DR. ROE: That's a good point.

9 COMMISSIONER de PLANQUE: I have no further
10 questions. I think you've done an excellent job.

11 CHAIRMAN SELIN: Commissioner Jackson?

12 COMMISSIONER JACKSON: Being the junior person
13 here, they've said it all. I just want to compliment you on
14 the work and to say stay ahead of the curve. That's why I
15 asked the question about self-identification.

16 CHAIRMAN SELIN: I'm very pleased with the work.
17 I'm very pleased with the briefing. You have a
18 comprehensive set of charts and you didn't just read them to
19 us. You picked the high points and that's a really very
20 effective way to communicate. I have a few small comments,
21 they mirror the draft letter, I'd like to send to you.

22 First is make sure the Part 70 line is consistent
23 with our current thinking, whatever that may happen to be.

24 DR. ROE: Yes, sir.

25 CHAIRMAN SELIN: Second, I'm not sure the letter

1 to the President has to tell him we're changing our mailing
2 address.

3 DR. ROE: Yes, sir.

4 CHAIRMAN SELIN: The third is --

5 DR. ROE: We thought about that.

6 CHAIRMAN SELIN: Well, if you thought about it,
7 you made the wrong decision. To think about it is not
8 sufficient.

9 COMMISSIONER de PLANQUE: But if he wants to write
10 back, he needs to know.

11 DR. ROE: We see the wisdom of our mistakes.

12 CHAIRMAN SELIN: The third is when you go through
13 these small business things, ask the next question, if it's
14 appropriate to reduce reporting for small business entities,
15 why isn't it appropriate to reduce reporting for big
16 business entities, et cetera? I am a great believer that -
17 - well, I believe very strongly that we shouldn't have
18 separate rules for small business, but once we figure what's
19 appropriate, we ought to go back. We've done, under
20 Commissioner Rogers' prodding on the decommissioning plans,
21 we start asking ourselves why do we need such an elaborate
22 decommissioning plan for people who are closing down
23 prematurely and this says, well, why do we need them for
24 anybody? So, very often in these streamlining efforts we
25 learn something that's relevant.

1 We only have two proposed legislative changes to
2 the Atomic Energy Act. Make sure we sit down and say, "Do
3 we really want to go up with these two little changes or do
4 we want to wait for some other things that might be
5 cooking?" So, we might consider whether we want to do that
6 so routinely, which may be okay, but we should also have a
7 legislative strategy, not just a rule by rule strategy.

8 Basically this was really a first rate job. I
9 would be a little leery of trying to make this report any
10 more than it is. The agency that's done the best job on the
11 NPR is NASA and they've gotten cut to shreds publicly. I'm
12 not sure we need to use this as the main document for
13 telling the world what we're doing. We should obviously
14 comply with the request, but we've got more effective ways
15 to communicate our successes and failures. So, answer the
16 mail, do the job, do what you've done now, which is used
17 this as an opportunity to crystalize our management, but
18 don't think about this necessarily as the way to communicate
19 our successes and failures. We should probably rely most
20 heavily on those places where we set the agenda and the
21 outline and not just follow other pieces.

22 MR. MILHOAN: Yes, sir, we understand.

23 CHAIRMAN SELIN: I think it's a terrific job and
24 mostly I really like the work that's behind it and that's
25 basically it.

1 Thank you very much.

2 MR. MILHOAN: Thank you.

3 [Whereupon, at 11:00 a.m., the meeting was
4 concluded.]

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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 PART I RECOMMENDATIONS FOR
NATIONAL PERFORMANCE REVIEW PHASE II -
PUBLIC MEETING

PLACE OF MEETING: Rockville, Maryland

DATE OF MEETING: Wednesday, May 24, 1995

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: Carol Lynch

Reporter: Peter Lynch

**BRIEFING ON NPR PHASE II
REGULATIONS REVIEW
ACTIVITIES**



**NATIONAL PERFORMANCE REVIEW PHASE II
STEERING COMMITTEE
MAY 24, 1995**

OUTLINE OF BRIEFING

- **PURPOSE: TO PRESENT THE RESULTS OF THE STAFF'S REVIEW OF REGULATIONS AND PROPOSED RESPONSE TO OTHER RELATED ITEMS REQUESTED AS PART OF THE NATIONAL PERFORMANCE REVIEW - PHASE II REGULATORY REINVENTION INITIATIVE.**

