

TRANSCRIPT OF PROCEEDINGS

DEFENSE NUCLEAR FACILITIES SAFETY BOARD)
SUNSHINE ACT MEETING)

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DEFENSE NUCLEAR FACILITIES SAFETY BOARD

DEFENSE NUCLEAR FACILITIES SAFETY BOARD)
SUNSHINE ACT MEETING)

Wednesday,
May 25, 2011

PARTICIPANTS:

PETER S. WINOKUR, Ph.D., Chairman
JESSIE H. ROBERSON, Vice Chairman
JOHN E. MANSFIELD, Ph.D., Board Member
JOSEPH F. BADER, Board Member
TIMOTHY J. DWYER, Technical Director
RICHARD E. TONTODONATO, Deputy Technical Director
J. RICHARD SCHAPIRA, Deputy General Counsel
BRIAN GROSNER, General Manager
MATTHEW J. FORSBACKA, Ph.D., Board Technical Staff

ALSO PRESENT:

MELVIN G. WILLIAMS, JR., VADM, USN (Retired)
Associate Deputy Secretary of Energy
Department of Energy

GLENN PODONSKY,
Chief Health, Safety and Security Officer
Office of Health, Safety and Security
Department of Energy

THOMAS P. D'AGOSTINO
Under Secretary for Nuclear Security
Administrator, National Nuclear Security
Administration

DONALD L. COOK, PhD
Deputy Administrator for Defense Programs
National Nuclear Security Administration

INÉS TRIAY, PhD
Assistant Secretary for Environmental Management
Department of Energy

ALSO PRESENT: (Cont'd)

DAE CHUNG
Principal Deputy Assistant Secretary for
Environmental Management
Department of Energy

APPEARANCES:

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P R O C E E D I N G S

(9:00 a.m.)

CHAIRMAN WINOKUR: Good morning. My name is Peter Winokur, and I am the Chairman of the Defense Nuclear Facilities Safety Board. I will preside over this public meeting and hearing.

I would like to introduce the Members of the Safety Board who are present here today.

To my immediate left is Dr. John Mansfield. To my immediate right is Ms. Jessie Roberson, Vice Chairman; and to her right is Mr. Joseph Bader. We four constitute the Board.

The Board's Deputy General Counsel, Richard Schapira, is seated to my far left, and next to him is the Board's General Manager, Brian Grosner. The Board's Technical Director, Timothy J. Dwyer, is seated to my far right. Several members of our staff closely involved with oversight of the Department of Energy's defense nuclear facilities are also here.

Today's meeting and hearing were publicly noticed in the Federal Register on March 3 and May 9, 2011. The meeting and hearing are held open to the public in accordance with the provisions of the government in the Sunshine Act. To provide timely and accurate information concerning the Board's public and

1 worker health and safety mission throughout the
2 Department of Energy's defense nuclear complex, the
3 Board is recording this proceeding through a verbatim
4 transcript and video recording.

5 As part of the Board's E-Government
6 Initiative, the meeting is also being made available
7 over the internet through audio streaming. The
8 transcript, associated documents, public notice, and
9 video recording will be available for viewing in our
10 public reading room on the seventh floor of this
11 building. In addition, an archived copy of the video
12 recording will be available through our web site for
13 at least 60 days.

14 In accordance with the Board's practice and
15 as stated in the Federal Register Notice, we will
16 welcome comments from interested members of the public
17 at the conclusion of testimony at approximately 3:30
18 this afternoon. A list of those speakers who have
19 contacted the Board is posted at the entrance to this
20 room. We have listed the people in the order in which
21 they have contacted us or if possible, when they wish
22 to speak. I will call the speakers in this order and
23 ask that speakers state their name and title at the
24 beginning of their presentation.

25 There is also a table at the entrance to this

1 room with a sign-up sheet for members of the public
2 who wish to make a presentation but have not had the
3 opportunity to sign up previous to this time. They
4 will follow those who have already registered with us
5 in the order in which they have signed up.

6 In order to give everyone wishing to speak an
7 equal opportunity, we ask presenters to limit their
8 original statements to five minutes. The Chair will
9 then give consideration to additional comments should
10 time permit.

11 Presentations should be limited to comments,
12 technical information, or data concerning the subjects
13 of this meeting and hearing. The Board members may
14 question anyone making presentations to the extent
15 deemed appropriate.

16 The record of this proceeding will remain
17 open until June 27, 2011. I would like to reiterate
18 that the Board reserves the right to further schedule
19 and otherwise regulate the course of this meeting and
20 hearing, to recess, reconvene, postpone, or adjourn
21 this meeting and hearing, and to exercise its
22 authority under the Atomic Energy Act of 1954, as
23 amended.

24 This is the third in a series of public
25 meetings highlighting the need for the Department of

1 Energy (DOE) and the National Nuclear Security
2 Administration (NNSA), to complete commitments made to
3 the Board in Board Recommendation 2004-1, Oversight of
4 Complex, High-Hazard Nuclear Operations.
5 Recommendation 2004-1 was designed to strengthen
6 federal safety assurance, to utilize lessons learned
7 from internal and external operating experience, and
8 to reconfirm the Integrated Safety Management (ISM) as
9 the foundation for the Department's safety management
10 approach along with effectively addressing weaknesses
11 in ISM implementation.

12 At this hearing the Board is reviewing DOE's
13 and NNSA's safety management and oversight of the
14 contracts and contractors they rely upon to accomplish
15 their mission.

16 We will focus on what impact DOE's and NNSA's
17 new initiatives, including changes to DOE Directives,
18 contractor oversight, and governance may have upon
19 assuring adequate protection of the health and safety
20 of the public workers at DOE's and NNSA's defense
21 nuclear facilities.

22 In its review of the 2010 DOE Safety and
23 Security Reform Plan issued on March 16, 2010, which
24 set as a goal a significant revision of DOE's
25 directives as well as new forms of governance proposed

1 by NNSA, the Board asks a few simple questions: What
2 was broken, and what are you trying to fix or improve?
3 What is the urgency that drives the need to review
4 directives at an accelerated and expedited pace and
5 make changes in governance and oversight? I know
6 these questions sound challenging and a bit
7 adversarial, so let me ask you to view the questions
8 as an earnest request to better understand the
9 Department's rationale for significant changes in its
10 safety framework.

11 For the record, the Board does see the
12 changes in directives, oversight, and governance that
13 we are discussing here today as significant.

14 The Board believes that safety is an enabler
15 for mission. Safety only becomes a barrier when
16 operations cannot be performed in a safe, reliable
17 manner. On many occasions the people testifying here
18 today have expressed their personal commitment to
19 safety and acknowledged that safety and mission are
20 really one and the same.

21 I personally appreciate these statements, but
22 we will all benefit from a better understanding of
23 what's driving change at the Department and NNSA.

24 So when I asked above what was broken and
25 what are you trying to fix or improve, I must also ask

1 the questions: How did you know things were broken
2 and changes were needed? What were you looking at in
3 measuring that said we need to make changes? When
4 changes are made, how will you know that these changes
5 will strengthen mission and safety? And finally, is
6 there a problem with the safety management framework
7 or its implementation which often seems to be a
8 stumbling block?

9 I hope our witnesses today will shed some
10 light on these basic questions.

11 At the time it issued Board Recommendation
12 2004-1, the Board was concerned about DOE's and NNSA's
13 desire to shift responsibility for safety oversight at
14 defense nuclear facilities from headquarters and field
15 offices to contractors' self-assessment programs. The
16 Board supports strengthening these contractor
17 assurance systems and is interested in the
18 Department's views on the maturity of those systems at
19 its sites. The Board is also interested in how DOE
20 intends to strengthen its own assurance systems and
21 technical capabilities to meet its statutory
22 responsibility to protect public and worker health and
23 the environment.

24 In the end, contractors are responsible to
25 DOE for the safety of their operations, and DOE is

1 responsible to the President, Congress, and the
2 public.

3 Oversight is an inherently governmental
4 function that cannot be delegated to the Department's
5 contractors.

6 The Board is committed to working with DOE to
7 ensure adequate protection of the public and workers
8 at its defense nuclear facilities. Failures leading
9 to high consequence nuclear accidents are
10 unacceptable. Although the potential for such
11 accidents cannot be completely eliminated, their
12 likelihood can be held to an insignificant level by
13 operational excellence based on nuclear safety
14 standards, subject to rigorous oversight. The link
15 between an adequate federal oversight and major
16 accidents ranging from the space shuttle disasters to
17 the BP oil spill is undeniable.

18 In closing, the Board is not convinced of the
19 benefit of many of the changes in directives,
20 oversight, and governance being pursued by DOE and
21 NNSA. Throughout this hearing the Board wants to
22 fully understand the need for these changes in the
23 Department's safety framework and how to measure its
24 improvement.

25 I will now turn to the Board Members for

1 their opening statements.

2 Dr. Mansfield?

3 BOARD MEMBER MANSFIELD: Nothing at this
4 time.

5 CHAIRMAN WINOKUR: Ms. Roberson?

6 VICE CHAIRMAN ROBERSON: I have no statement,
7 Mr. Chairman.

8 CHAIRMAN WINOKUR: Mr. Bader?

9 BOARD MEMBER BADER: Thank you, Mr. Chairman.
10 I would like to take a few minutes to consider the
11 history of DOE's directives and oversight systems.

12 While clear requirements and guidance are
13 essential to provide adequate protection of the
14 workers and the public, my question is whether clear
15 requirements and guidance alone are sufficient.

16 The DOE Directives System evolved from the
17 Manhattan Project and the Atomic Energy Commission.
18 In over 60 years, the directives have matured based on
19 painful lessons learned by DOE and other
20 organizations. If those lessons are lost, the pain
21 will return.

22 In fact, Recommendation 2004-1 was born from
23 just such painful lessons learned. With the near-miss
24 at the Davis-Basse nuclear power plant in 2002 and the
25 loss of the space shuttle Columbia in 2003. These

1 shook public confidence in the safety of high-risk
2 operations. These events were primary drivers for
3 that Board Recommendation 2004-1.

4 The Board wanted DOE to build an organization
5 that would continually learn from its own and other
6 organizations' experiences.

7 Periodically it is desirable to review the
8 directives to ensure that they are comprehensive,
9 effective, and consistent with current policies and
10 technologies. It is my belief and concern that this
11 current directives reform is not ensuring that the
12 painful lessons learned are being strengthened.

13 This reform effort focuses on eliminating
14 requirements that are considered duplicative, overly
15 prescriptive, or burdensome. Inquiries at DOE and
16 NNSA sites by the Board have not validated these
17 concerns. DOE initiated formal directives reform
18 efforts in 1995, 2001, and 2007. As DOE conducted an
19 evaluation of the lessons learned from those previous
20 efforts to ensure that this directives reform will
21 both succeed and improve safety, and I'd add also
22 improve the implementation of safety, clearly.

23 Regarding DOE's oversight approach, both DOE
24 and NNSA are changing the way they ensure that
25 directives are implemented. This should be no

1 surprise. The history of DOE oversight reform goes
2 back even farther than DOE directives reform.

3 In 1985 Secretary of Energy John Harrington
4 initiated a series of technical safety appraisals
5 across the complex in response to the Bhopal chemical
6 plant disaster. These appraisals revealed widespread
7 and significant safety deficiencies. Soon afterwards,
8 the 1986 Challenger and Chernobyl accidents raised the
9 level of concern even higher.

10 The DOE Assistant Secretary for Environment,
11 Safety and Health and this Board were created as part
12 of the response.

13 When Secretary Jim Watkins took over in 1989,
14 he increased the level of oversight further with his
15 Tiger Teams. As Admiral Watkins stated in his
16 confirmation hearings, "If you look at our
17 organization chart, you'll be aghast at the lack of
18 attention to implementing policy. We are great on
19 policy documents but very poor on following up to see
20 if they are implemented properly."

21 Oversight continued to evolve in the early
22 1990s as new performance-based contracts were
23 instituted. DOE began to shift from a compliance-
24 based assessment model conducted by DOE towards a
25 contract-based performance metric model managed by the

1 contractors. Does this sound familiar?

2 This history of one ten year period in DOE
3 illustrates that changes in oversight models were
4 frequent but they were based on lessons learned and
5 recognized concerns.

6 In the years since, DOE has continued to
7 change its oversight models, but the reasons for those
8 changes are much harder to discern. What appears to
9 be lost are the answers to the questions: What is the
10 problem? Will the changes fix the problem? Will the
11 health and safety of the public and workers be
12 improved?

13 For example, has the Department examined why
14 the Los Alamos pilot oversight improvement projects of
15 1997 and 2004 were not successful? And what can be
16 learned from these efforts today?

17 The Government Accountability Office [GAO]
18 conducted at least nine reviews of DOE's oversight
19 programs between 1986 and today. Is that office
20 happier with DOE now than it was in 1986?

21 Directives reform efforts have come and gone,
22 yet the Board continues to find issues at multiple
23 sites with Integrated Safety Management implementation
24 at its most basic level -- work planning and control.

25 This is a key issue addressed by Recommendation

1 2004-1.

2 Why has DOE oversight not been effective in
3 addressing those issues?

4 The problems of inadequate requirements and
5 oversight are once again squarely in the public view
6 due to Deep Water Horizon, DC Metro crash, the
7 Crandall Canyon Mine collapse, the Upper Big Branch
8 Mine explosion, and of course the Fukushima Daiichi
9 disaster.

10 Can DOE and NNSA show that its new approaches
11 to directives and oversight and their implementation
12 will improve worker and public health and safety?

13 Thank you, Mr. Chairman. I have no further
14 remarks at this time.

15 CHAIRMAN WINOKUR: Thank you, Mr. Bader.

16 This concludes the Board's opening remarks.
17 At this time I would like to introduce Dr. Matthew
18 Forsbacka who will provide testimony from the Board
19 Staff.

20 DR. FORSBACKA: Good morning, Mr. Chairman
21 and Board Members. I'm Matt Forsbacka, and I lead the
22 Nuclear Programs and Analysis Group within the Defense
23 Nuclear Facilities Safety Board's Office of the
24 Technical Director.

25 I'd like to begin my statement by quoting

1 directly from the Board's enabling statute which can
2 be found under Title 42 of the United States Code,
3 Section 2286.

4 With regard to the review and evaluation of
5 standards the statute states, and I quote, "The Board
6 shall review and evaluate the content and
7 implementation of the standards relating to the
8 design, construction, operation and decommissioning of
9 defense nuclear facilities of the Department of Energy
10 including all applicable Department of Energy orders,
11 regulations, and requirements at each Department of
12 Energy defense nuclear facility.

13 "The Board shall recommend to the Secretary
14 of Energy those specific measures that should be
15 adopted to ensure that public health and safety are
16 adequately protected. The Board shall include in its
17 recommendations the necessary changes in the content
18 and implementation of such standards, as well as
19 matters on which additional data or additional
20 research is needed." End quote.

21 Simply stated, the Board views the directives
22 system as a primary means by which DOE enables the
23 safe accomplishment of work at defense nuclear
24 facilities.

25 In this context, the Board has established a

1 list of directives referred to as the Orders of
2 Interest to the Board. It is important to note the
3 Board provides safety oversight for the public and
4 workers at defense nuclear facilities, not just safety
5 of nuclear operations in those facilities.
6 Consequently, Orders of Interest to the Board include
7 such topics as Integrated Safety Management, fire
8 protection, quality assurance, and emergency
9 management.

10 I have marked as Exhibit 1 the current list
11 of Orders of Interest to the Board.

12 (Exhibit 1 was identified.)

13 Last year DOE and NNSA pursued several
14 initiatives to dramatically alter the scope and impact
15 of the directives system. DOE issued its 2010 Safety
16 and Security Reform Plan that sought to revise,
17 cancel, or consolidate 107 safety and security
18 directives maintained by DOE's Office of Health,
19 Safety and Security on an extremely aggressive
20 schedule that targeted a 50 percent reduction in
21 health and safety directives in six months.

22 In response to a Board letter issued on May
23 5, 2010, that expressed concerns with this approach,
24 HSS developed a Project Management Plan late last
25 summer which put the effort on a timeline to allow

1 sufficient rigor in the process.

2 Under its Governance Reform Initiative, NNSA
3 sought to identify duplicative, overly prescriptive,
4 inconsistent, and unclear requirements and authorized
5 its site offices to delete them from site contracts
6 starting with the Nevada National Security Site and
7 Sandia National Laboratories. But the initiative
8 raised questions regarding its potential impact on
9 safety as was noted by the Board's December 7, 2010,
10 letter to the Deputy Secretary [Daniel B. Poneman].

11 At the end of 2010, DOE adopted an expedited
12 process for changing directives beginning with seven
13 health and safety directives that were targeted in the
14 NNSA Governance Reform Initiative. This represented a
15 significant diversion from the plan that had been
16 established over the summer.

17 The Board's letters to the Secretary of
18 Energy [Steven Chu] and Deputy Secretary of Energy
19 asking questions for clarification on the intent and
20 expected outcome of reform efforts that I have
21 enumerated boil down a series of simple questions.
22 Some of these questions have already been raised by
23 the Chairman in his opening remarks, but they bear
24 repeating.

25 One, what was the specific problem in the

1 current directives that would justify the large-scale
2 reform efforts? What was the Department looking at
3 and measuring that indicated there's a need to make
4 changes in the directives? And when changes are made,
5 how will the Department know that these changes will
6 strengthen mission and safety?

7 What specific criteria is DOE using to
8 analyze individual directives to determine
9 cancellation and consolidation? And what steps is DOE
10 taking to improve and strengthen directives?

11 Third, what is the urgency that drives the
12 need to revise directives at an accelerated and then
13 later expedited pace?

14 Fourth and finally, is there a fundamental
15 problem with the safety directives? Or was it just in
16 their implementation?

17 We're now at the juncture where several
18 directives in the expedited process have been approved
19 by the Deputy Secretary of Energy. So what is the
20 impact going to be?

21 A case in point is the revised policy and
22 order on Integrated Safety Management (ISM) which was
23 signed out by the Deputy Secretary on April 25, 2011.

24 By regulation, ISM is a mandated safety management
25 approach that is to be followed by the Department.

1 Per DOE's Nuclear Safety Policy, DOE Policy 420.1,
2 issued on February 8, 2011, DOE is committed to the
3 core functions and guiding principles of Integrated
4 Safety Management. Although the top level ISM guiding
5 principles and core functions of ISM remain unchanged
6 in this latest revision, the specificity of the
7 requirements and the amount of information to aid site
8 offices and contractors in implementation has been
9 largely reduced.

10 Rather than clarify expectations to improve
11 implementation of Integrated Safety Management, the
12 staff believes that the current direction DOE is
13 taking has the potential to weaken its foundational
14 safety approach to identify hazards and implementing
15 controls that can prevent or mitigate those hazards.

16 DOE is working on revising the guide to
17 accompany the newly-issued DOE order and ISM, but this
18 guidance is only in draft form.

19 From discussions with DOE staff we understand
20 the previous versions of the directives were posted in
21 the archives section of the DOE Directives Website.
22 These archived directives contain the more detailed
23 information as well as the full complement of
24 requirements the Board Staff recommends to DOE to
25 retain. The staff understands that users of the

1 directives are expected to consult these archives if
2 they wish to review more detailed information.

3 The staff questions why DOE is revising a
4 directive and then taking deliberates steps to ensure
5 the users of the directive are made aware of the
6 previous version. The staff feels that these actions
7 indicate that the new versions of the directives are
8 incomplete and require reaching back to ensure safety.

9 I've taken some time to focus on the
10 revisions to the ISM policy and order because, as I
11 said above, it's foundational to DOE's safety
12 framework.

13 Over the past three years the Board staff
14 performed reviews of activity-level work planning and
15 control, in nearly all of DOE and NNSA sites with
16 defense nuclear facilities. Activity-level work
17 planning and control is basically the implementation
18 of ISM at the worker level, where the rubber meets the
19 road, so to speak.

20 Based on the staff reviews, the Board has
21 issued numerous letters to DOE identifying weaknesses
22 in the implementation of ISM at the activity level
23 across the Complex. It isn't clear that reducing the
24 specificity of requirements or making changes to
25 directives is going to improve work planning and

1 control. A better solution would be the effective
2 implementation of the previous directive on ISM.

3 In addition, across all sites incorporation
4 of lessons learned from the field back to work
5 planning process is lacking. DOE and contractor
6 oversight is often not effective at identifying or
7 correcting these recurring problems.

8 This suggests that ISM isn't consistently
9 applied where the work is actually being conducted,
10 and we on the Board Staff see hazards going
11 unaddressed or inappropriately addressed in our field
12 observations.

13 Again, it is not clear how the revised ISM or
14 oversight directives will improve the implementation
15 of ISM at the activity level, especially when
16 considering implementation guidance has been removed
17 and no new guidance has been added.

18 The Department's 2010 Safety and Security
19 Reform Plan has an end state vision and many goals
20 which include the need to eliminate directives that
21 are redundant, burdensome, and overly prescriptive.
22 It's the staff's belief that a certain degree of
23 redundancy is necessary to fully integrate directives
24 into a safety strategy that provides consistency and
25 clear direction, particularly when it comes to

1 operations involving nuclear weapons and large
2 quantities of radioactive waste material.

3 Given the wide variety of issues that the
4 Board routinely communicates to DOE and NNSA that stem
5 from failures to properly interpret directives and
6 standards, one can hardly conclude that directives are
7 universally overly prescriptive. It's the Board's
8 Staff's understanding the Chief of Defense Nuclear
9 Safety has visited NNSA sites to better understand and
10 document concerns about directives impacting nuclear
11 safety, and that EM [Environmental Management] has
12 also queried its contractors.

13 At today's hearing we would like to
14 understand the feedback that DOE has received from its
15 contractors to better inform this discussion.

16 Policies, orders, notices, guides, and
17 technical standards comprise the system of directives.

18 I'd like to say a few words on guides.

19 As described in DOE Order 251.1C,
20 Departmental Directives Program, guides, and I quote
21 directly from the order, "provide an acceptable but
22 not mandatory means for complying with the
23 requirements of an order or a rule. Note, alternative
24 methods that satisfy the requirements of an order are
25 also acceptable. However, any implementation selected

1 must be justified to ensure that an adequate level of
2 safety commensurate with the identified hazards is
3 achieved." End quote.

4 Implementing requirements of an order or rule
5 is mandatory for DOE's contractors, and guides should
6 define how this implementation is accomplished
7 effectively. This puts the onus on DOE to provide
8 sound guidance, and it challenges both DOE and its
9 contractors to find a better way where it make sense
10 to do so.

11 In play now are the development of the long-
12 overdue guide to accompany the oversight order and the
13 guide for the Integrated Safety Management order, now
14 DOE Order 450.2.

15 My directives letters to the Department
16 Representative dated March 9th and March 23rd, marked
17 as Exhibits 2 and 3, address the need for sufficient
18 guidance for oversight and Integrated Safety
19 Management programs respectively.

20 (Exhibits 2 and 3 were
21 identified.)

22 I'd like to spend a few moments discussing
23 oversight.

24 DOE and NNSA are reevaluating their roles in
25 overseeing the work of their contractors, which

1 includes increasing reliance on contractors' assurance
2 systems. The staff observes that many of these
3 contractor assurance systems are not fully mature.

4 Last year NNSA declared a six month
5 moratorium on NNSA initiated functional assessments,
6 reviews, evaluations, and inspections of its
7 contractors. The outcome of this effort was a policy
8 letter issued by NNSA in February of this year titled,
9 "Transformational Governance and Oversight."

10 The policy states that as contractors
11 demonstrate the effectiveness of their self-assurance
12 systems, NNSA will quote "reduce duplicative or
13 transactional oversight in favor of system oversight"
14 end quote, but subsequently indicates the
15 transactional oversight for nuclear and high-hazard
16 activities would continue and be enhanced.

17 Will this pay a dividend in increasing
18 resources for high-hazard and nuclear operations? We
19 have not yet seen strong signals to indicate that this
20 is the case.

21 In parallel with this effort, DOE's Office of
22 Health, Safety and Security has been changing its
23 operational model from one of the traditional role of
24 performing independent oversight, to one that
25 emphasizes assisting line organizations in addressing

1 problem areas in safety and security.

2 DOE's 2010 Safety and Security Reform Plan
3 stated that HSS had suspended independent oversight of
4 low-hazard operations except for where site
5 performance warranted increased attention, but that
6 rigorous and informed oversight would continue for
7 high-hazard operations.

8 The reform plan stated that DOE's Directive
9 on Independent Oversight, DOE Order 470.2B,
10 Independent Oversight and Performance Assurance
11 Program, would be revised to redefine the independent
12 oversight and regulatory enforcement functions of HSS.

13 This revision is still in progress, so the
14 final role of HSS is still being determined. The
15 Board's Staff is actively providing input to DOE on
16 this important directive. Once again we would like to
17 understand the purpose of these changes.

18 Let me close by saying that the directives
19 system has undergone a series of overhauls in the past
20 ten years, and what has been remarkably consistent is
21 that the core set of safety requirements contained
22 within the Orders of Interest to the Board has not
23 substantively changed. We will continue to work with
24 the Department to strengthen and improve directives,
25 governance and oversight.

1 to ask all presenters to limit their oral statements
2 to ten minutes.

3 Admiral Williams, welcome.

4 ASSOCIATE DEPUTY SECRETARY WILLIAMS: Mr.
5 Chairman and Members of the Board, good morning.
6 Thank you for the opportunity to participate in this
7 hearing.

8 What I'd like to do this morning is to
9 describe my role at the Department of Energy as well
10 as give you a sense of my experience base and give you
11 insight into the actions I've taken within the
12 Department to date.

13 My role within the Department of Energy is as
14 the Associate Deputy Secretary. I report directly to
15 Secretary Chu and the Deputy Secretary. My position
16 is in the Office of the Secretary of Energy.

17 My duties encompass a broad range of
18 responsibilities directly aligned with those that the
19 Secretary and the Deputy have.

20 On a regular basis, my primary duties involve
21 management and operational excellence which is aligned
22 with our Strategic Plan.

23 And so Secretary Chu has recently released
24 the Strategic Plan 2011 within the Department, and if
25 one were to read the section on management and

1 operational excellence, that really aligns with my
2 responsibilities.

3 I truly believe that first and foremost
4 within the Department we must have mission performance
5 that truly regards safe, secure, and effective
6 performance. I believe that excellence should be our
7 standard. I believe that our culture should be one
8 that is performance-based. And I will endeavor to
9 achieve those on behalf of the Secretary and the
10 Deputy.

11 With respect to direct reports at the
12 Department, a number of the functional or corporate
13 offices report to me on a daily basis. That includes
14 human capital, management, as well as Health, Safety
15 and Security, and others. I directly interface with
16 the Under Secretaries, the Assistant Secretaries, and
17 all the senior leaders within the Department at
18 headquarters and in the field.

19 With respect to decision-making, I've been
20 assigned chair of a number of decision-making bodies.
21 One includes the Operations Management Council which
22 includes the Under Secretaries and several of the
23 corporate functional leads; chair of the Chief
24 Operating Officer Board, which is a relatively new
25 board, which are career SES [Senior Executive Service]

1 individuals within line who I meet with on a periodic
2 basis to tee up decisions regarding operations on
3 behalf of the Under Secretaries. I'm the Secretary's
4 representative on the Directives Review Board. So I
5 have been at the table for the last eight or so
6 Directive Review Boards as part of that process.
7 There are several other boards whereby I'm the chair,
8 and so from a decision-making standpoint I'm very much
9 involved in how that works.

10 Regarding the written word. Once we meet at
11 these boards and councils, we must institutionalize
12 our decisions. So all the packages that are written
13 come through me. I review everything, and then
14 forward them to the Secretary or the Deputy, and/or I
15 have the authority to resolve many of those at my
16 level.

17 As far as my experience base, many of you
18 know that I've had the privilege to serve the men and
19 women in the United States Navy and the Joint Forces
20 for some 32 years, and I thoroughly enjoyed it. I
21 thoroughly enjoyed it. This past October I hung up my
22 uniform and was offered by Secretary Chu the
23 opportunity to come to the Department. I accepted.
24 So I've been with the Department for three months now.
25 I'm still learning, but I'm also acting.

1 When I started my career I was interviewed by
2 Admiral Hyman G. Rickover, like some in this room. It
3 was quite an experience. I was certified by Admiral
4 Rickover and served as Chief Engineer on a nuclear-
5 powered strategic weapon submarine, went on to be a
6 member of the Nuclear Propulsion Examining Board
7 charged with ensuring operational readiness of all the
8 sea-going and land-based nuclear power plants.

9 I later had the privilege to serve as skipper
10 of a nuclear-powered strategic weapon submarine. That
11 team had a remarkable safety record. They had the
12 highest performance in nuclear power operations, and
13 they were also designated as the top nuclear
14 weapon/strategic weapons organization in the nation as
15 competing with the Air Force and all of the Navy's
16 nuclear forces.

17 I later served as commodore of a squadron of
18 six nuclear-powered submarines; served in a carrier
19 battle group as the chief of staff. The final half of
20 my career, the last 16 years of my career, was in
21 command and/or directing operational forces. I was
22 privileged to be selected for flag officer, so the
23 last eight years of my time in the Navy was as a flag
24 officer, and it included duties as a group commander
25 in charge of 24 commands, 12 submarines, and included

1 working directly with the land-based maintenance
2 organization in the Pacific Northwest, so I have
3 experience with quality assurance and ensuring that
4 safety requirements are met, et cetera.

5 I then served as the Director of Global
6 Operations at U.S. Strategic Command whereby as a two-
7 star on behalf of the commander of STRATCOM, I
8 routinely was authorized to sign out the procedures
9 for the nuclear forces as well as ensuring the day-to-
10 day readiness and performance of the nation's nuclear
11 forces.

12 I then served as the Deputy Commander at
13 Fleet Forces Command in Norfolk, Virginia, where on
14 behalf of the commander I was charged with approving
15 the operational procedures and the safety procedures
16 of the Fleet.

17 And my final assignment was commander of U.S.
18 Second Fleet, 130 ships, 90,000 Sailors and Marines.

19 And I will tell you that throughout my tour
20 in the Navy, without hesitation I would stop
21 operations if I felt that safety and/or security were
22 in jeopardy, and I would routinely do that. This
23 included aircraft carriers, submarines, et cetera.
24 And That's the way I did business.

25 So my experience base I bring to the

1 Department of Energy and the actions that I've been
2 able to take so far on behalf of the Secretary and the
3 Deputy working and supporting the team, include
4 management and operational excellence within which
5 there's a section on transforming our approach to
6 safety and security.

7 The approach that I've taken is really to
8 focus on safe and secure mission performance. How are
9 we doing? And so I've asked the team, it's really an
10 internal look, and it's initially focused on the
11 federal work force. I've asked the team to look at
12 metrics and performance trends and feedback how are we
13 doing? How is our performance? Is it safe? Is it
14 secure? Show me. I need to see the data.

15 And so the team is working to develop those
16 metrics and to show the data and that is the key
17 output. The key output is safe and secure mission
18 performance.

19 There are five key inputs to performance that
20 we're looking at. First, I call strategy, and that
21 regards our directives, our policies, our orders, our
22 guides. It's basically the way that we do business,
23 and looking at those and being a member of the
24 Directives Review Board really helps me to remain
25 connected to that whole process. So looking carefully

1 at our strategy, making sure that if and when we
2 change it's based on achieving safe and secure mission
3 performance. It's not change for change's sake. So
4 strategy is one of the key inputs.

