

ORIGINAL

**UNITED STATES OF AMERICA**  
**NUCLEAR REGULATORY COMMISSION**

**Title:** **BRIEFING ON PROGRAM TO IMPROVE  
REGULATORY EFFECTIVENESS - PUBLIC  
MEETING**

**Location:** **Rockville, Maryland**

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1 UNITED STATES OF AMERICA  
2 NUCLEAR REGULATORY COMMISSION

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4 BRIEFING ON PROGRAM TO IMPROVE  
5 REGULATORY EFFECTIVENESS

6 \*\*\*

7 PUBLIC MEETING

8 \*\*\*

9  
10 Nuclear Regulatory Commission  
11 Commission Hearing Room  
12 11555 Rockville Pike  
13 Rockville, Maryland

14  
15 Wednesday, May 14, 1997  
16

17 The Commission met in open session, pursuant to  
18 notice, at 3:04 p.m., the Honorable SHIRLEY A. JACKSON,  
19 Chairman of the Commission, presiding.

20 COMMISSIONERS PRESENT:

21 SHIRLEY A. JACKSON, Chairman of the Commission  
22 KENNETH C. ROGERS, Member of the Commission  
23 GRETA J. DICUS, Member of the Commission  
24 NILS J. DIAZ, Member of the Commission  
25 EDGAR McGAFFIGAN, JR., Member of the Commission

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1 STAFF AND PRESENTERS SEATED AT THE COMMISSION TABLE:

2 JOHN C. HOYLE, Secretary

3 JOSEPH CALLAN, EDO

4 EDWARD JORDAN, Deputy Executive Director for  
5 Regulatory Effectiveness, Program Oversight,  
6 Investigations and Enforcement

7 DAVID MORRISON, Director, Office of Nuclear  
8 Regulatory Research

9 JAMES LIEBERMAN, Director, Office of Enforcement

10 THOMAS MARTIN, Acting Associate Director for  
11 Technical Review, NRR

12 DENWOOD ROSS, Director, AEOD

13 GUY CAPUTO, Director, Office of Investigations

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

[3:04 p.m.]

CHAIRMAN JACKSON: Good afternoon. I'm pleased to welcome members of the staff who will brief the Commission on the Agency's regulatory effectiveness program.

The regulatory effectiveness organization is a part of the recent restructuring of the reporting arrangement under the EDO, the executive director for operations, and contains four vital NRC offices: Research, Enforcement, Investigations and AEOD. The structure reflects the Commission's belief that the staff needs a high level focal point for program evaluation. The organization is independent of the line organizations with responsibility for the day-to-day regulatory agenda.

During today's briefing, the staff will discuss plans to independently assess and improve NRC's effectiveness in regulating licensees. The briefing will cover program goals, objectives, potential assessment areas, and the role of the regulatory effectiveness offices and a new effort that's been created and resource requirements.

I and my fellow commissioners are looking forward to your briefing today. I understand that copies of the viewgraphs are available at the entrances to this meeting, and unless anyone has further opening comments, Mr. Callan, please proceed.

1 MR. CALLAN: Thank you, Chairman, and good  
2 afternoon, Commissioners, once again.

3 The Commission provided direction in a staff  
4 requirements memo dated March 22nd, 1997 on the DSI, the  
5 direction setting issue for regulatory excellence. This  
6 briefing focuses on the implementation plan for this one  
7 element of the overall program for enhancing regulatory  
8 excellence. The staff is committed to provide  
9 recommendations on the overall program for regulatory  
10 excellence by September 1997. This briefing will be given  
11 by Mr. Ed Jordan, who has a new title. He's the deputy EDO  
12 for regulatory effectiveness, and Mr. Tom Martin, who is the  
13 acting associate director for technical review.

14 I think behind me, we have Denny Ross, Dave  
15 Morrison, Guy Caputo and Jim Lieberman, who are here in  
16 recognition of the roles that their offices play in the  
17 regulatory effectiveness initiative.

18 Mr. Jordan will continue this briefing.

19 MR. JORDAN: Thank you.

20 As you recall, I was the sponsor from the  
21 Strategic Assessment Steering Committee for development of  
22 the regulatory excellence direction setting issue 23. We're  
23 responding to that direction setting issue and the  
24 Commission's direction in the SRM, plus Mr. Callan's  
25 direction to expedite the element directed towards

1 assessment of the quality of NRC regulatory programs. This  
2 proposal is described in SECY 97-103, which was distributed  
3 to you yesterday.

4 This independent quality assessment element is  
5 designed to improve NRC recognition of programmatic issues  
6 through focused review of potential vulnerabilities.  
7 Generally most effectiveness lessons have been byproducts of  
8 reviews, inspections or incident investigations conducted by  
9 NRC of licensee activities. This effort is focused on  
10 examination of NRC activities and programs in order to  
11 obtain regulatory effectiveness lessons more directly.  
12 Insights about specific licensees' or industry products'  
13 performance would be byproducts.

14 Could I have slide 2, please.

15 This proposal relies on resources and perspectives  
16 of the four offices that report to me, plus an assessment  
17 team. The leader, Tom Martin, reports directly to me,  
18 currently by a one-year assignment from the Office of  
19 Research.

20 Tom is uniquely qualified based on his background  
21 and experience. He has nuclear utility experience,  
22 assessment team experience in NRC, regional inspection and  
23 management experience, and most recently research management  
24 experience. In addition, Tom was the engineering team  
25 leader for the Maine Yankee independent safety assessment

1 this past summer. He is both exacting, tenacious and  
2 experienced.

3 We plan to explain the goals and objectives of  
4 this program, the scope of issues, the sources and methods  
5 of selection of assessment areas, the method for handling  
6 findings, the role of the four offices, and the  
7 implementation plan.

8 I would like to assure you that this element is an  
9 integral part of the regulatory excellence program. That  
10 overall program will address engagement of the workforce at  
11 the grassroots level, employee communications issues, and  
12 improvement of NRC processes and management and support  
13 functions as directed in the SRM. A full briefing of this  
14 program, the regulatory excellence program, will be provided  
15 to the Commission by the September due date. Dr. Billy  
16 Morris of the Office of Research will be managing that  
17 development.

18 We have had internal discussions of the concept of  
19 this regulatory effectiveness element of the program with  
20 NRR and NMSS management. We have briefed the ACRS, NRC  
21 partnership committee, and the Office of the Inspector  
22 General. The concept was also discussed with Energy at the  
23 Regulatory Information Conference, and the CFO and the CIO  
24 have been briefed on this issue.

25 While the basic concept has remained, these

1 discussions have been very beneficial in the development of  
2 details and processes.

3 Could I have the next slide, please?

4 The goal of the regulatory effectiveness  
5 initiative is to improve the regulatory focus and the  
6 performance of the NRC. The concept is to select areas for  
7 review by a systematic process and conduct assessments of  
8 the highest priority areas through a combination of in-  
9 house and licensee reviews.

10 The output of the process is constructive feedback  
11 to the program office through a report of findings and  
12 recommendations to the deputy executive director for  
13 regulatory programs from myself.

14 The positioning of this activity is between the  
15 Office of Inspector General, audits, and the program office,  
16 assessments. We will carefully utilize these two to avoid  
17 duplication. It is expected that the process for selection  
18 of areas for review may affect future areas of program  
19 office assessment.

20 Could I have the next slide, please?

21 CHAIRMAN JACKSON: Before you go, Mr. Jordar -

22 MR. JORDAN: Yes.

23 CHAIRMAN JACKSON: -- have you developed what  
24 basis you will use to judge improvements in NRC's regulatory  
25 focus and performance?



1 MR. MARTIN: That's upcoming in one of the slides  
2 in terms of the --

3 CHAIRMAN JACKSON: You're going to talk more about  
4 that.

5 MR. MARTIN: Yes, we'll talk more about that.

6 CHAIRMAN JACKSON: Okay. And then the other  
7 question I had is in terms of this feedback process, you're  
8 describing it as being at the deputy executive director  
9 level, and so -- but presumably you're going to flesh that  
10 out a little more.

11 MR. JORDAN: Yes.

12 CHAIRMAN JACKSON: I mean, for instance, will  
13 recommendations be made as appropriate --

14 MR. JORDAN: Yes.

15 CHAIRMAN JACKSON: -- which would then impact the  
16 program areas? And will the issues be tracked to resolution  
17 and who will own that tracked resolution?

18 MR. JORDAN: Okay. Yes, yes, and the EDO.

19 [Laughter.]

20 MR. JORDAN: And we will cover that.

21 CHAIRMAN JACKSON: You will cover that. Okay.  
22 I'll wait.

23 MR. JORDAN: Slide 4, please.

24 Three parallel paths that we are going to be  
25 following are comprised of an assessment team -- that is Tom

1 Martin's effort -- to perform independent assessments, and  
2 two paths to identify potential areas for further  
3 assessments. We're going to spend quite a bit of effort on  
4 the identification of areas for assessment. Measures to  
5 collect and review information and nominate areas for  
6 assessment will be integrated across the four offices that  
7 report to me.

