

NUCLEAR REGULATORY COMMISSION

RETURN TO SECRETARIAT RECORDS
COMMISSION MEETING

In the Matter of: PUBLIC MEETING

BRIEFING ON AMENDMENTS TO PART 50--
EMERGENCY PREPAREDNESS REGULATIONS

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RETURN TO SECRETARIAT RECORDS

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1 UNITED STATES OF AMERICA
2 NUCLEAR REGULATORY COMMISSION
3
4 BRIEFING ON AMENDMENTS TO PART 50 --
5 EMERGENCY PREPAREDNESS REGULATIONS

6 PUBLIC MEETING

7 Room 1130
8 1717 H Street, N.W.
9 Washington, D. C.

10 Friday, October 30, 1981

11 The Commission convened on the above-entitled
12 matter at 1:40 p.m., pursuant to notice.

13 BEFORE:

14 NUNZIO PALLADINO, Chairman
15 VICTOR GILINSKY, Commissioner
16 PETER BRADFORD, Commissioner
17 JOHN AHEARNE, Commissioner
18 THOMAS ROBERTS, Commissioner

19 ALSO PRESENT:

20 W. DIRCKS
21 S. CHILK
22 F. REMICK
23 L. BICKWIT
24 M. MALSCH
25 B. GRIMES
M. JAMGOCHIAN
S. RAMOS
R. BONERS
L. THOMAS, FEMA

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

2 CHAIRMAN PALLADINO: The meeting will come to
3 order.

4 The subject of today's meeting is a briefing on
5 amendments to Part 50 regarding emergency preparedness
6 regulations. By way of background, I might provide the
7 following.

8 In our discussions with FEMA regarding emergency
9 preparedness, we felt that would be significant advantage if
10 we would divide our activities and differentiate between
11 reasonable assurance that we have plans that can be
12 implemented, and the question of the exercise. The concept
13 that led to the proposals today were based on the
14 consideration that the exercise be made a part of the start
15 up testing, and it not be necessary to be performed before
16 the operation at 5 percent power. This led to SECY-81-554.

17 This led also to a consideration that the staff
18 felt had merit, and that was to not require even a finding
19 on the need for plans before starting on the 5 percent, and
20 that led to SECY-81-570. I think that they can be treated
21 separately, and we should give consideration first to
22 SECY-81-554, and then to SECY-81-570.

23 We do have with us today, in addition to the
24 staff, Mr. Thomas from Federal Emergency Management Agency,
25 and I expect that after we have introduced the topic a

1 little further, we may call on him for some comments. So,
2 why don't I turn the meeting over to Mr. Dircks to introduce
3 the subject.

4 MR. DIRCKS: We are pleased to have Mr. Lee Thomas
5 here. He is the Associate Director for State and Local
6 Programs at FEMA.

7 In addition to the two papers you referred to, Mr.
8 Chairman, SECY-81-554 and SECY-81-570, we would also like to
9 review with the Commission the status of our interaction
10 with FEMA, and we would also like to give the Commission
11 some idea of the work program ahead in the area of
12 regulation and rulemaking in the emergency
13 preparedness/emergency planning area.

14 Brian Grimes will carry the bulk of the discussion
15 today, and on his left is Mike Jamgochian from the Office of
16 Research and Standards.

17 MR. GRIMES: As you requested, Mr. Chairman, we
18 will go over the SECY-81-554 first. Could we have the first
19 slide.

20 I would like to note as background that when the
21 emergency preparedness rule was issued in August of 1980, it
22 was issued after what I would call expeditious rulemaking
23 compared to most rulemakings that go on for major items. It
24 was recognized at that time that the rule might be less than
25 perfect, but that there was a pressing need for a

1 substantial upgrade in the level of emergency preparedness,
2 therefore, we took our best shot based on the comments we
3 had received over a few month period and issued a rule.

4 After some experience with this process, we see a
5 number of opportunities to streamline the process and
6 clarify our regulations, and we will be discussing several
7 of what we see as opportunities here today, and two specific
8 pieces before the Commission for discussion related to the
9 role of the emergency preparedness exercise as it relates to
10 the hearing process, and the role of FEMA in the issuance of
11 a low power license.

12 Let me first go to SECY-81-554, the change to 10
13 CFR 50-54, and 10 CFR 50-47.

14 Slide please.

15 There are two changes involved here. One, a minor
16 one relating to clarification that the four-month period in
17 the rule does apply any time during the plant lifetime, and
18 would include such things as a prompt notification system.
19 That was a matter of some discussion this summer at an
20 earlier Commission meeting.

21 Some members of the public, in particular, did not
22 find the regulation clear on that point, and we have
23 attempted to clarify by inserting a phrase to indicate that
24 the prompt public notification system, for example,
25 deficiencies found later in the plant lifetime would be

1 covered by the four-month period.

2 The other major item for discussion is a change to
3 50-57.

4 Could we have the next slide, please?

5 May I direct your attention to the bottom of the
6 slide, which is the main topic. At least in the staff's
7 view, the requirement for an emergency preparedness exercise
8 was not contemplated as necessarily a subject for discussion
9 in the hearing process.

10 CHAIRMAN PALLADINO: Is that the slide that you
11 want?

12 MR. GRIMES: Yes. The last two items on the slide
13 relate to timing and purpose of emergency preparedness
14 exercises. The top of the slide relates to the minor change
15 that I just discussed.

16 The staff sent down SECY-81-554. The Office of
17 General Counsel discussed that paper with the staff, and as
18 a result of those discussions issued a memo. The memo is
19 dated October 15, 1981.

20 I am sorry, I am out of order in my presentation,
21 at least.

22 MR. BICKWIT: We thought about issuing a memo.

23 (General laughter.)

24 MR. GRIMES: As a result of discussions with the
25 Office of General Counsel and with the Chairman, we have

1 passed out today a clarification to the proposed change in
2 SECY-81-554.

3 COMMISSIONER AHEARNE: It is an interesting way of
4 phrasing it, clarification to change full power to 5
5 percent.

6 MR. GRIMES: No, I think the clarification between
7 the papers is simply a matter of saying, rather than before
8 a full power license, it now read "prior to operation of
9 both 5 percent," which is more nearly in consonance with our
10 practice of issuing low power licenses, and also clarifies
11 some legal points that were in debate about what the effect
12 would be.

13 COMMISSIONER AHEARNE: Is that going to be
14 something you are going to get into?

15 MR. GRIMES: I would try to present the logic for
16 why we believe that it is not necessary to have it part of
17 the hearing process. I think we will get into that.

18 COMMISSIONER AHEARNE: What about why you think it
19 is necessary to have the exercise before 5 percent is
20 exceed, as opposed to before full power?

21 CHAIRMAN PALLADINO: This is operation of both, I
22 presume.

23 MR. GRIMES: Operation of both 5 percent, that is
24 right.

25 COMMISSIONER AHEARNE: As I said, why didn't you

1 leave it as it was, before 5 percent is exceeded?

2 MR. GRIMES: Right now, Appendix E states that the
3 exercise must be held before a full power license is
4 issued. The practice since that time has been to make the
5 distinction between full power and low power at five
6 percent.

7 COMMISSIONER AHEARNE: I see, so it is just a
8 different way of saying it.

9 MR. GRIMES: It is just a different way of
10 expressing it.

11 COMMISSIONER AHEARNE: All right.

12 MR. GRIMES: Of more substance is the fact that we
13 believe that we can obtain reasonable assurance that the
14 plans are adequate, and can be implemented based on a FEMA
15 review of the off-site plans, and an NRC review of the
16 on-site plans, and that verification that these plans are
17 actually in place can be left as part of the operation and
18 inspection process.

19 That is the concept that the staff has had for
20 some time, but it was not directly addressed in the rule,
21 and we believe it is appropriate to clarify it, and have the
22 potential for saving some time in terms of particular
23 hearing boards deciding to litigate, or wait until the
24 exercise had been completed until closing the record, for
25 example.

1 Another reason for doing this is that oftentimes
2 utilities and State and local governments feel pressed to
3 have an exercise at a very early time. If they have this
4 exercise too long before the plant is completely ready to
5 operate, there is the risk of having a poor performance in
6 the exercise because the procedures have not been completed,
7 and all the systems have not been checked out, and the final
8 configuration is not in place.

9 So we think we will have been assurance of a
10 well-performed one time exercise, rather than taking the
11 risk of having it too early, and having a laundry list of
12 items which need to be corrected, as we did at San Onofre,
13 for example, before the plans are felt to be implemented.

14 I think the change is an attempt to give direction
15 to the hearing boards in particular that the reasonable
16 assurance finding can be based on the plan review.

17 MR. THOMAS: From our point of view, we worked
18 jointly with NRC, obviously, on all of these. We feel that
19 that change actually ties the process that you use for
20 licensing more directly with the process that is used by
21 State and local governments and utilities as far as
22 emergency preparedness is concerned.

23 The plan review and findings on the plan at your
24 hearing process is a logical step. Then, as you move on
25 forward and the licensee and the State and local governments

1 prepare for their full scale exercise and hold that
2 exercise, then we present you with findings on that prior to
3 your actual issuance of that license. We think that it is a
4 logical sequence of events based on the experience we have
5 had over the last year, it fits in.

6 COMMISSIONER AHEARNE: What will FEMA, then, be
7 providing prior to the exercise?

8 MR. THOMAS: We will be providing a complete
9 review of the plans themselves at your hearings, that is the
10 State plan and annexes of the county plan.

11 COMMISSIONER AHEARNE: In that review what kind of
12 a judgment will FEMA be reaching, assuming that the plans
13 are adequate?

14 MR. THOMAS: That the plans are adequate.

15 COMMISSIONER AHEARNE: Would that be, in essence,
16 a finding that at least based upon the plans, they appear to
17 be able to be implemented?

18 MR. THOMAS: That is correct.

19 COMMISSIONER AHEARNE: Then the one caveat would
20 be left open, the exercise at a later point?

21 MR. THOMAS: It is basically a statement of
22 findings on the plan versus a full statement of
23 preparedness, which is basically our evaluation of the
24 exercise itself would be given prior to the actual issuance
25 of the license.

1 CHAIRMAN PALLADINO: Would you be inclined to make
2 a statement that based on the plans, there is reasonable
3 assurance that these plans can be implemented, or would you
4 make such a finding?

5 MR. THOMAS: Yes. I think it is a process that
6 we, in effect, go through now, where we review the plans,
7 and based on the plans themselves we make a finding as to
8 the adequacy of the plan and the adequacy and the
9 feasibility for implementation. Those are the kinds of
10 findings we would make. Then you get into the actual
11 implementation, and that is the second step, and we make
12 findings on that.