5 The next key input is oversight. Health,
6 Safety and Security, we must ensure that that
7 organization remains independent. Independent. Not
8 connected to resources. They're independent. I'm
9 aware of the Challenger scenario. I'm aware of some
10 of the things that have happened over the years. And
11 it's very important that they retain their
12 independence. I will help them to ensure that they
13 have the resources to maintain the requisite technical
14 experience on their staff, that's so very, very
15 important. I want to make sure that the reviews and
16 the assessments that we conduct are the right reviews
17 and that we enforce the outcomes, the things that we
18 find during our reviews, that we go back and enforce
19 them. And we want to make sure that we are also,
20 whatever we do, the public has access to the
21 information. That transparency is so very, very
22 important.

23 So oversight, starting with Health, Safety
24 and Security; maintaining their independent nature and
25 the things that I talked about are important.

1 I also believe that a part of oversight is
2 the line management function, ensuring that the
3 federal work force is properly trained and that
4 they're doing their job.

5 The next area is training. I think it's
6 important that we self-assess, conduct an internal
7 review on the adequacy and the effectiveness of our
8 training program. I will work to achieve a continuing
9 training program, one where not only are accountable
10 workers trained and certified initially, but that they
11 are provided with lessons learned over time and
12 continually grow and learn in the craft, the very
13 important craft that they have.

14 So training is a key part of this performance
15 measure that I'm taking a real hard look at.

16 Next is infrastructure. I'm taking a real
17 hard look at the funding that goes into the facilities
18 associated with nuclear safety and security. Is it
19 adequate? Where are the dollars? Are the investments
20 right? And show me how we're doing and then ensuring
21 that we elevate decisions associated with those
22 investments all the way up to the right level such
23 that any decisions associated with infrastructure are
24 purposeful and not that we make decisions unwitting of
25 where those dollars are.

1 The final area is accountability.
2 Accountability, I've learned along the way that that's
3 so very, very important. I hold myself accountable to
4 the Secretary and the Deputy regarding nuclear safety
5 and security. All the federal work force is
6 accountable. You can't outsource accountability when
7 it comes to nuclear safety and security. So at
8 headquarters as well as the site managers, they have
9 to be accountable to do the job right.

10 As they, the site federal work force, works
11 with our contractors, they have to make sure that the
12 contractors are accountable as well. That is a part
13 of Integrated Safety Management, but we're going to
14 put the "who" in it to make sure that the people who
15 are accountable for these roles stand tall and they're
16 able to answer the hard questions.

17 So the framework that I've laid out is one
18 that's focused on mission performance, safe and
19 secure, and the inputs are strategy, oversight,
20 training, infrastructure and accountability.

21 I look forward to continued communications
22 with the Board as we collectively serve the greatest
23 nation on earth, and I look forward to any questions
24 that you may have for me.

25 CHAIRMAN WINOKUR: Thank you very much,

1 Admiral, for your testimony. At this time I think we
2 will turn to questions by the Board Members. We're
3 going to begin with Ms. Roberson.

4 VICE CHAIRMAN ROBERSON: Good morning,
5 Admiral Williams.

6 ASSOCIATE DEPUTY SECRETARY WILLIAMS: Good
7 morning.

8 VICE CHAIRMAN ROBERSON: First of all, let me
9 say thank you for your service. Welcome to the
10 Department of Energy Complex. I know that the
11 Secretary and the Deputy Secretary have high
12 expectations that you and your experience will aid the
13 Department in many ways.

14 The topic of the hearing today, I guess my
15 first question for you, is the Board is quite
16 interested in what I'm going to call "regulatory
17 stability", specifically in the area of nuclear
18 safety, which I know you understand what I mean by
19 that.

20 What aspects of the Secretary's initiatives
21 will allow for the assurance of regulatory stability
22 to be maintained as a basic tenet of DOE's current and
23 future operations? And what process will enable
24 safety improvement while maintaining rigorous methods
25 to evaluate the need for change and the development,

1 implementation, and assurance of those changes
2 themselves and their effect?

3 ASSOCIATE DEPUTY SECRETARY WILLIAMS: Thank
4 you for the question.

5 The framework that I described will enable
6 the things that you mentioned in your question to me.

7 First, regulatory stability. If you consider
8 the output, safe and secure mission performance, that
9 should dictate the need for change. So actual
10 performance, out in the field, are there many untoward
11 events? Do we lack the appropriate investments in
12 infrastructure? Training, are we falling short in our
13 training? Are the directives, the guidance, is that
14 not clear? I feel that it must be clear and
15 unambiguous.

16 So when you look at the performance, how
17 people are doing, that should be the key gauge as to
18 the need for change. So you capture the lessons and
19 then feed that back into the boards that I talked
20 about, the councils, to see whether or not we need to
21 change.

22 The process involves these councils and
23 committees, these decision-making bodies that I sit
24 on. As we look at the data we will decide whether or
25 not there is an imperative to change. So the

1 Operations Management Council, the Chief Operating
2 Officer Board, as well as the Directives Review Board
3 and other councils, we will look at the output to see
4 whether or not we need to move forward.

5 My own view as I work with Secretary Chu and
6 the Deputy is that I'm a fan of change and always
7 have, because it's part of continuous improvement, and
8 we must in the 21st Century continuously improve. But
9 that said, as it pertains to safety and security, we
10 must be mindful that many times when one changes it
11 should be based on performance and recognize that if
12 one does not properly communicate the essence of that
13 change to achieve understanding and commitment, then
14 it could result in a performance that actually goes in
15 the wrong direction.

16 So the change should be measured and
17 appropriate based on the performance record. So there
18 is a process. These decision-making bodies, and
19 stability is yes, you only change when you need to.
20 Recognizing that whenever you do that, whenever you
21 perturb understanding, you could wind up with an
22 unintended consequence which might lead to degraded
23 performance. So you have to be careful the way you
24 take that approach.

25 So I'll be heavily involved in that process

1 and watch as we improve within the Department.

2 VICE CHAIRMAN ROBERSON: Thank you, sir.

3 CHAIRMAN WINOKUR: I'm going to turn to Dr.
4 Mansfield in a moment, but I just wanted to follow up
5 Ms. Roberson's question.

6 You said, and I do appreciate your comments,
7 that actual performance drives the need to change, and
8 I know you've only been at the Department a very short
9 period of time, but in your time at the Department
10 have you been given a sense of where the performance
11 was lacking, and where they really needed to improve
12 things that drove some of their reform initiatives or
13 the actions we're talking about today? Have you
14 gotten a sense of that yet, about what was really
15 driving things?

16 ASSOCIATE DEPUTY SECRETARY WILLIAMS: During
17 my three months I've had a chance to visit Lawrence
18 Livermore, SLAC [SLAC National Accelerator
19 Laboratory], Oak Ridge, Savannah River Site, and I'm
20 going to go out to some other places because that's
21 really where it's happening. It's not at the
22 Forrestal Building, at the headquarters here in
23 Washington, DC.

24 During my visits, I've asked -- I've been in
25 one of our Hazard Category 1 facilities, the High Flux

1 Isotope Reactor, asked a lot of hard questions about
2 performance. I've asked to look at performance
3 metrics there at local sites. And I actually saw some
4 data that indicated that we can do better. I like
5 leading indicators. I don't like chasing, being on
6 defense where you're chasing after-the-fact incidents.

7 I was at one of the facilities where they
8 actually did a pretty good job charting leading
9 indicators. It did show that yeah, we can do better
10 from a performance standpoint. So I felt pretty good
11 about that, that at least at one site they were
12 looking at that and the data indicated that we were
13 making some mistakes. But that said, based on what
14 the Department has done up to this point, I really
15 haven't been there long enough to capture it, but I
16 will tell you that I'm drilling down on it and looking
17 at it carefully.

18 CHAIRMAN WINOKUR: Thank you.

19 Dr. Mansfield?

20 BOARD MEMBER MANSFIELD: Thank you, Mr.
21 Chairman.

22 Admiral, the original directives that have
23 been subjected to review now for th
24 is is the fourth time largely came about because of
25 the situation in the late 1980s when the public had

1 completely lost confidence in DOE's ability to operate
2 safely, and shut down just about every plant we had
3 because of safety and management concerns.

4 The way out of that under Admiral Watkins was
5 to affirm a strong set of directives with a lot of
6 "musts and shalls" in them.

7 The revisions by and large retain the musts
8 and shalls. The latest revision seems to be
9 different. I wanted to ask your views on this. It's
10 different in several ways.

11 The expedited process removes the concerned
12 office from the final stages of the decision process
13 apparently. They can raise their issues, but they no
14 longer are guaranteed that their issues will go to the
15 Deputy Secretary. That's my reading. If it's
16 different from that, I'd love to have you state that
17 because this is what we believe we see. The
18 objections from NNSA, for instance, to a change in
19 directives, say 226 [DOE order 226.1, DOE Oversight
20 Policy] don't go as far up the chain as they want.

21 I'll have some questions about, some issues
22 about 226 which I could mention right now.

23 226, the oversight of, the DOE Order on
24 oversight. The '07 reg had 30 pages. It had, the
25 order itself had 11 musts. The word "must" occurred

1 11 times in the order in 1907 [2007]. The revisions
2 went from nine pages to seven pages, but there are 13
3 occurrence of the word "must". This doesn't indicate
4 to me that this revision is providing the contractor
5 more flexibility. It looks to me like DOE has found
6 you can't write an order without saying "must".

7 Contrary to what we thought we were hearing,
8 the idea, the revision in the orders does not seem to
9 be handing over decision authority on some important
10 things to the contractor.

11 The order -- the CRD has, the contract
12 requirements document, has eight musts in it, in 2007,
13 and seven musts now.

14 The only thing that's changed is that the
15 contractor assurance system went from 29 musts to five
16 at a time when we have been told that DOE's purpose in
17 this is to make sure the contract assurance system is
18 strong and works. I'm sorry to take up so much time
19 with this, but I'm worried about those numbers going
20 down from 29 to five.

21 What do you think?

22 ASSOCIATE DEPUTY SECRETARY WILLIAMS: Well, I
23 will tell you that first, as a member of the
24 Directives Review Board, I'm there and I listen to all
25 the views on behalf of the Deputy. And having been in

1 situations, decision-making situations in the past, I
2 listen carefully. And since I've been there at these
3 Directive Review Boards they've been fair, and
4 everyone's had an opportunity to voice their views on
5 the way we should operate. So that's the first and
6 foremost thing. Is the process fair? Does everyone
7 have a chance to weigh in? Yes.

8 Regarding the decision, the ones I've been
9 involved in, I review those and work directly with the
10 Deputy regarding which way we should go when there are
11 different views, whether it be NNSA or Environmental
12 Management or what have you.

13 So at the right level, the decisions are
14 being made at the right level, I guess, is my message,
15 between the Deputy and I and we coordinate with the
16 Secretary on these.

17 I will just give you a general statement
18 which is my opinion. My opinion is that you cannot
19 legislate effective leadership and management. So the
20 written word, we must be careful the way we write it,
21 and it's got to work towards maintaining proper safety
22 and security. So we have to look at the words. We
23 have to get the words right. But because you can't
24 legislate execution, it's so very, very important that
25 regardless of the number of words that we have, that

1 out in the field we are there, walking around with
2 flashlights and hardhats and monitoring performance
3 because that will be the key. Whether it's voluminous
4 or whether it's nine pages.

5 You mentioned Admiral Watkins in the past.
6 We were both trained under the Rickover program. I
7 will tell you that the execution, how we execute the
8 mission is so critical, so I understand your view of
9 the words in the directives, but whatever is signed
10 out by the Deputy, I'm going to challenge the
11 Department to show me that at the end of the day we're
12 safe, secure, and the performance is what -- and if
13 not, we'll go back to those input metrics to see which
14 one. And it's not always the directives. That's kind
15 of my point. It's a more comprehensive view.

16 There are other elements like training, maybe
17 we didn't do the training after we issued the
18 directive. Maybe the oversight's not there, and we
19 don't have people on the deck plates, we're not
20 holding people accountable. So we're going to look at
21 all those things before we resort to just going back
22 to changing directives. That's my opinion, sir.

23 CHAIRMAN WINOKUR: Thank you. Mr. Bader?

24 BOARD MEMBER BADER: Admiral, I'm trying to
25 couch this so that it's within weeks -- three months

1 experience.

2 If you look at the lessons learned aspect of
3 the directives system, do you feel that lessons
4 learned are being adequately reflected in the revised
5 directives based on your experience?

6 ASSOCIATE DEPUTY SECRETARY WILLIAMS: From
7 what I've seen thus far, there are some lessons that
8 are being captured, but I really would like to bias my
9 response based on what I'd like to do here as I come
10 aboard. The model that I described, it actually has
11 lessons learned based on performance assessment
12 feeding right into the, what I call the "strategy
13 directives". So first and foremost, show me the stack
14 of lessons learned, and I'd like to read it. Then you
15 look at the lessons that are learned not only within
16 DOE but globally. In Japan we -- we're learning
17 there. So that's included in our review. What are
18 the lessons we can learn from the other industries,
19 NRC [Nuclear Regulatory Commission], et cetera? And
20 capture those key lessons. Then go back and ask
21 ourselves, should we change? Based on performance.
22 Should we change? If so, we certainly should capture
23 those lessons in the directives that we put out.
24 That's important.

25 And that is -- I think I stated it before,

1 not changing for change's sake, but changing based on
2 performance, making mistakes and lessons, and then
3 updating the procedures to make them relevant for the
4 nature of the work that we're doing in the 21st
5 Century and things that are happening globally in the
6 nuclear industry.

7 BOARD MEMBER BADER: You mentioned a
8 performance measurement as the key to that. Do you
9 have a sense yet how you would like to see the metrics
10 evolved that will give you the assurance that the
11 directives as modified are doing their job on the deck
12 plates?

13 ASSOCIATE DEPUTY SECRETARY WILLIAMS: First,
14 I would welcome the wisdom of the Board in that
15 regard. I think that is a key value add, and as I've
16 asked the questions about the performance metrics,
17 I've seen some, but I want to make sure that it's
18 Department-wide.

19 This is a key point that I want to make, is
20 kind of "one DOE". Including NNSA, Energy, and
21 Science, and making sure that there's transparency
22 amongst all the elements of DOE and that we have a set
23 of performance metrics that crosses the board, and
24 that -- and any ideas that you might have to help us
25 shape the right metrics would be welcomed, but once

1 we've established that, then we can then move forward
2 on decisions that might be associated with updating
3 our directives and/or procedures, but right now I
4 haven't been there long enough to see the spectrum of
5 performance metrics across DOE. Some elements are
6 doing it better than others, but I want to pursue this
7 one with your help.

8 BOARD MEMBER BADER: I'd add to that that one
9 of the things that certainly I look at most and that
10 the Board as a whole spends a lot of time on, is work
11 planning and control. Because that's right down at
12 the lowest level. That to me is the most essential
13 part of delivering safety for the worker and the
14 public. We have quite a few letters out and are
15 continuing to send letters on that subject and the
16 issues we're seeing across the Complex. So that might
17 be a good place to start looking at what we're doing.

18 But I would say that we are certainly more
19 than willing and happy to give you all our experience.
20 One of the benefits we have is that we do go down and
21 look at the most elementary levels at performance, and
22 then roll up.

23 ASSOCIATE DEPUTY SECRETARY WILLIAMS: Yes.

24 BOARD MEMBER BADER: Mr. Chairman, that's all
25 I have in the way of questions.

1 CHAIRMAN WINOKUR: Thank you, Mr. Bader.

2 I have a couple of questions, this time based
3 on your experience and your service to our nation, and
4 thank you for that. So these will be much easier for
5 you, I know.

6 Here's what I believe, and I want to tap into
7 your experience.

8 When I think about nuclear safety directives,
9 they do need to be prescriptive. Redundancy is not a
10 bad thing. And they certainly need to be very, very
11 rigorous in terms of getting the job done. I think
12 that's kind of the nature of the nuclear business
13 itself.

14 What's your sense of that?

15 ASSOCIATE DEPUTY SECRETARY WILLIAMS: My
16 sense based on experience is that if one continually
17 changes guidance then it results in confusion unless
18 there's training and understanding that follows that.

19 So when one changes something in the nuclear
20 reactor or weapons world, it really must be
21 purposeful. There has to be, and we've talked about
22 you know, when do you change? You've got to know when
23 it's time to change in this area. It should be, you
24 know, we mentioned lessons learned, we mentioned
25 performance. As we move forward as part of the

1 strategic plan in transforming our approach to safety
2 and security on behalf of the Secretary and the
3 Deputy, I will endeavor to ensure that we are measured
4 in the way that we change so that we don't create, you
5 know, confusion or misunderstanding out in the field.

6 But regardless, even when you do make a
7 decision to change, I'm not sure that we collectively
8 have instituted the communications and training plan
9 that's associated with change. I know, you know, that
10 we have processes to do that, but I need to get
11 smarter on that because that is important. When you
12 do decide to change, like this last set of directives,
13 we can't wipe our forehead and say okay, the Deputy
14 signed them out, let's go. No. Okay, show me the
15 plan that ensures that the federal work force
16 understands it, that the contractors understand it,
17 repeat it back, you know, give them a test, and then
18 repeat back, the verification. That's the
19 accountability. That's in the oversight. That's the
20 hard hat visiting. Hey, did you know that something
21 changed three months ago? Can you tell me about that?

22 And when you get the repeat back, the verification
23 that people who are actually doing the work regarding
24 nuclear safety and security, that they understand the
25 purpose behind the change and the nature of the

1 change, then you have a chance to really achieve the
2 performance that you're looking for.

3 I'm going to support the effort that's in the
4 Strategic Plan, but I'm also going to ensure that we
5 don't have multiple changes that result in potentially
6 untoward occurrences because of misunderstanding. And
7 I'll do my very best in that regard.

8 CHAIRMAN WINOKUR: I was really talking
9 about, and you've shared a lot of insight here, the
10 nature of the business. I assume when you're running
11 submarines and things of that nature that the guidance
12 you're giving to the workers is relatively
13 prescriptive in terms of what you need them to do and
14 how you need them to run those reactors. And
15 redundancy might not be a thing I would think that
16 would trouble you too much. I mean you put a couple
17 of signs up that both say the same thing and things of
18 that nature. I would imagine they would be very
19 rigorous. Was that your sense of the Nuclear Navy and
20 how the operations were performed?

21 ASSOCIATE DEPUTY SECRETARY WILLIAMS: As you
22 know, the procedures are very specific, and that's a
23 good thing. But we did have a strong training program
24 to ensure that we all understood it.

25 CHAIRMAN WINOKUR: That's a key point, and I

1 appreciate that. I think having people understand the
2 requirements behind those directives obviously is key.

3 Would you agree with that?

4 ASSOCIATE DEPUTY SECRETARY WILLIAMS: Yes.
5 Absolutely.

6 CHAIRMAN WINOKUR: The other thing I'm
7 sensing from what you're saying, and it's kind of
8 something the Board also thinks, is that
9 implementation is really a very, very important part
10 of this thing. Directives are a piece of paper and
11 they're words and so on and so forth. You're really
12 performance-based. So what you want to see in the end
13 is how these things are implemented. I think I sense
14 at least from my position as the Chairman of this
15 Board, that there's a little less wrong with the
16 directives and something a little more challenging
17 about the implementation of those directives. I'll
18 just share one thought with you and ask you to
19 comment.

20 There does seem to be a lot of concern on the
21 part of the Department that too much is being
22 prescribed for high-hazard operations is filtering and
23 finding its way down to low-hazard operations. So, I
24 mean that's a concern. Can you say a couple of words
25 about what you have seen in your career, the

1 challenges and going between the written word and
2 implementation?

3 ASSOCIATE DEPUTY SECRETARY WILLIAMS: Once we
4 decide on the words and the directives, the training
5 I've talked about, but then the verification in the
6 field that things are being done properly. I think
7 that curies are curies, and the consequences
8 associated with something untoward will vary depending
9 on the amount of curies and that's to your point about
10 high versus low. But the principles should remain the
11 same. That this is important, and so any directives
12 that pertain to high versus low have to be of a nature
13 that people understand what we're trying to do. So
14 what I'm articulating is that the standards for
15 nuclear safety and security, the bar should remain at
16 a certain level.

17 Within that, we acknowledge that consequences
18 associated with high and low are different, but the
19 standards and the approach to nuclear safety and
20 security is a principle. It's important, and we have
21 to do it right, whether it's something that could
22 impact the public or something locally that an
23 operator's doing that would not impact the general
24 public. You've got to approach it the same way
25 because sometimes you may not know what you have.

1 So if you take the standard approach to
2 nuclear safety and security, then that's the best way
3 to do it.

4 CHAIRMAN WINOKUR: Thank you.

5 I will turn it over to the Board Members for
6 their last questions, but the final thing I would say
7 is thank you. And I would encourage you to continue
8 to explore and to kind of delve into exactly whether
9 this transformation was performance-based, as you
10 said. I think the Board would benefit from as much
11 insight as you can provide as to not only what's
12 taking place now, but to be frank, these reforms
13 happen on a fairly regular basis so it would be nice
14 to kind of pin it down if we can and understand what
15 is taking place now, and what might take place in two
16 years or five years or so on and so forth. So I thank
17 you.

18 ASSOCIATE DEPUTY SECRETARY WILLIAMS: I
19 certainly will.

20 If you get the sense that I was hired and I
21 intend to keep my job, so I'll report to the
22 Secretary, in fact I've got to meet with him in a few
23 minutes.

24 CHAIRMAN WINOKUR: Alright.

25 ASSOCIATE DEPUTY SECRETARY WILLIAMS: I meet

1 with him every week for an hour straight, just going
2 over what we're doing.

3 But that said, I've been raised to be self-
4 critical, so some of the things that I've laid out are
5 necessarily critical of ourselves because I have to be
6 able to look in the mirror and say, "Are we doing
7 things right?" So for the people that I'm working
8 with, it's pretty tough.

9 If we convince ourselves that our performance
10 is right, then we can come to you, GAO, IG [Inspector
11 General], any other organization to say, "Yeah, we
12 think we're doing things right." I'm not suggesting
13 we're not. I haven't been there that long, but I will
14 tell you that's where I'm headed, being self-critical
15 to ensure that we are doing the right thing.

16 CHAIRMAN WINOKUR: Thank you.

17 Dr. Mansfield?

18 BOARD MEMBER MANSFIELD: I'd like to continue
19 that line of questioning. I agree with the Chairman
20 that we have found that nuclear safety directives that
21 are prescriptive are more appropriate for very
22 high-hazard operations. Now we've got a situation
23 where, I'm going to go back to the Directives Review
24 Board also. People that have a seat at the Directives
25 Review Board have interests in operations like Science

1 labs which have low or relatively low-hazards. Where
2 others have millions of curies, thousands of curies.
3 And one is an academic-like laboratory where workers
4 are used to freedom of operation; the other is a
5 factory-like situation with relatively untrained
6 workers that have to qualify by using rules and
7 learning what they have to do.

8 So, the question I've always had about this
9 is why does Science have a veto on what NNSA wants in
10 their order?

11 ASSOCIATE DEPUTY SECRETARY WILLIAMS: Yeah --
12 That's -- about a month ago I was on a Directives
13 Review Board and these sorts of things came up. I
14 discussed it with the Deputy and suggested that we
15 periodically get the best and brightest nukes together
16 on a regular basis.

17 So we've established the Nuclear Safety and
18 Security Council. There's representation from Science
19 and Energy, NNSA, and these are all the folks that are
20 involved in nuclear matters.

21 The reason that we started that was, as I'm
22 seated on the Directives Review Board and things come
23 up that pertain to nuclear matters, I wanted to run it
24 by the best and brightest nuclear minds.

25 So what I've been doing, and there are

1 examples of this. At the Directives Review Board I'll
2 say, "Okay, we're going to move this to the Nuclear
3 Safety and Security Council." They then debate
4 amongst themselves, and I listen to those debates.
5 That's where you really get the right people in the
6 room to really sort that out.

7 Then when they're done, we then push it back
8 into the line decision-making process. The Chief
9 Operating Officer Board and the Operations Management
10 Council which I described, and I'm seated on all of
11 these, to ensure that we have folks who may not be as
12 knowledgeable of nuclear matters sort of voting on
13 these things. I want to get the right people voting
14 on it. So that's been established. It's about a
15 month old.

16 So I raised a flag at DRBs when I hear
17 something nuclear and push it to that other body.

18 BOARD MEMBER MANSFIELD: Thank you, Mr.
19 Chairman.

20 CHAIRMAN WINOKUR: Yes. Mr. Dwyer? Our
21 Technical Director.

22 MR. DWYER: Admiral, before we let you go,
23 the deliberate change that you were discussing, you
24 have to decide the situation warrants change, then you
25 decide what the change is, and then you plan how to

1 make that change, can you give us a couple of
2 sentences on the 2010 Safeguards and Security Reform
3 Initiative that we're currently undergoing? What was
4 the decision point? What was the driver that led to
5 that massive change?

6 ASSOCIATE DEPUTY SECRETARY WILLIAMS: I'm
7 probably not the best one to answer that.

8 As I look at the papers that have been
9 generated associated with it, I think the Deputy
10 Secretary signed something early in 2010, I think it
11 was around March 2010, that talked to safety and
12 security reforms. And in that he described the
13 imperatives to change. That would be a good reference
14 to review because that really is tied directly to a
15 lot of the things that you're seeing.

16 Before me, but as I serve today, I am mindful
17 of that memorandum by the Deputy. I'm also mindful of
18 the Secretary's Strategic Plan. And I talk to these
19 folks every single day, the senior leaders, the
20 Secretary and the Deputy as well as the Unders [Under
21 Secretaries] and I'll do my best to ensure that the
22 method that we take is one that regards what they have
23 written, but is also in the best approach based on my
24 own personal experience base. I mean I think I was
25 hired to really use my experience as we move forward

1 to help --

2 MR. DWYER: You've basically joined the train
3 that's already left the station, and you have a lot of
4 implementation ahead of you. I was just curious as to
5 your understanding of the feedback that led to the
6 decision.

7 ASSOCIATE DEPUTY SECRETARY WILLIAMS: I don't
8 have a lot there that I can give you, but I will tell
9 you as I mentioned before, I haven't been shy about
10 raising the flag or stopping a carrier from getting
11 underway or a submarine or what have you. Even though
12 there's something out there that was started, if I
13 feel that, if I'm not comfortable with it from my
14 experience, I'll mention that to the Secretary and the
15 Deputy and to the senior leaders. Every single day I
16 do that. I give them my views of it. I think I'm
17 obligated to do that, and I will.

18 MR. DWYER: Thank you, sir.

19 CHAIRMAN WINOKUR: Mr. Bader? Ms. Roberson?

20 (No audible response.)

21 I'd like to thank you for spending some time
22 with us this morning, Admiral. We appreciate it very
23 much. We know you have a very busy schedule. Thank
24 you.

25 ASSOCIATE DEPUTY SECRETARY WILLIAMS: Thank

1 you very much.

2 CHAIRMAN WINOKUR: I'd like to welcome our
3 final witness for this morning, Mr. Glenn Podonsky.
4 No stranger to the Board. He's DOE's Chief Health,
5 Safety and Security Officer. Followed by questions
6 from the Board.

7 As I said before, we will accept your written
8 testimony into the record, and we hope that you can
9 keep your opening comments to about ten minutes.

10 Welcome, Mr. Podonsky.

11 MR. PODONSKY: Thank you, Mr. Chairman. I
12 will keep my comments to about ten minutes. I won't
13 speak extemporaneously as the Admiral just did because
14 as my mother passed away from Alzheimer's, I think I
15 have a little bit of it too, so I want to make sure
16 that I cover the points that you all are interested
17 in.

18 I do sincerely appreciate having been invited
19 to address the reform initiatives and the nuclear
20 safety programs at defense nuclear facilities in the
21 Department.

22 I think we all recognize the accident in
23 Japan underscores the importance of nuclear safety in
24 operations. While there are many important
25 differences between commercial power reactors in Japan

1 and the nuclear facilities within the DOE complex,
2 when the nuclear accident of the severity that Japan
3 is experiencing occurs, we believe that it's important
4 to evaluate the situation for preliminary lessons
5 learned that could apply to the nuclear facilities
6 that the DOE is responsible for.

7 In our corporate safety role HSS has worked
8 with the Under Secretaries to identify actions by DOE
9 line management and their sites that would verify that
10 DOE sites are able to safely withstand a severe
11 natural phenomena event. As an initial step and in
12 conjunction with the Under Secretaries, we developed a
13 safety bulletin that was issued by the Secretary on
14 March 23rd. The bulletin directs a careful review of
15 the factors that were important at the accident in
16 Japan such as seismic event, common mode failures,
17 extended loss of power, and emergency response to
18 challenges. HSS is working with the line management
19 to assist the beyond design basis review and develop
20 lessons learned and follow up actions as appropriate.

21 Additionally, the Deputy Secretary's
22 convening a DOE Nuclear Safety Workshop in June, the
23 audience is senior DOE leadership and technical
24 experts with responsibilities for nuclear operations.
25 We've arranged for subject matter experts to present

1 information on relevant topics such as seismic and
2 other natural hazard phenomena. We've also arranged
3 for higher level participation by external
4 organizations that include the Nuclear Regulatory
5 Commissioner -- the Institute of Nuclear Power
6 Operations, the President's Blue Ribbon Commission on
7 American Nuclear Future, and the DNFSB.

8 I have submitted my written testimony for the
9 record that discusses in greater detail our efforts to
10 improve directives, independent oversight and
11 enforcement programs.

12 What I want to do this morning is reinforce
13 the points the Secretary has made that DOE's highest
14 priority is in fact protecting the workers, the public
15 and the environment, at each of our almost 200 nuclear
16 facilities.

17 As the Associate Deputy Secretary just
18 stated, the Secretary recently issued his DOE
19 Strategic Plan which lays out our mission to ensure
20 America's security and prosperity by addressing its
21 energy, environment and nuclear challenges through
22 transformative science and technology solutions. The
23 main effort of the plan is to achieve management and
24 operational excellence. This includes transforming
25 our approach to safety and security while maintaining

1 the highest standards of safe and secure operations at
2 DOE facilities and recognizing line management and
3 significant responsibility for safety and security.
4 We will maintain rigorous and informed oversight of
5 high-hazard operations or high value assets.

6 As the independent organization HSS serves as
7 the corporate safety experts; the safety conscience of
8 DOE and the Secretary's strategic statements send a
9 strong message to DOE about the importance of this
10 area that HSS exists to reinforce.

11 We have tremendous respect for the role of
12 the Board and what you do in helping the Secretary
13 oversee operations at the defense facilities.

14 I want to emphasize that the key word for HSS
15 is independence. We are independent of the line
16 management missions and responsibilities and we have
17 independence to ensure effective safety requirements
18 are in place. The highest level of leadership in DOE
19 supports HSS and enables us to perform our duties
20 unencumbered. The testimony that you just heard from
21 Admiral Williams emphasized the priority he places on
22 nuclear safety and also the importance of the
23 independent oversight function.