8 At this point, I would like for Tom to discuss the  
9 independent assessment team activity in more detail.

10 CHAIRMAN JACKSON: Before you begin, and if you're  
11 going to answer this in the course of your remarks, you can  
12 incorporate them.

13 MR. JORDAN: Yes.

14 CHAIRMAN JACKSON: According to this previous  
15 viewgraph and this one, you know, you have these three  
16 parallel paths for identifying and assessing issues. The  
17 question is, will there be a common assessment methodology  
18 and will you generally describe the assessment process you  
19 have in mind?

20 MR. JORDAN: Yes.

21 CHAIRMAN JACKSON: Okay. And are we still on  
22 schedule to have this REGMAT, this matrix developed by the  
23 end of the year? That was a date that I was given when I

24 --

25 MR. JORDAN: Yes.



1 CHAIRMAN JACKSON: -- had a chairman's briefing  
2 fairly recently. We're still tracking to do that?

3 MR. JORDAN: Yes.

4 CHAIRMAN JACKSON: Okay. And --

5 MR. JORDAN: I'm not certain that that would be a  
6 complete development of the REGMAT, but we will have a  
7 workable tool that will identify areas --

8 MR. MARTIN: Concept.

9 MR. JORDAN: -- before the end of the year.

10 CHAIRMAN JACKSON: Okay. So maybe as you talk,  
11 you can give more flesh to that.

12 Then I guess the only other question, if you could  
13 address it as you talk, is how many assessments do you  
14 foresee being conducted at any given time?

15 MR. MARTIN: That's a more difficult question.

16 CHAIRMAN JACKSON: Okay. Right.

17 Commissioner McGaffigan will add ten more.

18 COMMISSIONER MCGAFFIGAN: Well, I just want to,  
19 right at the outset, sort of raise an issue of what the  
20 definition of regulatory effectiveness is, and it sort of  
21 comes up in this parallel paths graph.

22 For me, regulatory effectiveness partly is, you  
23 know, how well do we -- do NMSS and NRR and the other  
24 program offices carry out their missions, how processes can  
25 be improved. The original paper, the DSI 23, listed, you

1 know, a whole host of processes within offices that need  
2 improvement or where efforts have been made to improve in  
3 the past, and how do the people who do the work get involved  
4 in this assessment effort, you know, how does NRR say our  
5 50.59 process, which is on people's minds, or whatever, is  
6 working or isn't working, or the senior management meeting  
7 process, or, you know, whatever.

8 CHAIRMAN JACKSON: That's all part of this  
9 feedback.

10 MR. JORDAN: Yes, but why don't I try to answer  
11 that to help lay some of the groundwork. The regulatory  
12 excellence program will provide the opportunity and the  
13 process to improve agency processes you might say in general  
14 and specifically those will be selected and worked on  
15 independent of this.

16 This process is designed to identify areas that  
17 are not as obvious that we, through our normal programs, are  
18 not seeing and to assess them and to identify whether the  
19 NRC needs to increase the emphasis, reduce the emphasis, or  
20 do it differently.

21 So this is a fairly narrow assessment, and in  
22 terms of if an office or if an individual or a member of the  
23 public has an area that is of concern to them, we have a way  
24 of collecting that information and then prioritizing and  
25 deciding whether it is worthy of an assessment.

1 COMMISSIONER MCGAFFIGAN: I just might say, my  
2 problem with that is if it's not obvious, it may also not be  
3 primary. It may be, you know, secondary to the mission of  
4 the agency, and we may be creating an infrastructure here  
5 that sort of looks on secondary issues while we are  
6 neglecting the fundamental --

7 CHAIRMAN JACKSON: Right. Leaving egregious  
8 problems in the main program --

9 COMMISSIONER MCGAFFIGAN: We're kicking the can  
10 down the road for a decade, and you guys are going to come  
11 up with new areas where we can, you know, provide additional  
12 problems for us to work on without resolving the big ones.

13 MR. CALLAN: Let me say something, Tom.

14 First of all, Commissioner, I would say that what  
15 we're trying to avoid is, to the extent we can, surprises.  
16 The problems we know about, many of them are indeed  
17 challenges and some of them approach being intractable, it  
18 seems. But we will labor on, but we also, I think, need to  
19 devote attention, resources to try to identify next year's  
20 problems sooner and not just focus on the problems we  
21 already know about. That's one point.

22 The second point I'll make is somewhat in response  
23 more generally to your earlier question. I think there's  
24 probably more than three parallel paths; there's at least a  
25 fourth parallel path. That -- Ed alluded to it -- that is

1 the need for the program offices to do self-assessments and  
2 for the line to become more self-critical.

3 Here's an area where I think the NRC as a  
4 regulator can learn from the regulated industry. The  
5 nuclear industry, over the last decade at least, has  
6 certainly shown the way here, and we can learn a lot from  
7 them. And we know a lot about this because we have been  
8 observing them intrusively throughout this evolutionary  
9 process. So if there's one lesson the nuclear industry has  
10 learned the hard way, that is you cannot rely solely on  
11 third-party outside assessments. You have to engrain the  
12 self-critical approach in the line. If you don't do that,  
13 you never truly arrive, and that absolute need is well  
14 recognized by the office directors, and it's the ultimate  
15 goal.

16 We will always need an outside oversight function,  
17 but ultimately the answer, I think, to your question is  
18 going to be line self-assessments, validated by ED's  
19 organization.

20 That's why he made a point in an earlier slide of  
21 recognizing and I would even say nurturing more than  
22 recognizing, nurturing internal assessments and ongoing  
23 improvement programs, just like we tried to do the same with  
24 the industry.

25 CHAIRMAN JACKSON: Commissioner McGaffigan, you

1 still have --

2 COMMISSIONER MCGAFFIGAN: We'll stay on this, but,  
3 you know, there's a tendency around here for next year's  
4 problem to have been last year's problem or even last  
5 decade's problem and, you know, I'm just concerned about  
6 adding additional things when they're really central issues  
7 that we need to grapple with and we desperately need to make  
8 improvements given the budget reality in the outyears that  
9 we're facing.

10 CHAIRMAN JACKSON: Well, I think that the  
11 challenge is, as you're laying out what you're going to be  
12 describing this afternoon, is to, in fact, illustrate the  
13 connectivity to the improvements that we all want to see in  
14 our main-line, baseline regulatory program. So you should  
15 keep that at the back of your mind.

16 Commissioner Rogers.

17 COMMISSIONER ROGERS: It's the same question, I  
18 guess, that Commissioner McGaffigan asked: How are you  
19 defining regulatory effectiveness? You know, I think the  
20 problem I have is I see lots of ways of assessing something,  
21 but I'm not sure what we're assessing it against.

22 You know, Mr. Callan, you said something that I  
23 think was very important, that we're trying to avoid  
24 surprises. Well, you know, there's a concept there that I  
25 think needs to be perhaps put in a little different language



1 that's more appropriate for a definition. Because we're  
2 trying to avoid something -- that's not a definition; that's  
3 an outcome.

4 But I think that really more clarity needs to be  
5 evident here on what we really mean when we say we're trying  
6 to assess regulatory effectiveness. The problem that I see  
7 in what the materials are that I've seen so far is that it  
8 seems to me we're looking out at what licensees are doing  
9 right now as a measure of that, but then how do we connect  
10 that?

11 I'll tell you, I'm just a bit uncomfortable here,  
12 because I personally don't see much connection between this  
13 and DSI 23, the Commission's position on regulatory  
14 excellence. Now, if we're saying that regulatory  
15 effectiveness is a broader concept than regulatory  
16 excellence, that somehow or other regulatory excellence is  
17 something we're going to look at as phase 2, but regulatory  
18 effectiveness is what we're looking at right now, then I  
19 would like to understand that better, because I don't have  
20 an appreciation of that point of view.

21 MR. JORDAN: Let me try to respond to that.

22 Regulatory excellence is a larger umbrella and the  
23 regulatory effectiveness is a slice of it. The regulatory  
24 excellence really involves the entire agency, both the  
25 technical programs and the support programs, and the

1 attitudes of the staff and management in the way we work  
2 together and the actual efficiency, this piece of it,  
3 regulatory effectiveness, is a narrow slice, and the intent  
4 is that it's associated only with -- directly with the  
5 regulatory programs of NMSS, NRR, Enforcement,  
6 Investigation, that it's how we implement the Agency's  
7 mandate and whether we're focusing on safety issues so that  
8 we're being productive in putting our resources in the right  
9 places.

10 So our object is to give a fresh view of that, and  
11 the regulatory matrix is a part of that that I'll talk a  
12 little bit more about in a few minutes. But it's really  
13 within the regulatory excellence program, and it is a fairly  
14 narrow I'll say quality assurance, not a quality control,  
15 activity.