13 MR. DIRCKS: I think it would be good to clarify
14 some of the terms, Brian, regarding the licensing. I think
15 we are making a distinction between the license and the
16 operation of the plant above 5 percent.

17 MR. GRIMES: Yes, after discussing this with ELD
18 and OGC, I think I have a better concept of how the actual
19 issuance would go forward. There might be indeed be an
20 actual license issued before the exercise was completed, but
21 that it would be conditioned on not going above 5 percent
22 power before the exercise was completed, in effect what Mr.
23 Thomas said, but with a slightly different administrative
24 way.

25 CHAIRMAN PALLADINO: As I recall, recent action

1 resulted in our saying that the operating license would be
2 granted and be stamped for not over 5 percent until such
3 time as the Commission had decided that that stamp could be
4 lifted.

5 I gather this concept now goes to the point of
6 saying that the exercise is really a demonstration that is
7 comparable to other start up procedures, and would be done
8 prior to going to above 5 percent.

9 MR. GRIMES: Yes. It is comparable to low power
10 physics testing.

11 MR. DIRCKS: That is why we feel it fits in well
12 with what the Commissioner was saying.

13 COMMISSIONER GILINSKY: Is this something we
14 haven't seen before?

15 CHAIRMAN PALLADINO: There is a slight change on
16 the bottom.

17 MR. GRIMES: The change is indicated between the
18 double asterisk and the strike out comments from the
19 Commission paper. It is, for Commissioner Gilinsky's
20 benefit, a change in how we stated the matter of when the
21 exercise should occur. The way it is stated, it would allow
22 a license to issue but be clearly conditioned so that one
23 could not go above 5 percent power prior to completion of
24 the exercise.

25 COMMISSIONER AHEARNE: One of my concerns on the

1 original paper had been, it seemed to me you were going away
2 from using a FEMA finding as to whether plans are capable of
3 being implemented. Now it sounds that you will be using a
4 FEMA finding as to whether the plans are capable of being
5 implemented.

6 MR. GRIMES: We have a slight distinction of
7 language. We will get a finding from FEMA on the plans, and
8 a statement that there is reasonable assurance that they can
9 be implemented.

10 COMMISSIONER GILINSKY: What you are saying is
11 that an exercise is not something which is the subject of a
12 hearing.

13 MR. GRIMES: That is correct.

14 COMMISSIONER GILINSKY: The reason for that is
15 what?

16 MR. GRIMES: Verification that the reasonable
17 assurance finding that you have made based on the plans, as
18 we do for the FSAR for other aspects of the plant -- you
19 have made a verification that those plans are in place and
20 can be worked, just as you would ascertain that the
21 containment leak rate was at an appropriate level, or that
22 low power physics testing had been performed before you went
23 above a certain power level.

24 If I may amplify, there is no equivalent
25 inspection process off-site that the Federal Emergency

1 Management Agency has. They look at the plans, and to some
2 extent it is standard operating procedures, but there is no
3 inspection arm of FEMA, and this is the equivalent of their
4 inspection process.

5 COMMISSIONER AHEARNE: Let me ask Mr. Thomas, so I
6 can better understand exactly what FEMA would conclude they
7 would do.

8 Let's consider a plan where there is only one plan
9 that is involved, a county plan. Would you see, before the
10 exercise, in other words, a finding or whatever it is that
11 you would be making which would go into our licensing
12 process, would that be based on a review of the plan against
13 something, say, something like this, and conclude, yes, all
14 the elements are there; or would you review the plan against
15 this, conclude the elements are there, and then also do some
16 kind of a check to see, if they say that there is a link
17 that is to be made between this county facility and that
18 county facility, that, yes, the arrangement actually is in
19 existence?

20 MR. THOMAS: No, I think you are getting into the
21 exercise portion, that is where the checks on the actual
22 implementation of the plan will be made. When we review the
23 plan and provide you with findings, the review of that plan
24 against the criteria for that plan, and all the elements are
25 there, and off-site preparedness will be provided based on

1 that plan.

2 Then the actual implementation of the plan to
3 determine whether it can be, in other words, you are
4 checking out the links between the counties, the links
5 between the counties, the links between the State and the
6 counties, etc., is a part of the exercise.

7 COMMISSIONER AHEARNE: Are all the plans
8 sufficiently detailed so it is clear without doing any kind
9 of a checking that what they are saying is in the plan?

10 MR. THOMAS: There is generally quite a bit of
11 discussion that goes on between our personnel who review the
12 plans and the State and county personnel who are preparing
13 the plans.

14 There is generally, during the draft plan stage,
15 review that goes on between the Regional Assistance
16 Committees, which are our people, as well as other agency
17 representatives that are involved in reviewing those plans
18 for clarification purposes on what is in the plan.

19 COMMISSIONER GILINSKY: At what point does FEMA
20 make its finding that we rely on, is that before the
21 exercise has been conducted?

22 MR. GRIMES: Yes. Let's take the case of a
23 contested proceeding, and how it might typically run.

24 Before the hearing commences, we would normally
25 have a finding by FEMA on the plans. Then we would also

1 obtain testimony from them on specific contentions related
2 to that proceeding. The Board need only rule on the
3 specific contentions before it in that proceeding. Often
4 they are broad enough so that an overall FEMA finding on the
5 plans is also an integral part of that proceeding. If the
6 contention happens to be very narrow, perhaps that plan
7 finding would not be needed for that particular proceeding.

8 COMMISSIONER GILINSKY: Does FEMA not make any
9 finding after the test is run?

10 MR. GRIMES: Then they would provide us with an
11 exercise critique which is supplied by the Region, and the
12 covering memo from their headquarters making the finding
13 whether there were major deficiencies identified so that we
14 could take any appropriate action based on that
15 identification of any big things identified during the
16 exercise. So we do get -- The staff and the Commission
17 would have --

18 MR. DIRCKS: That would be available for the
19 Commission's review before that plan went above 5 percent.
20 It is part of the regime that you outlined the last time,
21 you would issue a license with a 5 percent limitation, but
22 this exercise result would be available before the
23 Commission made its decision to go above 5 percent.

24 COMMISSIONER BRADFORD: That would not be
25 available in the hearing process?

1 MR. DIRCKS: It would not be available in the
2 hearing process.

3 COMMISSIONER GILINSKY: What is your purpose here
4 in doing things this way? Is it that if you did arrange
5 things so it was part of the hearing process, you feel that
6 the timing would delay the plant?

7 MR. GRIMES: The timing is very difficult.

8 COMMISSIONER GILINSKY: Is that what motivates
9 you?

10 MR. GRIMES: Yes. In those cases where there has
11 been an exercise very early in the process, many, many
12 months before the Commission decision date, the plant is
13 generally really not ready and often the off-site
14 authorities are not entirely ready, and we get an exercise --

15 COMMISSIONER GILINSKY: This way you get a more
16 effective exercise later in the process?

17 MR. GRIMES: Yes, a much more effective exercise
18 if it is just before plant operation, and all the procedures
19 are finally written, and the people are finally trained.

20 MR. DIRCKS: I think it is the conclusion of FEMA,
21 too.

22 MR. THOMAS: It is. As far as the State and local
23 authorities are concerned, and the licensee, they are
24 looking towards the operation of the plant as the date they
25 are really aiming towards as far as ensuring that all of

1 their systems are go off-site.

2 When you have a hearing as far ahead as you have,
3 oftentimes you are dealing with a licensee that has
4 facilities that have not been completed, either his
5 emergency operating facility or whatever. The State and
6 local authorities have not completed their facilities a year
7 ahead. So we feel that by moving that exercise up close to
8 that point of actual operation or going above 5 percent, it
9 is a much more timely exercise, and a much more meaningful
10 exercise for you as well as for them.

11 COMMISSIONER GILINSKY: I am sorry that I was not
12 here before, and I don't want to take you over ground that
13 has been covered. But will any of these comments about the
14 four-month periods affect the February 1 deadline that we
15 have set.

16 MR. GRIMES: We have not gotten to that yet.

17 COMMISSIONER GILINSKY: You have not gotten to
18 that, okay.

19 COMMISSIONER AHEARNE: So go ahead and ask.

20 MR. GRIMES: What that is meant to clarify is that
21 there has been some discussion of whether the four-month
22 period applied to all parts of our regulations and
23 throughout the plant lifetime. This is meant to clarify
24 that, indeed, that is true. What we do for the specific
25 February 1st, the Commission will not have to decide --

1 COMMISSIONER AHEARNE: This does not modify our
2 previous position?

3 MR. GRIMES: No.

4 COMMISSIONER BRADFORD: Why not? It is a matter
5 of legal technique, so what doesn't it? Don't you need a
6 sentence saying that it doesn't?

7 I understand that it is your intention not to, but
8 don't you have to say that?

9 MR. GRIMES: We have a rulemaking, which if put in
10 final form, would specifically say with respect to the
11 February 1st date for completion of the facilities, the
12 notification facilities, the four-month period would not
13 apply. What this says is that sometime later during the
14 life of the plant, if you have a test of the system, and a
15 third of the sirens don't operate because they are arrested
16 or there is some other reason, then indeed the four-month
17 period does apply.

18 COMMISSIONER AHEARNE: Where are we in the process
19 of that first statement, the life for fixing?

20 MR. GRIMES: The first proposed rule, the
21 commentary was over last week. We have received comments,
22 and the comments are being evaluated, and a final rule
23 change is being written now.

24 CHAIRMAN PALLADINO: I am still not clear. Where
25 does that leave the February 1st date? I understand what

1 the intent is, but is this going to appear to add four
2 months to the February 1st date?

3 MR. GRIMES: No, it does not.

4 COMMISSIONER BRADFORD: On its face, though, I
5 think it does. If you just put out the February 1st date in
6 final form now, and then three or four months later a rule
7 comes out which makes no mention of that date one way or the
8 other, but appears to just have general application for
9 emergency planning considerations, you could at least get an
10 argument going that the second one supersedes the first.

11 It should not be hard to fix.

12 MR. GRIMES: The words were writtem specifically.
13 I took the February 1 rule change with this one in
14 conjunction with lawyers to make sure that they did not.

15 COMMISSIONER BRADFORD: You were probably in line
16 in the first place.

17 As I understand it, the protections are all
18 written in the February 1st rule, and none into this one.
19 This one is just stated in general terms, with no statement
20 in the statement of considerations, or anywhere else to the
21 effect of the --

22 COMMISSIONER AHEARNE: It certainly should be
23 incorporated.

24 COMMISSIONER BRADFORD: That is all.

25 CHAIRMAN PALLADINO: I have the same feeling.

1 MR. DIRCKS: That will be no problem.

2 MR. GRIMES: There is one other aspect before I
3 close the discussion on this SECY-81-554 paper, and that is
4 the Office of General Counsel has advised us that they would
5 much prefer that the amendment to the regulation be
6 published for comment rather than published as a final
7 amendment as proposed in the staff paper. We believe that
8 that would be an acceptable procedure. We don't see any
9 immediate impacts on the facilities that are now in the
10 hearing process.