24 Relative to the DOE management reform
25 efforts, we in HSS fully understand the Board's

1 concerns with the potential impact of those reforms
2 and particularly the directive reforms of the safety
3 at defense nuclear facilities. The Board has
4 indicated that the reduction in detail of certain
5 directives, most notably ISM and oversight, could
6 result in ambiguity in expectations and loss of
7 lessons learned. HSS has raised similar concerns in
8 past years.

9 Since the Board was established, DOE has made
10 many improvements in nuclear safety programs such as
11 comprehensive regulations governing nuclear facility
12 design and operation and the establishment of ISM as
13 the framework for safety.

14 The improvements are continuing as evidenced
15 by actions that DOE has recently taken to further
16 enhance nuclear safety and oversight. The Associate
17 Deputy Secretary highlighted some of the recent
18 changes and clearly indicates we will continue to
19 increase our efforts to improve. It includes key
20 elements of oversight, training, infrastructure, and
21 accountability. In this structure oversight is
22 recognized as one of the fundamental elements of the
23 DOE strategy.

24 Some of the others include the recent
25 issuance of a revised Nuclear Safety Policy. The

1 establishment of a new Office of Nuclear Safety as a
2 stand-alone office within HSS to provide enhanced
3 leadership in nuclear safety, to proactively identify
4 and address policy and operational issues, and to
5 increase emphasis on enhancing such areas as nuclear
6 safety research and development programs and
7 maintaining effective stewardship of the FACREP
8 [Facility Representative] program and the safety
9 system oversight programs.

10 The establishment of a DOE Nuclear Safety
11 Steering Committee that brings together the nuclear
12 safety experts we heard Admiral Williams talk about
13 from across the Department, and serves as a forum to
14 analyze and provide recommendations on nuclear safety.

15 Strengthening independent oversight of
16 nuclear safety. In response to internal and external
17 review, we have significantly strengthened our
18 oversight processes for nuclear safety in various ways
19 including expanding our technical expertise bases,
20 establishing the site lead program, and increasing
21 public access to facility information.

22 As indicated in my testimony, last year HSS
23 has also devoted more of our oversight efforts to
24 nuclear facilities and higher hazard activities, and
25 we are committed to ensuring that regulations and

1 directives provide for the highest level of protection
2 and appropriate rigor.

3 The Department has evolved, and we believe
4 the management reforms can be implemented in a manner
5 so that DOE sites and laboratories can better achieve
6 their mission safely and more efficiently.

7 The Secretary, the Deputy, the Associate
8 Deputy, have made it absolutely clear they expect high
9 levels of nuclear safety and nuclear security to be
10 maintained, and they will hold managers accountable
11 for anything less.

12 They recognize that nuclear facilities
13 require special emphasis, and DOE must continue to
14 maintain rigorous and well-documented safety programs
15 at our nuclear facilities.

16 With regard to the safety directives reform
17 effort, the most important point is that DOE and DNFSB
18 have the common goal of ensuring safe operations, and
19 we agree on the need for detailed regulations that
20 govern nuclear facilities and mandate detailed safety
21 analysis and processes at nuclear facilities including
22 a regulatory requirement for quality assurance program
23 for nuclear facilities.

24 We believe that nuclear safety directives
25 need to be clear, unambiguous, and demand high levels

1 of rigor for contractors and rigorous levels for
2 federal oversight.

3 Here again the Secretary, the Deputy
4 Secretary, and Admiral Williams have made it clear
5 that nuclear safety is a primary goal within DOE and
6 will not be compromised.

7 In this directives reform effort I want to
8 emphasize and reemphasize that the subject matter
9 experts have worked tirelessly to ensure all
10 directives under our purview provide appropriate
11 protection to the public, the work force, and the
12 environment.

13 As part of the directives reform effort DOE
14 has revised many directives in a manner that clarifies
15 and streamlines the requirements to promote efficiency
16 while maintaining effective safety performance. For
17 most of our revised directives to date, the Board has
18 agreed that the changes to the provisions have been
19 appropriate. The fundamental safety regulations such
20 as 10 CFR 851 [Worker Safety and Health Program] for
21 worker safety and 10 CFR 830 [Nuclear Safety
22 Management] for nuclear safety are strong and
23 effective. These have not been revised and are not
24 changing.

25 Various nuclear safety directives we believe

1 that we have looked at have been clarified and
2 strengthened. It is clear, however, that DOE and the
3 Board Staff have differing views on the approach that
4 DOE has taken on ISM and oversight directives which
5 are only two of the many safety-related directives
6 that we've looked at.

7 While there are differences, it's important
8 to keep the differences in context of the overall
9 nuclear safety requirements which include the
10 directives and standards that govern nuclear facility
11 design and operations.

12 The Department's nuclear safety programs and
13 management systems have improved considerably over the
14 last 15 years since ISM was established. We have
15 evolved safety programs to the point where we are now
16 debating how much detail is needed in the oversight
17 and ISM orders and how much flexibility should be
18 given to DOE line managers in determining whether a
19 site-specific program is adequate for the hazards at
20 each facility. I want to be clear, we're not debating
21 whether there should be an effective and documented
22 ISM program and DOE oversight program. We all agree
23 these are mandatory.

24 It's also important to recognize that many of
25 the details that were previously in the oversight

1 order and ISM manual will be put into guidance
2 documents. We understand that the Board has a concern
3 that the new orders were issued before the guides were
4 completed, and we are moving forward on the guidance
5 and will ensure development of the process is timely
6 and will involve the Board Staff in a much better way
7 than we have done in the past eight months.

8 We believe that the revised directives set
9 for oversight and ISM including the policies, orders,
10 and guidance documents provide the necessary direction
11 to sustain the progress that has been made over the
12 many years that the Department's been operating and to
13 ensure nuclear safety while providing line management
14 the flexibility needed to safely and efficiently
15 manage their operations.

16 As we implement new ISM oversight orders, we
17 understand DOE must have an effective process for
18 holding line managers accountable for safety and
19 independent oversight as well as training and
20 infrastructure process to support the nuclear safety
21 that Admiral Williams described here just moments ago.

22 These are fundamental elements of the safety and
23 security architecture and will receive increased
24 management attention and support.

25 I want to stress with absolute clarity, we

1 have the same goals as you at the Defense Board,
2 absolutely. Providing adequate protection means
3 reasonable assurance the health and safety of the
4 public will not be endangered by the operation of a
5 facility.

6 We are now seeing the impact of a severe
7 nuclear accident in Japan, and we all want to do
8 everything appropriate to prevent accidents involving
9 DOE nuclear facilities. We are in agreement on the
10 vast majority of the issues, and we can work
11 cooperatively and constructively to monitor the
12 implementation of the revised and more flexible
13 approaches for implementing ISM and oversight,
14 determine their effectiveness, and if warranted,
15 recommend changes based on lessons learned.

16 I think as an example of this new cooperative
17 collaborative relationship, I think the lunch that you
18 and the Vice Chair had with the Secretary and the
19 Deputy Secretary is a fresh start, and new beginning
20 at the relationship between the Board and the
21 Department is overdue and needed at this time.

22 CHAIRMAN WINOKUR: I want to thank you for
23 your testimony and your sentiments. We're kind of
24 happy to have you here today because you're the
25 insider at DOE to a large extent, and one of the

1 things that we on the Board pride ourselves on is we
2 have a very strong corporate memory. We've been here
3 for 20 years. We've got people who were around who
4 know when these things began, who know when 10 CFR 830
5 came into existence, who know the basis behind these
6 things.

7 I want to take a moment to acknowledge Joe
8 DiNunno a former Board member who's with us here
9 today. Board members, I don't know what the
10 expression is, they never go away. They're always
11 involved.

12 (Laughter.)

13 I want to ask you to start out with the most
14 basic of questions because you're the guy who really
15 sees what's going on. I know it was very hard for
16 Admiral Williams to answer the question, but please
17 start out by telling us what was driving this change?
18 What led to the memo in March 16th of 2010 by the
19 Deputy Secretary of Energy launching a whole new
20 reform effort? In the Board's testimony it talked
21 about reducing 50 percent of the directives, many of
22 them Orders of Interest to the Board. What was kind
23 of going on? What was the signal? What was happening
24 there?

25 MR. PODONSKY: I appreciate the question and

1 if the Board will indulge me I won't kind of tell you
2 what's going on, I'll tell you exactly what went on
3 and I'll predate the March 16th because it started
4 earlier than that.

5 And candidly, and since I'm in oversight I
6 need to tell you the complete, honest, not just my
7 interpretation, but what the facts are.

8 We are very fortunate to have Secretary Chu
9 as our Secretary of Energy for a number of reasons.
10 Not just because of his technical capabilities, but
11 because in fact he is our first Secretary that
12 actually worked in the Department of Energy. So he
13 came in with full knowledge of how the Department
14 operated, whereas most of the Secretaries, at least
15 nine of them that I have worked for in my short 28
16 years at the Department, didn't fully understand the
17 job they came into at the time. Secretary Chu, that
18 was different. That was good news, and that was bad
19 news.

20 It was bad news because he had a preconceived
21 notion, and his preconceived notion from his
22 experience as a lab director at a non-nuclear lab, was
23 that there was over-burdensome directives that you'd
24 mentioned in your statement that trickled down from
25 nuclear requirements. There was over-reaching

1 oversight at a facility that nuclear didn't have the
2 same security concerns that other sites have.

3 So it would be expected that he coming in as
4 the new CEO [Chief Executive Officer] of this multi-
5 billion dollar corporation, thought, from his
6 experience, that perhaps there would be ways to, as he
7 said in one of his speeches, to reset the Department.

8 A perfectly reasonable expectation coming in from his
9 background.

10 The problem is that this opened up the
11 opportunity yet again, because this is not the first
12 time this has occurred, where contractors, line
13 managers, people who felt that regulations were
14 getting in their way of getting their job done,
15 oversight was too burdensome, they saw this as an
16 opportunity, this is my opinion of the facts as I have
17 seen them. They saw this as an opportunity.

18 We, too as an oversight entity saw that this
19 is a prime time to step up and help with the reform
20 because at the same time, having mentioned that we've
21 done oversight for close to three decades, we would
22 ask ourselves in oversight, how many more times do we
23 have to go to Savannah River, write a report, and not
24 see changes? How many times do we have to go out and
25 send a team and have the same problems with the

1 contractors? So many years we've looked at what can
2 we do to be a more effective oversight entity?

3 So we saw this also as an opportunity that
4 change would be good if it's the proper change, as
5 long as we don't make the mistake of creating an
6 unintentional vulnerability.

7 So in June of '09 we stepped up to the Deputy
8 who was given the assignment for reform, and we
9 offered my Deputy, Bill Eckroade, to work with the
10 designated cochair of the reform effort which was the
11 Deputy Lab Director at Oakridge National Lab, Jeff
12 Smith, to take a look and develop an end state paper
13 on what we would do.

14 That end state paper, that vision of where
15 safety and security should go, came up with, one of
16 the things is take a look at the directives.

17 Dr. Mansfield mentioned, a number of you have
18 mentioned that this is the fourth time in ten years,
19 it's actually the fifth time in sixteen years that we
20 have done this. But each time the Department did a
21 review, of the directives it was incomplete. It was
22 incomplete in the sense that in 1995 Assistant
23 Secretary Tara O'Toole from EH [DOE Office of
24 Environment, Safety, and Health] did a rebinning
25 exercise where she took all the ESH [Environment,

1 Safety, and Health] directives and was trying to
2 consolidate them. She came up with necessary and
3 sufficient, but they didn't complete the effort.

4 Then there was the Bob Card look at oversight
5 and that effort was not completed. Then we had Sam
6 Bodman in 2007 also wanting to take a look at
7 directives.

8 This directive, what's different this time is
9 that the policy shop that resides in my organization
10 when HSS was created in '06, we put all of our subject
11 matter experts together, and we said, "We need to take
12 a look at the directives and look at them in a way
13 that we can find whether they are overly prescriptive,
14 whether there is redundancy or duplications," because
15 I would tell you Mr. Chair and Members, for my 27
16 years in the Department, 28 years in the Department,
17 every administration hears from the contractors about
18 too many directives, too many requirements, too much
19 oversight. This is not a new theme. This has been at
20 least for the three decades I've been there.

21 So what we decided as an oversight entity is
22 that we must be actively involved to make sure that we
23 get to the spirit of what the Secretary was looking
24 for without denigrating the years of especially
25 nuclear safety, advances that were made.

1 And Dr. Mansfield, I will tell you, all you
2 have to do is look at the record of the 85 New York
3 Times articles that appeared from '87 to '88, of which
4 29 were on the front page of the New York Times,
5 describing an infrastructure of safety hazards in the
6 Department that required the requirements to be
7 memorialized.

8 Also another point, GAO didn't just do six
9 reports. They did 21 reports from 1979 to 1987, all
10 with the same theme -- DOE needs a stronger
11 independent oversight of its contractors.

12 So the criticisms have been there for years.

13 Mr. Chair, your question at the very basic,
14 how did we get here, it's been many decades that we
15 got here.

16 So Secretary Chu came in with the notion that
17 he has to get this changed. Because from his
18 perspective, and it was the right perspective from
19 him, is that we were in fact impeding progress by
20 sometimes requirements that didn't make sense. And I
21 know this is about nuclear safety, but I can talk
22 about security requirements as a great example of
23 overly prescriptive and not adding value.

24 When we started looking at the 107 directives
25 that fall into the prerogative of HSS I would believe

1 your staff would tell you that for the most part we
2 haven't done anything with the nuclear safety
3 directives of a major change but to enhance them.

4 Where we have made a mistake, and I say this
5 publicly, ISM and oversight, we were not totally true
6 to our process that we described in our Project
7 Management Plan in June of last year. We should have
8 engaged the Board staff earlier. The outcome may have
9 been the same, but we did not engage the Board Staff
10 in the August, September timeframe. It wasn't until
11 November or December of last year.

12 So we have a lot of catching up to do. Those
13 two directives did go to the Deputy Secretary and we
14 did tell the Deputy Secretary and Mel Williams that
15 the Board had problems, and we described those
16 problems.

17 Here's my commitment to you, Mr. Chair, and
18 the Board, is that we still have the guides that we
19 are producing, and as we begin to realize where HSS
20 needs to fix our part, is we want the Board Staff to
21 be totally engaged with these guides. We don't want
22 to rush for judgment. We want to make sure that the
23 guides actually capture what needs to be captured.
24 And we want to make sure that the cross-walk is also
25 clear and concise.

1 In my testimony -- I talked about a cross-
2 walk being done. Cross-walks were routinely done as
3 documents went into the REVCOM [Review and Command]
4 system. We haven't finalized those cross-walks, so
5 here again we have work to do. But I commit to you
6 that my staff will work with your staff on those
7 cross-walks because if what I say here is true, then
8 we need to be much more closely aligned in working
9 with your staff because the Department, and my office
10 in particular, because we are the belly button for
11 safety and the belly button for oversight, we need to
12 work in a closer collaboration with the Board Staff so
13 that you better understand what we're doing.

14 We may not always agree. But the
15 communication has to be much more rigorous than it has
16 been, especially in the areas of ISM and oversight.

17 CHAIRMAN WINOKUR: After the Deputy
18 Secretary's memo, you developed a plan which I think
19 the Board was comfortable with. You developed a
20 framework to basically revise these directives, and I
21 think we're all pretty comfortable with that, too. We
22 were moving along on this process, and we got to a
23 point where the NNSA had a few initiatives in
24 governance to expedite some directives, but eventually
25 the Deputy Secretary of Energy chose to expedite the

1 process and move a little bit faster.

2 Can you explain why that happened? Was there
3 a sense that the process you had put in place was not
4 effective and needed to be improved? If so, why was
5 this the case?

6 MR. PODONSKY: I would tell you, Mr.
7 Chairman, the process was not defective or inadequate.
8 The Department has for many, many years had a
9 significant roadblock in getting directives to
10 completion in a timely fashion. In the REVCOM system
11 people throughout the Department have an opportunity
12 to comment and recomment, and it takes quite some
13 time.

14 The seven directives that became the subject
15 of the expedited review, when the Deputy realized in
16 November that there was really parallel processes
17 going on -- NNSA governance and the HSS, DOE directive
18 reform as outlined as you just said in the program
19 management plan, he wrote a letter to Administrator
20 D'Agostino and told him that he should join back into
21 the DOE process.

22 What wasn't realized at the time was that
23 seven directives were already being discussed with the
24 contractors within NNSA.

25 Now interestingly, three of those directives

1 which I believe were Technical Standards, Accident
2 Investigations, and DOE Corporate Operating
3 Experience, they were actually already in REVCOM. So
4 to accelerate that was not really -- We weren't really
5 accelerating, we were just focusing on giving them
6 complete, on the process.

7 The other three which was Quality Assurance
8 Oversight Policy, ISM, I have to say, and
9 embarrassingly say, that those have actually been in
10 discussion since the summer of '08. In discussion in
11 the Department.

12 In particular, when we talk about 2004-1,
13 there's nothing expedited about the requirements that
14 are in there because we made a commitment, and seven
15 years later we still haven't followed through on the
16 commitment.

17 So the decision that the Deputy made in his
18 December letter was because NNSA said, "Look, we've
19 already had these discussions with our contractors.
20 Can you expedite instead of slowing them down?"

21 I don't blame NNSA because the Department has
22 had, as I said, we've had roadblocks before. What was
23 not realistic was when we were asked if we could do
24 this in two weeks back in December, and we said
25 absolutely not. That we couldn't do that. And the

1 Deputy agreed.

2 So we've now gotten through the process. All
3 seven have been I believe signed off. The
4 sustainability which was the seventh, that was a
5 little more problematic for the Department. But as it
6 stands right now, when you look at the source of what
7 caused things to happen, I think there was just a
8 series of events that occurred, specifically those
9 seven had already been in the mill, and the Deputy
10 wanted to make progress.

11 If I might, if you'll allow me, the progress
12 is clearly, this administration and every
13 administration that I've served under realizes they
14 only have a finite amount of time, and if they don't
15 get down what they set out to do, if they don't get it
16 done in their first three years there's a tendency in
17 most cases, for things to bounce back to whatever they
18 were when they started. And I believe the Secretary
19 realizes, as does the Deputy Secretary, that we really
20 need to make the changes that we want in order for
21 them to be lasting and to make a positive legacy, if
22 you will.

23 I think that's part of the rush. But I would
24 assure you, even though we have expressed, HSS has
25 expressed to the DRB that the Admiral was talking

1 about, we've expressed our concerns about the
2 expedited schedule not to be expanded into other
3 areas. We will continue to express that, and we will
4 continue to voice our concerns if in fact we feel that
5 safety, industrial or nuclear, is in jeopardy because
6 of the process that the MA [DOE Office of Management]
7 organization is, as you I'm sure heard, is thinking
8 about instituting for the remaining directives.

9 CHAIRMAN WINOKUR: My last question for now,
10 are you comfortable with how we have ended up on the
11 ISM and oversight directives?

12 MR. PODONSKY: The short answer is I am not
13 totally comfortable because of my own staff work. The
14 reason I say that is because I'm not certain as the
15 head of the organization, that our engagement with the
16 Board Staff was early enough and detailed enough so
17 that we fully understood the concerns.

18 We are where we are. I can't undo what was
19 done. But what we can do is fix it going forward,
20 which is why I stated as we develop the guides which
21 are happening right now, that we engage your Board
22 Staff totally and completely so that we don't
23 unintentionally create a problem. That wasn't the
24 intent.

25 We find, and not because Joe DiNunno is here,

1 but ISM is near and dear to us as it is to the father
2 of ISM. Independent oversight, the independent
3 oversight order is near and dear to us because we
4 think that's very important to describe in detail what
5 the requirements are expected, what the roles and
6 responsibilities are.

7 You can't have a regulatory model without
8 those two in place.

9 CHAIRMAN WINOKUR: Thank you.

10 Mr. Bader?

11 BOARD MEMBER BADER: First let me follow up
12 on the Chairman's last question.

13 On ISM and oversight, what I've read in the
14 orders is essentially a framework. And I can't tell
15 without the guides whether it's going to be a train
16 wreck or a success. Do you agree with that
17 characterization?

18 MR. PODONSKY: I think that's a fair
19 characterization without the guides. Where the debate
20 and the disagreement was is how can we develop a
21 requirement without the guides? That's been a heavy
22 debate. That's where I openly say we are fixing that.

23 I go back to the acceptance of
24 [Recommendation] 2004-1 by the Department, how can
25 anybody justify seven years? We can't.

1 BOARD MEMBER BADER: I couldn't ask that
2 question better myself.

3 MR. PODONSKY: Perhaps I'm on the wrong side
4 of the table.

5 (Laughter.)

6 BOARD MEMBER BADER: At the last meeting we
7 had a similar discussion on speed at which directives
8 were being reviewed. And you told us you would not
9 allow schedule to drive quality on the directives
10 reform effort.

11 In your opinion did the expedited and then
12 the expedited -- then the accelerated and then the
13 expedited accelerated process have any impact on the
14 technical content or quality of the review comments or
15 comment resolutions or the final outcome of the
16 directives that have been considered?

17 MR. PODONSKY: From a purely technical impact
18 we do not believe, my office, I do not believe that
19 the technical quality has suffered. What has suffered
20 is the transparency of the comment resolution.

21 Then the expedited piece, which is and
22 REVCOM, where as you know the process is the order is
23 looked at by a steering group, and then it goes into
24 REVCOM, and people have X amount of days, and then
25 those comments are dealt with.

1 Then the part that has been eliminated in the
2 expedited piece, was the DOE-wide concurrence review.

3 So the only thing that has suffered in our
4 opinion is the transparency. And we have expressed
5 our concern to the DRB, and we are simply a member of
6 the DRB. Steve Kirchoff on my staff represents us.
7 You may or may not know this, the Admiral and I, I
8 don't think he described it, but it's a consensus
9 process. And here, while you haven't asked it I will
10 tell you, when we represent your views at the DRB and
11 if there's dissension on what the Board has concerns
12 about, we have in fact taken it to the Deputy or to
13 the ADS [Associate Deputy Secretary] to make sure that
14 it's clearly articulated.

15 In one case in particular, operating
16 experience, we disagreed with the DRB, we agreed with
17 the Board, when we expressed our concerns to the ADS,
18 and he made a decision that accepted the Board's
19 concerns and addressed those.

20 Now we haven't seen what will happen when we
21 agree with the Board, both groups disagree with DRB on
22 some of these other matters. We have one as an
23 example the ADS addressed. But at the end of the day
24 the Directives Review Board process in our opinion is
25 becoming flawed. Flawed in the sense that what was

1 established originally to have rigor and to have
2 balance and bring the experts together, there's a flaw
3 in that, and I have every confidence that Admiral
4 Williams when he gets his sea legs, he'll be able to
5 see that he needs to put a tighter grip on making sure
6 as Dr. Mansfield asked, why would somebody that
7 doesn't have in our words a dog in the fight, how can
8 they derail the whole process?

9 Which goes back actually to the original
10 REVCOM situation to begin with. When anybody could
11 put a comment in, the whole process becomes
12 constipated.

13 So the spirit of the reform is a good thing.
14 It's very important, however, that it be done in a
15 way that we don't create unintentional
16 vulnerabilities. That's our biggest concern.

17 BOARD MEMBER BADER: You're begging the
18 question, will there be further use of the expedited
19 accelerated review process?

20 MR. PODONSKY: I didn't mean to beg it.

21 (Laughter.)

22 But it's our belief that that is what is
23 intended by the current Director of the DRB-MA -- and
24 we have voiced our concern. Back in April, early
25 April and the end of April. We think that we are

1 actually violating, potentially violating our own
2 directive on directives and we've expressed that. We
3 haven't gotten a response yet.

4 We will continue to pursue that. The last
5 thing we want this Department to end up doing in its
6 spirit of doing the right thing and taking a look at
7 itself, is to rush to judgments to where we create
8 these vulnerabilities.

9 If I can, before the Comptroller General
10 Walker retired in '07, he issued a report, and in that
11 report his cover letter talked about what's wrong with
12 the executive branch of government where he says,
13 basically paraphrasing, we pile on solutions, and then
14 we keep on piling on those same solutions.

15 What's happened in the Department, we have
16 put on solutions over many, many administrations and
17 this review that we're doing, we believe will keep the
18 efficacy of what was intended but will streamline
19 things so we can in fact be more effective. So that a
20 lab director at Berkeley doesn't become tainted with
21 his view of the Department in the bigger picture. I
22 think that's something we really need to do for this
23 enterprise, and quite honestly, what's why I think the
24 relationship with the Defense Board is so important.

25 I would just say one other thing, two weeks

1 ago Friday I was testifying to the Blue Ribbon
2 Commission on American Nuclear Energy. And
3 Commissioner Moniz asked me a leading question. He
4 started out by saying, Mr. Podonsky, you might want to
5 answer this question yes, no, or no comment for your
6 career.

7 (Laughter.)

8 He said, "The Congress always tries to help
9 the executive branch and in so doing they created the
10 Defense Board. In your opinion, has the Defense Board
11 been a help or a hindrance?"

12 My response was the same as I told him that I
13 gave to Chairman Dingle testifying on Capitol Hill. I
14 can't give just a yes/no answer to that question. But
15 my answer is this. It's that in the 23 years the
16 Defense Board has been in existence, the Department is
17 better for their safety record because of the Defense
18 Board. It was a straightforward question.

19 I think the relationship that we've had with
20 the Board over the last two and a half years has been
21 rocky, and I think there's been poor communication
22 staff to staff, but I think that hearings, public
23 meetings like this are very important to focus like a
24 laser on what are the real issues, and how did we get
25 here.

1 So I think we are on a trajectory that is
2 going to be very helpful for the Department. I think
3 it's going to be helpful for the Board, and ultimately
4 helpful for the leadership in this agency and our
5 facilities.

6 BOARD MEMBER BADER: One final question. You
7 said you had advised MA of your concerns. Have you
8 also advised the Deputy Secretary and the Secretary?

9 MR. PODONSKY: The answer to that is no. We
10 have not talked to the Deputy Secretary or the
11 Secretary. We wanted to first let Admiral Williams
12 have a chance to fix this.

13 Since he's put himself as a part of the Board
14 and since he is a direct report also to the Secretary,
15 it's our intention to share with him our concerns in
16 the same way we shared it with the MA organization.

17 BOARD MEMBER BADER: Mr. Chairman, no further
18 questions. Thank you.

19 CHAIRMAN WINOKUR: Dr. Mansfield?

20 BOARD MEMBER MANSFIELD: Thank you, Mr.
21 Chairman.

22 I'm going to -- by the way, I much enjoyed
23 your written testimony and I will have some comments
24 in a bit on page six.

25 First I want to raise something that has been

1 bothering us for some time. Who is, is it DOE, the
2 contractor or both that are regulated ideally? DOE is
3 self-regulating. Who does it regulate?

4 MR. PODONSKY: I would tell you from my
5 perspective we assess from an oversight perspective as
6 the internal regulator, if you will, for the
7 Department. While we're not founded in legislation,
8 we are recognized by both outside and internal as an
9 overseer. We look at the performance of the fed, and
10 we do that by checking on how the performance of the
11 contractor is doing.

12 Now traditionally what has happened in all
13 the years that we've written reports on safety
14 performance, there seems to have been a blurring of
15 lines as to whether the feds were I fact responsible
16 or the contractors. With each administration, and I'm
17 not trying to divert from your question, but --

18 BOARD MEMBER MANSFIELD: You're saying just
19 what I wanted. Keep going.

20 MR. PODONSKY: Maybe we should have
21 practiced.

22 It truly is blurred. And we have over time
23 written reports that very clearly outline what we
24 thought the Site offices and program offices were or
25 were not doing as exemplified by the performance of

1 the contractor.

2 We have had different responses over time.

3 I would tell you, and it's not because
4 Assistant Secretary Triay is here, but as a great
5 example of what really does work, is we recently did a
6 review of beryllium exposures out at the Hanford site,
7 and Secretary Triay took those findings and
8 immediately went on to implement them at both the
9 federal and contractor level.

10 We haven't always seen that response. In
11 fact as the Board I hope recalls, 98-1 [Recommendation
12 98-1, Resolution of Safety Issues Identified by DOE
13 Oversight] enhanced oversight in the Department
14 because it helped the Department realize that it
15 really needed an implementation plan to address
16 oversight findings. And that was very successful for
17 a while. But the answer to your question, it is
18 oftentimes blurred and we have seen that as well.

19 BOARD MEMBER MANSFIELD: I agree, it is
20 blurred.

21 Who is the regulator? Is it the Secretary,
22 Deputy Secretary, you, NNSA?

23 MR. PODONSKY: Well, I would tell you,
24 everything goes to the Secretary. The Secretary is
25 the ultimate authority and we carry out the

1 Secretary's requirements, and we oversee that.

2 BOARD MEMBER MANSFIELD: How does the
3 Secretary communicate his requirements?

4 MR. PODONSKY: He informs the Deputy
5 Secretary and his Unders what his expectations are,
6 and when it comes directly to us, we have gotten our
7 information and desires expressed to us from the
8 Deputy Secretary. And as Admiral Williams talks
9 about, I also work very closely with the Under
10 Secretaries as I do with the Assistant Secretaries.

11 BOARD MEMBER MANSFIELD: Do all the contract
12 requirements, the CRD items, for instance. Who
13 decides whether they should be in a contract?

14 MR. PODONSKY: That's the individual line
15 responsibilities.

16 BOARD MEMBER MANSFIELD: Line
17 responsibilities.

18 MR. PODONSKY: That's the line
19 responsibilities.

20 BOARD MEMBER MANSFIELD: What are they trying
21 to -- let me rephrase that.

22 And who -- what does a contract requirements
23 document [CRD] consist of? Answer, cited directives,
24 right?

25 MR. PODONSKY: Correct.

1 BOARD MEMBER MANSFIELD: So, you, the
2 contracting manager can't do his job without
3 directives. He's going to have to find some other way
4 in the contract to tell the contractor what he wants.
5 Do you oversee that?

6 MR. PODONSKY: Only by virtue of when we go
7 out and actually conduct an inspection. But we don't
8 -- to answer where you're going, we do not review the
9 CRDs as they're being developed. That's the line's
10 responsibility.

11 BOARD MEMBER MANSFIELD: Okay, so the line is
12 regulating itself when it determines what goes into a
13 CRD.

14 MR. PODONSKY: I would say they are managing
15 themselves, not regulating themselves. And as Jack
16 Crawford used to say from his time at the Board, the
17 Department has an awful lot of overseers and not
18 enough managers.

19 BOARD MEMBER MANSFIELD: True. True.
20 Regulators regulate by regulation. And the only thing
21 you have that looks like regulations are the
22 directives, generally speaking. And I'm just
23 continually confused about who the regulator is, and
24 what how he says what he wants done.

25 I know how it happens with NRC, I know how it

1 happens with the internal regulator Internal Revenue
2 Service, where we're regulated by the Internal Revenue
3 Service. I don't know how it happens at DOE.

4 I mentioned that I had high praise for page
5 six of your --

6 CHAIRMAN WINOKUR: Can I just interject for
7 one second, Dr. Mansfield? I think Ms Roberson has a
8 follow-up question -- and then -- we'll get to your
9 next question --

10 BOARD MEMBER MANSFIELD: Oh, sure.

11 VICE CHAIRMAN ROBERSON: That was Mr. Bader.

12 CHAIRMAN WINOKUR: Oh, Mr. Bader, I'm sorry.
13 -- and then -- Mr. Bader has a follow-up question.

14 BOARD MEMBER BADER: Listening to the Admiral
15 and your testimony I have one question that I'd like
16 to ask in addition. Can we expect to see a return to
17 audits of high-hazard nuclear operations instead of
18 assists?