16 CHAIRMAN JACKSON: Commissioner Diaz I think has a  
17 question.

18 COMMISSIONER DIAZ: Yes. I think in the same  
19 issue, I understand why we need to do additional assessments  
20 of what our programs do, but I have the impression that what  
21 we were going to do was look at our own programs and  
22 actually try, you know, as quick'y as possible, to provide a  
23 serious directive to increase the effectiveness of our  
24 programs from our own view inside before we start assessing  
25 anything else.



1 CHAIRMAN JACKSON: Mr. Martin has given me the  
2 signal that he's going to speak to that issue; so why don't  
3 we move along here. Then if not, then you can anticipate  
4 that we're going to come back.

5 MR. MARTIN: We'll keep going to more detail. But  
6 I'm ready to get started to do just that very thing.

7 Slide 5, program objectives.

8 These are the objectives of the program overall.  
9 First, of course, is to provide quality assurance oversight  
10 of NRC regulatory activities. Up to this point, we have not  
11 had an independent technical quality assurance feedback  
12 process for our regulatory programs.

13 The attributes in the following bullet will be  
14 discussed in more detail on the next slide and hopefully  
15 will address more directly your question on what is  
16 effectiveness and how we will measure it.

17 The word coherency here is referring to whether  
18 our various programs all pull in the same direction.

19 CHAIRMAN JACKSON: How close are you to being able  
20 to lay out a program plan for accomplishing these  
21 objectives?

22 MR. MARTIN: I believe we have a program plan  
23 already in place that we can implement on fairly short  
24 order, and given several resources as requested, we could  
25 undertake to get into some of these very areas.

1           For example, in the inspection area, there are a  
2 lot of questions, I believe, and I'm not picking on one  
3 certain program here, but I think it might be very useful to  
4 be illustrative in where we're heading. You know, just some  
5 questions that come up that may be resolved through this  
6 process are whether the core inspection program over-  
7 emphasizes operations and we're looking in the wrong area,  
8 perhaps, as opposed to looking more in design, or whether  
9 margins of safety are eroded in other technical areas.

10           Could the inspection program be better apportioned  
11 based on risk, based on PRA, IPE. The accident sequence  
12 precursor program and the kind of issues that are derived as  
13 significant from that, could that be used to apportion the  
14 inspection program in a better fashion?

15           We could analyze how much effort is being spent in  
16 each area, and whether that makes sense relative to the  
17 significant inspection findings that are being generated or  
18 the significant issues that we're facing today in our  
19 regulatory environment.

20           That's just some examples of --

21           COMMISSIONER McGAFFIGAN: Why isn't that an area  
22 where NRR is given a crack at doing that first? And maybe  
23 they're already doing it. Mr. Gillespie a few months ago  
24 addressed us on the inspection program, and I recall -- I  
25 think he said some of the same things you just said, you

1 know, we have to look at the balances and whatever.

2 What is the value added of your group looking at  
3 that as opposed to NRR first taking a crack at it and then  
4 you evaluating whether they did well or did poorly?

5 MR. MARTIN: That could very well be our course of  
6 action. I'm not necessarily proposing now that we undertake  
7 a review of the inspection program as our first effort. I  
8 doubt that we would do that. However, I think there are  
9 many areas --

10 MR. CALLAN: Let me -- on slide 3, the third  
11 bullet, I can't emphasize -- that needs to be said over and  
12 over again. This was a major issue in the internal  
13 discussions leading up to this briefing. This has been a  
14 major issue, as you know, between us and the industry, and  
15 the same standard that we apply with the regulated industry  
16 certainly ought to apply internally, and that is that we  
17 will do everything in our power to encourage, nurture this  
18 line self-assessment in this critical assessment culture  
19 that we're heading towards.

20 So to use our hypothetical example, Commissioner,  
21 it is hypothetical, but I would suppose that if such an  
22 effort were underway, then we would do exactly what you  
23 suggested, which is to monitor how that's going.

24 CHAIRMAN JACKSON: Okay.

25 MR. MARTIN: Next slide, please, the scope of

1 issues.

2 CHAIRMAN JACKSON: Slide 6?

3 MR. MARTIN: Slide 6.

4 I believe this may address some of your questions  
5 about what we're actually referring to when we refer to  
6 regulatory effectiveness.

7 We want to look broadly at our programs, but we  
8 also want to be careful to focus on regulatory outcomes  
9 rather than assessing regulatory outputs. For example, we  
10 don't intend to emphasize conformance to NRC internal  
11 procedures for controlling our work processes.

12 The five attributes on this slide frame the basis  
13 for a regulatory effectiveness finding. The program will  
14 focus on any regulatory program, regulation or activity that  
15 lacks technical justification to the extent that an  
16 inappropriate regulatory position or decision may be taken;  
17 is inconsistent or not complementary with other programs,  
18 regulations or activities such that attention may be  
19 diverted from matters of higher risk significance; lacks  
20 clarity such that it may not be understood; is  
21 underemphasized or overemphasized relative to the risk  
22 involved; or does not accomplish its intended purpose.

23 This last item is essentially the definition of  
24 ineffective. The previous items are more representative of  
25 the potential to be ineffective.

1           We also intend to focus initially on power  
2 reactors and would intend to expand the scope of the program  
3 to the materials area in mid-FY '98.

4           CHAIRMAN JACKSON: Would you, for instance, look  
5 at regulations, you know, like the station blackout rule and  
6 the ATWAS rule?

7           MR. MARTIN: Yes, those would be candidate areas  
8 that we could look at from an effectiveness standpoint and  
9 determine whether those rules, in fact, have the desired  
10 intent, met the intent of the rule.

11          CHAIRMAN JACKSON: Commissioner McGaffigan and  
12 Commissioner Rogers.

13          COMMISSIONER MCGAFFIGAN: Sort of implicit in this  
14 list is a bullet that would be wastes NRC resources or  
15 licensee resources. If they meet some of these criteria,  
16 then there's an effectiveness in the sense of waste  
17 involved.

18          MR. MARTIN: Correct. Yes.

19          COMMISSIONER MCGAFFIGAN: Should that be a  
20 criterion or is that just implicit?

21          MR. MARTIN: Well, it is -- no -- it is a  
22 criterion in regard to being overemphasized. If we  
23 overemphasize something relative to the risk involved, I  
24 think that is an occasion that we're not being effective.  
25 So I would not consider it implicit; however, when we cross

1 over into efficiency, matters of pure efficiency, it may be  
2 getting involved in more conformance to our own procedures  
3 and then slip into what I would consider the broader realm  
4 of regulatory excellence as opposed to effectiveness.

5 But yes, I would consider that if we're applying  
6 too many resources or the industry is applying too many  
7 resources in a certain area, with the zero sum gain that's  
8 involved in the budgeting process, it would be an indication  
9 of not being as effective as we could be.

10 COMMISSIONER ROGERS: I mean, maybe it's just a  
11 matter of style, but it does seem to me that this slide,  
12 scope of issues, is what you're really using to define  
13 regulatory effectiveness.

14 MR. MARTIN: Yes.

15 COMMISSIONER ROGERS: But you're doing it through  
16 the back door, in a way. I mean, you're saying what's  
17 wrong, and somehow, you know, it doesn't come across that  
18 this is basically the basis for your definition of what you  
19 mean by regulatory effectiveness, that it does -- regulatory  
20 effectiveness or programs that are effective don't have  
21 these deficiencies in them.

22 So it may be just a matter of how you make your  
23 presentation, but I think that the way I read this packet  
24 was, well, these are some things we're going to look at, but  
25 we'll be doing other things as well; whereas it seems to me,



1 from what I'm gathering thus far, this is really the heart  
2 of what you're doing, and I think it needs to get emphasized  
3 that way a little bit.

4 CHAIRMAN JACKSON: I mean, think there's a  
5 difference between looking to see if something lacks  
6 technical justification as opposed to being proactive to  
7 ensure that things are technically justified, that they are  
8 consistent and complementary, that they are clear, that the  
9 emphasis is relative to the risk significance of it, and  
10 that there are metrics for ensuring that whatever we do  
11 accomplished the purpose and they're as efficiently  
12 administered as possible.

13 MR. JORDAN: We agree, and we can define it from  
14 the positive and the negative. I think the way we fell into  
15 this was the idea that we're looking for areas that are  
16 potentially vulnerable, and then we'll assess them and  
17 identify whether, in fact, that potential area has specific  
18 weaknesses, I'll say, consistent with this particular slide,  
19 and then we'll make recommendations about them.

20 So we're working from that negative side, much as  
21 our inspection program does and our review program does with  
22 licensees.

23 CHAIRMAN JACKSON: Commissioner?

24 COMMISSIONER DIAZ: Yes. Following on the same  
25 issue, it seems to me like this is a kind of performance



1 measurement matrix rather than the issues. I think as  
2 important as establishing this as criteria is prioritizing  
3 what it is really that you're going to need to look at  
4 first, and that really becomes an issue, because we kind of  
5 look at everything all of the time.