11 CHAIRMAN PALLADINO: With regard to 540, is there
12 a possibility you might also be proposing a change to
13 paragraph (a)(2) with regard to using the words that you are
14 discussing with FEMA? I am not saying that you are, but
15 using their words more like there is reasonable assurance
16 that they can be implemented, is there a possibility that
17 you are going to come back with that as an additional change
18 to 540?

19 MR. GRIMES: Yes, we are examining that. There is
20 a statement in one part of the regulation that has words
21 that things can and will be implemented, reasonable
22 assurance that things can and will be implemented, and
23 another section that you referred to that says things are
24 capable of being implemented.

25 To avoid confusion between the two, we probably

1 should put the reasonable assurance words in both places,
2 and we will discuss that with FEMA, and get their opinion on
3 that. If they agree, we will come back with a change
4 probably connected to one of the other things we have coming
5 through.

6 CHAIRMAN PALLADINO: I think before we, as a
7 Commission, decide that we want to vote on this, we probably
8 would like to see the revision with the February 1st item.
9 Even though you have given us a version here, we would like
10 to see that incorporated in the final proposal we work on.
11 If you develop something that arises out of your FEMA
12 discussion, that probably ought to be presented to us, so
13 that when we vote, we know what we are voting on.

14 MR. GRIMES: All right.

15 COMMISSIONER AHEARNE: Before you depart this one,
16 just trying to make sure I get clearly in my mind, Mr.
17 Thomas, you will be providing -- In those cases you find
18 acceptable, you will be making a finding on the feasibility
19 of implementation.

20 MR. THOMAS: Yes, based on the plan review.

21 MR. DIRCKS: Not the facility?

22 MR. THOMAS: It is a plan finding. It is a review
23 of a plan based against the criteria or the requirements for
24 the plant.

25 MR. GRIMES: Lee, perhaps I could read the words

1 that we agreed to.

2 MR. THOMAS: Okay.

3 MR. GRIMES: "Based on the review of off-site
4 plans, FEMA will provide NRC with findings on their
5 adequacy, including a statement as to whether there is
6 reasonable assurance that the plans can be implemented based
7 on available information, and recognizing that an exercise
8 is not required for such a statement."

9 COMMISSIONER AHEARNE: Would you read that last
10 part after "reasonable assurance"?

11 MR. GRIMES: "that the plans can be implemented
12 based on available information, and recognizing that an
13 exercise is not required for such a statement."

14 COMMISSIONER AHEARNE: I understand everything
15 except the "based on available information."

16 MR. GRIMES: That is to reflect the review of the
17 plans, and any other information that FEMA might have.

18 CHAIRMAN PALLADINO: It comes out a little bit
19 differently.

20 COMMISSIONER AHEARNE: Yes.

21 You are not saying --

22 COMMISSIONER BRADFORD: Supposing you keep some
23 information --

24 I am sorry, John. Go ahead and finish with your
25 question first.

1 MR. GRIMES: When we get a little later in the
2 process, I will hand out a piece of paper that indicates our
3 agreement.

4 COMMISSIONER AHEARNE: If what you were saying is
5 based upon the plans and other available information, there
6 is reasonable assurance that the plans can be implemented,
7 recognizing, and so on, about the exercise, it does mean one
8 thing, but that is not what I get.

9 MR. GRIMES: That would be the intent, and I
10 suspect that we could move that clause.

11 CHAIRMAN PALLADINO: That is why I wanted to see
12 the writing on that one. I knew they were discussing the
13 phraseology, and not knowing what it is, I said, whatever
14 you come up with, we would like to see it, and I would like
15 to see it all in a package.

16 MR. GRIMES: We have, which I will pass out, an
17 agreed but not yet signed piece of paper.

18 COMMISSIONER AHEARNE: Clearly it has to be
19 something that FEMA is comfortable with.

20 MR. THOMAS: It is. What we have written here, we
21 are comfortable with. Brian just read through it, and there
22 are a couple of other paragraphs that go with it. I think
23 you need to be very clear on what it is we are saying that
24 will make you comfortable.

25 COMMISSIONER AHEARNE: Yes.

1 COMMISSIONER GILINSKY: Are we going to have that
2 paragraph?

3 MR. GRIMES: Yes.

4 CHAIRMAN PALLADINO: I think it might be a good
5 time to hand it out.

6 COMMISSIONER GILINSKY: Let me ask, is there
7 anything in there about adequacy of the plans?

8 MR. THOMAS: Yes, findings on their adequacy,
9 including a statement as to whether there is reasonable
10 assurance the plans can be implemented. It is a finding on
11 adequacy.

12 CHAIRMAN PALLADINO: Does it read the way you had
13 said, Brian, or does it read the way the gentleman has
14 stated?

15 MR. GRIMES: It currently reads the way that I
16 said it, but I think it would be a correct statement to move
17 the phrase. It is the first item under item 2 that we are
18 talking about. It would be accurate to move the phrase
19 "based on available information" up behind plans.

20 CHAIRMAN PALLADINO: Yes, I think that would be
21 important. I think you got the sense of what our concern is
22 on that point.

23 MR. GRIMES: Yes. I am sure we will not sign this
24 until you have some time to give us any feedback.

25 CHAIRMAN PALLADINO: I think when we get to the

1 point of voting on 554, we will see what words, if any, have
2 been changed in 554 that reflect this.

3 COMMISSIONER GILINSKY: May I ask you, is this
4 fair game, or should we leave this now?

5 CHAIRMAN PALLADINO: What is that?

6 COMMISSIONER GILINSKY: This paragraph.

7 CHAIRMAN PALLADINO: I think you can ask questions
8 about it.

9 COMMISSIONER GILINSKY: This may have been asked,
10 but when you say, "and recognizing that an exercise is not
11 required for such a statement," why do you need that?

12 MR. GRIMES: In 554, from FEMA's standpoint to
13 make it clear that they are doing this prior to the
14 exercise.

15 CHAIRMAN PALLADINO: Why isn't it enough, Brian,
16 to say that "our finding will be based on a review of a FEMA
17 finding and determination as to whether State and local
18 emergency plans are adequate, and that there is reasonable
19 assurance that they can be implemented."

20 MR. BICKWIT: Because you are talking our findings
21 on the license, and under this particular concept you
22 probably will not have had the exercise.

23 CHAIRMAN PALLADINO: No, I am not talking about
24 that, "there is reasonable assurance that they can be
25 implemented."

1 MR. BICKWIT: No, I think that would be all
2 right.

3 CHAIRMAN PALLADINO: That is why I think it is
4 important that we see what wording comes out, with any
5 questions or guidance you have.

6 COMMISSIONER GILINSKY: I guess I am a little
7 bothered, even understanding that you don't plan to have an
8 exercise at this point. It seems to me telling them that --
9 It seems to me that FEMA has to be able to say something
10 about the adequacy of the plans.

11 MR. GRIMES: The early part of that sentence
12 covers that.

13 COMMISSIONER GILINSKY: It may be that they may
14 find themselves in the situation where without an exercise
15 they can't say that the plans are adequate, or the state of
16 affairs is adequate. Somehow this seems to lean them a
17 little bit in the direction of, put an exercise out of your
18 mind.

19 MR. THOMAS: Based on our experience to date, we
20 think that the plans which are drawn in conformance with
21 SECY-81-554 and FEMA Rep 1, you can make a finding of
22 reasonable assurance on there, sufficiently detailed, and in
23 depth, and cover all the points.

24 COMMISSIONER GILINSKY: It may be true in general,
25 but any particular instance, things may be different.

1 MR. BICKWIT: What about "is not always required
2 in a certain state."

3 CHAIRMAN PALLADINO: I think we are getting into
4 an area that concerns me as well. By saying, "and
5 recognizing that an exercise is not required for such a
6 statement," it is sort of like rubbing salt in a wound.

7 What we need at this stage, if we are going to
8 follow this concept, is a clear cut statement on the
9 adequacy of the planning, and a statement that there is
10 reasonable assurance that the plans can be implemented
11 taking advantage of all the information that is available,
12 period. Then, that is understood. Now, you make the
13 exercise as part of the start up test, with the requirement
14 that the licensee not go above 5 percent power until that is
15 done.

16 I think if your wording came out somewhat the way
17 I have described it, I believe, at least I speak for myself,
18 I could vote favorably for it, but I would want to see it
19 before I said that. I would like to see the whole package.

20 MR. THOMAS: Clearly, I think, from our point of
21 view, we feel that in order to make a complete statement of
22 adequacy of preparedness, you have to complete the exercise
23 process. To you give you a statement on the adequacy of the
24 plan, findings on adequacy of the plan, and reasonable
25 assurance that we feel it can be implemented based on the

1 plan, I think that that is what we are trying to say.

2 COMMISSIONER AHEARNE: I think that language would
3 be --

4 COMMISSIONER BRADFORD: The thing that is
5 concerning me is that a number of the parties in
6 proceedings, I have in mind particularly states, and to the
7 extent that local communities get into them, primarily on
8 this issue, it is going to be one of the issues of greatest
9 concern to them.

10 To set up a process that contemplates their not
11 being able to raise questions based on the actual practical
12 exercise is pretty troublesome.

13 MR. GRIMES: We have a procedure for getting
14 public input into that. The Federal Emergency Management
15 Agency has a public meeting on the plan, and then after the
16 exercise we have a critique open to the public to observe,
17 which is also a place after which we get letters, and things
18 like this, based on what has gone on.

19 So there is not a complete absence of opportunity
20 for public comments, but it is not an easy thing to litigate
21 at any rate as to whether someone dialed the phone right in
22 a particular instance.

23 COMMISSIONER GILINSKY: How does that get fed into
24 the decision-making process?

25 MR. GRIMES: It comes back into the FEMA critique

1 information that we receive.

2 MR. THOMAS: The critique that we would provide on
3 the whole participation exercise would come back in as a
4 part of your pre-operational inspection process.

5 COMMISSIONER BRADFORD: But it is not really a
6 matter of whether or not somebody dialed the phone right. I
7 mean if that is all that is at issue, of course, one
8 understands that a dialing mistake the first time doesn't
9 have to be made the next.