19 MR. PODONSKY: The short answer is yes. The
20 more informed answer is the GAO in '08 criticized the
21 Department for not having a rigorous enough nuclear
22 safety oversight. We've hired seven nuclear safety
23 experts into both oversight and the Office of Nuclear
24 Safety. We have a new site lead program that we've
25 established. And we will conduct oversight of the

1 high-hazard areas. We've focused teams to go out.

2 The elaboration, if you'll allow me, is that
3 in the old way when we used to come to the Defense
4 Board to brief out what we've done, we used to do four
5 to six oversight inspections a year, and we'd get back
6 to those sites maybe every two or three years.

7 Today we are at all major sites almost
8 continuously, not with site reps, but with our site
9 lead program.

10 So we're going to do a combination of both.
11 To get to the heart of it, we feel that during this
12 reform period, the Secretary coming in, where people
13 were trying to figure out how this enterprise was
14 going to look, candidly, we said look, we've talked
15 about this for years in oversight. How many times do
16 we have to go out and inspect Facility X and have the
17 same findings? And we were looking at what else could
18 we do?

19 So we said why don't we take our technical
20 expertise and provide assistance? We heard the Deputy
21 Secretary last year describe us as having a duality
22 role. And that didn't sit well with everybody. But
23 what that was was to use the expertise to go out
24 there, and what we have found, Mr. Bader, is that
25 we've learned more about what's going on at the sites

1 than when we just did those inspections with large
2 teams.

3 I go back to the answer of "yes". We are
4 going to deploy teams, and they're going to be very
5 focused, and they're going to not be assisting,
6 they're going to be inspecting.

7 BOARD MEMBER BADER: Complete with findings,
8 corrective action plans.

9 MR. PODONSKY: Correct. And it's not as
10 invited. I want to make that clear.

11 I would be disingenuous if I didn't express
12 to the Board that while the Department was being reset
13 we needed to make sure that we didn't lose the
14 efficacy of the oversight, but we needed to do it in a
15 way that would still add value to the operations in
16 the way that we saw fit, and that's what we did for
17 the last two years. And now we are evolving into a
18 more rigorous oversight that we knew before, just not
19 the large teams. And a focus on the site lead
20 program. And it's not by invitation.

21 BOARD MEMBER BADER: Then the final question
22 would be when does this start?

23 MR. PODONSKY: It's started now. It's
24 started now. We're putting -- Tom Staker, who is in
25 the audience, is putting those program plans together

1 now. That's the first part. You need a plan for the
2 plan. We need to know how you're going to execute.
3 You need to have the documentation so everybody
4 understands it.

5 Something we learned when I was the Deputy
6 Assistant Secretary for Oversight back in 1995, is
7 that everybody needs to understand what they're going
8 to be assessed against. They need to understand what
9 the roles are. And they need to understand what the
10 importance of responding. And so that's what we're in
11 the process of doing now.

12 BOARD MEMBER BADER: Thank you.

13 MR. DWYER: Does "now" mean from here
14 forward, or in the recent past you've already
15 conducted some?

16 MR. PODONSKY: Some have been conducted in
17 terms -- I'll give you an example.

18 We have a site lead at Los Alamos. The site
19 lead at Los Alamos has been out there continuously
20 over the last year. We have some very focused reviews
21 that have been done. What is different is that we
22 haven't published those reports other than to the
23 program office. We haven't put in ratings. We
24 haven't -- the findings have been things that have not
25 been as robust as they're going to be. So it's

1 evolving. It's a process that we are evolving to make
2 sure that we have the rigor that we had previously,
3 but just not with this massive force of humanity.

4 We mentioned the Tiger Teams earlier.
5 There's a lot of good that went on with the Tiger
6 Teams. But there was also a lot of confusion with the
7 Tiger Teams because the descension of 120 contractors
8 onto a site was not always as helpful as we'd like it
9 to be.

10 The same thing with HSS. We would descend
11 with 70 people at a site. We didn't have 70 at one
12 time, but that's what they would always tell us that
13 we had.

14 So we're doing it much more focused. The
15 "now" is we're taking what we've developed over the
16 last two years, and we're evolving it into a much more
17 rigorous process, and a critical part is the site lead
18 program. Not to be confused with the old site
19 resident program, but the site lead program where we
20 have our experts that have responsibility for specific
21 sites.

22 We have site leads now at all the major
23 facilities designated, and their responsibility is to
24 know exactly what's going on at all times at all parts
25 of that site. And when we need to deploy a team, a

1 very focused team, they will be deployed.

2 MR. DWYER: So Tom Staker is developing, that
3 means not completed yet plans.

4 MR. PODONSKY: I don't know how far he's
5 gotten.

6 MR. DWYER: But, not yet into the execution
7 stage.

8 MR. PODONSKY: Not into execution, but what
9 your question is saying, when does it start. It's
10 started now.

11 MR. DWYER: So in your testimony when you say
12 recent independent oversight activities have focused
13 on higher hazard activities, you're referring to site
14 lead activities.

15 MR. PODONSKY: Site lead activities.

16 MR. DWYER: Not published reports?

17 MR. PODONSKY: Site lead activities.

18 MR. DWYER: The same thing in your testimony
19 where you say, "Continue to perform independent
20 oversight during this transition". That's site lead
21 activities, not published reports.

22 MR. PODONSKY: Mostly site lead activities.

23 MR. DWYER: Thank you.

24 Sorry for interrupting.

25 CHAIRMAN WINOKUR: We'll go back now to Dr.

1 Mansfield.

2 BOARD MEMBER MANSFIELD: Thank you, Mr.
3 Chairman.

4 I mentioned that your third paragraph on page
5 six, on the directives on ISM and oversight,
6 particularly the paragraph about divergent views on
7 how much detail is appropriate.

8 Some said that it could be covered by the
9 DEAR [DOE Acquisition Regulations] clause or even 10
10 CFR 830. While others wanted extensive detail.

11 You conclude by saying that the detailed
12 requirements may be appropriate for high-hazard
13 facilities, but many of DOE officers thought they were
14 too prescriptive for low-hazard facilities.

15 Who decides? The regulator?

16 MR. PODONSKY: It's decided at the DRB. It's
17 a consensus process. We, you know, the unfortunate
18 part is that as a member of the DRB we don't get any
19 special compensation or dispensation because we're the
20 overseer. The process that the Deputy, the Associate
21 Deputy have with the DRB, is that we argue the case at
22 the DRB.

23 BOARD MEMBER MANSFIELD: So the regulated
24 decide.

25 MR. PODONSKY: They play a role. I

1 understand where you're going, but again, as I said
2 earlier, Dr. Mansfield, when we believe strongly, and
3 we have on quite a few occasions, when you will take
4 it up to the ADS, the Deputy, or I will tell you I
5 have gone directly to the Secretary as recently as
6 last month.

7 BOARD MEMBER MANSFIELD: Thank you. That's
8 all the questions I had.

9 CHAIRMAN WINOKUR: Ms. Roberson?

10 VICE CHAIRMAN ROBERSON: Hey Glenn, how are
11 you doing?

12 MR. PODONSKY: I'm doing great.

13 (Laughter.)

14 VICE CHAIRMAN ROBERSON: Good.

15 I want to talk to you a little bit, and in
16 your testimony you said some things that I want to
17 focus on.

18 One of them I want to focus on, and I want to
19 make sure I got this right in your testimony. It is
20 your best advice to the Secretary that the contractor
21 assurance systems are mature enough, that they should
22 be relied on more in the safety management arena. Is
23 that -- did I read that right?

24 MR. PODONSKY: No. To be more accurate, they
25 are maturing. They are not where they need to be. We

1 are in violent agreement with the Defense Board.
2 However, we also think that the model is the right
3 model.

4 The contractors won the contracts because
5 they were qualified, best qualified, to run those
6 sites. The requirements that the line offices put out
7 in their contracts should be very clear and precise.
8 But some of the sites are not as mature as we would
9 like to see them, but that's the direction that it
10 should go in.

11 VICE CHAIRMAN ROBERSON: So that actually is
12 the first area I want to explore with a few questions,
13 and if you'd just work with me I'd appreciate it.

14 They've been around. Contractor assurance
15 system requirements have been around. They address a
16 wide range of things. Safety management is just one
17 of those things.

18 So I think as we go around the Complex we do
19 hear a lot that the contract assurance systems are
20 mature.

21 And I want to dig down to the next level.
22 Because I don't know, maybe I'm wrong, and you can
23 convince me I'm wrong. That's really what I'm after.

24 So if we talk about safety management, I
25 really want to focus in on how the Department is

1 determining that -- and let me just say if we take the
2 last ten years, really when most of the requirements
3 were put in place for these, as we travel around to
4 the Complex it is my view that in 2005 for instance
5 where DSAs [Documented Safety Analysis] were pretty
6 good, they're still pretty good. Where they weren't
7 pretty good, they're still not pretty good.

8 Where there has been improvement, it's been
9 driven largely by Defense Board recommendations like
10 2004-1, 2009-2 [Recommendation 2009-2, Los Alamos
11 National Laboratory Plutonium Facility Seismic
12 Safety].

13 So I want to focus in on safety basis. So
14 when you look at safety management, the contractor
15 assurance systems, am I wrong? I mean, is your
16 assessment different? You're providing some insight
17 into these decisions as far as safety management goes.

18 MR. PODONSKY: I don't think you're wrong,
19 but I harken back to something that Admiral Williams
20 gave as one of his answers, and I think this body that
21 he's created, this Nuclear Safety -- Nuclear Security
22 Council, that's not insignificant. I talked in my
23 testimony about a lower level Nuclear Safety Group
24 that Jim O'Brien set up with the CNS [Chief of Nuclear
25 Safety] and the CDNS [Chief of Defense Nuclear

1 Safety]. What's significant is that we're finally
2 getting the nuclear expert managers actually working
3 together, talking together, and so they can start
4 comparing notes.

5 Instead of just these episodic visits of
6 either in the past oversight, GAO, Defense Board, and
7 finding an issue here or there or finding an event
8 that occurs that causes us to look deeper.

9 I see this as a game changer where we're
10 actually getting people to talk together.

11 Without going into laborious detail, but to
12 give you an example, there was a meeting recently of
13 that body, and there was quite a healthy discussion on
14 something very controversial.

15 Who's independent and who's not?

16 But the mere fact that that conversation was
17 going on with all the players in the room, that has
18 never happened in my experience in the Department of
19 Energy.

20 So looking at something as basic as
21 contractor assurance, I think those comparisons, those
22 discussions are going to take place so that the
23 Department can come up with a solution to those areas
24 that haven't changed.

25 To go a step further, some of the sites that

1 we've inspected in the past, we can break out a
2 report from Facility X and we could break out the same
3 report from three years ago, and they didn't change.

4 So how do you change that? You can't just
5 inspect change into a system, and that's a big
6 problem.

7 VICE CHAIRMAN ROBERSON: I agree with you.

8 MR. PODONSKY: So, I'm not going to convince
9 you otherwise.

10 VICE CHAIRMAN ROBERSON: Let's move on.
11 Maybe you're going to convince me on one of these.

12 Let's talk about work planning and control.
13 I want to give credit to the initiative that has been
14 undertaken through EFGOC and the Department, but I
15 will say it is a plan for the planning.

16 I would say that as we go through the Complex
17 there is a tremendous gap in where work planning and
18 control needs to be from a performance standpoint.
19 I'm going to ask you, what is your advice inside the
20 Department inside that area?

21 MR. PODONSKY: Again, in your line of
22 questioning it's I'm going to go back to the fact that
23 I have seen over my time in the Department, accounting
24 options being applied. Interpretations being applied
25 where we had directives that were ambiguous.

1 I again go back to this Council and say we
2 have to establish what is the expectations, and not
3 just individual Assistant Secretaries who have the
4 responsibility, but they come and they go. As you
5 know, they're not here long enough to deal and make a
6 lasting impression and so you rely on your career
7 experts. Where it's broken down is their priorities.

8 So when it gets right down to it, I can't
9 disagree with you, I won't disagree with you, because
10 I think that different sites have different strengths.
11 And some of them are in need of attention.

12 That's where I go back to the Council. I'm
13 putting a lot of weight on that Council, because
14 Admiral Williams put himself as the chair and quite
15 honestly, I think being that he's an outsider, being
16 that he's got a Nuclear Navy background and being that
17 he meets with the Secretary weekly, he has all the
18 ingredients to make a positive change in the
19 Department in all of these areas.

20 Because I will also tell you, no disrespect
21 to any of the managers out there, we have a different
22 cadre of managers throughout the complex. Different
23 than we've had in previous years. Different degrees
24 of experience and competencies. And yet the problems
25 are the same. And then we wonder why the problems

1 don't get fixed.

2 VICE CHAIRMAN ROBERSON: Yeah. And I agree
3 with you. It's been interesting to hear what the plan
4 forward is. But one of the things we're trying to
5 understand is why we're kind of doing what we're doing
6 now.

7 So dare I talk about maintenance of vital
8 safety systems? Or you just say, "Give already?"

9 (Laughter.)

10 MR. PODONSKY: I would say I would love you
11 to ask those questions to the next panel.

12 VICE CHAIRMAN ROBERSON: We will.

13 Let me get to my question. That was intended
14 to be illustrious for a reason.

15 Here's my question, as we go around the
16 Complex and we talk about DSAs, it is my view that
17 when we talk to your contractors, Department
18 contractors, the ones that have the complaints about
19 the DSAs, we look around, and it's like, when was your
20 last DSA update? The ones that complain about the
21 oversight of work planning and controls, you have but
22 to look at their reporting and see they have problems
23 with work planning and controls. The ones that
24 complain about maintenance of their vital safety
25 systems and checking those, you don't have to look

1 very far, they have those complaints.

2 So my question is, during this transition,
3 how is the Department going to ensure that as far as
4 federal oversight it doesn't allow that to be dampened
5 down to the expectations clearly reflected in the
6 contractor assurance systems now. That's the
7 question.

8 MR. PODONSKY: I think that harkens back to
9 something that the Board, one of the recommendations
10 that actually created the CTAs and the CNNs, Chief
11 Nuclear Safety and Chief Defense Nuclear Safety.
12 Their functions, and I know that Don Nichols is here
13 today, their functions are vitally important to make
14 sure that for their Under Secretaries, for their CTAs,
15 that their expectations are lived up to on a daily
16 basis. They have to have, in my vernacular, boots on
17 the ground, and have those and we'll debate how
18 independent they are, but their form of independence
19 to make sure that's happening.

20 At those poor performers that you're talking
21 about, it's going to be a grind of the line management
22 to make sure that they're living up to the contract
23 expectations, and they're going to have to be done
24 through the infrastructure of what we call the whole
25 oversight compendium to start out with the site

1 offices and what are they doing to hold them
2 accountable, what are they doing with their award
3 fees, how are they getting them to do the job that
4 they -- And if the site office isn't doing it, then
5 clearly the Unders, CNNA and CDNSA need to be
6 involved. And when they're not involved, then our
7 oversight has to be involved.

8 MS. ROBERSON: Yeah, I --

9 MR. PODONSKY: But in all your questions, I
10 know you know the answers because you're asking me for
11 my opinion, but it is broken and it needs to be fixed.
12 And we haven't gotten there.

13 And I'm guardedly optimistic that the reforms
14 that are taking place, the clarity that is being done
15 now is something we have never done before. In
16 particular, roles and responsibilities. That has been
17 so illusive for this Department for nine Secretaries.
18 The last time we had roles and responsibilities
19 articulated was [former Secretary of Energy] Paul
20 Hodel, in a one-page statement in 1983. We haven't
21 had it until now, where we're starting to --

22 What is the role of the site office? Are you
23 managing the contract or the contractor? We've heard
24 of -- I'm sorry, that bumper sticker.

25 VICE CHAIRMAN ROBERSON: No.

1 MR. PODONSKY: You want one?

2 VICE CHAIRMAN ROBERSON: Yeah, I want one of
3 those.

4 MR. PODONSKY: So, we're in the process of
5 evolving to where we need to be.

6 But again, and this is not meant to be
7 patronizing in any way, that's why I professionally
8 and personally am excited about finally crossing the
9 Rubicon over the last two and a half years to where we
10 are today with the Defense Board, that we can
11 collectively bring the Department to where it needs to
12 be. And in recognition of the events in Japan, we
13 have issues that we need to resolve. We need to make
14 sure that we're learning the lessons out of all these
15 accidents and not going backwards.

16 And I go back to Dr. Mansfield's, going back
17 into history about why the Defense Board was created
18 in the first place. We don't want to go back to
19 relive that same situation that created the need in
20 the first place. That's what we want to be guarded
21 against.

22 VICE CHAIRMAN ROBERSON: One more line of
23 questions if I may, please. Okay, thank you.

24 I want to pick up on something Dr. Mansfield
25 was asking about. I want to talk a little bit about

1 the OPI. Office of Primary Interest. What that
2 means. And I think the term in your testimony and the
3 term you used here is I'm going to call it "consensus
4 decision-making". What is that?

5 MR. PODONSKY: That's, again, the DRB --

6 VICE CHAIRMAN ROBERSON: Is that majority
7 rules? I don't understand what it is.

8 MR. PODONSKY: I don't know whether there's a
9 formula because I don't sit on the DRB. But I know
10 that the CTAs are represented which is usually the
11 Unders, and their representation, usually they're
12 COOs[Chief Operation Officers.] And they have
13 discussions at the DRB, and it has been, I guess as
14 I'm thinking my answer, it has been just about
15 majority rules because they sometimes align with each
16 other, the program office. Science may align with
17 NNSA and may not with Energy, and I don't know how
18 they vote. But the consensus is it had been managed
19 by MA-1 [Office of Management], Ingrid Kolb, who I
20 think has met with the Board. This is where I made
21 the statement earlier, and I'll repeat it. I think
22 the DRB process is in some need of repair because we
23 see the process not being totally equitable in terms
24 of what needs to be looked at. That's why we're
25 hoping that Mel Williams will be able to add some

1 efficacy back to that process.

2 In my testimony in my oral and some of my
3 questions I've answered, I've talked about the fact
4 that we're starting to go against our own directives
5 in terms of how that's supposed to operate, and that's
6 just not the way we should operate.

7 So I can't tell you exactly what the
8 consensus means because I haven't sat in on any of the
9 meetings, but I will tell you where we as the overseer
10 have had problems, we have, as I said earlier, I've
11 taken it to either the Deputy, the Associate or in one
12 case I took it to the Secretary. But as I'm even
13 answering that, that's not necessarily the way it
14 ought to work.

15 VICE CHAIRMAN ROBERSON: I'm sure we'll have
16 lots more questions as the day goes on. I guess I'm a
17 little confused when I take in all the questioning,
18 and I mean, it sounds like everybody's a safety
19 expert, and I know that's not the way it's intended to
20 be. I know if Dr. Triay offers her expert advice and
21 counsel on D and D [Deactivation and Decommissioning]
22 of a facility, that you are in no position to question
23 that. I'm just wondering who where is the
24 concentrated safety expertise in the Department that
25 aids safety oversight. I'll just leave it there.

1 CHAIRMAN WINOKUR: I have a question, and I
2 know that Mr. Bader will too.

3 I want to be kind of along that same theme.
4 My concern here is that we're tailoring these
5 directives, or there may be a desire to tailor these
6 directives so that we're going to throw the baby out
7 with the bath water. In other words, we seem to, and
8 tell me if this is right in your mind, we seem to be
9 tailoring the directives so that we make sure we don't
10 over-burden the low-hazard operations but perhaps at
11 the expense of the high-hazard operations. And I
12 personally see some of the activities in NNSA, and
13 NNSA will be here today, and they'll help explain this
14 to us where they get it, to the "what versus how"
15 game. When they start throwing out the "how's" you
16 start throwing out a tremendous amount of information,
17 and maybe if you're the world's expert in something
18 you don't need that information. But not everybody's
19 the world's expert.

20 Do you see this trend that the directives are
21 being put on the lower common denominator which is
22 more focused on not burdening the low-hazard
23 operations at the expense of the high-hazard
24 operations?

25 MR. PODONSKY: That's not HSS's intention.

1 That's not in our directives and our Red teams and our
2 steering groups that we've had. Our intention was, as
3 I testified, to find out how we can make them stronger
4 and more useful and cut out the ambiguity. But
5 there's no doubt in my mind that there is forces
6 within the Department that might see that as an
7 opportunity to have directives that are considered of
8 no value to them to go away. We have seen that with
9 laboratories in the past. But again, the specific
10 question you're asking me, that's not our intention in
11 HSS.

12 CHAIRMAN WINOKUR: Mr. Bader?

13 BOARD MEMBER BADER: Peter, you asked the
14 first half of my question. Thank you.

15 The second half was, and it's a focused
16 question, going to your discussion on the outcomes, do
17 you believe the directives that have been issued have
18 sunk to the lowest common denominator?

19 MR. PODONSKY: No, I do not believe so. I do
20 not believe so. And I put my faith and my confidence
21 in my subject matter experts and the people that I
22 have had in the HSS organization for many, many years,
23 they're in this job not because it's fun and it's
24 easy, but they believe in safety, they believe in
25 making sure that the work force are safe, they believe

1 in the security, to make sure that the nation is
2 secure. And I don't have any reservation to put
3 myself on the line as the head of the organizations to
4 say that my people will not compromise either safety
5 or security and go to the lowest level of common
6 denominator on anything that we do, regardless of what
7 kind of pressures we feel inside or outside this
8 Department.

9 BOARD MEMBER BADER: I feel like I just
10 served up a softball.

11 Last question, and this is something I've
12 been very interested in following. Do you believe a
13 site manager under the orders has the ability to grant
14 himself an exemption to a requirement?

15 MR. PODONSKY: I think the site -- I'm going
16 to answer that in a round-about way. The site
17 managers have more authority in the directives than
18 they've allowed themselves to have. They haven't
19 exercised those authorities. And maybe their
20 management told them they can't. But I haven't seen
21 very many site managers exercise the full authorities
22 granted them in their -- in the directives system.

23 Each of the program offices, whether you talk
24 about NNSA, Energy or Science, I think they operate
25 differently, and so I don't know, and when Don Cook

1 comes up with D'Agostino, that would be a really good
2 question for them as to whether their site managers
3 have that authority. Because what comes back to my
4 mind each time is why do we have site managers? What
5 authorities are they supposed to have in managing the
6 contractor? What's the role of the site office today?
7 What's the role of the contractor?

8 Is the danger on one hand if you don't give
9 the managers the authority to do their job. The flip
10 side of it, there's a danger if you have a site
11 manager making carte blanche decisions without
12 coordination with the program office headquarters. So
13 it's an excellent question that has many faces to that
14 answer.

15 BOARD MEMBER BADER: To me part of the answer
16 to that is if you believe they do, don't they become
17 the regulator?

18 MR. PODONSKY: Rhetorical statement, yes.

19 BOARD MEMBER BADER: Yes.

20 CHAIRMAN WINOKUR: Ms. Roberson?

21 VICE CHAIRMAN ROBERSON: I just have one more
22 question from your testimony. I don't know if you have
23 it, I don't know that you need it, but it's on page
24 eight of your testimony which is obviously available
25 publically. You say that "HSS believes that the

1 revised ISM and oversight orders can be effective in
2 providing flexibility and maintaining effective safety
3 if DOE contractors and line managers implement their
4 responsibilities effectively and appropriately for the
5 hazards and conditions at their facilities."

6 Did you intend to imply that they did not
7 have that prior to this last revision?

8 MR. PODONSKY: No, we wanted to make sure
9 that it was clear that they do have that.

10 VICE CHAIRMAN ROBERSON: Is it more effective
11 in the new requirements? Is "more" the adjective
12 that's missing? More effective?

13 MR. PODONSKY: Yes.

14 VICE CHAIRMAN ROBERSON: Okay, you believe it
15 is more effective.

16 MR. PODONSKY: I believe it is. And the
17 proof will be in the pudding in the guide as well.

18 VICE CHAIRMAN ROBERSON: Okay.

19 CHAIRMAN WINOKUR: In your testimony you said
20 today you talked about directives that were expedited,
21 but really a lot of work had been done prior to their
22 being expedited. So they were really positioned well
23 for relatively quick action.

24 If we begin with a new directive at the
25 beginning, how long does it take in your opinion to

1 look at a directive with a fresh start, look at its
2 requirements and position yourself to go to the DRB?
3 What's that time span roughly? I've seen some of your
4 charts, but for the record, can you give a sense of how
5 long that takes?

6 MR. PODONSKY: We take 60 days is what we're
7 taking. From the time the justification memo, the JM,
8 is approved by the Board, the DRB, they have 60 days to
9 develop it and then go after it for comment.

10 Dependent on the subject matter will drive
11 the time. And so you're talking about upwards of about
12 three to six months is what it takes.

13 The whole purpose of our signing up to the
14 '09 period that we talked about jumping on to see, how
15 we can was because I mentioned, the REVCOM system of
16 the Department was long and protracted. Everybody and
17 anybody can make comments. There are examples where
18 somebody would make a comment within the Energy group
19 and it wasn't representative of what the Under
20 Secretary had wanted, so those were even longer. Those
21 were upwards of a year, year and a half.

22 The time, as I said in my testimony last
23 year, should not be the driver, it should be the
24 quality of the product. But also we shouldn't be
25 constipated by everybody's having a different opinion.

1 At some point, somebody has to say, "Pencils down".
2 That's where I believe that's what the Deputy was
3 thinking, I wasn't in his brain, but I believe that's
4 what he was thinking when he was looking to help the
5 NNSA in those seven directives expedite. When we
6 briefed him about how long they were in process, it was
7 like saying, "Pencils down".

8 CHAIRMAN WINOKUR: I was just trying to make
9 the point that I think you would agree with that, I'll
10 ask you if you do, that it's a pretty complex process
11 to go through a directive, to look at all the
12 requirements, to get Red Teams together and make sure
13 that everybody really understands why those
14 requirements are in that directive. Because in the
15 end, that's the most important thing and that's what
16 the workers and everybody needs to understand so they
17 don't feel that it's just a compliance based exercise.
18 We're just doing it because somebody says to do it.
19 But that there's a reason for it.

20 As you know, sometimes the lessons learned
21 and the histories have explained why you do things that
22 way. That's been my experience in almost anything I've
23 done in life when I look at guides and things like
24 that, I get to take advantage of the fact that many
25 people have done this before, and they know the right

1 way to do it.

2 MR. PODONSKY: I don't disagree, and I
3 understand what the questioning is going to. But
4 again, I said earlier, and I'll say it again, each
5 administration comes in, and they want to make a
6 change. They want to leave something better than what
7 they've found it as I've heard that quote many, many
8 times. So I understand the sense of urgency. But
9 that's where Mel Williams says he throws up the flag
10 when he needs to, and that's what he's learned to do.
11 We've been doing the same thing. As I said, we're in
12 disagreement with the current DRB process where there's
13 a section that's very important and transparency that's
14 been cut out.

15 So your point is well taken, I understand
16 that. We don't want to be driven by the clock. But at
17 the same time we also understand why the Secretary and
18 the Deputy want to get some results.

19 CHAIRMAN WINOKUR: In a nutshell, who
20 provides independent oversight? Does HSS provide
21 independent oversight, or can NNSA provide its own
22 independent oversight of its operations?

23 MR. PODONSKY: That was the controversial
24 discussion that the Council had and from my perspective
25 of only, again, doing this for 28 years, HSS is the

1 independent overseer of the Department and NNSA.
2 However, NNSA and Energy have the chief nuclear safety
3 positions that are a form of independence, but they are
4 not independent. They will disagree.

5 CHAIRMAN WINOKUR: I know they add great
6 value. I'm not suggesting in any way, shape or form
7 that --

8 MR. PODONSKY: But the independence comes
9 from the fact that we are not involved in owning any of
10 the sites, operating any of the sites, running the
11 missions or budgeting, and we have demonstrated for
12 three decades as we testified on Capitol Hill, as we
13 testified here and other venues, that we independently
14 assess the performance of the Department against its
15 requirements.

16 CHAIRMAN WINOKUR: My last question,
17 Integrated Safety Management has been a foundational
18 safety program for the Department for a long time. You
19 hold a workshop every year. A thousand people attended
20 last year. I think they've even invited me back again.

21 MR. PODONSKY: We're helping with the slides.
22 (Laughter.)

23 CHAIRMAN WINOKUR: Okay. But this is
24 something, I see a lot of effort on the part of the
25 Department at times to take the "S" out of ISM. To say

1 it should be Integrated Management or Integrated
2 Management Systems, it shouldn't be Integrated Safety
3 Management. I occasionally hear sentiments that people
4 say, "Well, safety's a given". We know safety is
5 there. We don't really have to tell our workers that.
6 Everybody knows safety has to be fully integrated into
7 mission". And I know they believe that in their
8 hearts. Believe me, I'm not in any way suggesting they
9 don't have a personal commitment to safety. But are
10 you planning on taking the "S" out of ISM or making
11 that suggestion?

12 MR. PODONSKY: We do not believe that is the
13 right thing to do. We do know there's discussion about
14 going to Integrated Management. We've also been in the
15 Department where we've had people say we should have
16 Integrated Safety and Security Management. That didn't
17 go very well.

18 If you look at the tenets of ISM, and I know
19 you know this, is that it's applicable to all the
20 disciplines. It's a basic foundation on how to manage.
21 If you go back to the original letter that came out in
22 December of 1994 from the Board to [former Secretary of
23 Energy] Hazel O'Leary, how are you going to manage
24 safety in the Department? And the response came back
25 that was the forerunner to what later became the

1 implementation plan for ISM. It's a solid foundation,
2 so it's a long protracted answer, but the short answer
3 is, "No". We do not believe that that's the way to go.
4 We believe that ISM has survived many Secretaries
5 because it's a solid process, and that people
6 understand it.

7 CHAIRMAN WINOKUR: Mr. Dwyer?

8 MR. DWYER: Glenn, just to follow up on that.
9 In your testimony you talk about DOE determining that
10 less prescriptive and performance-oriented directives
11 are acceptable, and then you list some reasons why.
12 One is that basically that we already have improved the
13 safety programs. I hear an echo of what you're saying
14 there. We don't have to continue to tell the
15 contractor how to run the safety program, he's already
16 done that. We'll just let him do it himself. Is that
17 what you're trying to say here?

18 MR. PODONSKY: Absolutely not. Absolutely
19 not. What we're saying is they have matured, they have
20 improved. We're not the same Department that we were
21 in 1988 when the Board stood up. There's been a lot of
22 improvements. But what also has to happen, Tim, and
23 you know this, is that you have to have the operator,
24 you have to have the contractor have a chance to live
25 up to their contract.

1 What we have -- we have whip-sawed back and
2 forth so many times in this Department in terms of too
3 much oversight, not enough oversight, too much
4 prescription, not enough prescription, that what I'm
5 trying to say there is recognize there are examples of
6 really good safety systems in place. Just as Jessie
7 Roberson was asking me very focused questions down the
8 line of work planning and controls and things of that
9 nature. There's good examples, and there's bad
10 examples.