6 MR. JORDAN: Yes.

7 CHAIRMAN JACKSON: Commissioner McGaffigan?

8 COMMISSIONER MCGAFFIGAN: The other thought I  
9 have, you know, is if I were doing this slide, I'd probably  
10 have "is untimely." You know, any NRC regulatory program,  
11 regulation or activity would probably apply more to program  
12 and activity rather than to a regulation, but the drafting  
13 of regulations, the drafting of reg guides, the conformance  
14 with industry standards when we go off into code and  
15 standard space and take forever to get around to endorsing a  
16 code and standard, does that belong here or have you pushed  
17 that off into excellence space rather than effectiveness  
18 space?

19 MR. CALLAN: It's interesting you bring that up,  
20 because that has been kind of a bone of contention in our  
21 internal discussions. As Tom Martin alluded, he's trying to  
22 avoid measuring, as a metric, measuring performance against  
23 specific procedural criteria.

24 For example, we have a 30-day criteria for getting  
25 inspection reports out, is an example. Rather than devote

1 resources to see whether or not a region meets that --  
2 there's other ways of doing it. That kind of timeliness  
3 measurement is probably not very productive in the context  
4 of what we're talking about, but the examples you gave are  
5 the kind of examples that we've used internally to establish  
6 the type of timeliness that does impinge on regulatory  
7 effectiveness as defined.

8 So not all measures of timeliness would --

9 COMMISSIONER MCGAFFIGAN: Right. But the SRM said  
10 come up with performance measures for the NRC staff in  
11 timeliness of, for instance, rulemaking and reg guides and  
12 codes and standards and whatever. Is that effectiveness or  
13 is that excellence?

14 MR. JORDAN: That's intended to be within the  
15 excellence umbrella.

16 COMMISSIONER MCGAFFIGAN: So that's not --

17 MR. JORDAN: We would not be, in this effort,  
18 devoting much in the way of resource for that aspect of  
19 measuring that performance metric. We would devote  
20 resources towards, if it came up as a high priority,  
21 reexamining the manner of issuing regulations, the process  
22 as a study.

23 CHAIRMAN JACKSON: Well, I think there's an issue  
24 here having to do with as you look at things, and if  
25 timeliness, for instance, comes into play, you have to make

1 a delineation between what is in the NRC's control versus  
2 -- you know, and understand how it gets impacted by what's  
3 external, and a focus on what we can do better. You know,  
4 that would seem to me to be an appropriate --

5 MR. JORDAN: Yes. And this is NRC's regulatory  
6 effectiveness, what we can do better.

7 CHAIRMAN JACKSON: I think -- why don't we --

8 COMMISSIONER McGAFFIGAN: Just one general comment  
9 from my perspective. I'm having trouble with the  
10 effectiveness versus excellence and judging the  
11 effectiveness program on which we're getting briefed today  
12 without knowing what the umbrella of the excellence program  
13 is, and judging the -- I may well care more about what they  
14 have defined as excellence than I do on some of these --

15 CHAIRMAN JACKSON: We have a definition which is  
16 in the Commission's own DSI, and so it will be for the  
17 Commission to take a look and judge what they're talking  
18 about relative to what the Commission felt it was saying in  
19 the regulatory excellence arena and to what extent, you  
20 know, this matches or beings to address those sorts of  
21 concerns.

22 MR. JORDAN: And I would pick out of the SRM --  
23 there were statements with regards to expediting the  
24 development of a proactive assessment of the quality of our  
25 regulatory programs. Those were the words that we used as

1 the foundation for this particular effort.

2 So it's a proactive, independent assessment of the  
3 quality of our regulatory programs and those other elements  
4 are within the excellence program, and it is up to the  
5 Commission as to whether we're putting the emphasis on the  
6 wrong syllable or on the right syllable.

7 CHAIRMAN JACKSON: Okay.

8 COMMISSIONER ROGERS: We're going to talk about  
9 these things sooner or later, so we might as well talk about  
10 them as we go.

11 You know, the industry has made the point from  
12 time to time, and I don't buy it particularly, but, you  
13 know, that we should be regulating towards safety, not  
14 excellence, all right? So somebody is drawing a distinction  
15 between those two. I don't necessarily buy that, but I'm  
16 just saying.

17 It seems a little bit to me as if you're drawing a  
18 distinction between excellence and effectiveness, that they  
19 are somehow related, but on some scale they differ. The  
20 trouble that I have with that is that it's a way of  
21 proceeding here to get something done, but when I go back  
22 and look at DSI-23 and the COMSECY, the Commission really  
23 asked the staff to do certain things that it seems to me  
24 have to be done at the very beginning of the effort.

25 For example, develop an implementation plan that

1 includes but is not necessarily limited to the following,  
2 and then there were a number of points, and one was identify  
3 goals with milestones and clear criteria for judging  
4 success. Well, we're asking here, well, how do you judge  
5 success here, you know? And measures to engage the  
6 workforce at the grassroots level and to stimulate  
7 management and employee communications and problem-solving.

8 I think we've felt, at least I've felt and  
9 everybody else signed off on this, we felt that was really  
10 fundamental here, and we're not hearing about that. We're  
11 hearing about a team that's being created and so on, so  
12 forth, and the notion of a grassroots participation with  
13 everybody who works for this organization committed to this  
14 goal of achieving excellence is fundamental to what we want  
15 to accomplish.

16 I'm just -- I'm having trouble here because I see  
17 these are reasonable things to do, but they're not what we  
18 asked for. And so that may be perfectly okay as long as you  
19 can put it in the context of what we asked for, and that I  
20 don't see as having been done.

21 CHAIRMAN JACKSON: Why don't we proceed and see if  
22 you did put it within the context of what we asked for.

23 MR. MARTIN: Slide number 7, sources and selection  
24 of assessment areas.

25 I think it would be useful at this point first of



1 all to define what we mean by an assessment area. An  
2 assessment area is where we intend to look for regulatory  
3 effectiveness findings. We will present some examples of  
4 assessment areas on the next slide.

5 With regard to your comment, Commissioner Rogers,  
6 about involving -- looking at a broad area, involving the  
7 staff at a grassroots basis, a point that we want to make  
8 here is that we're casting a wide net to look for candidate  
9 assessment areas. The regulatory matrix assessment tool, or  
10 what we refer to as REGMAT, is one source of information  
11 provided by Research. The performance information that will  
12 be developed through AEOD, OI, OE, is another source of  
13 information.

14 We will also be getting stakeholder input from the  
15 NRC staff and management, including the program offices that  
16 will be directly involved in our assessments.

17 Also, in order to facilitate getting input from  
18 the public and industry, we intend to establish an e-mail  
19 address, a website and a mailing address so that members of  
20 the industry can provide potential assessment areas directly  
21 to the regulatory effectiveness assessment staff. We would  
22 anticipate sorting through these inputs to put the  
23 appropriate items into the mix of our activities.

24 The prioritization of these areas will be based on  
25 the potential for identification of regulatory effectiveness

1 findings. Areas that represent the most risk significance  
2 or the most potential impact will be given a higher priority  
3 and then pursued through our assessment process.

4 CHAIRMAN JACKSON: Will you make use of DPO's  
5 differing professional opinions, DPV's --

6 MR. MARTIN: Yes.

7 CHAIRMAN JACKSON: -- and allegations in the  
8 selection of areas to review?

9 MR. MARTIN: Yes. Absolutely.

10 The regulatory effectiveness assessment staff will  
11 take the lead in compiling a prioritized list of these  
12 assessment areas. That will be submitted for approval to  
13 the deputy executive director of regulatory effectiveness  
14 and provided to the Commission on a periodic basis.

15 Slide 8.

16 These are examples of the types of areas for  
17 assessment that would be identified by the programs we are  
18 introducing today. The REGMAT approach would be a  
19 systematic analysis of regulatory coverage and would likely  
20 generate the kinds of areas that may not be getting enough  
21 attention or perhaps too much attention.

22 The data/experience area would rely on compilation  
23 of various data sources from AEOD, Research, OE, OI and  
24 others.

25 The types of areas that would be put into the mix



1 by the regulatory effectiveness assessment staff would be  
2 developed independently as well as from stakeholders, the  
3 public and industry as discussed on the previous slide.

4 COMMISSIONER ROGERS: Before you leave it, could  
5 you just help us in understanding what your thinking there  
6 is with respect to water chemistry, as to why that's a  
7 regulatory effectiveness area. I understand water chemistry  
8 is very important for the maintenance of the materials in a  
9 nuclear power plant. How does that relate to an assessment  
10 of NRC effectiveness?

11 MR. JORDAN: If you'll indulge me --

12 COMMISSIONER ROGERS: Please.

13 MR. JORDAN: First, I'll say this came out of the  
14 idea of -- concept of a regulatory matrix, and if you  
15 picture a matrix that --

16 MR. CALLAN: Excuse me. Let me just -- all of  
17 you, during your drop-ins, have seen annunciator window  
18 concepts. Everybody uses them in the industry. We're  
19 basically borrowing from that concept when we talk about a  
20 matrix.