10 The kind of issue that would be more important
11 would be if what arose in the exercise suggested some
12 fundamental unfeasibility due to geography, or something
13 that turned out to be much more difficult in practice than
14 it was in theory.

15 MR. GRIMES: That could occur any time during the
16 plant lifetime.

17 COMMISSIONER BRADFORD: But it is most likely to
18 show up at the first exercise.

19 MR. GRIMES: If FEMA saw that that was a major
20 item, they would tell us, and we would take some appropriate
21 enforcement action to assure that it was fixed.

22 COMMISSIONER AHEARNE: In fact, if there was a
23 fundamental flaw that showed up, FEMA, then, would not be
24 able to make their finding. In the absence of that final
25 finding --

1 MR. GRIMES: We would expect some kind of finding,
2 be it favorable or unfavorable.

3 MR. THOMAS: It would be a finding.

4 COMMISSIONER AHEARNE: It would not be a favorable
5 one.

6 MR. THOMAS: That is right.

7 MR. GRIMES: Then we would have to make a decision
8 on what action to take based on those deficiencies that were
9 identified. Outside of that process, there is always what
10 the legal staff describes as opportunities, but one can file
11 a 2.26 petition on any particular item that arises.

12 CHAIRMAN PALLADINO: But gather public input is
13 provided in the FEMA process.

14 MR. THOMAS: On the plan itself, there is a public
15 meeting that is held to review the plan.

16 CHAIRMAN PALLADINO: How about a critique of the
17 exercise?

18 MR. THOMAS: There is a public critique of the
19 exercise for observation.

20 COMMISSIONER GILINSKY: I suppose we would have
21 the opportunity to allow people to appear before us when we
22 consider the full power license.

23 MR. GRIMES: Yes.

24 CHAIRMAN PALLADINO: I guess that that is an
25 option that the Commission always has.

1 Are there any more questions on this one before we
2 go to 570? If you have other questions.

3 COMMISSIONER BRADFORD: One other, and don't cover
4 it again if you already have.

5 In terms of the practical impact of all this, are
6 there a number of proceedings in which you now think the
7 plant operation would be delayed if the FEMA exercise had to
8 be done at the earlier stage, rather than the stage the rule
9 change contemplates, or that just a hypothetical
10 possibility?

11 MR. GRIMES: At this point it is hypothetical, but
12 there are a number next spring where the hearing process is
13 scheduled to start in the winter, but the exercise is
14 currently not scheduled to be held until the summer.

15 If this did become an issue in those hearings, one
16 could foresee either a forced exercise before the hearing,
17 perhaps before the parties are ready, or as an alternative
18 some delay in the hearing process until the exercise was
19 completed.

20 CHAIRMAN PALLADINO: You would have to have the
21 exercise in advance of the hearing, would you not?

22 MR. GRIMES: Yes, that is what I said. You would
23 need either an accelerated schedule on the exercise, or a
24 delay of the hearing.

25 COMMISSIONER BRADFORD: In how many of those

1 plants would a delay in the hearing actually produce a delay
2 in plant operation, do you know?

3 MR. GRIMES: I can't speak to that. It would
4 depend in each case on the time needed for the Board to make
5 its decision. Generally, they are on a pretty tight
6 timeline in terms of number of months between the hearing
7 and the Commission decision.

8 COMMISSIONER BRADFORD: I mean, if you hypothesize
9 a six-month delay in the hearing, and I gather that that is
10 what you are saying, hearings that are scheduled to begin
11 next winter would not begin until next summer, do you know
12 how many plants?

13 MR. GRIMES: That is one alternative. The more
14 likely case would be that there would be the forcing of an
15 acceleration of the exercise date to accommodate that which
16 would result, I suspect, in less than an adequate exercise
17 and a large number of deficient items.

18 COMMISSIONER BRADFORD: If you were not just
19 looking at these plants, if you were looking out five years,
20 do you have the same kind of difficulties? That is, is this
21 a process that -- Is it that the system that we are not
22 under is a process that, in fact, is unmanageable, other
23 than in the short term?

24 MR. GRIMES: I feel that even in the long term, it
25 is highly desirable to have the exercise within a very few

1 months of the time the plant starts up, so that all the
2 equipment is in place, and the procedures are in place, and
3 the personnel are completely trained on those final
4 procedures.

5 COMMISSIONER BRADFORD: That part was puzzling me
6 a little because, of course, once you have done the first
7 exercise, then, in effect, you have a 30-year commitment
8 there anyway.

9 MR. GRIMES: I am sorry, I was speaking of new
10 licenses issued five years from now.

11 COMMISSIONER BRADFORD: I meant the same thing.
12 Once you have done that exercise, whether it is within a
13 couple of months of the plant start up date, or whether it
14 is 12 months earlier, you in effect are in a situation where
15 whatever is in place then, you are committing yourself to
16 keep adequate for the life of the plant.

17 MR. GRIMES: Yes.

18 CHAIRMAN PALLADINO: Don't you have subsequent
19 exercises?

20 MR. GRIMES: Yes.

21 COMMISSIONER BRADFORD: The same point, I think.

22 CHAIRMAN PALLADINO: Then I miss your point.

23 COMMISSIONER BRADFORD: Just that if you did your
24 first exercise 14 months before operation, you then are
25 going to have a series of more exercises. It is not as

1 though the plan is then going to fall apart before the plant
2 starts to operate any more than if you do your first
3 exercise two months before, and it will then fall apart one
4 year later.

5 COMMISSIONER AHEARNE: I don't think that was his
6 point. I think his point was, as you are starting up this
7 new plant, there are a number of people, there are a number
8 of items that begin to be put together, and the pace that
9 they normally begin to be put together, makes it that you
10 can get a much more effective exercise if you wait until a
11 few months before start up.

12 If you were to push that back 14 months, or 10
13 months, you would do one of two things, either have less of
14 an opportunity for an effective exercise, or else readjust
15 the pace at which those items come together.

16 COMMISSIONER BRADFORD: What I am wondering is
17 whether the latter change is all that significant in terms
18 of, for example, equipment procurement. If you are talking
19 about something five or six years out, I take it there would
20 not be any great difficulties.

21 MR. GRIMES: Then, the plant is ready to start up
22 at that point.

23 COMMISSIONER BRADFORD: Yes.

24 MR. GRIMES: Once the procedures are in place, and
25 the equipment is all there and checked out, people are

1 trained, you are ready for start up.

2 CHAIRMAN PALLADINO: You would have on hand the
3 personnel that are really going to operate the plant, and
4 the prior exercise may be --

5 COMMISSIONER BRADFORD: What, in particular?
6 Operators would not be there a year before, who would be?

7 CHAIRMAN PALLADINO: Yes.

8 MR. GRIMES: If you had all the pieces in place
9 that you need for an effective exercise, and all the
10 equipment, and all the procedures written, and all the
11 people trained, you are ready to start the plant. There is
12 no reason to wait for another year to start.

13 COMMISSIONER BRADFORD: All right, but as to the
14 first two, it is clear that if you had to do that 12 or 14
15 months before the plant start up, you could. The only real
16 difficulty seems to me to be with the people.

17 MR. GRIMES: Generally, these things are all put
18 on timeline so that they will come together at the earliest
19 possible time.

20 COMMISSIONER BRADFORD: Yes, but what I am saying
21 is that if you knew --

22 MR. GRIMES: If I knew I had the first two, I
23 would train the people.

24 COMMISSIONER AHEARNE: It is certainly true that
25 if you go out three, four, five years, it definitely could.

1 If it was mandatory to do it that way, it could be done, I
2 think that is certainly true. The question then is, is the
3 gain sufficient?

4 COMMISSIONER BRADFORD: Exactly.

5 CHAIRMAN PALLADINO: Any more on 554?

6 You are going to provide us with these revisions
7 so that we can see them in place in their totality when we
8 come to vote?

9 MR. GRIMES: Yes.

10 CHAIRMAN PALLADINO: Do you want to go to 570?

11 MR. GRIMES: Yes.

12 If we could go back to the slide, the proposed
13 change to 10 CFR 50.47 requirements for FEMA finding.

14 The paper here is SECY-81-570 as supplemented by
15 Mr. Malsch's memo of October 15, 1981, which provides, after
16 some discussion with the staff, a slightly revised version.

17 COMMISSIONER GILINSKY: Did the Commission say
18 that we did not want to have a finding on off-site emergency
19 preparedness for low power?

20 MR. GRIMES: I have a note on my slide that is in
21 response to the Chairman's direction after a FEMA/NRC
22 consultation.

23 CHAIRMAN PALLADINO: We addressed this subject,
24 and you were not here. I indicated that this whole process
25 grew out of the separation of the plan being adequate before

1 we even start fuel loading for low power, and that then we
2 have the exercise as part of the demonstration process, as
3 part of the start up activities.

4 I indicated that the staff extend this to include
5 the process in 570. In truth, I did not think that it was
6 necessary to consider 554 attached to 570, that they could
7 be treated separately. Staff found some merit in that.
8 There may also have been, and I gather from there has been,
9 some misunderstanding as to what we had agreed to when we
10 started to develop this.

11 I thought that there was merit to consider this,
12 and so we proceeded to consider this, and then we can
13 deliberate as to what we want to do about it.

14 MR. GRIMES: The next vuegraph, please.

15 The amendment would eliminate the need for
16 findings on the adequacy of off-site emergency planning and
17 preparedness either by the NRC or by FEMA prior to the
18 issuance of lower power license. The rationale for this
19 being that low power operation risks are much reduced. The
20 fission product inventory is much less because of the low
21 power operation, and the short period of operation
22 involved. Because of this, any accident which might occur
23 would not require the full capacity of systems design to
24 mitigate such accidents.

25 Third, and most importantly with respect to

1 off-site preparedness is that the time scale for taking
2 protective actions to mitigate accidents are much longer at
3 low power, at least 10 hours, and in the latest calculations
4 I have seen on the order of 15 hours. So that substantial
5 time is available for ad hoc decisions.

6 In addition, the area one is concerned about is
7 much closer to the plant, so there is a much smaller area
8 involved.

9 COMMISSIONER GILINSKY: Before you go off that. I
10 wonder whether we have not made too much of the point about
11 low power operation, risks being reduced. They certainly
12 are reduced, and that is why we treat that phase
13 differently. But in some respects, they are increased. You
14 have operators who are inexperienced often. It is the first
15 time they have operated that plant. The plant is going
16 through maneuvers it has never gone through before. You can
17 run the plant up to full power if you, perhaps, determine to
18 do so. You can't entirely exclude malicious action.