- **BACKGROUND:**
 - **NATIONAL PERFORMANCE REVIEW**
 - **MARCH 4, 1995 PRESIDENTIAL REQUEST**
 - **SCHEDULE**

OUTLINE OF BRIEFING (CONTINUED)

- **REGULATIONS REVIEW**
 - **GOALS**
 - **APPROACH**
 - **PUBLIC/INDUSTRY COMMENTS**

- **RESULTS:**
 - **REGULATIONS REVIEW**
 - **OTHER RELATED ITEMS:**
 - **REWARD RESULTS**
 - **GRASSROOTS PARTNERSHIP**
 - **NEGOTIATED RULEMAKING**

BACKGROUND

- **NATIONAL PERFORMANCE REVIEW (NPR):**
 - **STARTED IN 1993**
 - **PHASE I ADDRESSED - CUTTING RED TAPE**
 - **PUTTING CUSTOMERS FIRST**
 - **EMPOWERING EMPLOYEES**
 - **BACK TO BASICS**
- **JANUARY 3, 1995, PRESIDENTIAL MEMORANDUM ANNOUNCED NPR-PHASE II.**
- **NPR PHASE II SPECIFIC INITIATIVES BUILD UPON AREAS ADDRESSED IN PHASE I**

BACKGROUND (CONTINUED)

- **FEBRUARY 1995 SUMMARY DOCUMENT DESCRIBED NPR PHASE II INITIATIVES:**
 - **AGENCY RESTRUCTURING (MISSION REVIEW)**
 - **FEDERALISM (DEVOLVING)**
 - **REGULATORY REINVENTION (REGULATIONS REVIEW)**
- **FEBRUARY 16, 1995 SRM REQUESTED STAFF TO LOOK AT AGENCY FUNCTIONS AND EFFICIENCY ALONG THE LINES OF NPR PHASE II.**
- **NRC-NPR STEERING COMMITTEE ESTABLISHED**

BACKGROUND (CONTINUED)

- **MARCH 4, 1995, PRESIDENTIAL MEMORANDUM ON REGULATORY REINVENTION INITIATIVE:**
 - **CUT REGULATIONS**
 - **REWARD RESULTS**
 - **GRASSROOTS PARTNERSHIP**
 - **NEGOTIATED RULEMAKING**

- **STAFF STUDY PLAN - 3/15/95 EDO MEMORANDUM:**
 - **Part 1 - REGULATIONS REVIEW**
 - **Part 2 - FUNCTIONS REVIEW**
 - **Part 3 - EFFICIENCY REVIEW**

BACKGROUND (CONTINUED)

- **WEEKLY NPR WORKSHOPS ON REGULATORY REINVENTION INITIATIVE PROVIDED:**
 - **GROUND RULES**
 - **FORMAT AND CONTENT OF REPORTS**
 - **SCHEDULE**
- **SCHEDULE FOR SUBMITTAL OF RESPONSE TO PRESIDENT:**
 - **REPORT ON REGULATIONS REVIEW BY 6/1/95**
 - **SUMMARY REPORT BY 6/15/95 ON ALL TOPICS IN 3/4/95 MEMO**
 - **DRAFTS TO BE PROVIDED BY 5/19/95 AND 5/25/95**
- **RESULTS OF STAFF REVIEW PROVIDED IN SECY-95-123**

GOALS OF REGULATIONS REVIEW

- **IDENTIFY WHAT NRC REGULATIONS ARE:**
 - **OVERLY BURDENSOME**
 - **OUT OF DATE**
 - **OF MARGINAL VALUE TO SAFETY**
 - **TOO PRESCRIPTIVE**
 - **OVERLAPPING WITH OTHER AGENCIES?**
- **IDENTIFY HOW THEY SHOULD BE CHANGED**
- **IDENTIFY ANY LEGISLATION NEEDED TO EFFECT CHANGES**