21 MR. JORDAN: So if we described the regulated  
22 areas -- that is, those activities that the NRC does -- as  
23 one axis and the other axis is the utility, the licensee's  
24 activities -- and so, for instance, for the licensee, you  
25 could list the system structures and components like the

1 maintenance rule describes; you could list the functions and  
2 activities of the licensee, operations, maintenance, and so  
3 on. And for the NRC, you would list the regulation, or  
4 regulations that is, you would list the codes and standards,  
5 you would list the research documents, you would list the  
6 training, the inspection procedures, all those elements that  
7 drive the NRC in a particular direction, and you would then  
8 be able to cross code. And I'll pick water chemistry as a  
9 licensee activity, maintaining water chemistry in a primary  
10 system of a BWR and steam generators of a PWR, for instance.

11 If I look down the regulatory side, I find that  
12 the regulations are practically non-existent, that the tech  
13 specs are extremely limited, that the guidance is limited,  
14 the inspection procedures, there are not many, not much at  
15 all.

16 If I come down to risk, I find there is  
17 considerable risk associated with the maintenance of water  
18 chemistry. It drives the corrosion rate of steam  
19 generators, it has an effect on internals cracking in a BWR,  
20 it affects fuel performance and has a significant safety  
21 connotation.

22 So here is an area that has safety significance,  
23 has very little NRC oversight and relies on the economic  
24 effect of bad chemistry on utilities for its basis. The  
25 utilities do have guidance and, of course, one of the

1 elements would be this would be the EPRI guidance for water  
2 chemistry, and this is only an example, a thought piece, to  
3 say, okay, are there areas that the NRC is not putting the  
4 right emphasis on, and so water chemistry was one that came  
5 up. I don't know the answer. I'm not sure whether we do or  
6 not, but I know that water chemistry has caused premature  
7 steam generator cracking, it has affected primary internals'  
8 problems, resin intrusions in plants that were not reported.  
9 We don't have reporting requirements for these areas.

10 So we're looking for, in this process, as Joe put  
11 it, annunciator windows that would say maybe we ought to  
12 reexamine these areas. And so if we had this matrix at its  
13 simplest level, then we would identify those larger areas  
14 for consideration, we would prioritize them and decide  
15 whether or not they were worth following up.

16 So this is one way of identifying areas. We have  
17 never taken what I call an integrated look at what is the  
18 population that we should be regulating, and are we  
19 regulating it to the right level.

20 CHAIRMAN JACKSON: Commissioner Diaz and then  
21 Commissioner McGaffigan.

22 COMMISSIONER DIAZ: You know, I must agree that  
23 water chemistry is very important, but I think that the  
24 regulatory process has always been kind of a "what are you  
25 doing, you know, and how do we see it" type of process.

1           The industry has for many years put tremendous  
2 efforts in water chemistry, and they have actually tried,  
3 although the knowledge at the time wasn't that good about  
4 water chemistry, and it has been changing and evolving.  
5 You can look at, you know, what we did with steam  
6 generators.

7           So the tremendous effort that the industry has put  
8 into it, because that's where the economics are, besides the  
9 safety, actually has made us limit our exposure into the  
10 water chemistry area to technical specifications, but -- and  
11 any time the fluorine passes certain limits, somebody  
12 screams bloody murder. So we do have some flags out there  
13 that are very, very important, and it might very well be  
14 that what you're saying is correct, that we might need to  
15 pay more attention to water chemistry, but I think the  
16 question was, you know, as a fact, in the assessment area,  
17 the fact that this comes out by itself, it seems --

18           MR. CALLAN: That's the issue. That's the issue.  
19 Not that we need to do more; it's just that it will  
20 highlight areas of vulnerability.

21           MR. JORDAN: It's a tool.

22           MR. CALLAN: It's a tool.

23           COMMISSIONER DIAZ: Right.

24           MR. MARTIN: Perhaps this could be looked at in  
25 conjunction with our ISI program, which is the kind of

1 program where we identify cracks or, you know, the integrity  
2 of our pressure -- certain pressure boundaries. Perhaps  
3 some emphasis should be shifted to the prevention as opposed  
4 to the identification after the fact.

5 MR. JORDAN: And I would use the next one in a  
6 very simple, analogous way, that we have many plants -- most  
7 plants -- with unique design features. We treat unique  
8 design features the same as generic design features in our  
9 reviews, in our inspections. I'm not sure that's correct.  
10 I feel that there may be a need to treat -- to examine each  
11 plant for what are the unique design features and then put  
12 more emphasis on the inspection and the licensing review of  
13 those unique features.

14 CHAIRMAN JACKSON: I think -- and I know  
15 Commissioner McGaffigan is chomping here, and I was going to  
16 wait until the bitter end, but I'm not. It strikes me that  
17 there are four challenges that you have, and I'm trying to  
18 think about what you've already heard. This is before you  
19 go any further. That is, how do you give positive  
20 definition to what regulatory effectiveness is and what its  
21 tie is to regulatory excellence, which is what the  
22 Commission gave the DSI on? And how does what's in that  
23 definition and what you're proposing to do derive, in fact,  
24 from that DSI and how does it facilitate the implementation  
25 of that DSI? That is, can you clearly delineate what

1 elements of DSI-23, what you're talking about this is, you  
2 know, tied to?

3 I think there is still the question that's  
4 bothering everyone as to what the connectivity is to program  
5 office activities and having some sense of what is measuring  
6 effectiveness or facilitating the effectiveness in how those  
7 program activities are carried out?

8 Finally, how does the role of Research, OI, OE and  
9 AEOD and what their responsibilities are day to day tie into  
10 what you intend to do, not products that you're expecting  
11 for a narrow focus effort, but how is it that what -- you  
12 know, OI has a certain job to do; OE has a certain job to  
13 do; AEOD has a certain job to do; Research. How is what  
14 these offices do, okay, inform what you intend to do here?

15 I think that if somehow you can address those four  
16 things, if not today, then going forward, then I think you  
17 can begin to get at what I hear, you know, is bothering the  
18 different Commissioners as well as myself.

19 COMMISSIONER MCGAFFIGAN: I'm sounding like a  
20 broken record on this, but on water chemistry, to take that  
21 example, or the unique design features, it does look like  
22 we're potentially overall adding to the burden of the Agency  
23 in one way or another.

24 I think if we're going to -- if you're a  
25 regulatory effectiveness group, my definition of regulatory



1 effectiveness, you've got to figure out what it is we're  
2 going to give up in order to have that additional focus, and  
3 you've got to help us figure out how to -- if you're going  
4 to add things to our rules or our overall program,  
5 inspection program or whatever, you've got to tell us what  
6 it is, and part of your tasking, in my view, is what do we  
7 give up? You know, how do we free those resources up to  
8 achieve this higher purpose if it is a higher purpose?

9 MR. JORDAN: My answer is not a pleasant one,  
10 perhaps. I understood part of this charter really was to  
11 try to avoid a Millstone type issue where the design -- the  
12 NRC's emphasis on design basis reviews was insufficient.

13 I thought it was to avoid the fire protection  
14 issue where the NRC failed to recognize the fire barrier  
15 problem in a timely fashion.

16 So maybe my mission understanding is quite  
17 different. I felt that the first priority was to go look  
18 for areas that really contributed to safety that the Agency  
19 was failing to see in a timely fashion, and so that's the  
20 direction that I've launched. So I hoped to be heading off  
21 the next Time Magazine cover story. So if that's not what  
22 this narrow section out of regulatory excellence --

23 CHAIRMAN JACKSON: Well, I think --

24 MR. JORDAN: -- is intended to do --

25 CHAIRMAN JACKSON: No, no, no. Look, I think --

1 MR. JORDAN: Because I don't plan to propose what  
2 we give up; I plan to identify what we must do that we're  
3 not doing.

4 CHAIRMAN JACKSON: I think there are many elements  
5 to this. There's always a net zero sum gain or a kind of  
6 triage that has to be done that at any given time, if there  
7 are certain things that a judgment is made need to be given  
8 focus and there is not some overall increase in the total  
9 amount of resources available, there are trade-offs that  
10 have to be made.

11 Presumably, and I would rather not put it in, "If  
12 we give focus to water chemistry, what are we going to give  
13 up, you know, in its stead," but really, that is, in fact,  
14 what Joe's job is in terms of --

15 MR. JORDAN: It's a budget decision we must make.

16 CHAIRMAN JACKSON: -- the integrated -- you know,  
17 how does this play off against other parts of what we do.  
18 So I don't think it's something that we need to be asking  
19 you to, you know, give us a decision about or a statement  
20 about today, but I think it's part of an overall way  
21 resources get balanced. I mean, that's what Joe's  
22 fundamental job in the regulatory areas turned out to be --  
23 turns out to be.