11 What we're trying to say in the testimony, we
12 have to be somewhat more flexible. But where they are
13 not performing, we have to be more aggressive in line
14 oversight and independent oversight.

15 MR. DWYER: Okay. So you're not, despite
16 what I think I read here, you're not advocating that
17 since the program has stood up we can remove the
18 requirement.

19 MR. PODONSKY: Absolutely not.

20 MR. DWYER: Okay. Then you go on to say the
21 other thing that makes it okay for us to be less
22 prescriptive is there have been improvements in
23 oversight and we also benefit from the FACREP program
24 and the SSO [Safe and Secure Operations] program, et
25 cetera, et cetera. So are we now advocating

1 "inspecting in" our requirements? We're going to do it
2 through basically "QA [Quality Assurance] after the
3 fact" instead of having the requirements --

4 MR. PODONSKY: No. What that testimony is
5 supposed to be conveying is just what I just said.
6 It's that there are different parts of the entire
7 regulatory regimen that we have. We have the FACREPs,
8 we have the SSOs, we have the CNS and CDNS. We have
9 layer upon layer that we need to be reliant on in terms
10 of giving us feedback on what's going on at the sites.
11 We're trying to be flexible at a time that we're
12 redefining how the Department is operating. At the end
13 of the day, we're not saying -- it would be ill-advised
14 to ever say you can inspect safety into a program.

15 MR. DWYER: Exactly.

16 MR. PODONSKY: Okay. It would be ill advised
17 to tell the Congress that we awarded a contract to
18 somebody who's not capable of operating safely. So
19 there has to be a responsibility all the way up the
20 line. And what we're trying to say there is it's a
21 process, and it's a system that has to be employed.

22 MR. DWYER: Okay. But I'm still -- between
23 those two reasons, I'm still trying to understand why
24 that allows me to be less prescriptive.

25 MR. PODONSKY: Could you elaborate on why

1 you're confused?

2 MR. DWYER: If the Department has determined
3 that they can write less prescriptive orders because
4 the requirements essential to safety have already been
5 implemented and because I have this strong oversight, I
6 fail to understand, if you take a requirement out of
7 the contract, do you think the contractor is going to
8 continue to execute it?

9 MR. PODONSKY: That again is a rhetorical
10 question.

11 MR. DWYER: Exactly.

12 MR. PODONSKY: No, I see your point, and
13 that's badly written.

14 MR. DWYER: Okay -- just -- again, to make
15 sure I heard it correctly, can you elaborate on cross-
16 walks associated with the reform orders? You tell --
17 your testimony says cross-walks have been developed.
18 From what I understand --

19 MR. PODONSKY: Yes, I know what it says, and
20 what I tried to do publicly is correct or elaborate on
21 that statement.

22 What HSS did is in the REVCOM process every
23 order had a cross-walk. The Board's Staff is aware of
24 that.

25 What we didn't do, I repeat that, what we did

1 not do. We did not do a final cross-walk with all the
2 comments. We are deficient. In particular, ISM and
3 oversight have not been completed. That's where the
4 staff was very concerned when they saw my statement in
5 there. So the statement is correct but not complete.

6 MR. DWYER: Okay.

7 MR. PODONSKY: Okay, what we said, what I
8 said early on, about three hours ago I guess, --

9 MR. DWYER: Not quite.

10 (Laughter.)

11 MR. PODONSKY: Was that we will work very
12 closely with the Board Staff to correct that.

13 So, I didn't blame the DRB. I didn't blame
14 anybody. I said HSS made that mistake.

15 MR. DWYER: I understand. I just want to
16 make sure that I heard you correctly.

17 MR. PODONSKY: I understand. I just want to
18 make sure that --

19 CHAIRMAN WINOKUR: Would you like to amend
20 your written testimony?

21 MR. PODONSKY: No, I think the record stands
22 here.

23 CHAIRMAN WINOKUR: Okay.

24 MR. DWYER: Thank you, Mr. Chairman.

25 CHAIRMAN WINOKUR: Do we have any other

1 questions from Board Members?

2 If not, I want to thank you very much, Mr.
3 Podonsky, and we are going to call a recess of this
4 public meeting and hearing. We will reconvene at 1:30
5 p.m. Thank you.

6 (Whereupon a luncheon recess was taken, to
7 reconvene at 1:30 p.m. this same day, May 25, 2011.)

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1 you. You provided written lines of inquiry prior to
2 this meeting, and I provided a detailed written
3 response for the record. Thank you for including those
4 in the record.

5 Today I'll provide some brief remarks on the
6 NNSA oversight function focused on the initiatives that
7 we've adopted in our approach to governance and
8 oversight. I'll close with a brief discussion of the
9 recent NNSA reorganizations that affect the Central
10 Technical Authority function and its staffing.
11 Following my remarks the Deputy Administrator for
12 Defense Programs will discuss the specific governance
13 approaches and reforms that we have been pursuing since
14 he was confirmed.

15 I would like to begin by clearing up what may
16 be a misconception about why we are making some of the
17 changes that you have asked about. NNSA oversight of
18 nuclear safety has proven highly effective in
19 preventing nuclear accidents and keeping our workers
20 and the public safe. Our oversight philosophy is
21 purposefully multi-layered, employing an overlapping
22 approach that establishes primary oversight
23 responsibility at the closest level to the work being
24 performed.

25 Using additional layers of oversight ensures

1 that where appropriate, multiple experts provide a
2 degree of redundancy to ensure that nuclear safety
3 requirements are being implemented effectively.

4 We have no intention of reducing this
5 purposely redundant oversight for nuclear safety or
6 eliminating requirements that contribute to the safe
7 operations of our nuclear facilities.

8 Based on extensive discussions our senior
9 federal and contractor personnel have concluded that
10 DOE nuclear safety requirements generally have an
11 appropriate level of prescription for our nuclear
12 facilities.

13 Our current nuclear safety oversight approach
14 is effective and has the appropriate level of direct
15 federal involvement in activities that are conducted by
16 our contractors. We will make improvements in nuclear
17 safety where appropriate and when opportunities arise.

18 And such opportunities may come as part of our effort
19 here in governance reform, but, and I'd like to be very
20 clear about this, the changes we are making to our
21 governance models are not designed to fix problems with
22 oversight or nuclear safety or with Integrated Safety
23 Management. Our systems for ensuring the safety of our
24 nuclear facilities are sound and will remain that way.

25 Our motivation for changing governance and

1 oversight came from concern that our approach to
2 governing high-hazard operations had over time
3 inappropriately influenced our governance approach for
4 low-hazard non-nuclear activities resulting in
5 excessive requirements and management approaches for
6 those non-nuclear activities.

7 We'd already begun to reevaluate these
8 practices when President Obama and the Secretary
9 challenged us to reevaluate the effectiveness and the
10 efficiency of our business practices. Our efforts
11 since then have been designed to streamline NNSA
12 business operations and reduce operational costs to
13 maximize mission accomplishment.

14 Following a new business model, allow the
15 contractor at our non-nuclear site in Kansas City to
16 use industrial standards where appropriate and
17 transferred responsibility for the design and
18 implementation of standard operational administrative
19 and support processes from the NNSA to the contractor.

20 NNSA moved more towards determining the
21 desired outcome, and the contractor was allowed greater
22 latitude to determine the method for achieving it.

23 Subsequently, in 2009, the Kansas City Plant
24 received the Malcolm Baldrige National Quality Award.

25 This award reflects the quality improvements the

1 contractor made for themselves through the application
2 of consensus standards. But those improvements were
3 inspired in part by changes we made to our governance
4 model that effectively empowered the contractor to
5 better manage their operations.

6 Beyond sound safety and quality performance,
7 the Kansas City site office currently projects a cost
8 savings or avoidance of roughly \$60 million over the
9 first six years under the new approach. In a resource
10 constrained environment where such savings make more
11 funding available for high value activities such as
12 upgrades to safety systems, this makes sense.

13 NNSA is now working with its other sites to
14 take steps towards implementing similar performance-
15 based principles for low-hazard non-nuclear operations.

16 Upon final implementation of our governance
17 model there will be a significant distinction between
18 NNSA oversight of nuclear safety which will retain the
19 same level of rigor as our current practices, and NNSA
20 oversight of low-hazard non-nuclear safety areas. For
21 the low-hazard and non-nuclear safety areas I
22 anticipate that there will be far less transactional
23 oversight and far fewer process-related requirements
24 than there will be for the high-hazard and nuclear
25 safety areas.

1 Before I yield the floor to the Deputy
2 Administrator, let me briefly outline some of the
3 changes I'm making to the NNSA organization that affect
4 the implementation of the Central Technical Authority
5 role which was established partially in response to
6 Defense Board Recommendation 2004-1.

7 To institutionalize the importance I've
8 placed on my senior executives we've created a new
9 Associate Administrator position, and this Associate
10 Administrator position is for safety and health. This
11 position will be competed and filled with a member of
12 the Senior Executive Service ranks. I'm appointing Dr.
13 Don Nichols as my Chief -- my current Chief of Defense
14 Nuclear Safety to act in this position as Associate
15 Administrator until the position is formally filled.
16 And I will continue to serve as the Central Technical
17 Authority.

18 The Offices of the Chief of Defense Nuclear
19 Safety and the Senior Advisor for Environment, Safety
20 and Health will be reorganized under this Associate
21 Administrator position and will continue to support me
22 as the Central Technical Authority function.

23 Additionally we reorganized our NNSA Service
24 Center to be more consistent with our "One NNSA"
25 management model. The service center personnel who

1 have supported nuclear and occupational safety
2 throughout the NNSA are being reorganized under the
3 Associate Administrator for Safety and Health,
4 preserving this vital source of independent review and
5 advice in support of line management decision-making.

6 I'd like to add that Neile Miller, my
7 Principal Deputy, when she came into our organization a
8 number of months ago she looked at the way we were
9 doing and came forward and decided we really needed to
10 get the right functions together, working together,
11 independently as part to ensure that we have that
12 independent capability within the NNSA. I'm
13 confident that these changes that we're putting in
14 place are really going to drive us to this level of
15 independence and technical expertise that will be
16 consistently applied across the whole enterprise.

17 Again, I thank all of you for the opportunity
18 to testify. I look forward to your questions. I'll
19 turn the floor back to you, Mr. Chairman.

20 CHAIRMAN WINOKUR: Thank you, Mr. D'Agostino.
21 Dr. Cook?

22 DEPUTY ADMINISTRATOR COOK: Mr. Chairman,
23 Members of the Board, I thank you for this opportunity
24 to meet with you in this public forum, and I appreciate
25 the opportunity to make a public statement at this

1 meeting.

2 After I make a few comments about my own
3 background I will describe some of the changes that
4 I've made within Defense Programs since I was confirmed
5 in June 2010.

6 I was nominated for the position of Deputy
7 Administrator for Defense Programs at NNSA by the
8 President on December 3, 2009; provided testimony at a
9 confirmation hearing on December 17, 2009; and was
10 confirmed by the Senate on the 25th day of June, 2010.

11 My educational background includes an
12 undergraduate degree in nuclear engineering from the
13 University of Michigan, and masters and doctoral
14 degrees in applied plasma physics from the Nuclear
15 Engineering Department at the Massachusetts Institute
16 of Technology.

17 My immediate assignment prior to joining
18 government service was as Managing Director and Chief
19 Executive Officer of the Atomic Weapons Establishment
20 in the United Kingdom from 2006 through 2009. In that
21 role I had a complete set of accountabilities for
22 nuclear weapon design, development, manufacturing,
23 assembly, transport, support in service, dismantlement
24 and disposal. This included all of the facilities and
25 the infrastructure of the nuclear licensed sites at

1 Aldermaston and Burghfield that are equivalent to those
2 in the U.S. labs and production plants, although with
3 smaller throughput requirements.

4 I have always viewed that safety and security
5 are inherent parts of the mission. Not add-ons, not
6 stand-alone items. And that we perform at our best
7 when each individual from the shop floor to senior
8 executive management on both the M and O [Management
9 and Operations] and the government side has such a view
10 strongly ingrained in his or her thinking.

11 Since I was confirmed last year I've visited
12 all of our sites, and I have with the approval of the
13 Administrator restructured Defense Programs. An
14 important element of that restructure was the focusing
15 of one of the major organizational units on nuclear
16 safety, nuclear operations, and governance reform.

17 This unit we know as NA-17 is headed by Mr.
18 Jim McConnell an Assistant Deputy Administrator, who is
19 accountable directly to the Deputy Administrator.

20 Another element of the restructure was
21 raising the reporting level of the site offices and
22 site office managers to the same level as the main
23 programmatic leaders, that is Assistant Deputy
24 Administrator level, so that both program and
25 operational oversight occur at the same level,

1 reporting directly into the Deputy Administrator.

2 Additionally, the position of sites Chief
3 Performance Officer [CPO] was created to enable greater
4 communication between headquarters and site offices, to
5 increase the speed of response between headquarters and
6 site office activities, and to track and ensure
7 performance. The sites CPO also reports directly to
8 the Deputy Administrator.

9 Now within Defense Programs the Office of
10 Nuclear Safety, Nuclear Operations and Governance
11 Reform has put key people in roles for which they are
12 well trained and qualified. Jim McConnell, now an
13 Assistant Deputy Administrator, formerly served as
14 Chief of Defense Nuclear Safety, I'll refer to that as
15 CDNS from now on, and he held a number of positions as
16 a DNFSB staff member including Deputy Technical
17 Director, Group Leader for Nuclear Weapons Programs,
18 and Pantex Plant Site Representative. He also served
19 as a naval officer in submarines and in intelligence.

20 William "Ike" White formerly served as a
21 Technical Lead for electrical engineering for CDNS, and
22 he held a number of technical positions as a member of
23 the DNFSB staff including Pantex Plant Site
24 Representative and Cognizant Engineer for the Nevada
25 Test Site and for Lawrence Livermore National

1 Laboratory.

2 Patrick Cahalane formerly served as a
3 Technical Lead for Safety Bases for CDNS, and he held a
4 number of positions in DOE, in NNSA including Facility
5 Representative Team Lead for Tech Area 55, Plutonium
6 Facility No. 4 [PF-4], and for WETF [Weapons
7 Engineering Tritium Facility] at Los Alamos. And he
8 also served as Senior Safety Engineer at the Pantex
9 plant. Additionally he served as an Air Force officer
10 and engineer.

11 Together the staff in NA-17 and their
12 colleagues in NNSA are taking several important steps.

13 I'll list them. First, developing and maturing the
14 Central Technical Authority and CDNS concept and the
15 biennial reviews of site office nuclear safety
16 performance.

17 Second, implementing and maintaining a
18 rigorous safety reporting chain and approval process
19 including adjustments to restrict prior delegations,
20 for example readiness at Los Alamos National Lab.

21 Third, initiating a rigorous process for
22 validating contractor assurance systems.

23 Fourth, integrating the assessment planning
24 between headquarters, site office and field to make
25 more productive use of our limited oversight resources.

1 Fifth, partnering with EFCOG on a plan to
2 improve work planning performance.

3 Sixth, structuring resources to more keenly
4 focus on high priority facility safety improvements at
5 facilities such as PF-4 at Los Alamos.

6 Seventh, developing and implementing a more
7 rigorous training program for nuclear safety analysts,
8 a CDNS effort, and implementing a new safety training
9 course for program personnel and managers without a
10 nuclear safety background. That's an NA-17 effort.

11 Eighth, using headquarters assessment
12 resources to train and inform site office oversight and
13 contractor personnel to improve implementation of
14 critical requirements in areas like startup and
15 restart.

16 Ninth, publishing a quarterly technical
17 bulletin to improve the consistent understanding of
18 requirements, a CDNS effort.

19 Tenth, issuing formal guidance and
20 expectations.

21 Eleventh, effectively controlling exemptions
22 to nuclear safety requirements.

23 Now as we undertake these efforts to
24 continually improve our safety performance and Defense
25 Programs, we're mindful that we must look for ways to

1 achieve that performance as efficiently as possible.
2 President Obama has challenged everyone in government
3 to fundamentally improve the way we do business, to be
4 more efficient, more cost-effective, and to deliver
5 quality results for the American taxpayer.

6 In establishing efforts to transform
7 governance and oversight programs NNSA and Defense
8 Programs have responded to the President's and the
9 Secretary of Energy's leadership.

10 One of my highest priorities has been to
11 champion NNSA's enterprise reengineering and governance
12 transformation initiatives. These initiatives
13 streamline our requirements in all areas. They improve
14 the efficiency of our operations, and they ensure that
15 decisions are made by managers closest to and
16 accountable for the work being done. They also improve
17 our ability to hold our contractors accountable for
18 performance and to ensure focus of our oversight
19 resources on high consequence activities.

20 These initiatives do not reduce our
21 performance expectations for the safety and security of
22 our nuclear facilities. We expect safety and security
23 performance to continue to meet high standards as we
24 give our contractors more flexibility in determining
25 the most effective and the most efficient means of

1 meeting those standards.

2 We're focusing our requirements on
3 performance outcomes. As we do this we're avoiding
4 unnecessary prescription of process, particularly where
5 consensus standards already exist that provide industry
6 standard process expectations.

7 Giving our contractors flexibility to adopt
8 standards that are fit for purpose allows our
9 contractors to be more innovative in improving both
10 effectiveness and efficiency, and it improves our
11 ability to hold our contractors accountable for
12 performance. Reducing the complexity and level of
13 prescription of our requirements does not equate to
14 reducing our expectations for strong performance
15 outcomes.

16 We are ensuring that an enterprise-wide
17 coordinated effort is in place to review and comment on
18 new requirements documents that impact our operations.

19 This process was built on the effort to have broad
20 management teams review proposals by Sandia and by
21 Nevada for streamlining requirements in those
22 contracts. The process currently assures that our top
23 subject matter experts along with senior federal
24 managers at both headquarters and site offices are
25 involved in reviewing proposed changes to requirements.

1 We're leveraging strong federal and contractor
2 assurance systems to improve both the effectiveness and
3 efficiency of our approach to oversight.

4 As we tailor our federal systems to focus on
5 high risk activities, we're validating the performance
6 of our contractor assurance systems. We must ensure
7 that those systems are providing accurate information
8 that's being acted upon by our contractors to
9 continually improve performance in all areas. We
10 expect this eyes-on/hands-off approach to oversight to
11 result in improved performance as our contractors
12 become more accountable for identifying needed areas of
13 improvement and ensuring that improvement occurs.

14 We're integrating our oversight programs at
15 the contractor, site office and headquarters level. In
16 doing this we maintain independence where appropriate,
17 but we allow sharing of resources and data collection
18 efforts to improve the effectiveness and the focus of
19 limited oversight resources at all levels.

20 We're moving decision authority to the
21 appropriate level of contractor and federal management.

22 This allows decisions to be made more quickly by
23 personnel most familiar with the work being done and
24 with the impacts of those decisions. As we do this
25 we're maintaining through the CDNS biennial review

1 process oversight of the execution of that decision
2 authority.

3 As I mentioned earlier, for many federal
4 nuclear safety authorities, I have raised the level of
5 decision authority by having the site office managers
6 who have been delegated nuclear safety authority to
7 report directly to me.

8 In closing, I want to emphasize that
9 improving the efficiency of operations, integrating and
10 focusing our approach to oversight, streamlining and
11 clarifying our contract requirements is expected to
12 improve safety and security performance.

13 I'd also emphasize a few critical points
14 already made by the Administrator in his recent
15 approval of NNSA's new governance policy.

16 First, NNSA will maintain its responsibility
17 to exercise independence in oversight and to sustain
18 strong self-regulatory posture where applicable and
19 where appropriate.

20 Second, we will not accept program
21 accomplishment at the expense of safety of our workers
22 or the public or protection of the environment.

23 And third, our processes will ensure that
24 safety and security are treated as essential elements
25 that are integral to our mission, not separate

1 considerations.

2 Again, I thank you for the opportunity to
3 make a public statement at this meeting.

4 CHAIRMAN WINOKUR: Thank you, Dr. Cook.

5 Could you please submit your written
6 testimony for the record?

7 DEPUTY ADMINISTRATOR COOK: Surely.

8 CHAIRMAN WINOKUR: Thank you.

9 Dr. Triay?

10 ASSISTANT SECRETARY TRIAY: Thank you very
11 much. Good afternoon, Mr. Chairman, and Members of the
12 Defense Board. I appreciate the opportunity to be here
13 today to represent the Department of Energy's Office of
14 Environmental Management and address EM's approach to
15 the oversight of complex, high-hazard, nuclear
16 operations.

17 As you pointed out, to my right is Mr. Dae
18 Chung, the Principal Deputy Assistant Secretary for
19 Environmental Management. Please direct all the hard
20 questions to him.

21 (Laughter.)

22 With regard to the potential problems with
23 policy and past practices associated with oversight and
24 contractor assurance systems, we believe that there are
25 no substantive problems with the Department's policy

1 and orders covering oversight and contractor assurance
2 systems associated with activities at defense nuclear
3 facilities at this time.

4 However, in the interest of continuous
5 improvement there are opportunities for enhancement.

6 We also believe that our implementation of
7 those policies and orders requires continuous
8 improvement.

9 Before continuing, I believe it is important
10 for you to understand that EM's work scope and
11 contracting approach are different than the rest of the
12 Department.

13 In 1995 the Environmental Management Office
14 did its work through 12 management and operations-type
15 contracts. Because of the nature of our work and to
16 maximize contractor performance, today the
17 Environmental Management Office has only two management
18 and operations contracts and more than 35 performance-
19 based, cost-type non-management and operations
20 contracts.

21 Our approach is to use these contracts to
22 drive mission completion and closure of our sites which
23 is significantly different than the rest of the
24 Department.

25 Keeping these differences in mind, the Office

1 of Environmental Management, its field offices, and its
2 contractors use the Department of Energy oversight
3 model described in DOE Order 226.1B, Implementation of
4 Department of Energy Oversight Policy.

5 The philosophy underlying this order is that
6 the line management is responsible to ensure the safety
7 of the work being performed. DOE and its contractors
8 use the Integrated Safety Management System to ensure
9 that all work activities are appropriately scoped,
10 analyzed for hazards, comprehensively planned to
11 eliminate or mitigate hazards, and effectively
12 performed by personnel with the requisite skills and
13 training.

14 The oversight and assurance processes
15 dovetail into the Integrated Safety Management approach
16 to reinforce expectations, provide feedback, and
17 promote continuous improvement in operations.

18 The Office of Environmental Management
19 consistent with the oversight order requires that its
20 contractors submit their contractor assurance system
21 descriptions to the head of the local Department of
22 Energy field organization for review and approval. The
23 contractor's assurance system must meet the
24 requirements specified in the order's contractor
25 requirements document in order to be approved.

1 DOE ensures that these requirements flow down
2 into our contractors' programs through its oversight
3 activities.

4 The ultimate goal of our Integrated Safety
5 Management System and oversight processes is to have
6 accident and event-free work places.

7 To codify this objective in 2010 I initiated
8 an effort to improve EM operations entitled "EM Journey
9 To Excellence" which contains seven major goals, one of
10 which is to improve safety, security, and quality
11 assurance towards a goal of zero accidents, incidents,
12 and defects.

13 However, despite the rigor and the amount of
14 oversight we provide, events occur that demonstrate our
15 oversight and assurance systems are not as effective as
16 needed to reach this goal.

17 When such events occur, the Department of
18 Energy acts promptly and with determination to identify
19 the specific weaknesses and develop effective
20 corrective actions to preclude the recurrence of these
21 events.

22 With respect to potential issues with
23 Integrated Safety Management systems -- excuse me --
24 with respect to the potential issues with Integrated
25 Safety Management Systems associated with our

1 activities, in my previous testimony during the Board's
2 November 2009 public meeting on oversight of complex
3 high-hazard nuclear operations, I indicated that EM has
4 supported Integrated Safety Management as the
5 foundation for safety management since your
6 recommendation on this subject almost 15 years ago.
7 That is still the case today.

8 EM contractors continue to implement the
9 Department of Energy requirements for Integrated Safety
10 Management based on the Department of Energy
11 Acquisition Regulation Clause. Integration of
12 Environment, Safety and Health into Work Planning and
13 Execution.

14 I have maintained the practice of providing
15 annual guidance to field managers on our expectations
16 for Integrated Safety Management System declaration
17 submittals to ensure both federal and contractor
18 Integrated Safety Management Systems continue to be
19 robust and effective.

20 Based on our overall safety performance I
21 believe that our Integrated Safety Management Systems
22 are in general properly protecting the public and our
23 workers.

24 Work planning at the activity level is one
25 area in our Integrated Safety Management Systems that

1 both the Board and EM recognize as needing improvement.

2 I appreciate the Board's attention and
3 oversight of work planning at our sites. Work planning
4 and conduct of operations are a prime focus of my
5 safety management oversight.

6 As you know from our earlier briefings to the
7 Board on the status of work planning, EM has taken a
8 number of steps to improve this area: including
9 development and issuance of EM work planning guidance
10 for implementation and criteria for assessments;
11 partnering with the Energy Facilities Contractors
12 Group, EFCOG, to develop a comprehensive set of tools
13 designed to improve work planning performance;
14 supporting one of the Department's key contractors at
15 the corporate level to improve their DOE contract work
16 planning; and making work planning execution a focus in
17 our Integrated Safety Management Systems guidance.

18 I believe that use of Integrated Safety
19 Management fully supports safe mission accomplishment.

20 As part of this, EM will be again providing annual
21 Integrated Safety Management Systems declaration
22 guidance to the field in line with the mature aspect of
23 safety management systems, lessons from previous field
24 declaration submittals, and the authorities that our
25 sites have in ensuring effective safety management

1 systems are in place.

2 We have instituted new practices in the areas
3 of work planning and control: specific functional area
4 reviews, construction project reviews, and quality
5 assurance assist visits and assessments.

6 In April of last year my office distributed
7 work planning and control program guidelines throughout
8 the Environmental Management complex. These guidelines
9 had been developed over a period of several years by
10 conducting work planning and control focused
11 assessments. These assessments included field sites
12 contractor programs and practices and the associated
13 federal oversight.

14 During 2011 EM is supplementing these past
15 activities with two additional areas -- contractor
16 assurance and chronic beryllium disease prevention
17 programs. The emphasis on contractor assurance
18 programs reflects EM's concerns with recurring events.

19 Assessment activities in this area will be performed
20 using the existing EM contractor assurance criteria
21 review and approach document.

22 The emphasis on beryllium disease prevention
23 program implementation is an outcome of the issues
24 identified during the Office of Health, Safety and
25 Security's review of beryllium disease prevention

1 program implementation at the Hanford Site that Glenn
2 Podonsky discussed this morning.

3 EM subsequently developed a beryllium disease
4 prevention program criteria review and approach
5 document which is being piloted and refined during the
6 2011 assessments.

7 EM has instituted construction projects
8 reviews which include review of environmental, safety,
9 health and quality program implementation at our major
10 construction projects. We conduct construction project
11 reviews on each major EM construction project
12 approximately every six to twelve months.

13 Lessons learned are shared among the
14 construction projects. The construction projects are
15 required to respond in writing to the recommendations
16 of the construction project review team, and subsequent
17 construction project reviews evaluate the adequacy of
18 the response and the effectiveness of the corrective
19 actions.

20 This feedback and continuous improvement
21 cycle is a core function of the Integrated Safety
22 Management System.

23 Over the past year EM has implemented a new
24 process of combining enhanced quality assurance audit
25 and oversight planning and prioritization with focused

1 technical assistance to help it strengthen site quality
2 assurance programs.

3 The focus of the quality assurance audits and
4 oversight process is gradually shifting away from
5 programmatic implementation to performance verification
6 including focus on such specialized topics as welding,
7 fabrication techniques, software, and digital
8 instrumentation and control.

9 These reviews reflect our quality assurance
10 priorities consisting of review of major construction
11 projects, validation and verification of site-specific
12 quality assurance programs, technical assistance and
13 specialty reviews such as commercial grade education
14 and suspect counterfeit items programs.

15 In summary, we believe that the Department's
16 framework of policies, orders, and rules are adequate
17 for the continued safe operation of our defense nuclear
18 facilities. Within that framework we seek continuous
19 improvement in the areas of oversight and Integrated
20 Safety Management by taking corrective actions and
21 instituting new or improved processes.

22 I look forward to your comments and
23 questions.

24 CHAIRMAN WINOKUR: Thank you for your
25 testimony. It's my understanding that you do not have

1 a statement, Mr. Chung, is that correct?

2 PRINCIPAL DEPUTY ASSISTANT SECRETARY CHUNG:
3 That's correct.

4 CHAIRMAN WINOKUR: Thank you.

5 So I think I'll begin the questioning. You
6 were not with us this morning, I mean Dr. Triay was. I
7 know Tom and Don, you were not with us this morning.

8 In my opening statement I talked about the
9 fact that from the Board's point of view, at least from
10 my point of view, significant changes are taking place
11 to reform activities in the Department of Energy in the
12 areas of directives, governance, and oversight. And we
13 could refer to, for example, to the Deputy Secretary's
14 Safety and Security Reform Plan of 2010.

15 And I want to begin by just asking you, Tom,
16 to get a sense of things, what was driving that change
17 from your point of view? I can only tell you that --
18 I read the weapons articles and things and I get a
19 sense that certainly there was concern at some of the
20 design labs that the requirements were burdensome. I
21 don't want to put words in your mouth here, but it's a
22 sense of what I was hearing. And I wanted to know if
23 you could just kind of begin to fill in the blanks and
24 give us a sense of what was going on.

25 UNDER SECRETARY D'AGOSTINO: Sure. I don't

1 see this as a point in time where we said things
2 changed dramatically. I think this is an effort that
3 we had been undertaking and underway for a number of
4 years prior to impact even the work in this
5 administration. Our desire, of course, the vision we
6 have in the NNSA is to operate as an interdependent and
7 integrated organization enterprise, which means we know
8 what our requirements are, we know what the roles and
9 responsibilities are, we have contractor assurance
10 systems in place to make sure that we take full
11 advantage of the M & O contractor model that has been
12 in place in the Department for many years and take
13 advantage of the decades and decades of experience our
14 corporate partners bring to the table. And at the same
15 time, drive continuous improvement.

16 It was my assessment a number of years ago
17 that we were not doing that. We were not taking
18 advantage of the opportunities, we were not
19 systematically looking for continuous improvement, and
20 in applying a quality management system approach to the
21 way we do business.

22 It particularly struck me last fall at the
23 Malcolm Baldrige Awards where we had an opportunity to
24 see this come into play and our Kansas City Plant was
25 awarded the award for this type of improvement for the

1 work that they've done. This is a non-nuclear site,
2 but our focus, as I've mentioned a number of times in
3 my oral statement and the written statement, is that we
4 see, I see, lots of opportunities to improve the way we
5 do business. And we have a lot of work ahead of us,
6 and we have to get better in the way is -- that we do
7 conduct our operations to accomplish the work that we
8 do primarily, and to accomplish it in a way that
9 provides maximum value to the taxpayers.

10 I demand it, Congress demands it, our
11 taxpayers demand it, and in essence this is what we saw
12 a few years ago when we laid out this opportunity to
13 operate as an integrated enterprise.

14 We're seeing it manifested, of course, most
15 recently because we did a lot of ground work up front
16 to figure out which -- which direction we need to go,
17 and that's why it appears that it's, I think, something
18 that's just come up over the last year and a half, two
19 years or so. But in actuality we've been working this
20 effort to continually improve for a number of years.