APPROACH TO REGULATIONS REVIEW

- **JOINT EFFORT BY OFFICES/REGIONS/STEERING COMMITTEE. REVIEW PLAN DESCRIBED IN MARCH 7, 1995, EDO MEMORANDUM.**
- **GROUND RULES PROVIDED BY PRESIDENT'S NPR STAFF:**
 - **LIMIT REVIEW TO CHANGES TO EXISTING 10 CFR**
 - **IDENTIFY LEGISLATIVE CHANGES NEEDED TO EFFECT CHANGES**
 - **CONSIDER DROPPING RULES THAT ARE ADMINISTRATIVE, REPEAT STATUES OR DESCRIBE ORGANIZATION STRUCTURE**
 - **TAKE CREDIT FOR ONGOING INITIATIVES**
- **REVIEWED 10 CFR AND REGULATORY AGENDA**
- **BUILD UPON EXISTING INITIATIVES:**
 - **REGULATORY REVIEW GROUP**
 - **MARGINAL TO SAFETY PROGRAM**
 - **MAY 10, 1995 RULEMAKING PLAN USED AS THE BASELINE**

APPROACH TO REGULATIONS REVIEW

- **INPUT SOLICITED FROM PUBLIC/INDUSTRY:**
 - **3/9/95 PRESS RELEASE**
 - **SPEECHES**
- **BRIEFED ACMUI, ACNW AND ACRS**

PUBLIC/INDUSTRY INPUT RECEIVED

- **NUCLEAR ENERGY INSTITUTE**
- **ORGANIZATION OF AGREEMENT STATES**
- **ENVIRONMENTAL COALITION ON NUCLEAR POWER**
- **NATIONAL MINING ASSOCIATION**
- **AMERICAN COLLEGE OF RADIOLOGY**
- **NATIONAL NUCLEAR SAFETY NETWORK**
- **AMERICAN COLLEGE OF MEDICAL PHYSICS**
- **INDEPENDENT WIRELINE WELL LOGGERS ASSOCIATION**

PUBLIC/INDUSTRY COMMENTS

- **SUGGESTED REGULATION CHANGES IDENTIFIED BY INDUSTRY:**
 - 10 CFR 50.54 - QA
 - 10 CFR 50 - APPENDIX J - CONTAINMENT LEAKAGE TESTING
 - 10 CFR 50 - STEAM GENERATOR TUBE INTEGRITY
 - 10 CFR 50 - APPENDIX R - FIRE PROTECTION
 - 10 CFR 54 - LICENSE RENEWAL
 - 10 CFR 73 - SECURITY
 - 10 CFR 26 - FITNESS FOR DUTY
 - REPORTING REQUIREMENTS
 - ENFORCEMENT POLICY
 - COMMERCIAL GRADE DEDICATION
 - LOW POWER & SHUTDOWN OPERATION
 - PART 35 - MEDICAL USES OF BYPRODUCT MATERIAL
 - PART 39 - WELL LOGGING

PUBLIC/INDUSTRY COMMENTS (CONTINUED)

- **IMPLEMENTATION IDENTIFIED AS MORE OF A BURDEN**
- **CONCERN ABOUT CUTTING BACK TOO MUCH**
- **CONCERN ABOUT OVERLAP WITH EPA IN RADIATION PROTECTION AREA AND DOS IN IMPORT-EXPORT LICENSING AREA**

RESULTS

- **TWO DRAFT REPORTS TO THE PRESIDENT PREPARED:**

- RESULTS OF REGULATIONS REVIEW - DUE 6/1/95
- SUMMARY REPORT - DUE 6/15/95
- FOLLOWS FORMAT, CONTENT AND GROUND RULES GUIDANCE PROVIDED BY PRESIDENT'S NPR STAFF

- **REGULATIONS REVIEW REPORT CONTENTS:**

- LIST OF RULEMAKINGS, SCHEDULE AND DISCUSSION OF REVIEW APPROACH.
- 62 PARTS, SUBPARTS OR SECTIONS AFFECTED. 20 PARTS UNCHANGED
- INCLUDES ONGOING RULEMAKINGS, PLUS 16 NEW CANDIDATE RULEMAKINGS IDENTIFIED BY NPR REVIEW (SEE TABLE 1)