24 But I think where your challenge lies is to show  
25 clearly and to make the statement clearly as to how what

1 you're describing is derivative of what's in DSI-23, namely  
2 regulatory excellence, and what elements of that, what  
3 you're talking about and describing, this ties to. I mean,  
4 that's where I think, you know, the disconnect. And it may  
5 not be that -- and I don't think that one can definitively  
6 say that you're going down a wrong path. It's more making  
7 the ties to what's already laid out there, you know, in a  
8 more clearly defined way, because -- and that helps you to  
9 give flesh and focus to whatever it is that you're  
10 purporting to do here as opposed to saying we think you're  
11 going down the wrong path. I don't think anyone is saying  
12 that specifically, but rather we want to see this tie to  
13 this overall base.

14 Yes, Commissioner Diaz?

15 COMMISSIONER DIAZ: I agree with you, but I just  
16 heard something that really disturbs me, and that's  
17 addressing Time Magazine. I really do not intend to have my  
18 responsibilities driven by Time Magazine and I don't think  
19 you should, either. I think the press has a role to provide  
20 feedback and information, but we're not driven by Time  
21 Magazine; we're driving by adequate protection of health and  
22 safety of the public, and that has been based mostly on  
23 operational safety. Design basis has a part in that, and  
24 this is an important part, one we need to take care of, but  
25 it's certainly not the whole direction of where the

1 Commission should be going.

2 It is a part that we need to pay attention to.  
3 We're paying attention to it. I think we're getting better  
4 at it. But that definitely I don't think was the intention  
5 of the Commission. I don't think Time Magazine runs this  
6 Commission; I think that's very important for everyone to  
7 know. I certainly know that it doesn't run me. And I think  
8 that that should be far away from any decisionmaking. We  
9 should be aware of it because on many occasions, it does  
10 produce important pieces of information, and it might help  
11 us in doing a better job, but certainly it's not a driver.

12 MR. CALLAN: Commissioner, I would just say, in  
13 Ed's defense, that I think that expression has crept into  
14 our lexicon as sort of a metaphor for relying on external  
15 stimuli to tell us where our problems are as opposed to  
16 finding our own problems.

17 I don't think that Ed was referring to over-  
18 concern about the media, per se, but we should be finding  
19 our own problems and should not have to rely on outside  
20 organizations, whoever they may be, to tell us where our  
21 problems are, and that's really the context in which the  
22 Staff focused on this.

23 CHAIRMAN JACKSON: I think we owe it to the staff  
24 to hear them out. I mean, I think that, you know, until we  
25 hear and give them the opportunity to develop what they plan

1 to develop, you know, with the guidance from the Commission  
2 -- I mean, that's their job to do and we should hear them  
3 out on that. So on that basis, why don't we proceed.

4 MR. JORDAN: Joe, thank you for taking my foot out  
5 of my mouth about Time Magazine.

6 Proceed.

7 MR. MARTIN: Slide 9.

8 Once the assessment areas are identified, the  
9 conduct of assessments will rely on either in-office review,  
10 visits to licensee facilities, or a combination of both.  
11 Even though we anticipate performing some of our activities  
12 at licensee facilities that may look a lot like inspection,  
13 the primary focus of our efforts will be to assess and  
14 approve the NRC.

15 One thing that I would like to emphasize here is  
16 the need for highly experienced reviewers in this process.  
17 These reviewers must not only have applicable technical  
18 knowledge, but credibility as well with the program office.

19 The regulatory effectiveness assessment staff will  
20 provide the core of this effort and would be supplemented by  
21 temporary assignments within the NRC as well as by the use  
22 of contractors as we did in the recent Millstone and Maine  
23 Yankee independent safety assessment teams.

24 For assessments that are site-focused, we  
25 anticipate that we will look at a similar set of issues at



1 several plants in order to provide a better sample size on  
2 which to base our conclusions. We will attempt to minimize  
3 the impact on the industry as a result of site-focused  
4 assessments. I would anticipate that five staff over a two-  
5 week period should be bounding numbers for these efforts.

6 Also, we anticipate that there will not be a need  
7 for site visits in some cases depending on the assessment  
8 areas being evaluated.

9 When we're in the field, we don't intend to merely  
10 plow the same ground as the inspectors before us. We may  
11 use cultural surveys to probe -- or probe in areas such as  
12 water chemistry or some of the other areas that were  
13 discussed that are not routinely inspected.

14 Next slide.

15 The process for feedback and handling inspection  
16 findings or regulatory assessment effectiveness findings  
17 will be through a report of the findings along with causes  
18 and recommendations provided to the deputy executive  
19 director of regulatory effectiveness. He will then provide  
20 them to the deputy executive director, regulatory programs.

21 If there is any disagreement on the conclusions or  
22 proposed staff actions, they will be resolved by the EDO.  
23 After there is agreement, staff action assignments will be  
24 made to the affected program office.

25 Risk and impact insights will be applied to the



1 regulatory effectiveness findings to help us prioritize  
2 their resolution. Staff actions will be tracked as any  
3 other action signed by the office of the EDO and the  
4 regulatory effectiveness assessment staff will monitor  
5 whether the actions taken to close out the findings are  
6 accomplishing their intended purpose.

7 At this point, I would like to turn the  
8 presentation back over to Mr. Jordan.

9 MR. JORDAN: Could I have the next slide, please.

10 The object here is to identify the role of the  
11 four offices in support of this particular effort. The  
12 Office of Research will be responsible for developing this  
13 regulatory matrix assessment tool, for developing the  
14 workplace environment and safety attitude assessment tool  
15 and providing risk insights to support the team and the  
16 identification.

17 AEOD has the lead for compilation of performance  
18 information from the four offices and to provide an input of  
19 the proposed areas for regulatory effectiveness assessments  
20 to Tom and his team, and to conduct case studies of  
21 regulatory issues which are a derivative of the present case  
22 study approach that AEOD applies.

23 The next slide, please.

24 The Office of Enforcement will provide insights of  
25 both licensee and industry performance from enforcement and

1 to develop regulatory effectiveness insights from their  
2 enforcement perspective.

3 Similarly, the Office of Investigation would  
4 provide insights on both licensee and industry performance  
5 from investigations and provide those insights from  
6 investigations. Their data source information would then be  
7 compiled by AEOD for Agency use.

8 Could I have the next slide, please.

9 The implementation plan consists of some eight or  
10 so steps. First of all, to assemble a regulatory  
11 effectiveness assessment staff, and that's part of the  
12 reason for being here today, is to obtain Commission  
13 approval to proceed with assembling people to support Tom in  
14 this effort.

15 One of the first products would be to develop a  
16 Commission policy statement that would be provided as a  
17 Federal Register Notice for public comment in order to  
18 obtain external views of our definition of regulatory  
19 assessment, how we're -- regulatory effectiveness assessment  
20 and how we are intending to go about it, to develop a draft  
21 management directive that the staff would apply, to  
22 implement programs to collect the performance information.  
23 This is those four offices combined providing this input  
24 information. To develop the regulatory matrix assessment  
25 tool and to establish the process for input by the public

1 and by industry for potential areas for assessment, and then  
2 to develop a prioritized list of assessment areas that we  
3 would then periodically reprioritize and add to, and to  
4 begin the assessments. So that's the sequence of the plan.

5 Next slide, please.

6 The resource requirements in order to do this  
7 portion assumed -- and maybe it would be helpful if I  
8 described it -- assumed an 18-week evaluation cycle; that  
9 is, a four-week development of the assessment areas and  
10 preparation for the reviews that would be done within the  
11 NRC offices and at licensee sites where necessary; a two-  
12 week review cycle, and a sufficient sample by going to three  
13 sites if it requires site review in order to make a case,  
14 provide a basis that is, in fact, sound; and then a four-  
15 week report preparation time. We would expect to handle  
16 something like six areas for each of these assessments and  
17 would expect to be able to do two assessment cycles in a  
18 year. So that would be some twelve assessment areas in a  
19 one-year period for the reactor program. That would  
20 require, during the remainder of this fiscal year, some 2  
21 FTE that would be imbedded in doing this work, 7 FTE in 1998  
22 and 8 in 1999 fiscal years.

23 MR. CALLAN: That includes materials oversight,  
24 too; it's not just --

25 MR. JORDAN: It would begin materials in April of

1 '98. So we would go through one year of reactor and then  
2 begin development of materials assessment in April of '98.

3 The complement of personnel would be an SES  
4 manager, six technical staff, and one clerical. The full  
5 implementation, the additional 8.5 FTE, those are between  
6 three FTE for rotation from other offices for expertise.  
7 And this is what we would be expending, some 3 FTE in AEOD  
8 that would be performing the data collection, compilation,  
9 analysis and associated case studies, and the 2.5 FTE in  
10 Research that would be devoted to developing the regulatory  
11 matrix and the workplace assessment tool. The financial or  
12 the dollar resource of 1.3 million is for development of the  
13 regulatory matrix, the database development and contract  
14 support resources.