19 On balance, I think it is still true that lower
20 power operation risks are reduced --

21 COMMISSIONER AHEARNE: But they are not zero.

22 COMMISSIONER GILINSKY: -- but they are not zero.

23 MR. GRIMES: That is why we have looked at the
24 outer-bound cases, and looked if things did go completely
25 wrong, and you eventually did get to a core damage situation

1 by boiling out water, or losing water from the reactor
2 vessel because of some kind of a loss of coolant accident,
3 that there is a long period of time before one could get
4 fission products from the core into the containment even in
5 the worst case because of the relatively low power and short
6 duration of operation history.

7 COMMISSIONER GILINSKY: Okay. That assumes that
8 you start from low power.

9 MR. GRIMES: Yes.

10 COMMISSIONER GILINSKY: And conceivably you might
11 not be at low power when you start. I mean, it is extremely
12 unlikely, but nevertheless it is not impossible.

13 ALL I am saying is, I know we have repeated these
14 words over and over again, many, many times, and I think it
15 was actually the chairman at one point who pointed out that,
16 at least as far as the number of operators are concerned, we
17 have got to be careful at this stage because in some
18 respects it is an important turning point in the plant's
19 life, and you have got to be careful.

20 MR. GRIMES: I think the points you made are
21 valid, but they are partly balanced by a much higher --

22 COMMISSIONER GILINSKY: I was not suggesting that
23 the things you have got up there are not correct, but there
24 is a bit of another side to this. That is why I was
25 concerned that you were thinking of not making any finding

1 at all about the adequacy of off-site preparedness.

2 In other words, I guess what I am saying is, the
3 risks are not reduced so much that I would ignore all
4 off-site preparedness. Maybe instead of 10 miles, you want
5 to worry about two miles, or you may just want to be
6 concerned about a few of the items that would normally
7 concern you at full power. But I would not entirely reduce
8 our concern to the site itself.

9 MR. GRIMES: I will describe a little more that we
10 do have some confidence that there is some capability in
11 place based on our review of the licensee's plan, and
12 perhaps if I proceed we will come back to the degree of
13 confidence, and you can see whether it is great enough.

14 The next vuegraph.

15 The staff has consulted with FEMA on this matter,
16 and FEMA agrees that it can be dropped as a requirement that
17 we have a FEMA finding. Their agreement is based --

18 CHAIRMAN PALLADINO: I did not follow that. Say
19 that again, Brian.

20 MR. GRIMES: FEMA has agreed with us that they do
21 not need to give us a finding on low power operation. In
22 other words, they agree with our logic based partly on the
23 low risk, but also partly on the fact that they have
24 knowledge of the preparedness that is going on, and the
25 improvements in preparedness that are in process at all the

1 plants under construction because their Regions are working
2 with State and local individuals.

3 We have provided you with a page change to Mr.
4 Malsch's version of the paper, which unfortunately is titled
5 "Replacement page for SECY-81-570." Actually, it is a
6 replacement page for Mr. Malsch's paper which we have worked
7 out with FEMA, which adds the phrase that their confidence
8 is based on reviewing the level of general planning and
9 preparedness activities that are taking place in the State
10 and local jurisdictions where nuclear plants are expected to
11 be licensed, in addition to our finding of low risk.

12 We also look at the licensee's on-site plans, and
13 there are a number of aspects of these on-site plans from
14 which one can infer some degree of off-site preparation. In
15 particular, the licensee is required to have communications
16 with off-site authorities, and that implies that there will
17 be someone at the other end of the phone, if the licensee
18 has a problem, to take his call and be concerned about the
19 situation.

20 COMMISSIONER GILINSKY: If you are just concerned
21 about on-site preparedness, presumably to take the call to
22 help with on-site problems --

23 MR. GRIMES: But they would be the focal point --

24 COMMISSIONER GILINSKY: I realize that the
25 telephone works both ways.

1 MR. GRIMES: But they would also be the focal
2 point, and if ad hoc measures were needed, the licensee
3 recommend those and many hours are involved.

4 COMMISSIONER GILINSKY: I understand, but once you
5 have said that only "adequacy of on-site emergency planning
6 and preparedness," you know it may be true that if you take
7 care on on-site preparedness, and a number of other things
8 go on, and there is some chance that you will protect to a
9 degree for off-site problems, I frankly think that there
10 ought to be just a short list that applies to the problems
11 of low power operations, and those ought to get checked off
12 for off-site preparedness.

13 As I said, maybe that applies to a very small
14 region around the plant, but to disregard it entirely, I
15 think, is just not right.

16 MR. GRIMES: I had not regarded this as a
17 substantial decrease in the amount of confidence that we had
18 in these off-site plans for low power. Previous to this,
19 the NRC/FEMA agreement was that if there had been a previous
20 NRC concurrence in our voluntary concurrence process, back
21 when NRC had the entirely lead on on-site and off-site
22 planning, that was adequate. In my view, that did, indeed,
23 provide some level of assurance there was someone at the
24 other end of the telephone, and that there was some
25 organization there to cope with a problem. But it in no way

1 compared with the review that FEMA now performs for the full
2 power license.

3 COMMISSIONER AHEARNE: Let me ask a question on
4 something related to what Peter asked earlier.

5 Let's suppose we look three years or four years in
6 the future, so then it will have been many years since NRC
7 would have had under the previous process, let's say six
8 years ago. Are you saying that in the checking of the
9 on-site elements, perhaps this is taking an absurd extent,
10 would you check whether the phone number was still accurate
11 for the off-site?

12 MR. GRIMES: Yes, because, for example, part of
13 our on-site inspection process is for the team members on
14 the appraisal team to call up the off-site authorities and
15 verify that indeed they know they are on the other end of
16 the telephone line from the plant. I would guess, because
17 they also review the procedures, they would notice any
18 difference in the telephone numbers. That is probably where
19 they would get the telephone numbers, too, to call the
20 off-site authorities from, the emergency procedures.

21 COMMISSIONER AHEARNE: What else would you see
22 actually being checked on the off-site portion of this
23 finding?

24 MR. GRIMES: If I may consult my notes. I think we
25 have one back-up slide on this matter. I think there is a

1 back up slide.

2 These are the planning items, and these are the
3 planning standards. In the left-hand column there is a
4 reference to a 50.47 listing of them, and the CEFIL, or the
5 same planning standards listed in SECY-81-554.

6 COMMISSIONER GILINSKY: What is this, the back up
7 slides?

8 MR. GRIMES: The first pages.

9 COMMISSIONER GILINSKY: What is your objection to
10 saying that a limited finding will be made for limited
11 operation?

12 MR. GRIMES: It actually streamlines and
13 uncomplicates the process.

14 COMMISSIONER GILINSKY: You say that, will make no
15 finding.

16 MR. GRIMES: No finding on off-site plans, but we
17 make a review the licensee plans for all elements, and then
18 judge, if there are elements missing, whether that is
19 particularly significant for the low power license. For
20 example, NUREG 654, under (c), would involved the support
21 organizations in particular, whether Federal government or
22 other support. Item (e) involves the notification of
23 off-site authorities, establishing procedures for mutually
24 agreeable bases for notification.

25 COMMISSIONER GILINSKY: These are all tied to

1 on-site.

2 MR. GRIMES: This would be looked at in the
3 on-site, but they cover --

4 COMMISSIONER GILINSKY: I understand there is a
5 certain spillover. Just the fact that we are in the United
6 States of America, telephones work, and local authorities
7 are in place, it gives you a certain amount of confidence.

8 MR. GRIMES: We think that that is bolstered by
9 the actual review of the detailed procedures on-site, and
10 that there are interfaces that have been accomplished, that
11 there are letters of agreement with off-site authorities for
12 support on-site, gives you an adequate degree of assurance
13 for the low power operation. Then we think we can, in
14 effect, eliminate the need for FEMA to provide witnesses and
15 support us --

16 COMMISSIONER GILINSKY: That is a whole different
17 story. It is a different aspect of it, and it introduces a
18 new element. But I wonder if we can disentangle the
19 question of the hearing with the adequacy of preparedness
20 sufficient for allowing the plant to move forward.

21 I wonder if FEMA is comfortable, really, in
22 letting the issue go at the low power stage, or letting it
23 go entirely as far as off-site preparedness.

24 CHAIRMAN PALLADINO: I was going to ask the
25 question slightly differently.

1 COMMISSIONER GILINSKY: Sure.

2 CHAIRMAN PALLADINO: Suppose we did something such
3 as we were talking about in 554, and we did not pass 570,
4 what would be the consequence, what would we lose and what
5 would we gain?

6 MR. GRIMES: There would a continuing requirement
7 for FEMA to give us a finding on low power operation.

8 CHAIRMAN PALLADINO: It would require FEMA to make
9 its finding on plans before we would go ahead with even low
10 power operation, is that right?

11 MR. GRIMES: Yes.

12 CHAIRMAN PALLADINO: Does that add greatly to the
13 scheduler problems?

14 MR. GRIMES: It just adds an additional complexity
15 in the area of debate at the hearing stage, and the burden
16 on FEMA.

17 COMMISSIONER GILINSKY: I thought we agreed that
18 the FEMA finding on the plans would come in advance, and
19 would be the subject --

20 CHAIRMAN PALLADINO: Unless we pass 570 as well.

21 MR. GRIMES: If I could clarify, that would be for
22 the full power hearing. That is for the hearing as a whole
23 on the entire operating license. This would be a provision
24 whereby --

25 COMMISSIONER GILINSKY: If someone requested a

1 separate low power hearing.

2 COMMISSIONER AHEARNE: Or an interim low power
3 license.

4 MR. GRIMES: If it is a situation where someone
5 requested a low power hearing, or interim low power license,
6 that could go forward before that had been done.

7 COMMISSIONER GILINSKY: I thought that the key
8 word here was preparedness, and I assumed that the finding
9 on the planning would still take place beforehand.

10 MR. GRIMES: We are saying that no finding, either
11 by NRC or FEMA on the off-site plans, would be required.

12 CHAIRMAN PALLADINO: For what situation.

13 MR. GRIMES: For the low power situation.

14 CHAIRMAN PALLADINO: For all low power
15 situations?

16 MR. GRIMES: For any low power situation, that it
17 would adequate that NRC had issued a safety evaluation based
18 on the on-site plans, and had confidence --

19 CHAIRMAN PALLADINO: Are you talking about the
20 situation where there is a separate request for low
21 power?

22 MR. BICKWIT: I think you are talking only about
23 those situations.

24 MR. GRIMES: Only where there is a separate
25 request for low power.

1 MR. BICKWIT: Not the typical situation.

2 CHAIRMAN PALLADINO: Wouldn't 570 apply to the
3 typical situation?

4 MR. BICKWIT: No, 570 would not apply to the
5 typical situation.

6 COMMISSIONER AHEARNE: But, 554, rather.

7 MR. GRIMES: Yes, 554, and the exercises would be
8 the typical situation, 570 refers only to the low power
9 special situation.