21 CHAIRMAN WINOKUR: So if we were talking
22 about safety at defense nuclear facilities which is the
23 Board's purview --

24 UNDER SECRETARY D'AGOSTINO: Right.

25 CHAIRMAN WINOKUR: -- were there particular

1 things you were seeing in the safety arena that you
2 said, We see some signals here, there are some things
3 we're measuring, there are some things we're looking at
4 that tell us we really need to improve the way that we
5 do business to improve our operations?" I think Don
6 even made a comment about providing flexibility.

7 I mean, what were the signals you were
8 getting from either the contractors or the site
9 officers that were saying, "We can do better here" in
10 terms of safety of defense nuclear facilities?

11 UNDER SECRETARY D'AGOSTINO: I think it's
12 been clear that our safety -- if we just look at
13 numbers, and it's very important not to just look at
14 safety statistics themselves because what we don't want
15 to do is drive inaccurate reporting back up because it
16 ends up being useless information. But let's take a
17 look at two things.

18 The metrics themselves, but also the safety
19 culture that has changed.

20 I don't -- I think it's been clear that the
21 Integrated Safety Management approach has worked. We
22 see that in low, lower TRC [Total Reportable Cases] and
23 DART [Days Away, Restricted, or Transferred] rates or
24 total reportable case rates, days-away numbers. We see
25 actually improved operational performance. We have a

1 very interesting chart, and frankly, thanks to the
2 Board's input and attention on this matter of our SS-21
3 [Seamless Safety-21] process -- I think it's still
4 working.

5 CHAIRMAN WINOKUR: Yes, I think so. Yeah.

6 UNDER SECRETARY D'AGOSTINO: Our SS-21
7 process where we actually increased the operational
8 capability of the Pantex plant at the same time because
9 of the SS-21 work and the improved nuclear safety, we
10 had a decrease in the number of safety concerns that
11 have come up.

12 So I don't see this as a matter of there were
13 a certain number of safety problems and therefore we
14 needed to figure out a way to get rid of safety rules.
15 That's not the case at all. This is all about
16 continuous improvement and getting ourselves better.
17 That's what the TQM [Total Quality Management], that's
18 what the quality management system approach demands.

19 When I look at Malcolm Baldrige, for
20 example, there's a very clear set of criteria on what
21 it takes to be this type of a quality organization.
22 We're taking a look at that and is this the kind of
23 approach that we want to implement in the NNSA overall.

24 In order to do that, we need an integrated system of
25 ways to clarify roles and responsibilities, evaluate

1 requirements that we have, or are placing on ourselves,
2 making sure that there are assurance systems in place
3 and the appropriate feedback loop. And third, most
4 importantly, that we have independent oversight at a
5 number of layers, in particular for nuclear safety. We
6 do have that independent oversight with the Chief of
7 Defense Nuclear Safety, with the HSS organization which
8 reports directly to the Secretary, provides a very high
9 degree of independence, as well as external bodies
10 themselves.

11 So I feel very comfortable with the nuclear
12 safety piece.

13 CHAIRMAN WINOKUR: One of the things when I
14 read your testimony that I read, and I've heard it not
15 only in your testimony but I think the Deputy's been
16 pretty clear on it, is that if you if you improve these
17 directives to some extent, and there was a concern that
18 the requirements, that the rigor of the high-hazard
19 nuclear operations and the directives that control
20 those was putting an unnecessary burden on perhaps the
21 lower hazard operations. And you and I mean it was the
22 sense of what I read in your testimony. And I think --
23 and I kind of call it the "nuclear safety dividend".
24 That hopefully by streamlining things on the low-hazard
25 side you'll begin to get a payback for what you can do

1 on the high-hazard operations. Is that an accurate
2 thought?

3 UNDER SECRETARY D'AGOSTINO: Well, it's clear
4 in my oral statement as well, I made the statement
5 along the lines that what we don't want -- We want to
6 apply the right level of safety and oversight
7 commensurate with the risk associated with that. We,
8 Don Cook and I, and Don may have some follow-on points
9 if you'd permit, but we are very clear that we
10 understand that our high-hazard operations, our nuclear
11 safety operations, they receive, in fact I submit they
12 will improve as a result of our ability to
13 appropriately apply a risk management process to the
14 work -- the type of work that we do.

15 We have purposely set this nuclear safety
16 piece aside because our focus is to make sure we don't
17 apply this what I would call a very high degree, an
18 appropriately high degree of looking at oversight on
19 our nuclear safety items as we would on something that
20 has extremely low risk. It's just, frankly, that's a
21 waster -- that's an inappropriate way to manage an
22 organization.

23 But Don, you might have something you might
24 want to add. I know you've thought about this in your
25 previous experiences.

1 DEPUTY ADMINISTRATOR COOK: I certainly do.
2 I'll try to be direct and give you --

3 CHAIRMAN WINOKUR: Sure.

4 DEPUTY ADMINISTRATOR COOK: And I'd like to
5 come back as well. We recognize that all of the work
6 we do has limited resources, and our safety oversight
7 is no different. So applying those limited resources
8 in the best way to deal with the greatest risks is what
9 we want to do. In that regard, it's a reasonable
10 objective to focus the greatest effort the, on nuclear
11 safety and lesser but appropriate areas on not only
12 non-nuclear but lower hazard operations.

13 So I understand that this is difficult,
14 because there is often a stress to make everything look
15 the same and to have it all consistent and the same set
16 of standards apply to everything. But in fact what
17 we're trying to do is get the kind of oversight and the
18 kind of direct involvement in a very real sense, fit
19 for purpose. So high consequence requires very strong
20 management and very strong oversight. Low consequence,
21 it wouldn't be so strong.

22 One of the reasons that the Administrator's
23 indicated that it's valuable to go to consensus
24 standards, and I'll clarify what that means, is it will
25 achieve the same outcome, but it can do it more

1 efficiently and less expensively. That allows us to
2 turn those resources to others. So consensus
3 standards, for example, ISO 9000 [International
4 Organization for Standardization]. Many people today
5 coming into the work force at mid career have been in
6 the best practices in industry. They know what ISO
7 9000 means. They understand how to deal with an
8 international standard quality order. Same in ISO
9 14000. They understand if you're going to have
10 environmental impacts, that's understood. ISO 2000.
11 And I could go on.

12 There are also reasonable IEEE [Institute of
13 Electrical and Electronic Engineers] standards, ASTM
14 [American Society for Testing and Materials] standards,
15 and standards that are consensus doesn't mean everybody
16 uses them exactly the same way, there is always room
17 for judgment. It means there's a better basis for
18 understanding.

19 And if we look at how many people and how
20 many hours have gone in to develop consensus standards,
21 frankly, it dwarfs what we can do with nuclear
22 standards alone, and yet many of those standards are
23 fully pertinent to nuclear operations with the judgment
24 involved.

25 CHAIRMAN WINOKUR: My concern here is that,

1 and I want to know from your perspective, if we have a
2 directive like in Integrated Safety Management, okay,
3 that there's a sense that it can handle the high-hazard
4 operations, but there's enough flexibility in the
5 process in the directive for you to tailor it down to
6 the low-hazard operations.

7 So my concern would come in if what was
8 happening was that information, requirements, guidance,
9 in the directive that are important for the high-hazard
10 operations were being watered down, I mean, essentially
11 is what I'm concerned about. And I'm just trying to
12 get a sense, once again you've gone through exercises
13 at your labs, you've looked at requirements in terms of
14 what's in house and things like that, and my concern, I
15 want to be frank with you, is that by taking out some
16 of these "hows", maybe the expert who's a super expert
17 will still know what to do, but you're taking away the
18 information that other workers may actually need. So
19 that's what I mean about weakening the directives a
20 little bit.

21 So let me let you respond to that and then
22 I'll kind of get to a specific example about your
23 expedited directives. But, I mean that's my concern.

24 UNDER SECRETARY D'AGOSTINO: I understand
25 your concern. I think this is why we have been

1 proceeding at what I would call a fairly measured pace
2 on this because we recognize that things don't exist in
3 isolation, and from that standpoint, that's, my sense
4 is we recognize that our, this NAP-21 [Transformational
5 Governance and Oversight] which is our governance NNSA
6 Policy Letter we've put out, we're very clear that this
7 is a document that can change and improve over time.
8 So we're constantly looking at this. We have multiple
9 levels of reviews to make sure that we don't get
10 ourselves in a situation where something that happens
11 in Column A impacts, something of low-hazard in Column
12 A doesn't affect a high-hazard in Column B.

13 CHAIRMAN WINOKUR: Right. Let me ask you
14 very quickly now about the expedited directives. You
15 had seven expedited directives and almost all of them
16 Orders of Interest to the Board, but a couple of course
17 were particularly of interest to us. One was
18 Integrated Safety Management, one was oversight.

19 What from your perspective was driving the
20 need for change in those directives at the time that
21 you started out. I guess first with the contractors
22 and later on with the fed work force in terms of their
23 revisions? What were you guys seeing there?

24 UNDER SECRETARY D'AGOSTINO: You know, I have
25 a -- Well, what I would say maybe it's more semantics

1 than anything else. I wouldn't call it expedited. I
2 would say it's purposeful. We have been looking at all
3 of our directives, not only the seven you mentioned,
4 but to include the seven you mentioned, for almost two
5 years. And have gone through a very systematic
6 approach, an Enterprise Operations Review Board where
7 we systematically look at these things to take a look
8 at what we thought were confusing ideas, and these are
9 these contractor requirements pieces at the end of the
10 directives. And then we said we're ready to move
11 forward.

12 From that standpoint, there's been a lot of
13 thought put into this. You would say, Well, then, why
14 were we trying to get these things done, you know,
15 within a period of time? Because I think it's
16 important that we demonstrate that we really want to
17 take a look and improve our operations.

18 Don may have a perspective since he's
19 observed this primarily as the candidate for this
20 position, and then secondarily as a Deputy
21 Administrator. But I guess I wouldn't call it -- call
22 it expedited. Slightly different -- it was on a
23 different track.

24 CHAIRMAN WINOKUR: It was your words, not
25 mine. Expedited directives was in your memo to the

1 work force, I think.

2 UNDER SECRETARY D'AGOSTINO: Yeah. Well from
3 my standpoint I would say but it's based on a
4 tremendous amount of analysis that had gone on before
5 that point.

6 CHAIRMAN WINOKUR: Was there anything, and I
7 know Don wants to comment, was there anything in
8 particular on Integrated Safety Management that you
9 were hearing and learning about that you thought really
10 would benefit from revisions? Of course it is the
11 framework document for safety. Anything in particular
12 there?

13 UNDER SECRETARY D'AGOSTINO: No. As I said,
14 safety is, Integrated Safety Management continues to be
15 a foundational piece of what we do. There is nothing
16 saying that we don't want to do Integrated Safety
17 Management. There is always things, that I will always
18 push that we will continue to look at ways to improve
19 our business efficiency. Many of the transformation
20 pieces that we talk about, I recognize the Board's
21 responsibilities in the specific area, have
22 implications and benefits that are kind of obviously on
23 the business side. How we do our normal course of
24 business, how we approve whether our M&O contractors
25 get to have a conference for example. Do we have to

1 have the Deputy Secretary sign off on every single
2 request that comes through that involves a change on an
3 M&O detailee assignment here in Washington. All those
4 things cost money. We have to get the decisions made
5 at the right level. But those are mostly in the
6 business area. Do you want to add anything?

7 DEPUTY ADMINISTRATOR COOK: Yeah. What I
8 would say is I -- once again, we understand the
9 difference between nuclear safety and other aspects of
10 the safety that we do in hazardous but non-nuclear,
11 non-hazardous and non-nuclear.

12 There had been a process already underway
13 when I was nominated and came into the building to look
14 at all of the directives. As the Administrator said,
15 some of these dealt with conference management. You
16 know, how do we manage people going to conferences?
17 Some were parts of financial management. Certainly
18 Integrated Safety Management was there, and you
19 actually find that in several of the Department of
20 Energy orders, so looking for, you know, saying things
21 in as simple a way so that, once again, all workers,
22 all managers, all oversight folks can really understand
23 what's happening.

24 I'll just make the assertion, sometimes on
25 ISM it is very helpful to have a chart, whether it's a

1 five point star or, you know, different aspects than a
2 very detailed order. Detail is required where the
3 hazard is very high. And in that regard there is a
4 difference between prescriptive regulatory function and
5 regulatory function where people understand there are
6 hard boundaries.

7 They are -- we don't apply these just to the
8 most highly trained. We apply our orders to everybody.

9 And, you know, so we're once again attempting to apply
10 in a way this fit for purpose, the rigor to the
11 consequence.

12 And so we went through a process to look at
13 all of the orders. There were a subset of those that
14 were actually controlled by HSS, and when we joined the
15 effort between NNSA that was doing, in many respects, a
16 piloting of improvement in terms of the
17 transformational way of the orders, and I mean that in
18 a sincere way, to make them clearer, to make the lines
19 in the requirements clearer and simpler. There were
20 seven orders that were actually controlled by HSS.
21 Much of the work for looking at revisions had already
22 been done by NNSA.

23 The rest of the Department had not been fully
24 engaged, nor had they spent the number of hours to look
25 at those seven orders to be on the same schedule. And

1 so the word expedited was used not to have NNSA drive
2 faster, but to enjoin the full Department of Energy in
3 looking at the work and seeing whether on those orders
4 that were seven out of this set of 31, whether we could
5 improve the time in which we could put them into place.

6 Now, it still has taken more than half a
7 year, so this isn't doing something capricious or
8 foolhardy, it just requires a lot of hours of people
9 across the Department to get something that is
10 consistent for the entire Department at once which is a
11 different path than choosing a sizeable subsection that
12 might have some of the greatest risk like NNSA, doing a
13 prototype. Learning as we go, the appropriate things,
14 and the applying the lessons learned. So, you know,
15 it's a different process if we're bringing everybody up
16 to the same level at the same time, and then we
17 prototype the whole thing --

18 CHAIRMAN WINOKUR: What I would still benefit
19 from understanding is, and I'm going to turn this over
20 for other people to ask questions, is what you're
21 measuring and seeing in these areas that tells you you
22 need to change particular orders of things. I
23 understand about business and things like that, but in
24 something like Integrated Safety Management which is so
25 foundational, that I think you actually just said a

1 moment ago it might be too prescriptive. I just want
2 to get, I thought you said that, I want to get a sense
3 of what you're looking at, what you're measuring.
4 Where in the work place where Integrated Safety
5 Management is being applied that you do see it as being
6 too prescriptive. That's what I'm trying to get at
7 here in this discussion.

8 DEPUTY ADMINISTRATOR COOK: Let's see. I
9 might have said too prescriptive. I don't think I said
10 --

11 CHAIRMAN WINOKUR: I don't mean to put words
12 in your mouth. I'm sure -- sure --

13 DEPUTY ADMINISTRATOR COOK: Prescriptive --
14 I'll try to answer your question. To give you an
15 example. We've been at ISM for a long time. It is, in
16 my opinion and my experience as I go through it, very
17 well understood today at our sites. So an element that
18 we still do, and, you know, it could be a judgment
19 call, is we require the contractor each year to
20 annually stipulate, you know, a statement about ISM.
21 And to an extent, that is something that may have been
22 appropriate years ago at this point, and I don't mean
23 to pick on that. I'm trying to answer the question.

24 CHAIRMAN WINOKUR: And -- I know -- and thank
25 you. This is a good example. Yeah.

1 DEPUTY ADMINISTRATOR COOK: You know, I think
2 as the development continues and as the teams are more
3 capable in specific functions, to the extent that we
4 can have some elements of the oversight move on in a
5 positive way with the teams as they develop, it's our
6 view that would be a good thing.

7 I'm sure there are still many people coming
8 into the work force who haven't been aware of those
9 that term, Integrated Safety Management and what it
10 means. They do at our sites, however, get
11 indoctrination, and I will use that word because that's
12 what it is. We indoctrinate workers to work at the
13 level of standards that we expect them to for safety.

14 CHAIRMAN WINOKUR: I appreciate it. I may
15 have a couple of points later.

16 I'll turn the floor over to Mr. Bader.

17 BOARD MEMBER BADER: I'd like to follow up on
18 a couple of questions that Dr. Winokur added -- asked
19 before I go to the specific questions I had.

20 I direct those to both of you, and as you
21 choose to answer.

22 Dr. Cook, you mentioned ISO 9000. How do you
23 view ISO 9000 in connection with the QA order? How do
24 you view that relationship?

25 DEPUTY ADMINISTRATOR COOK: I'm sorry, Joe, I

1 didn't hear the second part, sir. In connection with?

2 BOARD MEMBER BADER: With the QA order.

3 DEPUTY ADMINISTRATOR COOK: Let's see. I
4 won't try to give a detailed stance but if I were to
5 say in the way that I attempted to, if we had a new
6 worker come into our sites who understood very
7 thoroughly ISO 9000 in its practices, whether it's a
8 Baldrige Award winning site or not, outside of NNSA.
9 If they come into our sites, and we say that what we do
10 in quality assurance, in fact all aspects of quality is
11 very similar to ISO 9000 and they were experienced,
12 they would say I understand that, and that's very good.

13 BOARD MEMBER BADER: You're not suggesting
14 that you can make an interchangeability between ISO and
15 NQA-1.

16 DEPUTY ADMINISTRATOR COOK: No, I'm not.

17 BOARD MEMBER BADER: Good.

18 DEPUTY ADMINISTRATOR COOK: No I'm not. But
19 I am suggesting that core elements of ISO 9000 can
20 certainly be applicable to nuclear operations. There's
21 nothing in ISO 9000 that wouldn't be applicable. And
22 I'm not suggesting an interchange.

23 UNDER SECRETARY D'AGOSTINO: If I could add
24 to that a little bit as well.

25 What we're -- one of the elements that we're

1 trying to do is provide as much clarity in requirements
2 as possible to our contractors and ourselves to make
3 sure we on the federal side have a good understanding
4 of the requirements. It is always appropriate, I
5 believe, to have an assessment process of the
6 requirements that we have in any organization because
7 over time things change and things tend to build up,
8 and then you can find yourself drifting off in the
9 wrong direction. Even in the wrong direction on
10 nuclear safety for example.

11 But in this case we require our contractors
12 to do lots of things. We require them to follow the
13 DEAR clauses or the Department of Energy Acquisition
14 Regulations. We add contractor requirements documents
15 into the contracts themselves. We have orders and
16 guidelines in place. We have international consensus
17 standards as we've just talked about. And when we have
18 multiple layers of requirements, almost all saying the
19 exact same thing but not exactly. That's where I think
20 -- and then we have multiple layers of assessment, all
21 assessing what they believe is the correct piece of
22 this. I'm going to evaluate the DEAR clause
23 requirement to have a quality management system, for
24 example. And then I'm --

25 The other person's evaluating the DOE order

1 implementation.

2 We end up spinning ourselves and our
3 contractors around so one of the elements that we're
4 trying to do is let's be clear what we're asking our
5 contractors to do and how to operate. It's not a
6 qualitative statement on your question to Don Cook, but
7 it's more of a bigger picture piece on how do we --
8 Sometimes fewer requirements that are understood are
9 better than more requirements where there's potential
10 for misinterpretation and confusion because not all of
11 these things are exactly the same. They're darn close.
12 I know you had other questions, sir.

13 BOARD MEMBER BADER: Yeah. Let me get to the
14 CAS [CONTRACTOR ASSURANCE SYSTEM] system. What do you
15 view is the maturity of the CAS system at your sites,
16 and which ones -- which one do you think is most mature
17 and which one is least mature?

18 DEPUTY ADMINISTRATOR COOK: Okay.

19 UNDER SECRETARY D'AGOSTINO: Want help?

20 DEPUTY ADMINISTRATOR COOK: You --

21 UNDER SECRETARY D'AGOSTINO: You want me to -
22 - we'll do rocks, paper, scissors. Okay?

23 (Laughter.)

24 UNDER SECRETARY D'AGOSTINO: Each of our
25 sites has a CAS system in place that meets requirements

1 as set forth and their understanding of what we have
2 done most recently is done in affirmation of the CAS.
3 Systematically stepping through.

4 Most recently this was completed at the Y-12
5 Site by a team, and then Don can probably describe it
6 in more detail, but there's a systematic step-through
7 of taking a look at the Nevada National Security Site,
8 the Sandia Site, and on forward as they're ready.

9 It's not good -- I don't think it's good
10 enough just to have a CAS system. It has to prove
11 itself effective in driving performance. It's one
12 thing to be able to go out and have one of our M&Os
13 say, "Well, I'm good at CAS because I've got a group of
14 people, I've got an evaluation plan and a schedule, and
15 I'm going to hit all my sites within a certain period
16 of time. And I have qualified people doing it. And I
17 have a corrective action plan process in place to track
18 the corrective actions".

19 But it's important for us to take a look at
20 that and how it's impacting performance and make sure
21 there's feedback or an adjustment loop into that
22 circle.

23 In addition, it also will help inform the
24 federal side of the family on how that CAS system
25 informs the kind of oversight we need to do. Because

1 it's valuable information.

2 If we notice, for example, things are
3 steering in the wrong direction with their ability to
4 do financial management, we're going to be conducting
5 more financial management reviews. That is the element
6 of the team that Don has sent out with respect to that,
7 to evaluate the condition of these CAS systems. It's
8 not completed yet, I'll say at that point. Don may be
9 able to provide some more detail.

10 DEPUTY ADMINISTRATOR COOK: I think that is a
11 very good description. So the only thing I'd add is
12 the first one done was Y-12, and as the Administrator
13 said, it was an affirmation review.

14 We are not on any set schedule. We're going
15 to do these as they merit affirmation, not before they
16 do.

17 It was Steve Lawrence who led the team, Steve
18 Lawrence is the Deputy Site Manager at Nevada. He led
19 the affirmation review for Y-12. And by doing that,
20 and the site managers get to understand the conditions
21 at other sites. This is the way we promulgate and
22 propagate the learning that has occurred at one site to
23 another. It's done through humans as well as good
24 orders and evolution of the orders.

25 The next site up, I believe, is Sandia. And

1 we haven't at this time scheduled any others.

2 You know, I could have an opinion of the site
3 farthest behind, you asked that, but I think I wouldn't
4 have any facts to back it up so I won't answer that
5 part.

6 BOARD MEMBER BADER: I'm used to the word
7 "audit". Is an affirmation like an audit?

8 DEPUTY ADMINISTRATOR COOK: I'm used to the
9 word "audit" as well. And certainly the properties of
10 an audit do exist in an affirmation system. I would
11 say an audit usually has a specific thing being audited
12 unless a very general audit across -- kind of the --
13 it's not the -- the words I'm reaching for are "defense
14 in depth". We're looking for a contractor assurance
15 system that provides assurance in depth first to the
16 contractor, then to the site office on the federal
17 side, then to headquarters, and when I say then, I mean
18 really in addition, not just in a serial. But also to
19 the oversight functions that exist inside NNSA, those
20 that exist outside NNSA, those that exist outside of
21 DOE.

22 In order to do that and kind of have this
23 kind of assurance in depth, if we did them with
24 multiple serial reviews, you can guarantee that there
25 would be a great number of findings and that frequently

1 they would be different because they're different
2 individuals.

3 What we're looking for is a fundamentally
4 useable system that provides assurance that the
5 behaviors, the functions, the ways that the DOE orders,
6 the way the processes are used do in fact provide
7 protection of the workers, the public, and the
8 environment. And that means getting to the point where
9 we understand what we actually need to measure, the
10 metrics that we can actually use to measure. We need
11 good metrics that, you know, the toughest type as you
12 all know are leading indicators. Everybody has
13 following indicators. That's simple. Getting leading
14 indicators is something we are in fact requiring in a
15 contractor assurance system. An audit usually looks in
16 the past. It's usually the following indicators.
17 And -- I'm not -- it might be nice to have an audit
18 that uses leading indicators, but I'd say those are
19 kind of some of the contrasting, to answer the
20 question.

21 BOARD MEMBER BADER: I would say you used the
22 word "corrective action plan". Correction action plan
23 implies to me that you find things that you track what
24 you found and whether it's resolved.

25 And my questions go to one basic element, and

1 that is as I understand what we've been told, you are
2 planning on using this CAS system to be your primary
3 indicator of the health of the system from a safety
4 point of view, M&O by M&O. Is that a correct
5 statement?

6 DEPUTY ADMINISTRATOR COOK: I'll comment that
7 -- I'll let the Administrator comment, too.

8 BOARD MEMBER BADER: If you -- I'm sorry. Go
9 ahead.

10 UNDER SECRETARY D'AGOSTINO: I want to add --
11 one of the -- I'll say we're going to use it as a very
12 important indicator. What your primary might be and my
13 primary could easily be different. But is it going to
14 be a very important indicator? Absolutely. Will we
15 expect to see the contractor be able to present to the
16 federal officials where they believe they're weak
17 without getting punished immediately? Absolutely.
18 That is the core to a system of governance that either
19 will work and shows us problems that we have in fact at
20 a site but we don't see first-hand. If the contractors
21 don't have the ability to tell us what they think is
22 their weakness. Where they think they're going to
23 concentrate on. It will be more difficult for us to
24 find that.

25 So we are going down the path as a very

1 important indicator, but I won't say primary.

2 BOARD MEMBER BADER: If you -- I'm sorry. Go
3 ahead.

4 UNDER SECRETARY D'AGOSTINO: I wanted to add
5 -- one of the things, of course, I don't know if it
6 will be one of the questions you ask, but I want to
7 make sure I get up front on is, as I look at five years
8 ago versus today, because I think this is one of the
9 questions the Chairman asked, one of the things we
10 realized we were doing from headquarters, if you will,
11 we're sending out waves of teams -- I'm talking about -
12 - to take a look, procurement inspection of this
13 inspection, of that inspection. We had a very rigorous
14 process from the biennial nuclear safety reviews that
15 we were doing, and what we were realizing, what we were
16 doing is we were tying up the field kind of with no
17 type of control. I'm pointing the finger at myself
18 here. I think -- I want to make sure it's clear. We
19 were not looking at the way we did independent
20 oversight from an integrated fashion, and were
21 subjecting our field sites to something that was
22 happening on every single week, and it requires a
23 significant amount of effort to do this.

24 And then we took the time a few years ago to
25 take a look at this and suggest ways on how would we

1 get better, to line up our inspection process, to make
2 sure that we understood what we were asking for and why
3 we were asking for it and what value did it add, and
4 how did it integrate well with the CAS systems that our
5 contractors had in place? Were the CAS systems
6 addressing this area or not?

7 So this is what, with respect to governance,
8 integrating all these pieces together to drive a more
9 efficient way to operate as an enterprise. And that's
10 how it touches upon your CAS question.

11 BOARD MEMBER BADER: At the point where the
12 CAS system is functioning as you would like to have it
13 function, are you going to retain the ability to go in
14 if you have an issue with what you're seeing and do a
15 thorough, and I'll use the word "audit" of how that CAS
16 system is performing so that you can retain your right
17 as a federal overseer to validate that the information
18 you're getting is correct and useable from a safety
19 point of view?

20 UNDER SECRETARY D'AGOSTINO: Yes, absolutely.

21 BOARD MEMBER BADER: That means having
22 people, adequate numbers of people with the right
23 specialties to be able to independently verify any and
24 all of the CAS systems.

25 UNDER SECRETARY D'AGOSTINO: Sorry.

1 BOARD MEMBER BADER: Your turn.

2 UNDER SECRETARY D'AGOSTINO: Yes, that's what
3 it means. We have to retain that. It's our core
4 responsibility to do that.

5 BOARD MEMBER BADER: Let me shift to Dr.
6 Triay for a moment, thank you.

7 UNDER SECRETARY D'AGOSTINO: Sorry.

8 (Laughter.)

9 BOARD MEMBER BADER: Your turn.
10 Could you tell us about what you view as the
11 maturity of the CAS system in the EM situation?

12 ASSISTANT SECRETARY TRIAY: There's no
13 question that the CAS system is part of the oversight
14 that we need to have, part of the oversight process.
15 As I was saying during my testimony, the Environmental
16 Management program not only has 35 contractors that are
17 not M&Os, even in the cases where we have M&Os, you
18 know, we have two. One at Savannah River and one at the
19 Waste Isolation Pilot Plant.

20 At Savannah River, in addition to that M&O
21 contract we have another three contracts, major
22 contracts performing cleanup work. At the Waste
23 Isolation Pilot Plant in addition to the M&O contract
24 we have another contractor, which is our carrier
25 contractor and two offices of national laboratories,

1 Sandia and Los Alamos, also performing work.

2 So as you can see from our perspective, the
3 reliance, if you will, of having a well established
4 M&Os in the complex like NNSA has. In our case that is
5 not something that is possible at this time. You know,
6 we don't have the majority in the CAS system.

7 Based on the sheer number of prime
8 contractors and their subcontractors. Just another set
9 of facts, the Environmental Management Programs uses
10 it, uses subcontracts, specialized subcontractors for
11 parts of the work. And we have found that to be
12 extremely effective.

13 And based on not only the amount of prime
14 contractors with specific specialties and their
15 subcontractors that are even more specialized, we
16 believe that the CAS system can only be used as one
17 aspect of the oversight and that we must maintain
18 strong federal oversight of the Environmental
19 Management operations.

20 BOARD MEMBER BADER: Would you care to
21 comment on which ones you think or one is the most
22 mature and which the least?

23 ASSISTANT SECRETARY TRIAY: You mean in the
24 CAS system?

25 BOARD MEMBER BADER: In the CAS system.

1 ASSISTANT SECRETARY TRIAY: I think I should
2 stay with the most mature. I think that what I am
3 going to do is give you an example of why I was
4 answering the question the way that I did.

5 URS [Corporation] as I even testified to the
6 fact that they have put together what I consider an
7 excellent initiative on improving work planning and
8 control. Very mature contractor. They are the prime
9 contractor on both tank farms, Hanford and Savannah
10 River Site. Same contractor, at our SPRU Site
11 [Separations Process Research Unit] a site where
12 subcontractors were being used because actually the
13 work all tolled is, there are less hazards and it was
14 something that you could tailor to subcontractors with
15 different specialties, And again, as the Board knows,
16 because the Board Staff visited SPRU, we have had work
17 planning and control, serious issues. Same contractor,
18 same corporate family, but just by the way that we
19 build our subcontracts and the way that we utilize
20 those specialty abilities of smaller contracts and
21 smaller contractors.

22 One of our most experienced contractors,
23 actually, in two different situations. The tank farms
24 at Hanford and Savannah River site versus the same
25 contractor at a somewhat simple cleanup, had tremendous

1 trouble at the simpler cleanup and does a credible job
2 when it comes to the oversight, their own oversight of
3 the tank farm work that they perform.

4 So for that reason, that is why I answered
5 the question the way that I did, that I believe that
6 the federal oversight, that we must perform in
7 Environmental Management program is of the essence
8 based on the type of work that we do, the different
9 types of work, and in particular our contracting
10 strategy.