15 Now I would like to try to go back and reconnect  
16 what seems to be the biggest stumbling block, the idea of  
17 excellence and effectiveness. The understanding I had --  
18 and as I started, I was the manager on the strategic  
19 assessment committee that expressed the regulatory  
20 excellence DSI, and our object was to have an overall  
21 program and that we are addressing with an overall program  
22 the idea of the safety attitude of the NRC staff and its  
23 goal or its objective to reach excellence, that we're  
24 providing the tools necessary for the staff, we're providing  
25 the training, we're providing the management support and

1 seeking in every way to have a staff that's dedicated and  
2 seeking excellence.

3 That of itself creates or should create an  
4 effective regulator. In the process of doing that, though,  
5 we want to look proactively for areas in which the agency  
6 ought to put resources or ought to take resources away that  
7 have grown by the iterative process that occurs within an  
8 agency of this sort, not necessarily having grown in a risk-  
9 informed environment that we now have, that we can now  
10 apply.

11 So the genesis of the effort that Tom is dedicated  
12 to at this point was to provide this fresh perspective of  
13 the Agency's emphasis on clearly safety issues in the  
14 regulatory program.

15 CHAIRMAN JACKSON: Okay. Did you have some final  
16 comments?

17 MR. CALLAN: Yes, Chairman, just a couple points.  
18 One is I think underlying some of the questions is a concern  
19 that a process similar to this robust oversight process  
20 would actually encumber the staff and create distractions  
21 and actually cause the staff to lose focus on the major  
22 issues that we have to deal with.

23 That is a concern. There is certainly a concern  
24 voiced by some of the program offices, probably all the  
25 program offices in discussions, and it's something that we

1 have to be vigilant about.

2 The intent here is to establish a process that  
3 doesn't polarize, that actually builds team work, actually  
4 adds to cohesion of the team, the NRC team, and makes us  
5 feel better about ourselves. We're finding our own  
6 problems. And we know it can be done because we've seen the  
7 better utilities in the country do it. We know it can be  
8 done. They're not mutually exclusive. Ten years ago, I  
9 think the conventional view was they were mutually  
10 exclusive. We know that's not right. We know it can be  
11 done.

12 My second point I just lost. Oh. And it's an  
13 important point. As Ed said, Ed Jordan said at the outset,  
14 part of the reason for this briefing today -- actually, it  
15 was supposed to be a week or two from now -- but part of the  
16 reason we're having it this spring and not in the fall is  
17 because of the sense of urgency and impetus that I  
18 personally provided. I feel a sense of urgency about this.  
19 I think what Ed described and what Tom Martin described was  
20 largely a process. What's lacking are many of the things  
21 that were identified during the discussion. But it's a  
22 process.

23 My view is and I think our collective view is that  
24 no matter what we end up with, at the end of the day, we  
25 will need a robust oversight function of some sort, some



1 independent oversight activity. We wouldn't accept anything  
2 less than that from even a so-called SALP 3 performing  
3 licensee. I mean, it's -- we need a lot more than that, but  
4 we do probably need that of some sort.

5 So the discussion today focused on setting up the  
6 -- establishing the groundwork for establishing such a  
7 process, and we have a lot of work to do, we understand, and  
8 the final matrix will have to be integrated clearly with the  
9 overall umbrella of regulatory excellence which, as I said  
10 at the outset, is due before the Commission in September.

11 CHAIRMAN JACKSON: Okay. Commissioner Rogers?

12 COMMISSIONER ROGERS: Well, we've all said a lot,  
13 and I know you've gotten, you know, comments and thoughts  
14 and points of view. The other one -- I'm not going to  
15 repeat myself here, but I do think that the problem that I  
16 see with what you've sketched out here is that it seems to  
17 be such a top-down driven effort when you really -- if you  
18 really want a buy-in from everybody who is going to make an  
19 important contribution, and we hope there isn't anybody here  
20 that won't, I don't see what the mechanism for that is.

21 You know, we've seen lots of effort in the  
22 industry from TQM and things like this that frankly I've  
23 never really been sold on, but I do think that it is  
24 terribly important to engage everybody at as early a stage  
25 as you can in some way.

1           Now, obviously management has to play its role in  
2   the end and see that things happen, but the problem that I'm  
3   hearing here is that it seems like this is, you know, a bit  
4   of -- what I've seen and heard, and maybe you have something  
5   more in mind, but, you know, a team of people that is going  
6   to go out and start to lay this all out, and then hope that  
7   people will get engaged, and it doesn't work that way if you  
8   want to capture people's hearts and minds. You've got to  
9   get them in very early.

10           So my comment simply is that I would hope that  
11   before you go too much further, that you find a way to  
12   capture the participation of the broad base of people who  
13   work for NRC.

14           CHAIRMAN JACKSON: Commissioner Dicus?

15           COMMISSIONER DICUS: Yes, I have to agree  
16   essentially with everything that I've heard today from  
17   fellow commissioners on what we have had presented to us,  
18   including the fact that there appears to be some sort of  
19   disconnect between what the DSI said or what we thought we  
20   were saying in the DSI and what we have been given back, and  
21   I think that's perhaps the basis of some of the concerns  
22   that you've heard.

23           I agree that I think what we wanted to achieve  
24   with this particular issue is to try to ensure that we do  
25   find our own problems, we do avoid Millstones and things of

1 that nature; but as I looked at what is being presented, I  
2 see a very labor-intensive, resource-intensive program being  
3 developed, even taking on its own life, perhaps even its own  
4 -- becoming its own bureaucracy that could, in fact, have  
5 the result of preventing us from seeing our own problems,  
6 becomes so, so abstract and so, at the same time, forceful  
7 on the staff from, as Commissioner Rogers said, the top down  
8 that we don't find the problems and we wind up with the  
9 opposite effect.

10 I should just suggest that you really go back,  
11 restudy, re-review the DSI and the intent that's in it, try  
12 to simplify the process, and perhaps even look at outside  
13 the Agency. I mean, we almost may be reinventing the wheel.  
14 Other, perhaps, agencies or industries or groups have done  
15 this, have found what is an effective program, and might be  
16 somewhat helpful to us as we try to really address what is  
17 in the DSI.

18 We have a lot of rather detailed questions which I  
19 won't go into at this time. They may surface if we go  
20 forward with this SECY, on the vote on it, but I would just  
21 suggest kind of -- I think you need to go back and re-review  
22 what the intent is here.

23 CHAIRMAN JACKSON: Commissioner Diaz.

24 COMMISSIONER DIAZ: I think I would like to say  
25 that I was kind of anxious about the value of this meeting

1 when I saw the documents this morning. I think this has  
2 been a very valuable meeting because it has shown a great  
3 disconnect between the way the staff was thinking and I  
4 think the way the Commission was thinking, and in that  
5 sense, I think that's of tremendous value, rather than  
6 thinking that we were, you know, arguing about points, I  
7 think it's extremely important.

8 I would like to go back and try to go back to,  
9 again, this issue of excellence and effectiveness, and I  
10 think that Mr. Jordan, you know, really clarified, you know,  
11 why the narrowness of the approach -- because I think you  
12 said, and I don't know whether I'm quoting, but it's close,  
13 that you were focusing on the issue of the design basis, and  
14 that drove, you know, your intention of avoiding, you know,  
15 significant gaps in the design basis and who that drives the  
16 --

17 MR. JORDAN: Yes.

18 COMMISSIONER DIAZ: -- regulatory effectiveness.  
19 And I think that's the main issue, is that we actually  
20 envisioned something much more comprehensive, much more  
21 holistic that actually, you know, pervaded the organization  
22 and the structures and not just, you know, focusing on the  
23 design basis issue, which is an important issue, but it's  
24 not the only issue. With that, I think that showed the  
25 disconnect.

1           A final point is that, you know, to summarize my  
2 perspective of what we wanted in very simple words is we  
3 really wanted to have a QA of the NRC that considered  
4 everything that we're doing and it involved, you know,  
5 everybody.

6           CHAIRMAN JACKSON: Mr. Jordan, you wanted to make  
7 a comment?

8           MR. JORDAN: Yes. I wanted to clarify that by  
9 raising the design basis issue, it was an example of the  
10 kind of problem that we want to avoid, not that we want to  
11 probe further into that particular problem that's already  
12 been exposed. So that was the intent of using that as an  
13 example.

14          COMMISSIONER DIAZ: Oh, I'm sorry. I understood  
15 when you said it that it actually meant that when you  
16 thought of the process and when you were put in this, the  
17 main driving component was to address the design basis  
18 issue.

19          MR. JORDAN: Not at all.

20          COMMISSIONER DIAZ: Okay.

21          CHAIRMAN JACKSON: Comment?

22          MR. MARTIN: No. I think Ed clarified that.  
23 That's just one example. As a matter of fact, that wasn't  
24 even on our top 10 list, the hit parade, right now.

25          COMMISSIONER McGAFFIGAN: I will try to be a

1 broken record only briefly.