10 CHAIRMAN PALLADINO: I missed that, I am sorry.

11 COMMISSIONER GILINSKY: Normally, if you had a
12 full power hearing, there would be a FEMA finding on the
13 plans, even at the low power stage.

14 MR. BICKWIT: That is right.

15 COMMISSIONER GILINSKY: What you are saying is
16 that there is another route, and you have to go through a
17 proceeding for a low power license specifically, you don't
18 need to have --

19 COMMISSIONER AHEARNE: Of if there is low power
20 legislation which allows --

21 COMMISSIONER GILINSKY: The Commission to grant
22 the license.

23 COMMISSIONER AHEARNE: Right.

24 COMMISSIONER GILINSKY: You, again, would not have
25 to have at that point a FEMA finding.

1 MR. GRIMES: That is correct

2 COMMISSIONER GILINSKY: I guess I think you have
3 gone too far. I do think the finding only needs to be a
4 finding on certain specific items that apply to low power,
5 but I would not eliminate a finding altogether.

6 CHAIRMAN PALLADINO: Brian, can I ask a question.
7 Suppose we did not concur in 570, and we had a request for a
8 low power license, what would be the situation with regard
9 to findings on plans?

10 MR. GRIMES: Then we would need to ask FEMA for a
11 special letter on the plans for low power, and the adequacy
12 of preparedness as they know the situation in the off-site
13 area, and would then also have to ask them for witnesses and
14 testimony on that matter. This is an area that has impacted
15 FEMA at some hearings

16 CHAIRMAN PALLADINO: But that is not going to be
17 the usual situation.

18 COMMISSIONER GILINSKY: That is what I am asking,
19 if a typical case they are going to have to supply the
20 witnesses anyway, why does this make a big difference,
21 unless you expect this to become the typical case?

22 MR. GRIMES: Lee, do you want to comment on how
23 FEMA feels about this?

24 MR. THOMAS: I think clearly there was a lot of
25 discussion within FEMA about this proposed change as well,

1 and I think the technical aspects on whether there is any
2 off-site danger or not is what it hinges on. Clearly with
3 the page that was passed out, the indication that we have
4 from NRC is they feel that the review of on-site
5 preparedness is all that is required, and the interfaces
6 that are required for on-site support is all that is
7 required.

8 CHAIRMAN PALLADINO: I guess I am having the
9 following problem. If we go the usual route, we would have
10 a finding from FEMA on the adequacy of the plans, and the
11 reasonable assurance that they could be implemented. That
12 would come into the hearing process, and then we would get
13 up to a point where we would give an operating license, and
14 we would stamp it "limited to 5 percent," then the exercises
15 follow.

16 Now, suppose there is a request for a low power
17 license, why can't the same process operate, and what do we
18 lose or gain by it?

19 MR. GRIMES: It is primarily a matter of
20 efficiency in attempting to make a generic finding through
21 rulemaking on the risk, rather than a case by case finding.
22 We believe that we can make an overall finding based on the
23 low risk, the time available to take ad hoc actions, the
24 fact that FEMA has programs going to improve preparedness
25 around all these plants, they are all working on something

1 anyway looking toward full power, and the fact that we check
2 the specific interfaces during our review of the on-site
3 plans.

4 All those things are going to be true of every
5 sites, and why not make that judgment once instead of taking
6 staff time and FEMA time to litigate these over and over
7 again in each such case.

8 MR. BICKWIT: Why not make that judgment in the
9 typical situation. In the typical situation, why not say,
10 no FEMA finding on off-site matters until you go to full
11 power.

12 CHAIRMAN PALLADINO: Until that day having only
13 one hearing.

14 MR. BICKWIT: That is true.

15 CHAIRMAN PALLADINO: And they are treating the
16 operating license.

17 MR. BICKWIT: Then you would not have the hearing
18 process. You want to hang on to the hearing process with
19 respect to that finding.

20 MR. GRIMES: For full power, typical case, one
21 would expect the FEMA finding on the plan to be able to
22 forward, and make the reasonable assurance finding that
23 there is emergency planning that is adequate in place.

24 CHAIRMAN PALLADINO: Brian, if we get a request,
25 or when we get a request specifically for a low power

1 license, there would be a low power hearing, wouldn't
2 there?

3 MR. GRIMES: Yes.

4 CHAIRMAN PALLADINO: If it is contested.

5 MR. GRIMES: Yes.

6 CHAIRMAN PALLADINO: Then the next step would be,
7 go full power above 5 percent, and you would have a
8 hearing.

9 MR. GRIMES: Yes.

10 CHAIRMAN PALLADINO: So you are saying now, for
11 the low power hearing, you don't want to have to decide
12 every time that they have an emergency plan, and you can do
13 it generically?

14 MR. GRIMES: Typically, it requires testimony from
15 the staff on how much the risk is reduced compared to full
16 power operation, which requires a couple of technical people,
17 and it requires emergency preparedness from the NRC to
18 testify that the on-site plans are all right. It requires a
19 person, at least, from FEMA to testify --

20 COMMISSIONER GILINSKY: Wait a minute, suppose --

21 CHAIRMAN PALLADINO: John was waiting.

22 COMMISSIONER GILINSKY: I am sorry, go ahead.

23 COMMISSIONER AHEARNE: Mr. Thomas, I gather that
24 FEMA, perhaps because of resource or other reasons, doesn't
25 feel comfortable with also being asked to make an additional

1 finding which would be a low power finding?

2 MR. THOMAS: As I understand the process, when we
3 are talking about what is a typical and what is not a
4 typical case, if you are looking at the potential for a low
5 power license, you are also thinking in terms of a full
6 power license.

7 COMMISSIONER AHEARNE: Yes.

8 MR. THOMAS: We are in the process of working with
9 the plan, on its staffing and preparedness, so obviously we
10 are going to make a finding, when you have the hearing for
11 full power, and we are going to have an exercise before they
12 go to full power.

13 As I understand the approach we are taking here is
14 based on the technical finding. If you make a decision that
15 technically you feel that at low power there is not a level
16 of danger off-site around that plant such that it would
17 require off-site resources beyond the plant, then you don't
18 need a finding from us until you take up the full power
19 issue which is going to be coming up.

20 COMMISSIONER AHEARNE: Sure.

21 What if we were to say, though, we think there is
22 some danger off site, and we do believe that there may be
23 some need for off-site resources, what would FEMA's position
24 be if we asked, in addition to these other two findings we
25 are asking from you, namely, (1) the adequacy and

1 feasibility, and (2) the post-exercise -- what would your
2 position be if we said that in some cases, we would like a
3 finding on the adequacy for low power?

4 MR. THOMAS: Our position would be that we would
5 provide you with those findings.

6 CHAIRMAN PALLADINO: I guess the issue here is
7 that they feel they don't have to do this over and over
8 again. I am not saying that we agree with that, but I am
9 saying that that is his position.

10 MR. GRIMES: Of course, we have spent a good deal
11 of time talking about this issue at specific hearings.

12 COMMISSIONER GILINSKY: Brian, you said that we
13 have got to send in people to talk about the relative risks
14 of low power and full power, and so on. Suppose the
15 Commission just said, what you have to do is one, two,
16 three, instead one, two, three, four, five, six, seven,
17 eight, nine, ten, and so on.

18 I don't see why you have to present witnesses on
19 the risks of low power versus full power because the
20 Commission has decided what is necessary are the following
21 three items. Then what the hearing could be about is
22 whether those three measures have been carried out.

23 MR. GRIMES: What we are proposing as those items
24 are the licensee plan, and the interfaces.

25 COMMISSIONER GILINSKY: I understand. It is clear

1 that we disagree.

2 MR. GRIMES: We think we have got it defined to
3 some fairly straightfoward --

4 CHAIRMAN PALLADINO: Do you have any feel for how
5 much farther we ought to go in doing what they are
6 proposing?

7 A possible example might be that there be a
8 finding that at least up to X miles, X maybe being two.

9 COMMISSIONER GILINSKY: Maybe that is it.

10 CHAIRMAN PALLADINO: That there be a finding. One
11 possible finding, in addition to what you propose, is if
12 FEMA comes in with a statement of adequacy of up to two
13 miles that that would satisfy the additional requirement.

14 MR. GRIMES: I am afraid of specifying it that way
15 because it requires full preparedness up to that distance,
16 and we believe that the additional time available would
17 allow you not to have full preparedness.

18 COMMISSIONER GILINSKY: Maybe it is 50 percent
19 preparedness. UP to that distance, it is about 10 percent.

20 CHAIRMAN PALLADINO: But then you would not have
21 treated it generically, and you have the problem.

22 MR. GRIMES: That is right.

23 MR. BICKWIT: I think that that is the clear case,
24 and in the technical judgment risk is not worth the effort.
25 If you want to redefine the risk more than the technical

1 staff, then we have to come back with some other --

2 COMMISSIONER GILINSKY: We have technical
3 Commissioners somewhere over there.

4 CHAIRMAN PALLADINO: I think what we are being
5 told that if we want a generic settlement to that issue for
6 the specific case where you have a low power application, a
7 separate low power application, then they say this is the
8 way to go. If we want to do anything more, it becomes
9 non-generic.

10 COMMISSIONER GILINSKY: I don't think -- It is
11 still a generic solution. It is just a solution that
12 involves more work.

13 CHAIRMAN PALLADINO: It is generic in principle,
14 and non-generic in application.

15 COMMISSIONER GILINSKY: Every rule is generic.
16 This is a rule just happens to dispose of the problem.

17 MR. GRIMES: Our proposal would involve the NRC
18 staff treating with the licensee's preparedness which they
19 would want to do anyway for in-plant reasons before the low
20 power operation, and does not involve off-site authorities
21 and FEMA in this particular aspect. It is just a
22 simplification, a judgment to try to streamline the process.

23 CHAIRMAN PALLADINO: Can I ask you a question,
24 Brian. With regard to this situation, even though maybe
25 there is no FEMA finding on a plan, will the NRC have looked

1 at the situation at, let us say, two miles, or will you have
2 basis for knowing that things are good up to two miles, or
3 whatever distance?

4 MR. GRIMES: Not in that sense.

5 COMMISSIONER GILINSKY: Let me piggyback on that.
6 I didn't necessarily feel that FEMA had to make that
7 finding, but I think that someone has to.