11 Dae, do you want to add?

12 PRINCIPAL DEPUTY ASSISTANT SECRETARY CHUNG:
13 Yeah. Just to make some additional comments, without
14 naming certain sites or contractors, I would say those
15 sites where we have benefitted from very top down
16 safety management philosophy of using [10 CFR] 830
17 process to drive down not only specific safety controls
18 from the safety analysis process, but also requiring a
19 fabric of safety management programs such as conduct of
20 ops [operations], maintenance programs, fire protection
21 programs, all of which dovetails the very essence of
22 ISMS [Intergrated Safety Management System] process.

23 So if you look at CWI [CW2M-WG Idaho] system
24 at Idaho where we have spent many years of driving down
25 appropriate flow-down of nuclear safety requirements

1 through 830 process, at the same time trying to make
2 good sense from ISMS fabric of systems is where we find
3 very efficient -- not only efficient but very rigorous
4 contractor assurance program.

5 So it is both where we had experience from
6 nuclear safety culture as well as more fundamental
7 aspects of ISMS to where I would say that we have found
8 strongest contractor assurance program.

9 BOARD MEMBER BADER: So how do you stand in
10 your validation of your CAS program?

11 PRINCIPAL DEPUTY ASSISTANT SECRETARY CHUNG:
12 As Dr. Triay mentioned in her testimony, we allow our
13 field office managers to verify and validate their
14 respective contractor assurance program. However
15 through ISMS annual validation requirements that we
16 impose on our field managers as well as our periodic
17 assessments conducted from our office at headquarters,
18 together would give us a pretty good sense as to
19 whether or not the contractor's assurance programs are
20 functioning as expected or not as expected. And we are
21 using that as part of our feedback mechanism to make a
22 judgment as to whether or not we need to perform more
23 oversight from headquarters or less. Or which areas
24 that we need to focus on.

25 CHAIRMAN WINOKUR: Okay. The -- thank you.

1 The only other question I would ask on that topic is we
2 understand, Mr. Administrator, that your CDNS did go
3 around the complex and kind of asked the contractors,
4 and I know that we also have some input from EM also
5 about directives and their sense of whether they were
6 redundant, and burdensome and overly prescriptive. Is
7 there anything to share at this point about what you've
8 seen in that regard?

9 UNDER SECRETARY D'AGOSTINO: We had heard,
10 the talk is, well, we, ought to look at this, that or
11 the other, with respect to nuclear safety. I sent the
12 Chief of Defense Nuclear Safety out specifically to get
13 specific examples. I was convinced after he did that,
14 that there weren't areas -- I didn't see any areas
15 where we would say let's go flip this thing upside down
16 and go do something here.

17 We have so many opportunities to improve our
18 business systems, we feel that's -- That's where our
19 opportunity to gain is on these business systems and
20 the like and taking a look at being very clear on our
21 requirements.

22 You know, at some future date, three years a
23 couple of years from now will this be the same
24 situation? I don't know. I think we've got to work on
25 the stuff that we know that we can improve versus the

1 areas -- I didn't see -- versus the areas where

2 CHAIRMAN WINOKUR: Okay.

3 UNDER SECRETARY D'AGOSTINO: -- maybe
4 marginal improvement, but we didn't see anything there.

5 CHAIRMAN WINOKUR: Thank you.

6 Dr. Mansfield?

7 BOARD MEMBER MANSFIELD: Thank you.

8 Secretary D'Agostino, you mentioned that you
9 had done an affirmation of the CAS system at Y-12, and
10 I took down the words "systematically stepped through".

11 Now, what did you step through? That implies
12 there's a list of what you look for in a CAS. With
13 262-1B, I don't know what that is because the 262-1A
14 had something like, I don't know how many pages, it had
15 six pages with 29 appearances of the word "must". Now
16 you have for CAS, there is no separate CAS appendix,
17 you have 12 lines. And the 12 lines don't mention QA,
18 including assessment of facilities, environmental
19 issues, self-assessments, incident reporting, worker
20 feedback, issues management, lessons learned,
21 performance indicators, audits, external audits and
22 reviews, flow-down of requirements to contractors, very
23 specific internal, independent assessments.

24 I don't know what how the contractor knows
25 what he's supposed to put in a CAS and how would you

1 know how to grade it. Those are no longer in the
2 directives system. They're in the archives, but
3 they're not in the directives system.

4 UNDER SECRETARY D'AGOSTINO: So your question
5 was can we provide you a list? And the answer is yes,
6 we'll provide you a list of specifically what was done
7 on the information and --

8 BOARD MEMBER MANSFIELD: How would a
9 contractors know that ahead of time? Would you send it
10 to him?

11 UNDER SECRETARY D'AGOSTINO: Well, I think
12 there's -- with respect to contractor assurance
13 systems, there's a pretty clear understanding, and
14 you've got all the documents in front of you. I
15 haven't memorized every order yet and document we sent
16 out, so you'll have to excuse me if I can't quote them
17 back to you. But there's a pretty good understanding -
18 -

19 BOARD MEMBER MANSFIELD: Yeah.

20 UNDER SECRETARY D'AGOSTINO: -- of what a
21 contractor assurance

22 BOARD MEMBER MANSFIELD: Sure.

23 UNDER SECRETARY D'AGOSTINO: -- system has.
24 There has to be a very --

25 BOARD MEMBER MANSFIELD: That's a guide,

1 manual, or directive. If there's a pretty good
2 understanding of it, and everybody knows what the same
3 thing is, that's a guide, manual, or directive. It
4 seems to me you've just taken the title off of it to
5 satisfy the requirement of reducing the number of
6 guides, manuals, and directives.

7 UNDER SECRETARY D'AGOSTINO: Is there a
8 requirement to reduce the number of guides, manuals,
9 and directives? I'm not aware of a requirement to do
10 that.

11 But what I will say is --

12 BOARD MEMBER MANSFIELD: But there's
13 apparently no guides going to be in the directives
14 system. From what we understand. Am I -- correct me
15 if I'm wrong. Anybody?

16 DR. FORSBACKA: Guide are part --

17 MS. SLATER-CHANDLER: You need to step up to
18 the microphone, Matt.

19 CHAIRMAN WINOKUR: This is Dr. Matt Forsbacka
20 from the Board Staff.

21 DR. FORSBACKA: I just want to correct that
22 there's no current motion to get rid of guides that we
23 know of as a staff.

24 BOARD MEMBER MANSFIELD: Okay. Now the
25 contractor knows by some communication, probably a

1 direct communication, what he should have ready when he
2 presents his CAS. I'd like to see that. It's not
3 written down anywhere that I've seen. Would you send
4 me a copy?

5 UNDER SECRETARY D'AGOSTINO: We'll send you
6 what we have. I'll also send --

7 BOARD MEMBER MANSFIELD: I used to read 262-
8 1A where it took five pages.

9 UNDER SECRETARY D'AGOSTINO: Again, if you
10 want to quote numbers, we'll be glad after I get my
11 list of orders down, we can quote numbers to each
12 other. I think the important thing is for us to get
13 you the information that you asked for.

14 BOARD MEMBER MANSFIELD: The 262-1A was
15 extensively changed in the review, and many things were
16 removed from it. Did you want those removed? Did you
17 want the prescriptive parts of 1A removed?

18 UNDER SECRETARY D'AGOSTINO: I can't answer a
19 general question without being specific, and I'd have
20 to probably take that for the record.

21 BOARD MEMBER MANSFIELD: Okay.

22 UNDER SECRETARY D'AGOSTINO: Do you mean DOE
23 Order 226? You said 262.

24 BOARD MEMBER MANSFIELD: What did I say?
25 262?

1 UNDER SECRETARY D'AGOSTINO: Yeah. You said
2 262. I don't understand. I never heard of 262, but
3 that's why I'm a bit confused.

4 BOARD MEMBER MANSFIELD: 262.1A.

5 UNDER SECRETARY D'AGOSTINO: Okay, thank you.

6

7 BOARD MEMBER MANSFIELD: Would you consider
8 that highly prescriptive?

9 UNDER SECRETARY D'AGOSTINO: I think what
10 we're trying to do, Jack, is to try to make sure that
11 we don't have conflicting requirements, that we don't
12 have requirements in our contract requirements, in our
13 DEAR clauses, requirements in our DOE orders, and
14 requirements in many cases that are referenced in
15 contracts or put in the many pages that follow the
16 orders that conflict with each other.

17 In many cases with respect to oversight. 226
18 defines a very clear set of, a three tier layer of
19 oversight structure. This is why I was a bit confused,
20 I think, because you said 262, I had no idea what that
21 was.

22 BOARD MEMBER MANSFIELD: I'm sorry.

23 UNDER SECRETARY D'AGOSTINO: I do know what
24 226 is, I remember reading that many times. But it
25 defines a very clear three layers of oversight that

1 happen. Once at the contractor, then by the site
2 office, and then independently by the headquarters
3 level. That comes into place that way.

4 And our efforts are to drive clarity in what
5 we're asking our M&O contractors to do, what we're
6 asking our site offices to do what we're asking
7 ourselves to do in headquarters, both from the program
8 side in Don's organization, to the CDNS side in Don
9 Nichols's group as well as HSS. Because as Don has
10 said earlier, he's got a tremendous amount of
11 experience both on the federal side, managing a large
12 operation; and working at the Sandia site, at Sandia
13 National Laboratories. Everybody comes in with their
14 own views on exactly what the requirements mean.

15 There's huge value in driving consensus and
16 understanding of what requirements exist and what
17 requirements we're placing on people. And in fact as a
18 result of the two year effort we did in looking at a
19 set of DOE orders from that perspective, just the
20 discussion that we had between our M&O contractors and
21 ourselves on these specific things drove stuff out.
22 Drove unnecessary practices out of the way we do
23 business, without even changing a particular DOE order
24 themselves. I'll get you a list of those as well, I
25 think. It would probably be appropriate for you to

1 have that.

2 But in any case, what I said all in my
3 written testimony, in oral testimony with respect to
4 nuclear safety, the purview of this Board doesn't
5 change. I do understand that what we don't want to do
6 is get into a situation where the efforts to drive the
7 kinds of performance improvements that need -- we
8 absolutely have to have in the other side of the work
9 that we do impacts and degrades the nuclear safety
10 element. I get that. I've known that for years. I
11 think it's absolutely the right focus for us to make
12 sure that we don't drop the ball in that area.

13 Don, you're going to say something.

14 DEPUTY ADMINISTRATOR COOK: I'm going to try
15 and answer the spirit of the question rather than the
16 details here.

17 So within the affirmation review the M&O and
18 the site office reviewed against the expectations that
19 have been laid out in the Administrator's NAP-21. I
20 think we've shared that with you so you can certainly
21 read that. And in our affirmation review plan; there
22 was a plan again we'll be happy to share that with you.

23 I'd also encourage you to talk with the site office
24 and the staff there and the M&O and the staff there on
25 what they did.

1 I'd just emphasize that talking is actually
2 very important, so certainly we need the proper set of
3 forms, the proper set of procedures, the strength of
4 the DOE orders, and we need good discussion. That's
5 how we really get clarity on what the intent of a
6 certain piece of something written down was.

7 Specifically on the requirements and the
8 guidance, all of the ones that you mentioned, the
9 requirements and guidance exist in other regulations
10 and directives. They're no longer now repeated in
11 226.1B. So we saw that as a step forward. It actually
12 reduced some of the redundancy.

13 And I want to use the term redundancy in the
14 sense of redundancy that is not useful. Defense in
15 depth says, you know, that you need the appropriate
16 level of not only checks and balances, but it's a
17 system of governance. If we're repeating the same
18 thing but in multiple places there's a view, there's
19 one view that would say well that's good because
20 somebody might miss it in one place and catch it
21 another. I don't generally ascribe to that view. I
22 believe that if we have fewer things that people have
23 to read and they're very clear and that we have some
24 things, you know, we haven't talked at all about how do
25 we hold the contractors accountable.

1 Well, these days we still have the means of
2 enforcement and the fines, but we also have the
3 performance execution plan with the contractors. They
4 get a fee for operating our government owned,
5 contractor operated sites. And frankly, if one looks
6 at how to give them pain when that's needed for failing
7 to delivery on outcomes and absolutely and especially
8 appropriate safety outcomes, we will hit them, and
9 we'll hit them hard. We have a much stronger lever to
10 do that in the performance execution plan and the fees
11 that we have for the M&Os and the sites than we had ten
12 years ago. That again, you know, we are folding that
13 into the contractor assurance system. We're folding it
14 into the way that that we do an affirmation review.
15 And it's the good face to face discussion by teams of
16 people which is required to get to a point of adequate
17 clarity on what's expected and what must be delivered.

18 BOARD MEMBER MANSFIELD: Right. Are those --
19 so there's going to be a body of directives that
20 contractors are supposed to be familiar with in order
21 to build a contractor assurance program that satisfies
22 your requirements. Is that it?

23 DEPUTY ADMINISTRATOR COOK: There will
24 certainly continue to be directives. There will
25 continue to be the good use of guidance.

1 BOARD MEMBER MANSFIELD: Yeah.

2 DEPUTY ADMINISTRATOR COOK: Judgment will not

3 --

4 BOARD MEMBER MANSFIELD: You're not quite
5 following me. You had a directive, 226, 226.1A, 226,
6 let the record show that had a large number of musts in
7 it. And you're telling me now that those musts occur
8 in other directives some place.

9 Are those other directives in the CRD, the
10 contractor requirements document, for your contractor?

11 UNDER SECRETARY D'AGOSTINO: What I would say
12 they're either in the CRD or in other documents that
13 are required and guidance that had to be required, or
14 it was determined that that must was not an appropriate
15 must, if it was. If you have the chapter -- the
16 details of the musts we can go through them, but I
17 think it would be less useful to do that. I'd be happy
18 --

19 BOARD MEMBER MANSFIELD: It's pretty much the
20 list that I read, the things that are no longer in the
21 oversight order.

22 It makes it clear to me, that in a certain
23 sense we're talking about different things. You've
24 mentioned low-hazard operations and financial
25 mechanisms as part of your tasks. We can't afford nor

1 are we authorized to be involved in many of those
2 things at all. You know, what Congress wants us to
3 look at as a Board is high-hazard operations, high-
4 hazard nuclear operations. With the associated worker
5 safety and public health issues. That's really all we
6 have to focus on.

7 And I'm having, as you probably pick up, I'm
8 having a hard time understanding what you expect in a
9 CAS that will satisfy you that the contractor is
10 operating safely and protecting public health and
11 safety. Because I can't find where they're listed now.

12 DEPUTY ADMINISTRATOR COOK: Once again, if I
13 could offer, it is we have certainly attempted and we
14 certainly committed to be transparent. So we'll show
15 you what we've done. I think we've done that as we've
16 gone along. If I could just ask that you would imagine
17 for a moment that the contractor is very interested in
18 meeting the outcomes. If they lose their fee or
19 they're penalized, if they don't understand the
20 importance of how we on the federal side interpret a
21 contractor assurance system and we put the requirement
22 for a CAS in the PEP [Performance Evaluation Plan],
23 then -- I can't completely satisfy you but I want to
24 say we'll share with you.

25 UNDER SECRETARY D'AGOSTINO: I'll tell you

1 what we'll do. We'll take that for the record and make
2 sure you have the details.

3 BOARD MEMBER MANSFIELD: We can talk more on
4 this. Because I don't know --

5 UNDER SECRETARY D'AGOSTINO: I think it's
6 actually important for us to get this on the record.

7 BOARD MEMBER MANSFIELD: Okay. Here's my
8 last question. One for you, Mr. D'Agostino; one for
9 you Miss Triay. Who's your regulator? The DOE is
10 self-regulating. Who's your regulator?

11 UNDER SECRETARY D'AGOSTINO: The Secretary is
12 the principal, I work for the Secretary. The Secretary
13 in the end based on input from myself and HSS
14 organization with respect to nuclear safety policy sets
15 those pieces in place.

16 We obviously, he isn't spending -- He's the
17 Secretary of Energy, he has a lot of other things to
18 do. So some of these pieces come down to us.

19 BOARD MEMBER MANSFIELD: And to where,
20 specifically?

21 UNDER SECRETARY D'AGOSTINO: In the case of
22 operational readiness reviews, we've delegated,
23 depending on the level of operational readiness review,
24 the site office manager has the ability to determine
25 operational readiness for certain classes of nuclear

1 operations. Dr. Cook has that responsibility as well.

2 So, I think we are in the federal government,
3 we're in the Executive branch, we have a set of rules
4 and regulations and directives and contractor
5 requirements that require a contractor to follow, and
6 we have an obligation to independently check that those
7 things are being done in the correct way.

8 BOARD MEMBER MANSFIELD: I think -- I agree
9 with that. The Secretary's the regulator.

10 Why would -- But there are regulations --
11 different regulations for different people. I'm
12 continually confused why you, this regulation through
13 directives, modified by a DRB with modifications
14 recommended to the Deputy Secretary by a Directives
15 Review Board, can, why it must include all these
16 different program offices that have very little to do
17 with each other. Why does Science have anything to do
18 with your startup requirements for nuclear reactors?

19 UNDER SECRETARY D'AGOSTINO: Science has
20 nuclear reactors in their program.

21 BOARD MEMBER MANSFIELD: Okay. Yours. Your
22 requirements.

23 UNDER SECRETARY D'AGOSTINO: Are you asking
24 me if the DRB process is optimized right now? I think
25 the answer -- there's probably nothing that we have

1 that's totally optimized. Are there ways to improve?
2 Absolutely. We always look for ways to improve. So I
3 think in many cases what we want to do, the important
4 thing is that as comments come forward on directives
5 that they be addressed because we have smart people in
6 the Office of Science. When you have people outside
7 your organization looking in you get a different
8 perspective on how to address problems.

9 The important thing is you don't get -- we
10 address them and address them in an expeditious way
11 that doesn't spend months of time arguing back and
12 forth. And I think the way I've referred to this, at
13 least in an informal way, is lots of lateral discussion
14 which is very important between staffs. But at some
15 point when it's clear that there's not a common
16 understanding, I think that's perfectly fine because we
17 have a chain of command and we knock it up the chain of
18 command. In many cases we don't tend to do a great
19 job, do the kind of job in the Department of Energy
20 that promotes efficiency. We're very good at
21 discussing things, but we have to get ourselves to the
22 point of being able to determine how much is enough
23 discussion, and when is it decision time? So that's
24 the kind of discipline that I try to instill in my
25 organization, and what I've discussed with the Deputy

1 Secretary along the same lines.

2 DEPUTY ADMINISTRATOR COOK: If I can just add
3 once again to the spirit of the question, I think that,
4 you know, the regulatory function within a system of
5 governance is indeed important. Something that I would
6 say is just as important, maybe even more important and
7 goes to the very core of nuclear safety is that the
8 workers are well trained, they are well equipped, they
9 are suitably qualified. And that means a whole set of
10 things. And that occurs all the way down.

11 In a regulatory system from the very top
12 which is the Secretary here, accountability can be
13 delegated. But when the Secretary delegates to the
14 Administrator or when the Administrator delegates to a
15 Deputy Administrator, that doesn't mean that the level
16 and up is any less accountable. What it means is that
17 the delegation of the authority to make a decision and
18 to be held accountable has been unified at a lower
19 level. I think that we all agree that the intelligence
20 on the shop floor, on the area where the work is
21 actually done is the most impactful on an activity to
22 the worker, to the public, and to the environment.

23 And so in a system of governance, it's, you
24 know, a combination of all these things and the
25 regulatory function is a very important piece. It just

1 doesn't stand alone by itself.

2 CHAIRMAN WINOKUR: Thank you. I think we're
3 going to turn to Ms. Roberson now.

4 VICE CHAIRMAN ROBERSON: Okay. Thank you.
5 I'm going to ask a few questions, and they
6 may plow some ground you've already been through, but
7 I'm going to ask some questions and like I said, I'm
8 going to repeat some. It's not to be argumentative,
9 but they are questions that the Board is really
10 probative of. And I want to make sure that we get the
11 clearest communication so that you have the opportunity
12 to really respond to those very clearly.

13 One thing that there's been a lot of talk
14 about is consensus standards. Now, and maybe my
15 recollection is wrong. There has never been a
16 prohibition to using consensus standards, am I wrong on
17 that?

18 UNDER SECRETARY D'AGOSTINO: I don't think,
19 you know, there's ever been a prohibition. I think
20 there's a lot of things that we don't write down and
21 say -- There are not a lot of things that we say you
22 can't do this. Just because we tell our contractors to
23 use DOE order doesn't mean to say that they can't use
24 other things.

25 We do ask our M&O contractors to bring in

1 their best corporate practices into play. I think
2 where we end up getting ourselves confused a bit is if
3 we take something that's a generally accepted approach
4 to for tracking government material, tracking material,
5 for example, and say, you know, thou shalt do it in
6 this particular way because we're DOE, we're
7 different". We end up losing the ability to take
8 advantage of, you know, tens, hundreds of years worth
9 of experience that exist around the world by companies
10 on how to track material. And in essence, the idea of
11 my view, one of the elements of the M&O model that's
12 attractive is the ability to bring in the capabilities
13 from companies that do this where they have a P&L line,
14 profit and loss line, to worry about. So they bring in
15 the most efficient process.

16 We're trying to increase that opportunity for
17 efficiency. It seemed to work quite well at our Kansas
18 City Plant when it was done a few year ago there.

19 VICE CHAIRMAN ROBERSON: Okay, so I'm going
20 to look at you when I ask questions but I'm open, I
21 understand that either one of you may answer the
22 question.

23 UNDER SECRETARY D'AGOSTINO: Okay.

24 VICE CHAIRMAN ROBERSON: So, I'm going to ask
25 you this and then I'm going to ask Dr. Triay this.

1 Along that line, the current or previous or a
2 combination of the two, suite of directives and orders,
3 has always allowed tailoring to the hazards. It did
4 require rigor and accountability and assured a correct
5 analysis was done for determining the hazards. What is
6 it about that that didn't work for you? That, I mean
7 this is definitely one of those areas you've cited as
8 problematic.

9 UNDER SECRETARY D'AGOSTINO: I'll start. It
10 wasn't that it didn't work. I would say that everybody
11 sees their tailor in a different way. Some people, see
12 you know, want the bell bottoms and others want
13 straight legs. And I think that ends up happening in
14 many cases. I described earlier our kind of
15 headquarters inspection process that we've improved in
16 this fiscal year as a result of lining things up
17 appropriately.

18 But being very clear on what the requirements
19 are, having a consistency across independent oversight
20 organizations those, on that exist both internal and
21 external to the Department, consistency on that
22 tailoring piece makes sense.

23 Certainly if we had received a strong push
24 that says, "We would much rather do it this way", we
25 would evaluate it from that standpoint.

1 Don, I'm not sure if you have anything from
2 your personal experience.

3 DEPUTY ADMINISTRATOR COOK: Well, I have a
4 fair amount of experience, again, as many of you do.

5 Tailoring is a nice thing in concept. We
6 were talking about audits earlier. Often what happens
7 in an audit is audit team comes in and they look in one
8 part. And Department of Energy is very big. Any one
9 of our M&Os, the site is very large. It's very easy
10 for an audit team to come in and say, You're doing
11 things that way over there, it's a different way over
12 there and yet a different way over there, and why is
13 that? And it's actually hard to give a good answer for
14 sites, often. That's just what happens.

15 Usually then there's something that comes out
16 later on which is either part of a corrective action
17 plan to get something identified higher up that will
18 make it systematically the same across, you know, some
19 big large site or organizational unit.

20 So that, you know, in an earlier question
21 from the Chairman, or a comment, I mentioned that's
22 why, you know, consistency is often an easy answer to
23 give, and it's an easy target to strive for but it
24 rarely does the job of being fit for purpose based on
25 the actual task at hand. And, you know, whether you

1 pick a site like Sandia or even Los Alamos, there are
2 nuclear operations, there are non-nuclear operations,
3 there are other things, and yet the DOE orders at the
4 top level fight everything there. Systematically.

5 Now, so already in the DOE orders we do do a
6 fair amount of tailoring. But when an auditor comes
7 in, that kind of thing is somewhat pushed out. That's
8 just a fact of life. That it happens.

9 I've tried, you're asking what's wrong with
10 that or --

11 VICE CHAIRMAN ROBERSON: No, but what you
12 described to me is that there's an implementation issue
13 as much as anything. Is that what I heard you say?

14 DEPUTY ADMINISTRATOR COOK: I absolutely
15 agree. Yeah, absolutely agree. And in that regard,
16 you know, if we look at a consensus order, I'm sorry,
17 consensus standard and we compare that to a DOE order,
18 one of the drives that the Administrator made was where
19 there was a properly constituted group of, again,
20 trained people, accountable roles, the Joint Operating
21 Requirements Review Board, we call it a JORRB. Between
22 the M&O and the site office.

23 You know, where they could suitably
24 demonstrate that a consensus order in the way, it would
25 be applied would be suitable and satisfactory

1 replacement for that order, then we again through a
2 process of due diligence gave approval. But it wasn't
3 long after when the desire was to do it all the same
4 across all the Department of Energy.

5 So that wasn't anything new. You know, it
6 comes to the application, and it comes to is it, at the
7 top level principle, is consistency more important than
8 fitness for purpose? Or is it not? We ought to have a
9 good discussion about that.

10 I would say my view is true fitness for
11 purpose, dealing with the highest hazard things.
12 You're taking about things nuclear, so are we. You
13 know, getting that tailoring and the implementation
14 right is a very demanding task.

15 VICE CHAIRMAN ROBERSON: I'm going to turn to
16 Dr. Triay, but I will say because I can see all of my
17 peers like on the edge of their seat. They'd love to
18 have that discussion. I -- but I also think fitness
19 for purpose is a reference picture, and having a
20 standard, not saying that one answer fits all, but
21 having a standard that transcends is very important.
22 But I think that is a very good conversation.

23 The same question to you, Dr. Triay.

24 ASSISTANT SECRETARY TRIAY: I actually have
25 an advantage because I think that when you were

1 interacting, you know, with my colleagues you said
2 exactly what the short answer is. The issues are by
3 and large on implementation. There is no question
4 about that.

5 And with respect to specific examples, you
6 know, on having a standard, I believe that what you
7 have said as well is very appropriate. I mean, as you
8 know, I was the Field Manager for the Carlsbad field
9 office for many years. Watching and trying to build a
10 pipeline to the Waste Isolation Pilot Plant with that
11 TRU waste [transuramic waster] was characterized, which
12 means that I interacted with all of the documented
13 safety analysis across the Complex on transuranic
14 waste. And my colleague Dae Chung really assisted me
15 with that. And we both thought with then Assistant
16 Secretary Roberson, that we really needed a standard
17 for how we perform TRU waste characterization across
18 the Complex in both ways. Meaning I think that Don is
19 absolutely right, in some cases the hazards were not
20 being recognized to the extent that they should have
21 been, and in some other cases things were being done
22 that went well beyond what was needed for the
23 particular hazard that that site had. All within the
24 area of transuramic waste.

25 So I agree with both of the comments that you

1 have made. Number one, it is about the implementation,
2 substantially about the implementation. And having
3 standards that help us get to where we need to be does
4 result in efficiencies when it comes to operations
5 around the Department of Energy's Complex.

6 Dae, I'm sure you have some others.

7 (Laughter.

8 PRINCIPAL DEPUTY ASSISTANT SECRETARY CHUNG:

9 I think standards-based safety posture is very
10 important. We have tried to take advantage of many
11 good standards that have lived through over the
12 decades. Where we seem to have more challenges,
13 however, is in the area of activity-level standards.
14 We've tried to make standards-based activity level work
15 planning and control processes. That's where I think
16 we are still being challenged. Mainly because of our
17 work, particularly the EM complex. The work is so
18 diverse, so diverse, so unique. In some cases were are
19 not tailoring our hazard controls enough, even though
20 we try to standardize the process of developing work
21 planning and control documents.

22 For instance, we have found in many instances
23 where maintenance related work packages are being used
24 for work that contains hot work. By basically saying
25 okay, you use maintenance based work packages plus some

1 additional controls to allow hot work.

2 So not only do we need to make sure that they
3 follow a standard for developing work planning and
4 control documents, but we also have to tailor the
5 process enough such that they pick up these unique
6 hazards that are popping up at a very low level,
7 whether they are low level work planning and control
8 documents or high level in terms of risk levels,
9 because most of our contractors, they categorize our
10 work planning documents into high or low. Low being,
11 you know, routine, routine maintenance activities or
12 something close to that. So we need to apply both
13 standards-based approach as well as making sure that
14 the procedures allow the workers and SMEs, the subject
15 matter experts, to be able to look at the unique
16 attendant hazards that are being prepared for through
17 the appropriate planning process.

18 It's kind of a tricky area in terms of yes,
19 we need to apply standards approach. However, flexible
20 enough such that the right people, including SMEs to be
21 able to pick up those unique hazards. Meaning more
22 tailored.

23 VICE CHAIRMAN ROBERSON: Okay. Did you want
24 to add something else?

25 UNDER SECRETARY D'AGOSTINO: Well, I think

1 you saw us --

2 VICE CHAIRMAN ROBERSON: Yeah.

3 UNDER SECRETARY D'AGOSTINO: Yean. I recall
4 my experience in reactor operations or nuclear
5 operations, our personal experience is what you do and
6 how you do it. And this is -- and there was always
7 this "what versus how" discussion, and things are never
8 that clearly --

9 VICE CHAIRMAN ROBERSON: Right.

10 UNDER SECRETARY D'AGOSTINO: put in -- put in
11 one bucket or the other. In fact there is a spectrum
12 along the lines.

13 I look at nuclear operations quite
14 differently than I look at other operations. In many
15 cases it's very important to be prescriptive and say
16 how things need to get done in order to ensure
17 consistency because of the consequence of that
18 activity. At the same time, and even in the submarine
19 program that I was in, I recall vividly an incident
20 back in the '80s, and Admiral Rickover ended up sending
21 a broadcast message out to everybody on this, because
22 there was a procedure in place, and I think it had
23 something to do with the ion exchange resin bed, and it
24 had to do with, you know, the sailors and the officers
25 and crew on that particular ship ended up just kind of

1 blindly going step by step. They had the checkbox
2 mentality. Because in some cases that had been
3 reinforced. You will follow procedure, you will not
4 stray from the procedure, things have to be done in a
5 certain specific way. And what we ended up is allowed
6 the sailors and the officers on that ship to disengage
7 their brain from what they were actually doing. That
8 was a very dangerous situation. Not dangerous in the
9 fact that there could have been an explosion, per se,
10 but you do want people to use their brains when they're
11 doing even procedures on the step by step procedures.
12 And the Admiral ended up sending a message out to the
13 whole Fleet saying that's, you know, I want you to
14 engage your brains when you're doing your work. Even
15 when we tell you how to do something". But at the same
16 time, there's a recognition that there's importance to
17 have some flexibility in operations, particularly low-
18 hazard operations.

19 And so we don't want to say okay, that's a
20 "what" and that's a "how", and therefore we're never
21 going to tell people how they're going to do something.
22 That's the antithesis to the M&O model.

23 There will be times when we have to
24 absolutely do that, and in fact we do that.

25 Don, thoughts?

1 DEPUTY ADMINISTRATOR COOK: No.

2 UNDER SECRETARY D'AGOSTINO: Okay.

3 VICE CHAIRMAN ROBERSON: So, one more
4 question. I know other people want to ask questions.
5 I'm going to apologize to you in advance for this
6 question because I don't know any other way to ask it
7 other than to be very blunt.