RESULTS (CONTINUED)

- **ONGOING RULEMAKINGS ARE BASED UPON THE 5/10/95 RULEMAKING PLAN (CATEGORY I, II & III ITEMS) PLUS ONE OIP SPONSORED RULEMAKING. SEVEN ONGOING RULEMAKINGS IN THE 5/10/95 RULEMAKING PLAN WHICH ADD NEW SECTIONS TO 10 CFR ARE NOT INCLUDED (SEE TABLE 2)**
- **NEW CANDIDATE RULEMAKINGS ARE BASED ON JUDGEMENT CONSIDERING OBSOLESCENCE, BURDEN AND RISK**
- **8 OF THE 16 NEW CANDIDATE RULEMAKINGS WOULD ELIMINATE REQUIREMENTS**
- **4 OF THE 16 NEW CANDIDATE RULEMAKINGS WOULD REQUIRE LEGISLATION TO:**
 - **CHANGE NRC'S MAILING ADDRESS**
 - **ELIMINATE NRC'S INVOLVEMENT IN ANTI-TRUST REVIEWS**
 - **ELIMINATE DUPLICATIVE NRC AND STATE REVIEW OF RECLAIMED LAND**
 - **MODIFY FEE COLLECTION.**
- **13 POTENTIAL RULEMAKINGS IDENTIFIED IN REGULATORY AGENDA TERMINATED (SEE TABLE 3)**

RESULTS (CONTINUED)

- **REDUCTION IN REPORTING REQUIREMENTS TO BE HANDLED AS SEPARATE ITEM**
- **DID NOT PROPOSE REMOVAL OF ADMINISTRATIVE AND ORGANIZATIONAL RULES (PART 1).**
- **IMPLEMENTATION WILL FOLLOW NORMAL RULEMAKING PROCESS**

RESULTS (CONTINUED)

- **SUMMARY REPORT ADDRESSES ALL ITEMS IN MARCH 4, 1995, PRESIDENTIAL MEMORANDUM AND FOLLOWS FORMAT AND CONTENT GUIDANCE PROVIDED BY PRESIDENT'S NPR STAFF:**
 - **NARRATIVE SUMMARY OF REGULATIONS REVIEW**
 - **REWARD RESULTS - DESCRIPTION OF SHIFT OF AGENCY AND PERSONNEL PERFORMANCE MEASURES TO FOCUS ON RESULTS (APRIL 21, 1995 PRESIDENTIAL MEMORANDUM)**
 - **GRASSROOTS PARTNERSHIP - DESCRIPTION OF AGENCY EFFORTS TO WORK WITH REGULATED INDUSTRY AND STATES TO DEVELOP MUTUALLY BENEFICIAL REGULATORY PROGRAMS**

RESULTS (CONTINUED)

- **NEGOTIATED RULEMAKING-DESCRIPTION OF AGENCY EXPERIENCE AND PLANS FOR NEGOTIATED/PARTICIPATORY RULEMAKING**

REMAINING ACTIVITIES

- **TRANSMITTAL OF REGULATIONS REVIEW REPORT AND SUMMARY REPORT TO THE PRESIDENT COMPLETES PART 1 OF THE ACTIVITIES DESCRIBED IN THE EDO'S 3/15/95 STUDY PLAN.**
- **REMAINING STUDY PLAN ACTIVITIES:**
 - **PART 2 - FUNCTIONS REVIEW:**
 - **REPORT TO BE PROVIDED TO COMMISSION IN MID-JUNE**
 - **CURRENTLY, NO PRESIDENTIAL REPORT REQUESTED**
 - **PART 3 - EFFICIENCY REVIEW:**
 - **PROGRESS REPORT TO BE PROVIDED TO COMMISSION ON 6/1/96**