8 MR. GRIMES: I think FEMA feels that if there is
9 to be an off-site finding made that it should be done by
10 FEMA.

11 COMMISSIONER AHEARNE: So do I.

12 MR. THOMAS: Particularly in view of the fact that
13 FEMA will be working with those same State and local
14 authorities on the planning that is going on for the full
15 power.

16 COMMISSIONER AHEARNE: That is why I ask whether
17 you could make that additional finding.

18 CHAIRMAN PALLADINO: I gather there is a sense of
19 a little bit of lack of desire to go to nothing.

20 MR. GRIMES: We did not believe we had nothing.

21 (General laughter.)

22 CHAIRMAN PALLADINO: To this minimum.

23 MR. JAMGOCHIAN: Could I address that point just
24 once?

25 I would really hate to see the regulation focus on

1 a specific distance. In other words, that a finding be made
2 within two miles. Whereas, if you really look at what is
3 on-site preparedness, and what does NRC verify when they say
4 on-site preparedness is in good shape, they basically look
5 at organization, that is the first thing, and, yes, the
6 licensee's organization has to have its ducks in line,
7 everything has to be straight enough.

8 Also, they have to know the organization off-site
9 to contact during an emergency. They have to have first-aid
10 on-site as well as off-site. They have got to have
11 arrangements with the local hospitals. As far as policing
12 powers, they have got to know who to contact in order to
13 block roads.

14 COMMISSIONER AHEARNE: Mike, for example, aren't
15 the arrangements with the hospitals arrangements to handle
16 people who might be exposed on-site.

17 MR. JAMGOCHIAN: That is true. But my concern is,
18 if you say get prepared up to two miles, you may not have a
19 hospital --

20 COMMISSIONER GILINSKY: That is another cycle
21 approach.

22 CHAIRMAN PALLADINO: Don't attach significance to
23 the distance.

24 MR. GRIMES: Let me try something else in the
25 overall context of emergency preparedness. Emergency plans

1 are meant to preposition, people, equipment, and other
2 resources so that there are not many hours involved in
3 arranging for those things. Things, for example, which go
4 beyond a day are not really part of our focus in emergency
5 plans.

6 Here the number of hours we are talking about are
7 on the order of at least half a day in the worst case. We
8 are saying there is no real need to spend resources or to
9 verify that there are emergency plans in place because the
10 reason that those plans are there is to provide for very
11 quick reaction, and very quick reaction is just not required
12 in the low power case.

13 COMMISSIONER GILINSKY: There are people who think
14 we have got that many hours at full power.

15 MR. GRIMES: Yes.

16 CHAIRMAN PALLADINO: There are those people who
17 are --

18 Have you got as much information as you need on
19 this?

20 COMMISSIONER AHEARNE: My feeling is, as I tried
21 to express earlier in my comment sheet, I share with Vic, I
22 think there ought to be something off-site. I also believe
23 if there is off-site finding made, it should be a FEMA
24 finding. But, unfortunately, I have not been able to come
25 up with the specific that want to be addressed, which is the

1 weakness of saying that there ought to be something else.

2 MR. GRIMES: I am not sure how much additional
3 time you want to spend, Mr. Chairman, but we are prepared to
4 go over the slide called NRC/FEMA interaction, which is
5 essentially an outline of the typed two pages that you were
6 just given.

7 CHAIRMAN PALLADINO: The new page?

8 MR. GRIMES: No, this is part of the original
9 package, the NRC/FEMA interaction slide. What it does is
10 outline the page we just passed out in describing the plan
11 reviews and what FEMA will give us in the NRC licensing
12 process.

13 We have worked with FEMA extensively on this. It
14 is the seventh slide in the main package.

15 For the construction permit applications, FEMA
16 will give us a determination on whether or not off-site
17 impediments exist.

18 COMMISSIONER AHEARNE: What is an impediment?

19 MR. GRIMES: Any reason to believe that emergency
20 plans could not be developed during the construction and
21 preparation for operation of the plant. It conforms to the
22 need for finding in our rule for construction permit that
23 there is nothing that would prevent the development of an
24 off-site plan.

25 COMMISSIONER AHEARNE: Mr. Thomas, could you give

1 me an example of an impediment.

2 MR. THOMAS: If we had a local unit of government
3 that we have been working with who showed no interest or
4 inclination for emergency planning.

5 COMMISSIONER AHEARNE: For how long would you have
6 been working with the local government at the CP stage?

7 MR. THOMAS: One of the things that is the basis
8 for FEMA's involvement in emergency planning is its on-going
9 activities with State and local units of government.

10 COMMISSIONER AHEARNE: When you say, lack of
11 interest in emergency planning, this would be the broad
12 emergency planning, not just focused on minimum.

13 MR. THOMAS: We would see that an impediment.

14 MR. GRIMES: Perhaps we could take an example of
15 Allen's Creek, there was discussions of the FEMA
16 representative with the NRC staff reviewer during that time
17 and a site visit made, and general FEMA interaction with the
18 local governments, and there was some initial indication
19 that perhaps local flooding might be a problem that would
20 have to be addressed in the emergency planning.

21 We got another letter that said they had looked
22 into that, and it was not a problem for the main access
23 roads. But it is that sort of thing that might require
24 special attention during the review.

25 COMMISSIONER AHEARNE: The issue that was puzzling

1 me was, normally the time between CP application and
2 operation, even using optimistic projections in some
3 quarters, you have got at least eight years.

4 MR. GRIMES: Yes.

5 CHAIRMAN PALLADINO: And a couple of
6 Administrations locally and statewide.

7 COMMISSIONER AHEARNE: So if the roads are in the
8 wrong place, that is something is fixable in eight years.
9 If the local government is intransigent, many local
10 governments may come and go in the time. I was curious as
11 to what would be a --

12 MR. GRIMES: To the extent needed to fulfill the
13 requirements of our regulations for CP findings in the
14 emergency preparedness area.

15 COMMISSIONER AHEARNE: It certainly would
16 highlight items which ought to be worked on in the
17 intervening years.

18 MR. GRIMES: Yes.

19 The second item on the slide concerns operating
20 license hearings, and there we have discussed extensively
21 earlier the findings on the off-site plan, adequacy and
22 reasonable assurance on implementation which FEMA will give
23 us for our hearing process, and also witnesses, and
24 responses to contentions, and interrogatories require FEMA
25 resources, and they are committed to support us in that

1 way.

2 Until any NRC rule change on low power, they have
3 also agreed to continue giving us a finding on the low power
4 where that is needed in our licensing process.

5 Prior to operation above 5 percent power, they
6 will also give us, which is item 3, findings on an exercise
7 which involves all the principal parties around the site.

8 For operating reactors, item 4, they will give us
9 an initial exercise evaluation, and an exercise of the site
10 and the off-site authorities as soon as possible in
11 accordance with our Simpson Report schedule, which we hope
12 will result in almost all plants being exercised by next
13 April.

14 On an on-going basis in the future, FEMA will
15 provide us findings on significant deficiencies as they
16 become known to FEMA, either as a result of exercises or as
17 a result of other public input, also evaluations
18 specifically of the off-site aspects of exercises as those
19 are held.

20 The last item I wanted to go over is the next
21 slide, which is just a brief overview of the other
22 activities going on in the emergency preparedness area, and
23 the rule changes that you have already under consideration
24 or which you will receive in the near future for
25 consideration. These are all designed to perfect the

1 existing rules.

2 The first item, of course, is the extension of the
3 public notification system implementation date, which might
4 Mike has described the status of. We have also been working
5 extensively with FEMA on the second item, which is a
6 relaxation of the exercise frequency required for off-site
7 authorities.

8 We have also met with FEMA and the State and local
9 authorities and the inter-organizational advisory committee,
10 members of which met with the Commission during the
11 rulemaking proceeding. I believe we will have a proposal
12 shortly for you which will both maintain a on-site frequency
13 adequate to keep up the on-site plans, and adequate
14 frequency of participation off-site which will reduce the
15 burden on off-site authorities but still provide periodic
16 exercises.

17 MR. JAMGOCHIAN: Relative to the first one, I
18 would like to say that we have received about 15 comments
19 letters, but just yesterday we received a letter from the
20 Governor of Connecticut, which is quite unusual. The
21 Governor has said that --

22 The Governor took the position that February 1,
23 1982, was too early of a date to pick. His primary concern
24 was that he would rather wait a little bit longer, but
25 have an efficient system, rather than worry about a system

1 that would not work properly.

2 COMMISSIONER AHEARNE: Did he say anything about
3 why he could not get an efficient system by February 1st?

4 MR. JAMGOCHIAN: He did not say why. He just said
5 that he would rather wait a little longer and make sure he
6 has got a good system, rather than rush it.

7 COMMISSIONER AHEARNE: Did it have anything to do
8 with the fact that on one of your charts that Adam Neck has
9 an estimated completion date after February 1st?

10 MR. JAMGOCHIAN: Ask the Governor.

11 MR. GRIMES: Millstone is in the same bag, I
12 think.

13 COMMISSIONER AHEARNE: Yes.

14 CHAIRMAN PALLADINO: I was going to ask the same
15 question, why did he think he could get one by February
16 1st?

17 COMMISSIONER AHEARNE: Not according to the back
18 up job.

19 MR. GRIMES: The third item, extension of the
20 completion date for emergency response facilities, that is
21 currently scheduled for October of 1982. We are looking at
22 whether that needs to be hooked to a fueling outage to make
23 it more realistic.

24 There would also be an item attached to that which
25 codifies the requirement for the SPDS system of which much

1 has been written, but was not explicitly included in the TMI
2 action plan in such a way that it was a requirement.
3 However, there is a good deal going on in that area by the
4 industry.

5 The fourth item is an item which will be coming to
6 you, I believe, fairly shortly. We have a minor problem on
7 the fact that buried in our original rule was a requirement
8 for one year after the effectiveness of the rule, which was
9 not spelled out in the rule, which happened to be November
10 3rd, 1980, certain research reactors were supposed to submit
11 emergency plans.

12 We have been working with the research reactor
13 community on guidance and are just now completing it. In
14 fact, there was a meeting yesterday with the research
15 reactor community on that guidance, and we believe we are
16 very close to agreeing on appropriate guidance for research
17 reactors.

18 COMMISSIONER AHEARNE: Meeting the couple of days
19 is a little short.

20 MR. GRIMES: It is a little short on the
21 timeline. We recognized this problem in September, but it
22 has just taken a little time to get the Commission paper
23 down here.

24 We believe there are emergency plans in place at
25 these facilities, but to get an agreed on upgraded plan, we

1 think it is appropriate just to take the time to go through
2 it.

3 COMMISSIONER GILINSKY: Is anyone complying with
4 this plan, or will anyone be complying with the plan by
5 November 30th?