2 CHAIRMAN JACKSON: Let's try to break new ground.

3 COMMISSIONER MCGAFFIGAN: The fundamental issue,  
4 as other commissioners have said, is the disconnect -- the  
5 Chairman has said -- between what you're saying today and  
6 what we read in DSI-23.

7 I have DSI-23 in front of me, and the option 2  
8 discussion, and I've re-read the couple of pages while we've  
9 been sitting here this afternoon, and I can find a passing  
10 phrase in the couple of pages of description of option 2.  
11 You know, eliminating barriers and minimizing  
12 vulnerabilities occurs on page 11, and there's a place on  
13 page 12 where you could justify arguably that some part of  
14 regulatory excellence is what you're talking about here  
15 today. But the vast majority of the discussion on those  
16 pages is on something quite different.

17 My concerns, you know, in the last few viewgraphs  
18 you went through -- the policy statement in this area, I  
19 don't know what it would be, and I'm not sure there's  
20 anything I've heard today that rises to the level of a  
21 policy statement, but I think there were in DSI-23, there  
22 might be.

23 But 50 percent of the resources -- I mean, if --  
24 and it's apples and oranges, but the resources that were  
25 going to implement DSI-23 that we were told about were on



1 the order 18 to 30 FTEs, steady state, and zero to \$2  
2 million of contractor support. Well, you know, by the year  
3 2000, you're talking about 17.5 FTEs in this area, which is  
4 most of 18 to 30, and most of the zero to \$2 million of  
5 contractor support.

6 So it strikes me that, you know, if you just read  
7 where the resources are going, which is what I tend to do,  
8 coming out of the Hill, you're talking here about most of  
9 the response to the regulatory excellence DSI, and I was  
10 much more interested in the long list of things that were on  
11 page 11, you know, fundamental processes of the agency, core  
12 processes of the agency, where we clearly have a long ways  
13 to go to make improvement.

14 So that is, you know, a heartfelt reaction to  
15 seeing this paperwork in the last 24 hours. I'll leave it  
16 at that.

17 CHAIRMAN JACKSON: Well, you have heard it here  
18 first. I would like to thank you for what has been  
19 informative to the Commission, because I think it has given  
20 the Commission some sense of where your thinking is as to  
21 where you think you ought to go compared to what the  
22 Commission thought it wanted you to do.

23 So it's going to obviously give you guidance, but  
24 the Commission does owe it to you to let you try to  
25 structure an appropriate process, and I think that, again,

1 you have to give a positive definition to what regulatory  
2 effectiveness is and how that ties to regulatory excellence  
3 as laid out in DSI-23, and how whatever it is you  
4 specifically lay out to do programmatically derives from  
5 those elements of that DSI, because that is, you know, kind  
6 of the template, and how what you're proposing to do  
7 facilitates that, you know, how it's tied to the major  
8 elements of that DSI, how it ties into what the program  
9 offices or the Agency as a whole does, and how the offices  
10 under your specific purview inform that process.

11 If you are going to develop a policy statement, it  
12 gives you the opportunity to make this kind of a tie-in. If  
13 you are going to develop a management directive, it gives  
14 you the opportunity to talk about how what you're going to  
15 be doing ties to the elements of the DSI as well as how the  
16 connection is to what -- you know, the major programs and  
17 people of the NRC.

18 If you're going to implement a program to collect  
19 the performance information, again, it gives you the  
20 opportunity to talk about how the offices in your specific  
21 purview tie into that and how that, in fact, strengthens the  
22 existing day-to-day regulatory programs.

23 So with that, I'll just leave it at that, and  
24 we're adjourned.

25 [Whereupon, at 4:29 p.m., the briefing adjourned.]

CERTIFICATE

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

TITLE OF MEETING: BRIEFING ON PROGRAM TO IMPROVE  
REGULATORY EFFECTIVENESS - PUBLIC  
MEETING

PLACE OF MEETING: Rockville, Maryland

DATE OF MEETING: Wednesday, May 14, 1997

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

Transcriber: May Carpenter

Reporter: Jon Hundley



# **REGULATORY EFFECTIVENESS PROGRAM**

**Edward L. Jordan  
Thomas O. Martin**

**May 14, 1997**

## **BACKGROUND**

- **Recent reorganization established Deputy Executive Director for Regulatory Effectiveness**
- **Insights associated with reactor facilities in northeast United States**
- **Enhancement of regulatory excellence addressed as part of the Strategic Assessment and Rebaselining Project DSI-23**
- **COMSECY-96-067 asked for a comprehensive, systematic, agency-wide approach to program assessment and improvement**

# GOAL AND CONCEPT

## Goal:

Improve NRC's regulatory focus and performance

## Concept:

- Proceed on 3 parallel paths for identification and assessment of issues
- Provide constructive feedback to improve regulatory programs
- Recognize program office internal assessment and ongoing improvement programs
- Recognize OIG audits and staff commitments



## **PARALLEL PATHS**

- **Develop and implement an independent Regulatory Effectiveness Assessment Staff (REAS)**
- **Develop a methodology to compile and display regulated activities against regulatory measures and activities (RES)**
- **Compile regulatory performance objective measures, trends and data (AEOD, OI, OE, RES)**

## **PROGRAM OBJECTIVES**

- **Provide a quality assurance oversight of NRC regulatory activities**
- **Improve the clarity, coherency, consistency, and technical quality of NRC regulatory activities**
- **Improve emphasis of regulatory oversight based on risk**
- **Involve a broad range of regulatory areas**
- **Identify issues at a low level before they become more significant problems**
- **Improve public confidence in NRC activities**

## **SCOPE OF ISSUES**

**Issues of interest may include any NRC regulatory program, regulation, or activity that:**

- **lacks technical justification;**
- **is inconsistent or not complementary;**
- **lacks clarity;**
- **is underemphasized or overemphasized relative to the risk involved; or**
- **does not accomplish its intended purpose.**

**Initial development will focus on power reactors.**

## **SOURCES AND SELECTION OF ASSESSMENT AREAS**

- **Regulatory Matrix Assessment Tool, performance information, and stakeholder input**
- **Input by e-mail address, website, and mailing address**
- **Areas will be prioritized and the Commission will be informed**

# **POTENTIAL ASSESSMENT AREAS**

## **REGMAT**

- **Water Chemistry**
- **Unique Design Features**

## **DATA/EXPERIENCE**

- **Workplace Environment/Culture**
- **Surveillance Testing**
- **Severity Level IV Enforcement Consistency**

## **REAS**

- **Training of Inspection Staff**
- **Inspection Program**
- **Plant Assessments**
- **Surveillance Testing**

# **PROGRAM ASSESSMENTS**

**Optimum balance of site and in-office activities**

- **extensive preparation and review**
- **utilize highly experienced reviewers**
- **build upon experience from Millstone and Maine Yankee efforts**
- **comparison made to relevant results of normal programs (e.g., inspection, enforcement, training)**
- **will involve review of a selected set of issues at 2-3 plants**
- **licensees will not be individually billed under Part 170**
- **may include innovative methods**



## **HANDLING REGULATORY EFFECTIVENESS FINDINGS**

- Findings of health and safety impact will immediately be given to the region and licensee
- Causes and recommendations will be provided
- Findings will be provided in a report from the REAS to the DEDO for Regulatory Effectiveness
- DEDO will transmit the findings to the DEDO for Regulatory Programs
- The DEDO Regulatory Programs will issue action to the program office
- The EDO will resolve areas of disagreement
- REAS will follow-up on adequacy of closeout

# **ROLE OF DEDO OFFICES**

## **RES**

- **Regulatory (REGMAT) Matrix Assessment Tool**
- **Develop workplace environment and safety attitude assessment tool**

## **AEOD**

- **Lead for compilation of performance information**
- **Provide input to REAS of assessment areas and potential regulatory effectiveness findings**
- **Conduct case studies of regulatory issues**

## **ROLE OF DEDO OFFICES (CONTINUED)**

### **OE**

- **Develop insights of licensee and industry performance from enforcement**
- **Develop regulatory effectiveness insights from enforcement**

### **OI**

- **Develop insights on licensee and industry performance from investigations**
- **Develop regulatory effectiveness insights from investigations**

## **IMPLEMENTATION PLAN**

- **Assemble Regulatory Effectiveness Assessment Staff**
- **Develop a Commission policy statement**
- **Develop a draft Management Directive**
- **Implement programs to collect performance information**
- **Develop a regulatory matrix assessment tool**

## **IMPLEMENTATION PLAN (CONTINUED)**

- **Establish process for public and industry input to Regulatory Effectiveness Assessment Staff**
- **Develop a prioritized list of regulatory effectiveness assessment areas**
- **Begin assessments**

## **RESOURCE REQUIREMENTS**

- **Infrastructure - 7 FTE in FY 98 and 8 FTE in FY99  
(SES manager, 6 technical staff, 1 clerical)**
- **Full implementation - Additional 8.5 FTE**
- **\$1300K**