TABLE 1
16 NEW CANDIDATE RULEMAKINGS

<u>TITLE</u>	<u>CHANGE</u>	<u>LEGISLATION NEEDED</u>
Part 1 - Statement of Organization and General Information	Change NRC's mailing address to Rockville.	Yes - modify Section 23 of the Atomic Energy Act of 1954.
Part 2 - Rules of Practice for Domestic Licensing Proceeding and Issuance of Orders	Eliminate Appendix A and Appendix C	No
Part 20 - Standards for Protection Against Radiation	a) Evaluate moving all or part of Appendix B to a guidance document b) Evaluate relaxation from mandatory use of Form 4 c) Update Subpart H d) Recordkeeping and notification corrections	No
Part 26 - Fitness for Duty	Initiate longer term effort to reduce prescriptiveness	No

TABLE 1 (Continued)

<u>TITLE</u>	<u>CHANGE</u>	<u>LEGISLATION NEEDED</u>
Part 31 - General Domestic Licenses for Byproduct Material	Eliminate general license for Strontium-90 in ice detection devices. Evaluate general license provisions under 31.5.	No
Part 32 - Specific Domestic Licenses to Manufacturer and Transfer Certain Items Containing Byproduct Material	a) Eliminate distribution license for Strontium-90 ice detection devices b) Evaluate criteria related to transfer of certain licenses c) Evaluate QA criteria	No
Part 35 - Medical Use of Byproduct Material	Evaluate requirements related to patient safety after completion of NAS study	No
Part 40 - Domestic Licensing of Source Material	Revise criteria 4 and 12 in Appendix A to be less burdensome	No
Part 50.33a - Information Requested by the Attorney General for Anti-Trust Review	Eliminate 50.33a and Appendix L (plus conforming changes in Pt. 2)	Yes - remove Section 105(c) of the Atomic Energy Act of 1954

TABLE 1 (Continued)

<u>TITLE</u>	<u>CHANGE</u>	<u>LEGISLATION NEEDED</u>
Part 50.34(f) - Additional TMI-Related Requirements	Update to reflect latest source term and technology	No
Part 50, Appd M,N,O and Q	Eliminate - they duplicate Part 52	No
Part 53 - Criteria and Procedures for Determining the Adequacy of Available Spent Nuclear Fuel Storage Capacity	Eliminate - deadline has expired	No
Part 55 - Operators License	Clarify requirements for fuel handling operators	No
Part 73 - Physical Protection of Plants and Materials	Modify security requirements for spent fuel shipments	No
Part - Continued Commission 150.15a Authority Pertaining to Byproduct Material	Eliminate duplication of effort with states in reviewing licensing termination requirements	Yes - modify Uranium Mill Tailing Radiation Control Act of 1978
Part - Fees 170/171	Modify fee structure	Yes - modify Omnibus Budget Reconciliation Act of 1990

Table 2
Ongoing Rulemakings Which Add New Sections to 10 CFR

<u>10 CFR</u>	<u>Title</u>
Part 52	Certification Rules for ABWR and System 80 ⁺
Parts 20,30,40, 50,51,70,72	Radiological Criteria for Decommissioning
Part 50	Relability Data
Part 50	Shutdown and Low Power
Parts 60,72,73	Safeguards for Spent Fuel Storage or HLW
Part 20	Criteria for Recycle/Reuse
Part 50	Steam Generator Rule

Table 3
Regulatory Agenda Rulemakings Terminated

<u>10 CFR</u>	<u>Title</u>
Part 50	Containment Leakage Testing
Part 140	Criteria for Extraordinary Nuclear Occurance
Part 150	Onsite LLW Disposal in Agreement States
Parts 32,40	Distribution of Source and Byproduct Material
Part 35	QA in Medical Use
Part 50	Accetpance of Products for Nuclear Power Plant - Systems Structures and Components
Part 50	Acceptability of Plant Performance for Severe Accidents
Part 61	Land Ownership Requirements for LLW Sites
Parts 2,19	Clarification of Commissions's Rules with Respect to Discrimination on the Basis of Sex
Part 50	RCP Seals
Part 70	Fresh Fuel Criticality Alarms
Part 73	Night Firing Qualifications for NPP Security Guards
Part 71	PRM-71-11 - Packaging and Transportation of Radioactive Materials