6 MR. GRIMES: I have asked my staff to make sure
7 that all facilities have told us whether or not they are
8 going to be able to comply with that date by that date?

9 COMMISSIONER GILINSKY: Is that all they were
10 required to do?

11 MR. GRIMES: No. A plan submittal is required,
12 but they could reference existing plan submittals to us
13 because we have not guidance out --

14 COMMISSIONER GILINSKY: I am a little bit
15 disturbed to be informed at this point that we have a rule
16 out which is not going to be complied with, when the date is
17 a few days from now.

18 It is possible that the rule was not a wise one, I
19 don't know, what the choice of date was and what it should
20 have been. But the Commission makes the rules, and it would
21 have been nice to know sometime earlier that there are
22 problems about compliance with this rule.

23 The Commission could have either said, there had
24 better be compliance or else, or we could have said, maybe
25 the date was a little early and we will extend the date.

1 But to be presented with accomplished fact that here we are
2 November 3rd, almost, and no one is complying with the rule
3 because we have not given them guidance, is something that I
4 am not very happy about.

5 MR. GRIMES: I would have to --

6 COMMISSIONER GILINSKY: Unless you have notified
7 us before, in which case I apologize.

8 (General laughter.)

9 MR. GRIMES: I would just say that it did not come
10 to my attention that we are not going to make it until
11 September. We started work on the Commission paper, but we
12 just did not make it all the way through the process. So I
13 must say a minor mea culpa.

14 However, we do not have enough guidance in the
15 regulations to say that currently submitted emergency plans
16 do not or are not effectively meeting the regulation because
17 we have made some general words about upgrading plans, but
18 we don't have anything specific.

19 CHAIRMAN PALLADINO: Those are upgraded plans that
20 you want by November 3rd?

21 MR. GRIMES: There was a requirement for upgraded
22 plans, but there were no specifics beyond reference to an
23 existing regulatory guide.

24 CHAIRMAN PALLADINO: Maybe in future setting of
25 schedules, if there is going to be a regulatory guide that

1 is required before they can comply, maybe we ought to tie
2 that to the existence of the guide.

3 MR. GRIMES: I think that would be good.

4 CHAIRMAN PALLADINO: Did you say that nobody has
5 been able to upgrade because they did not what to upgrade
6 to?

7 MR. GRIMES: I believe they have been upgrading,
8 but they have not had anything before the drafts to work
9 with, and the regulation is vague enough to argue that they
10 are, indeed, in compliance.

11 CHAIRMAN PALLADINO: John.

12 COMMISSIONER AHEARNE: Putting aside the
13 mitigating factors which obviously cut to why compliance has
14 not been met, I share with Vic the concern. I think this is
15 an issue that came up before, and I believe it is necessary
16 that somehow there be a system, I suppose it is I&E, that
17 follows up on when rules are out with dates things must be
18 in compliance with. There has to be a pacing system that
19 enable I&E to know, and then us to know if there is going to
20 be a major missing of a date.

21 Certainly, on each individual case that comes up,
22 one can then go through the analysis as to why the general
23 date might have been bad, or what are the other factors that
24 have led to the missing. But to find out about it, and have
25 to be faced with the accomplished fact, as Vic puts it, at

1 this stage our hands are really tied as to what can be
2 done.

3 MR. DIRCKS: I just found out about it now.

4 (General laughter.)

5 COMMISSIONER AHEARNE: All right, you and we need
6 assistance.

7 CHAIRMAN PALLADINO: Is the situation that these
8 people already have drafts, and they are now bringing them
9 up to snuff because you have the guides out?

10 MR. GRIMES: I would like to ask Mr. Ramos, who
11 met with the research reactor community yesterday, to try to
12 characterize what he thinks the status of those plans is?

13 MR. RAMOS: I am Steve Ramos also from DEP.

14 I talked with them yesterday concerning the fact
15 that we had a proposed rule change, and they characterized
16 back to me that none of them have upgraded their plans at
17 the present time because the guidance is not out. They all
18 have plans --

19 COMMISSIONER GILINSKY: Did you hear at some point
20 that the guidance was not adequate, or that they are not
21 going to do anything until they have the guidance?

22 MR. RAMOS: That is true. They have known for
23 some time that they could not upgrade because the guidance
24 was not out.

25 But, as I started to say, we have been working

1 with them for over a year on developing new guidance, both
2 with ANS with the new ANSI standard, ANSI 15-16, and
3 upgrading Reg Guide 2.6.

4 COMMISSIONER GILINSKY: Didn't you know all this
5 time that the guidance was not going to be ready until now?

6 MR. RAMOS: We thought that the guidance would be
7 ready in June.

8 COMMISSIONER GILINSKY: Who is preparing the
9 guidance?

10 MR. RAMOS: A combination of the people from
11 Brookhaven, people from several of the research reactors,
12 and people on our staff.

13 COMMISSIONER GILINSKY: You must have known since
14 June.

15 MR. GRIMES: I knew that things did not come out
16 in June, but it was about a month-by-month slippage, and
17 until September we thought we were going to have something
18 done. I guess, the process of getting a piece of paper down
19 here was unfortunately not very expeditious.

20 COMMISSIONER GILINSKY: It isn't just -- You know
21 the time from September until now, although it would have
22 been nicer to know a little earlier, I just can't believe --

23 Have we had any contact with them over the year,
24 before June?

25 MR. RAMOS: Yes, sir. We have had contact with

1 them continuously since the rule has been out.

2 COMMISSIONER GILINSKY: Well, something doesn't
3 sound right to me.

4 MR. DIRCKS: There is a major gap here, and we
5 have to go back and find out how it happened.

6 COMMISSIONER AHEARNE: I think, though, in the
7 system we have, when we go out with rules, I don't believe
8 that there is a tracking system that then picks up, here are
9 all the dates that are now laid out, and then backs off
10 those X months ahead and try to just test, have we heard or
11 have we decided the contents and people, and do they know if
12 that is going to be met.

13 MR. DIRCKS: I think there is a tracking system.
14 There is something obviously wrong in this one.

15 COMMISSIONER GILINSKY: I am not extending my
16 remarks beyond this particular case, but did we basically
17 delegate responsibility to Brookhaven, or some sort of group
18 like this, to come up with the standards or the guidance?

19 MR. RAMOS: ANS is the lead agency or the lead
20 organization that was designated to develop --

21 COMMISSIONER GILINSKY: The American Nuclear
22 Society?

23 MR. RAMOS: Yes.

24 -- to develop the ANSI 15-16, which we have been
25 participating with them.

1 COMMISSIONER GILINSKY: That is a standard for
2 research facilities?

3 MR. RAMOS: Emergency planning or research
4 facilities.

5 COMMISSIONER GILINSKY: How in the world could
6 they take so long when they knew that the date was November
7 3rd, where are they?

8 MR. RAMOS: It takes a long time to develop
9 guidance on such an issue, particularly when you have so
10 many different kinds of reactors that are involved that run
11 all the way from --

12 COMMISSIONER GILINSKY: I can't believe that they
13 did not know.

14 MR. GRIMES: They knew.

15 COMMISSIONER GILINSKY: Well, then, they had a
16 responsibility to come here and tell us. They are
17 licensees, and they have got a responsibility to tell us if
18 we are counting on them to develop guidance.

19 CHAIRMAN PALLADINO: Do you believe that they have
20 come and told you, and is the gap between you and us, or
21 between them and you?

22 MR. RAMOS: I believe the gap is between us and
23 you.

24 COMMISSIONER GILINSKY: Let's close the gap.

25 MR. DIRCKS: I believe at several levels.

1 (General laughter.)

2 CHAIRMAN PALLADINO: I don't want to put you on
3 the spot, but I think it is important that we establish some
4 sort of tracking system, so that we do have communication on
5 meeting dates such as this.

6 COMMISSIONER AHEARNE: Yes.

7 MR. GRIMES: I agree that we need a better system
8 to do that, but I will say that the staff has had a lot of
9 balls in the air.

10 COMMISSIONER GILINSKY: Let me tell you how it
11 looks to me, and make a remark that seems appropriate. It
12 seems that this group gave themselves an extension.

13 MR. RAMOS: No. We have been working very
14 closely, and we and them have worked very hard to come up
15 with some realistic guidance on writing emergency planning.

16 MR. GRIMES: I think perhaps the time to reach a
17 consensus of the research reactor community was
18 underestimated.

19 CHAIRMAN PALLADINO: Is there more on this?

20 COMMISSIONER BRADFORD: I have one question, but
21 it is out of sequence.

22 MR. GRIMES: I have finished. The last item just
23 mentioned is the SECY paper that is here all ready on
24 reporting requirements under 50.72 which streamlines the
25 reporting requirements, but since it is related to the

1 emergency preparedness area, I wanted to mention it on this
2 slide.

3 This gives the overview of the various pieces
4 where we hope to improve the regulations and reduce the
5 requirements in many cases based on our experience to date,
6 and try to have a consistent, effective, and minimum impact
7 package.

8 COMMISSIONER BRADFORD: I had a specific question
9 on the fourth slide of your original package, and I gather
10 it is something that you touched on before I came in. The
11 second paragraph, I can't find anything, at least in the OGC
12 draft of the rule with which I gather you are in agreement,
13 that actually touches on paragraph A of 50.47.

14 MR. GRIMES: You are correct. In the rewrite by
15 the Office of General Counsel, the matter relating to
16 paragraph A was made a new paragraph D, I believe, so that
17 the slide is out of date on that point.

18 COMMISSIONER BRADFORD: Is the substance of the
19 slide still accurate?

20 MR. GRIMES: Yes.

21 COMMISSIONER BRADFORD: In other words, you are
22 saying that the same result is achieved through paragraph D
23 as what was in paragraph A.

24 MR. GRIMES: Yes.

25 CHAIRMAN PALLADINO: Are there any other

1 questions?

2 (No response.)

3 CHAIRMAN PALLADINO: We thank you very much, and
4 we look forward to receiving the revised package.

5 The meeting is adjourned.

6 (Whereupon, at 3:30 p.m., the meeting was
7 adjourned.)

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NUCLEAR REGULATORY COMMISSION

This is to certify that the attached proceedings before the
COMMISSION MEETING

in the matter of: PUBLIC MEETING - BRIEFING ON AMENDMENTS TO PART 50 --
EMERGENCY PREPAREDENESS REGULATIONS

Date of Proceeding: October 30, 1981

Docket Number: _____

Place of Proceeding: Washington, D. C.

were held as herein appears, and that this is the original transcript
thereof for the file of the Commission.

Patricia A. Minson

Official Reporter (Typed)

Patricia A. Minson

Official Reporter (Signature)