8 First of all let me say all of you have very
9 tough jobs. We appreciate that and we understand that.
10 The -- actually, I had two, but I think I'm only going
11 to ask one now and hold it.

12 You talked earlier with the Chairman about
13 the framework for really the vision you're taking the
14 program to. And there is, I think we obviously there
15 have been lots of conversations. This is I don't know
16 how many hearings in line on this topic. And so I
17 think most of you know me, I'm pretty straightforward
18 okay, and blunt.

19 You have a framework, and then you have
20 objectives. What we know is your objective is you want
21 the contractor assurance system to be the best that it
22 can be, right? You want to be able to rely on that.

23 UNDER SECRETARY D'AGOSTINO: Among many other
24 things. Yes.

25 VICE CHAIRMAN ROBERSON: That's the primary

1 thing that we've talked about, right?

2 UNDER SECRETARY D'AGOSTINO: Yes. There are
3 plenty of other things as well, though, but you're
4 right.

5 VICE CHAIRMAN ROBERSON: Well, that's what
6 I'm going after.

7 UNDER SECRETARY D'AGOSTINO: Yeah.

8 VICE CHAIRMAN ROBERSON: I guess what I'm
9 going to say is there's a valley between the two. So I
10 think one of the things the Board keeps -- a valley in
11 our understanding of that connection from your vision
12 of what you want when it comes to requirements, your
13 safety framework, your oversight model. Those things.
14 And what happens in between that and nirvana, which is
15 where you want to be. Right? That's what we're
16 talking about.

17 UNDER SECRETARY D'AGOSTINO: I think our
18 nuclear -- I don't think -- we're -- We may not be on
19 the same page, so I think it's important to talk about
20 this.

21 We have a very clear set of nuclear safety
22 orders, ways that we do safety basis analysis, the
23 oversight that we do. We don't have a problem with
24 that. I think there is so much more that we do in this
25 organization besides nuclear safety. I'm not

1 discounting nuclear safety. Nuclear safety is
2 absolutely, I won't use the word critical, but nuclear
3 safety is very important in what we do.

4 VICE CHAIRMAN ROBERSON: Right.

5 UNDER SECRETARY D'AGOSTINO: Because if we
6 mess that up, forget about it, forget everything else.

7 But we do a lot more than that.

8 What we're trying to do, and we're working
9 very hard to do this right, is take a look at all the
10 other things we do in our organization, and there's a
11 lot of other things we do, about improving the way we
12 do business. This is what this is about, is improving
13 the way we do business. It's not about taking nuclear
14 safety and throwing it off the shelf. I want to make
15 sure -- I've said that a couple of times, it's in my
16 written testimony, I've said it a couple of times in my
17 oral testimony, I'm going to say it again because
18 that's not what this is about. This is about taking a
19 look at improving the way we do business. We have to
20 do that. It's a necessity to get our mission done.
21 And I know there are opportunities, I've seen
22 opportunities, I've seen improvements. We have audited
23 cost savings at the Kansas City Plant with respect to
24 the supply chain management center. And that's a
25 culture change for our organization to work together.

1 That's what this is about.

2 On the nuclear safety side, if there are
3 valleys and gulfs, we want to close those valleys and
4 gulfs. If you see a valley and gulf in that area, you
5 know, we're interested in making things -- making sure
6 that the nuclear safety element is not gone by the
7 wayside here. That's not our intention. Our focus is
8 to make sure that that doesn't happen.

9 VICE CHAIRMAN ROBERSON: So, you're going to
10 force me to ask my first question. And then I'll pass
11 on. So you and the Chairman had a discussion earlier
12 on and you were talking about --

13 UNDER SECRETARY D'AGOSTINO: In the hearing.
14 Yeah.

15 VICE CHAIRMAN ROBERSON: -- in this hearing.
16 Yes. Okay. So, ISM. I mean, we all know NNSA had a
17 very aggressive view of what needed to change in
18 relationship to the ISM order, is that not correct?

19 UNDER SECRETARY D'AGOSTINO: I try not to go
20 with adjectives because my definition of aggressive and
21 yours almost undoubtedly will be different. I'm not
22 sure what you mean by your question.

23 VICE CHAIRMAN ROBERSON: Eliminating content.
24 Maybe even folding it into other documents. Is that
25 not correct?

1 UNDER SECRETARY D'AGOSTINO: I will revert
2 back to what Dr. Cook said earlier. In that what we're
3 trying to do, as I said earlier, is drive clarity and
4 consistency in our requirements. Not have requirements
5 show up in the DEAR clause for requiring a contractor
6 to do things. And to the extent that your view is that
7 ISM is being thrown out the window, I would beg to
8 differ. I think we have a very clear requirement in
9 our DEAR clause that every contractor has to have a
10 safety management system. It clearly spells it out in
11 detail in the DEAR clause. Our acquisition regulations
12 which we require our contractor to do -- to do a very
13 specific set of things. Small print, multiple columns
14 on a sheet of paper with great detail. That's -- that
15 provides that overview.

16 The order provides an additional level of
17 granularity, if you will, that we feel is important.

18 What we want to do is make sure there's
19 consistency between what we're telling our contractors
20 to do in our acquisition regulations and make sure
21 there's consistency between what we're talking our
22 contractors to do in our orders. Because -- and making
23 sure that anybody that would come in to take a look in
24 making sure that our contractors are doing what they're
25 supposed to do, which includes us, that it is

1 interpreted in a consistent way.

2 This is a big job. You know, because, and
3 I'm just using one example, the safety management
4 system, for example. Since you asked a question in
5 that area. But this applies actually in many other
6 areas that we have a DEAR clause that says thou shalt
7 do this. We have an order that says thou shalt do
8 that. And then we have an inspector that says, you
9 know, I'm going to go on a little bit of both. We have
10 an M&O contractor that's trying to second-guess the
11 federal employee. And before you know it, what we have
12 is a mess on our hands.

13 And one of the first elements on driving
14 having a quality organization. The contractor
15 assurance system is a quality management system, is to
16 have a very clear understanding of who's in charge of
17 what and a very clear understanding of what the
18 requirements are, a very clear independent assessment
19 process to do that, and a feedback mechanism to make
20 all of this work.

21 I may not have answered -- I apologize if I
22 didn't answer your question.

23 VICE CHAIRMAN ROBERSON: No. That's
24 perfectly fine. I'm just going to ask it this way
25 simply. Was there inconsistency between the DEAR

1 clause and the ISM order?

2 UNDER SECRETARY D'AGOSTINO: Let me see if I
3 can get you some specific examples.

4 VICE CHAIRMAN ROBERSON: Okay.

5 UNDER SECRETARY D'AGOSTINO: We talked about
6 providing specific examples. I think the Board has
7 asked that -- for that.

8 VICE CHAIRMAN ROBERSON: Okay.

9 UNDER SECRETARY D'AGOSTINO: But on the
10 nuclear safety side --

11 VICE CHAIRMAN ROBERSON: Okay. I don't
12 think, we don't have a problem on the nuclear safety
13 side --

14 UNDER SECRETARY D'AGOSTINO: -- which as I
15 understand is it should be the main concern.

16 VICE CHAIRMAN ROBERSON: Okay.

17 CHAIRMAN WINOKUR: I'm going to turn it over
18 to Mr. Bader in a second, I guess, but you weren't here
19 this morning, and I want to just make a point.

20 We are just really genuinely trying to
21 understand what the Departments wants to do and what
22 it's seeing, I mean, if you have concerns about things.

23 We often hear people sometimes make statements that
24 say safety might be a barrier to their mission. I'm
25 not in any way suggesting, I know you don't. But we

1 hear that, and we say to people, What is it? Tell us
2 more about it so that we can help and see if we can
3 provide some advice to the Department".

4 And so we have a situation here that began
5 with the safety and security reform where the guidance
6 was really to try to consolidate or get rid of 50
7 percent of the directives in nine months. These were
8 directives that were on the Office of Primary Interest
9 was HSS; 75 percent of them were Orders of Interest to
10 the Board. So I think we had a pretty strong feeling
11 when these, you know, this started that it was going to
12 move into the space of what we consider to be nuclear
13 safety. So we're really just trying to endeavor in
14 this discussion today, to really just get the feedback
15 from what people are seeing.

16 Now, I had a Board Member out at Los Alamos
17 and your lab director out there did share some very
18 specific -- I don't need to go over it today. He did
19 share some very specific concerns that he had about
20 aspects of nuclear safety he considered burdensome.
21 But he's allowed to have that opinion. But I do
22 appreciate the fact that he was willing to share, and
23 that's kind of to some extent what we're asking for
24 today. Just share with us. We don't -- these things
25 are not carved in stone. These are not tablets. We'll

1 look at these things with you and where you see
2 shortcomings, and we want to work and get rid of things
3 that don't work.

4 UNDER SECRETARY D'AGOSTINO: Well, we
5 appreciate that, Mr. Chairman.

6 I think, our point -- I'm aware of the
7 concerns of the Los Alamos lab director. I'm also
8 aware that -- I get a bit of a bigger picture than any
9 one particular site does, and so does Dr. Cook as we
10 look at their whole enterprise.

11 We, as I mentioned earlier, we have a
12 tremendous amount of work to do in other areas that --
13 Are there ways? There's no system that can't be
14 improved on. At the right time if we need to get to
15 the Board and say, Okay, we believe this is a nuclear
16 safety area that's causing us a problem, we will come
17 to the Board with that.

18 CHAIRMAN WINOKUR: Thank you.

19 UNDER SECRETARY D'AGOSTINO: And we'll have a
20 good discussion. I think it's very important to have
21 that.

22 As I've said before, publicly, not in this
23 session today yet, but it's very important to have an
24 independent set of eyes. We've got multiple
25 independent sets of eyes in organizations looking at

1 nuclear safety. I'm okay with that. I've got my Chief
2 of Defense Nuclear Safety who is not part of the
3 Defense Programs organization. I have the HSS
4 organization, and I have the Board which provides
5 input. I think that's good. I mean, we all have to be
6 very measured in our way. In the end, there's balance
7 in this. But we will come to you as we look at areas
8 where we feel we may need to have a dialogue on
9 specific items.

10 CHAIRMAN WINOKUR: I appreciate that.

11 MR. DWYER: Mr. Chairman, before we leave
12 this subject area, did I hear you say that the DEAR
13 clause contains as much detail as the ISM order?

14 UNDER SECRETARY D'AGOSTINO: No, you didn't
15 hear me say that.

16 MR. DWYER: Okay. Thank you. You heard me
17 say that the DEAR clause contains a tremendous amount
18 of detail and the ISM order, certain parts of it
19 provide additional granularity, appropriate granularity
20 in some cases and maybe conflicting granularity in
21 others and where we're trying to make sure, we don't
22 have two things, two requirements, one in the DEAR, one
23 in the order, and then maybe one somewhere else. Even
24 if they're exactly the same, as Dr. Cook said, --

25 UNDER SECRETARY D'AGOSTINO: Don, maybe, I

1 don't want to put words in your mouth; why don't you
2 repeat what you said earlier?

3 DEPUTY ADMINISTRATOR COOK: Well, I want to
4 -- I may use different terms, but let me come back to
5 your question, Jessie.

6 You know, you were asking the Administrator,
7 "Was the main thing ISM", so I want to start with what
8 I actually believe to be the case. We all share the
9 desire to achieve the outcome of safe and secure
10 conduct of the work. We have a lot of work to do.
11 Safety and security are inherently the mission. And so
12 if anybody, if anybody wants to tell me they see
13 obstacles, I'll listen. If they say safety is an
14 obstacle to doing another part of the mission, we're
15 going to have a conversation. I won't be listening
16 during that part. I'll listen after. But, you know,
17 it's a core part of the mission.

18 So I think we share that common objective,
19 and that's very important between DNFSB and the
20 Department of Energy.

21 I've said so often I appreciate the advice
22 that is provided by the Board, the Board Members, and
23 the Board Staff. I truly mean it. I appreciate the
24 advice.

25 Where we have differences is usually about

1 the process. You know, ISM is a means to an end. It's
2 actually not the end. The end ultimately is the safe
3 and secure conduct of work. But Integrated Safety
4 Management at its fundamental core, of thinking and
5 planning and doing the work and reviewing and learning
6 and applying that to the next step and the next item.
7 You know, that's a very key process.

8 So sometimes, and I'll say if there's a
9 difference of view, and it's good material for healthy
10 discussion, it is whether the best path or different
11 views with different people would say that to the
12 extent we can raise the common aspects of our
13 governance, and we state what must be achieved, we hold
14 the contractor fully accountable but without
15 constraining the contractor. Telling them the details
16 of how to do their job.

17 It is my view that we'll get a higher
18 probability to achieve the outcome of safe and secure
19 conduct of the work.

20 In other areas, where the consequence of, for
21 example, nuclear excursion or criticality. We've had
22 discussions. I was trained as a nuclear engineer.
23 You've heard me say the one lesson I learned in "Nuke
24 E" school, and it was Rickover training when I went to
25 school which was a heck of a long time ago, it is a

1 human can never outrun a chain reaction.

2 You know, I believe that at my very core. I
3 know what criticality means. And I've been accountable
4 for those operations.

5 So if I see somebody wandering off, again,
6 we'll have a discussion. I think we share a common
7 objective, and I understand your concerns as well as
8 the Administrator has said. Your questions about, you
9 know, governance reform.

10 I don't want to be confused on the outcome.
11 We want safe and secure conduct of the work.

12 We do believe there are opportunities to not
13 only hold safety and security where it is. I will say
14 potentially make it better, and to do so more
15 efficiently. And so you'll see us focus on the
16 efficiency, and that means clarity of expectation. It
17 means truly holding the contractor accountable. It
18 means making the contractor understand the basis on
19 which he or she is going to be measured, so that we're
20 not playing games with them, and doing that takes a lot
21 of discussion.

22 But we agree on the outcome, I believe, and
23 that's what we're after.

24 VICE CHAIRMAN ROBERSON: I was just trying to
25 turn this on and say thank you.

1 CHAIRMAN WINOKUR: And I think, Mr. Bader,
2 you have some follow-up questions?

3 BOARD MEMBER BADER: I do. I'm on.

4 Dr. Cook, I think this is probably a good one
5 for you and then I'll go to Dr. Triay.

6 But specific to NNSA [Nevada National
7 Security Site], we have reviewed Los Alamos, Livermore,
8 Savannah River, but we haven't issued a letter on
9 Savannah River, NNSS. I keep having trouble with that.
10 It's still the Test Site, but that's all right.

11 DEPUTY ADMINISTRATOR COOK: N2S2 works for
12 us.

13 BOARD MEMBER BADER: Okay, Pantex again, no
14 letter but also Y-12 in the area of work control and
15 work processes.

16 And we have had continuing issues as
17 addressed in the letters.

18 And I take -- to me on the floor, on the deck
19 plates, work process and control is the most essential
20 element of Integrated Safety Management. So we have
21 that situation in terms of implementation which we've
22 addressed and which we've advised you on.

23 At the same time we're doing this we're
24 looking at the situation in the directives with ISMS.
25 Do you expect that what you're doing in ISMS will

1 improve what we're seeing in terms of the workers'
2 performance in terms of safety in work planning and
3 control?

4 DEPUTY ADMINISTRATOR COOK: See. I think
5 it's a good question. We, you know, following the
6 fundamental principle, we intend to do no harm. Beyond
7 that, we do intend to make things simpler and clearer
8 to understand. And I absolutely do agree that work
9 control, work processing, work control are at the core
10 of ISM.

11 In my own view something as important as
12 training and education and whether we have highly
13 trained, well qualified and equipped people who are
14 suitably experienced. You know you heard me use that
15 set of words before because it's ingrained in me.
16 Those things go together.

17 In addition to that, and part of the suitably
18 equipped is with the guidance, with the requirements
19 they have in work planning and control. Whether
20 there's lock out/tag out, and the number of problems
21 we've had over decades with regard to people still
22 finding some way to violate that or whatever. That's
23 very important. But the core is the training, the
24 education, and to the extent that we can make things
25 simple, you know, we can actually require the

1 individual workers to read the DOE orders, and we do.
2 To the extent we have ways to remind them when required
3 in a simpler way, in a way that is in the regimen, you
4 know, the same set of words and not three or four
5 different places with somewhat different nuance or
6 different description, or the fact that we have, you
7 know, multiple places.

8 If it's the safety net there's some benefit
9 to that. But my answer to you is, "Yes, we intend to
10 improve". But again, I'd go back to the point. We
11 believe we can increase the efficiency and as far as
12 improvement, I do believe that the clarity of the
13 requirements and the -- You know, we need appropriate
14 simplicity. We don't need things overly simple. But
15 we sure don't need them overly complex either.

16 BOARD MEMBER BADER: Is the work planning and
17 control an area where you would envision a set of clear
18 but prescriptive steps?

19 UNIDENTIFIED: It could be.

20 DEPUTY ADMINISTRATOR COOK: On some elements
21 that have an unacceptable consequence for failure, the
22 answer is yes.

23 BOARD MEMBER BADER: Is this something you
24 think would be well informed by an appropriate guide?

25 DEPUTY ADMINISTRATOR COOK: It could easily

1 be. A guide really used in the way that guides ought
2 to be used, they're exceptionally valuable.

3 UNDER SECRETARY D'AGOSTINO: Typically what
4 we see though, is guides become translated by others
5 into being not necessarily guides, but this is the way
6 you absolutely have to do it. No, that's not the
7 intent. The intent of the guide is to provide some
8 flexibility in that area. It hasn't happened that way.

9 BOARD MEMBER BADER: Guides as they're
10 currently constructed allow for that flexibility.

11 UNDER SECRETARY D'AGOSTINO: I agree
12 completely. They absolutely allow for the flexibility.

13 There's a difference between allowing for the
14 flexibility and how it gets inspected. It's a problem
15 with us too. This is not about the Board. This is a
16 problem that --

17 BOARD MEMBER BADER: I'd make an aside that
18 one of the, the Board has spent quite a bit of time
19 asking questions of the sites and of the contractors
20 about the questions of the directives and what they
21 thought needed to be fixed. Uniformly we've had a
22 reaction that said, in fact it was encapsulated by one
23 quotation that said, "When we looked at the directives
24 we had no issues with the directives because we found
25 we already had the flexibility in the directives. We

1 just weren't using them."

2 Where I would go from this is we currently
3 have an order in ISM that's lacking a guide. The
4 guide's being written. And I think to me this would be
5 a good place to see how you interpret a guide and how
6 you want the guide put together and how we want the
7 guide put together. And how EM wants the guide put
8 together to see if it satisfies all of us. Is that
9 something you should think through, we should work
10 towards?

11 UNDER SECRETARY D'AGOSTINO: I don't know
12 actually the answer to that question right now. I'd
13 have to look and take that back and get back to you on
14 whether I think that's necessary. I just can't quote
15 chapter and verse specifically on whether we think
16 that's necessary. I do understand the question,
17 though, and we'll get back to you. Put it for the
18 record.

19 BOARD MEMBER BADER: I'd go back to a comment
20 Dr. Cook made on the auditor. And the auditor looking
21 at a common, looking at the requirements and having a
22 common approach bad site -- across a site. I'd just
23 say you've got the wrong auditor.

24 DEPUTY ADMINISTRATOR COOK: People being
25 audited don't always have a choice over who the auditor

1 is. Not all auditors are, you know, trained uniformly
2 either. So I'm --

3 BOARD MEMBER BADER: After having audited
4 companies to see if they were suitable suppliers across
5 a broad spectrum of competencies and capabilities.
6 (Inaudible.) Yeah. (Inaudible.)

7 CHAIRMAN WINOKUR: Before we close with you
8 today, Mr. Administrator, could you submit a signed
9 copy or your copy of the NNSA policy NAP-21 to us for
10 the record.

11 UNDER SECRETARY D'AGOSTINO: Absolutely.

12 CHAIRMAN WINOKUR: That's obviously an
13 important part of this discussion. And we don't have
14 to spend a lot of time discussing it today, but our
15 previous looks at chapter ten, performance evaluation
16 plan and metrics that had not been written yet, is
17 there an update on that? Has anything been added to
18 that?

19 UNDER SECRETARY D'AGOSTINO: There will be
20 that chapter that will need to be updated, and there
21 are a couple of other chapters that need to be updated.

22 I think -- our point is we knew there was a
23 lot of interest in what we were looking at from a
24 governance standpoint, and we wanted to get out what we
25 had finished our work on. And when we did, clearly

1 you'll see in the guide the NAP-21 when you get it,
2 there are some chapters that are not complete, and they
3 need to be completed. We're aware of that.

4 I don't have the schedule off the top of my
5 head, but we'll let you know when we think we're going
6 to get those particular chapters done and work with you
7 on getting input from you on that.

8 CHAIRMAN WINOKUR: Alright. Well, so much of
9 our discussion today has been about what we're going to
10 measure so we know things, we know how things are. We
11 know how things are improving, so we'll certainly be
12 interested to see that when you have it done.

13 UNDER SECRETARY D'AGOSTINO: Sure. Thank
14 you.

15 CHAIRMAN WINOKUR: Thank you. And with that
16 I'd like -- you do have a final question?

17 MR. DWYER: Yes. If you can -- and maybe you
18 don't know this off the top of your head. You talk
19 about a \$60 million savings over six years at Kansas
20 City. How is that broken down? Is that a reduction in
21 personnel?

22 UNDER SECRETARY D'AGOSTINO: Well, when we
23 take -- when we look -- I can't give you the \$60
24 million break down --

25 MR. DWYER: No, no, no. I was -- just a

1 rough idea.

2 UNDER SECRETARY D'AGOSTINO: What I would say
3 -- there is -- there are things that -- there are
4 things we don't have to do any more, reports that don't
5 have to be written that used to get written because
6 they were based on the ways we did it back in the 1980s
7 or some period of time that just got carried forward.

8 We see this in all lines of our business
9 where what typically ends up having, and Kansas City is
10 a non-nuclear site as you know, typically what ends up
11 happening is, you know, there is not a law of
12 conservation of reports or anything else like that,
13 things just get added on. There actually gets more and
14 more things get layered on top of previous things.

15 So having an opportunity to make sure that
16 the Kansas City Plant had a quality management system
17 in place, one that met the Baldrige criteria, and one
18 that is consistent with a sound contractor assurance
19 system that hits all of those particular points, we
20 felt that there's a bit of reduction in personnel
21 because we didn't have to have the numbers of people
22 inspecting the areas of low-hazard work that we had. In
23 fact it allowed us to move some folks into other areas
24 where we felt it was more important. This is about
25 balancing the resources we have to put the attention on

1 the areas that deserve the kind of attention they need.

2 MR. DWYER: So, is there a summary or
3 something that we could have to try and get a feel for
4 where the savings are?

5 UNDER SECRETARY D'AGOSTINO: I'm sure there
6 is. At a non-nuclear site, Kansas City?

7 MR. DWYER: Uh huh.

8 UNDER SECRETARY D'AGOSTINO: I'm sure we have
9 that.

10 MR. DWYER: Okay. And that is the only non-
11 nuclear site amongst your sites. The other ones are
12 nuclear. I'm trying to understand if your focus is on
13 protecting the nuclear --

14 UNDER SECRETARY D'AGOSTINO: Let me ask you a
15 question. Let me see if I understand your point.

16 MR. DWYER: If your focus is on protecting
17 nuclear, protecting high-hazard facilities. You don't
18 want any reduction in the safety, but we're looking at
19 NNSA has submitted impass papers on the oversight
20 policy order, on the ISM order, on the QA order. Those
21 are site-wide things. If you have a site that has
22 nuclear on it, how can you differentiate on the site?

23 UNDER SECRETARY D'AGOSTINO: What's nuclear
24 and non-nuclear?

25 MR. DWYER: No. No, how can you

1 differentiate the type of program that your contractor
2 institutes there?

3 UNDER SECRETARY D'AGOSTINO: I think we've
4 spent the last two hours talking about ability to apply
5 Ms. Roberson's point, a tailored approach. I think
6 there's no problem with our ability to do that.

7 MR. DWYER: The same contractor, different
8 approach for their QA program, for their ISM program,
9 at the site.

10 UNDER SECRETARY D'AGOSTINO: Tim, the key
11 here is to apply the appropriate level of oversight on
12 the activities to that appropriate level of risk. It
13 would be ridiculous, my opinion, to apply the type of
14 oversight that we would do on a nuclear operation, to
15 every single operation on a particular site. We're not
16 going to do it.

17 MR. DWYER: Oversight, yes, but what about
18 the ISM program? You're going to differentiate that
19 across the site? Or one program?

20 UNDER SECRETARY D'AGOSTINO: There's always
21 -- if we're going to have a philosophical discussion
22 from the standpoint of consistency, as we had before,
23 we can start that over again.

24 DEPUTY ADMINISTRATOR COOK: You know, again,
25 to try to answer the spirit but without the details of

1 the "how" in the process where we often get stuck. You
2 know the structure well, we've got all the Department
3 of Energy. Then within that we've got NNSA.

4 NNSA has different business aspects than the
5 rest of the Department of Energy. Not all of it, but
6 we have the opportunity which we must avoid for
7 criticality of HEU [Highly Enriched Uranium] and
8 plutonium.

9 When you break it down from NNSA and you get
10 to the different sites, the sites already start to look
11 different.

12 Within the site they are also fairly
13 fundamentally different.

14 And you know Los Alamos. You know Sandia.
15 Sandia has in many areas weapon electronics that are
16 one thing, yet you go to Area 4, very high-hazard,
17 lethal if treated inappropriately, pulse power
18 machines.

19 You go to area 5, and you look at the annular
20 core research reactor.

21 The kind of argument that we're having about
22 the process, and then almost like the auditor trying to
23 give it up and make it all the same for the whole
24 place. This is pertinent to individual labs as well.
25 The devil is in the detail, as the Admiral said so

1 often that we all remembered it. And it occurs at a
2 site level.

3 So the form of governance that Sandia should
4 apply to the annular core research, would be different
5 than for some of the weapon engineering. ISM at its
6 top level principles, however, would still apply. But
7 when you get down to the level, now, Joe, we talked
8 about this, the training. You know, suitably highly
9 trained, suitably experienced, well equipped and well
10 qualified.

11 Those would be different in these different
12 areas I would expect that in the contractor assurance
13 program, those kinds of approaches are clearly laid
14 out. That where we have incentivized contractor
15 performance for safe and secure conduct of the work
16 that it's not identical in each parts of different
17 business units, even at one site. And if I didn't see
18 a difference in operations within reactors, high pulse
19 power accelerators and many routine aspects of weapon
20 engineering, then I would know either that money was
21 being wasted or that we weren't applying the highest
22 level of oversight to the most critical operations.
23 And that in fact is our objective, and that's why it
24 needs to be tailored at every single level. And that's
25 when we talk about giving the contractor some

1 flexibility, but holding the contractor accountable.
2 It is -- there is a view, and I share the view, it is
3 easier to hold the contractor directly accountable if
4 we give the contractor adequate flexibility to perform.

5 CHAIRMAN WINOKUR: We've discussed this
6 before. And I want to say it just very briefly and
7 then we have only one more question. But what we were
8 commenting on and Tom and I have discussed in the past
9 is the fact that you have defense nuclear facilities on
10 a site, non-defense nuclear facilities, you have
11 workers doing maintenance, QA, other kinds of
12 activities. When they move inside the walls of one
13 building can they really see the program much
14 differently than when they're on other parts of the
15 complex? And what we're discussing here today is
16 whether these directives, these orders, these policies
17 really have enough flexibility and whether you'd even
18 want a worker who does work a certain way whether it's
19 lock out/tag out or other kinds of things that might be
20 considered prescriptive to want to do things
21 differently.

22 I think it does -- I think it does present
23 some challenges, but if we have any more we'll submit
24 some questions for the record on that, okay?

25 (Laughter.)

1 And you've been with us for a long time
2 today, we're very appreciative of that. I hope the
3 free world is still okay.

4 And Mr. Administrator, you're with us today.
5 And do you have that one?

6 VICE CHAIRMAN ROBERSON: I have one question.
7 And my question is for Dr. Triay. I don't want you to
8 feel lonely. We spend a lot of time thinking about you
9 too.

10 (Laughter.)

11 I want to say to you, there was something you
12 did in your testimony that I really appreciated when
13 you went through some examples of recent occurrences
14 and talked about what had been learned. And I think we
15 all in the nuclear industry know the more self-critical
16 we are the less we leave for other people to criticize.
17 So I appreciate that you did that.

18 There were other things you said in your
19 testimony, conservative occurrence reporting. You
20 described the active oversight engagement. You talked
21 about a number of approaches you took to that you
22 employed to maintain proactive awareness of what was
23 happening in your operations. And you talked a bit
24 about your active corrective action program and the
25 roll-up to headquarters, what you do with those. You

1 also talked about your annual ISM reviews.

2 Clearly all of these are not required in
3 today's standards, so I have a two-part question. Why
4 are you doing them? And I'd like for you in concert
5 with the conversation that just happened, you talked
6 about the difference in your contracting models, but in
7 essence at a number of sites in the Complex, they are
8 both EM and NNSA. And so you do have a number of
9 subcontractors at like Los Alamos. How is this working
10 for you?

11 ASSISTANT SECRETARY TRIAY: So, first off, we
12 are doing, taking all of the measures and taking all of
13 the steps that you described eloquently because we do
14 think that that ultimately improves the safety
15 performance, and by improving the safety performance we
16 also improve the performance. I think that there is no
17 question that the safety performance and the
18 performance at the site go hand in glove. They are
19 completely correlated. A facility that takes safety
20 seriously and knows how to perform work safely also
21 knows how to perform work effectively. So that's why
22 we do those things. And we always, like NNSA we are
23 reinventing ourselves, trying to ensure that if there
24 are lessons to be learned from the incidents that occur
25 around the world, nuclear and non-nuclear when it comes

1 to safety, that we take those lessons learned and we
2 apply them in a very proactive manner as part of
3 continuous improvement.

4 With respect to the contracting strategy,
5 just to emphasize the point that I was making and that
6 you were alluding to, take for instance CH2M Hill and
7 the Hanford site, the balance of the cleanup, the
8 Plateau Remediation. Ken Picha was telling me that
9 this week, you know, when the president of Plateau
10 Remediation came to headquarters, he pointed out to us
11 that all tolled in that cleanup he is going to be using
12 hundreds of contractors.

13 So as you see, we do have a unique situation.
14 We employ small businesses, and we have found that to
15 be extremely effective in fiscal year '10 of that was
16 \$6 billion. \$1.7 billion went to small businesses. We
17 find working with small businesses extremely effective
18 for the Environmental Management program. 428 of those
19 was direct, \$1.3 billion subcontracted. So not only
20 there are subcontracts, there are subcontracts to small
21 business. In the Recovery Act, \$6 billion. \$1.9
22 billion went to small businesses. 671 direct, \$1.3
23 billion subcontracted. So the measures that you
24 described in our view are essential when we have that
25 diverse of a work force.

1 Now to frankly agree with the Administrator
2 and Dr. Cook, I do a lot of work at Los Alamos National
3 Laboratory and Y-12. And in particular at Los Alamos
4 National Laboratory, we have a tremendous amount of
5 interest in moving, shipping the transuranic waste from
6 Los Alamos to the Waste Isolation Pilot Plant [WIPP].
7 Indeed, what we have found is frankly very similar to
8 some of the things that they were describing for us
9 today. When the rigor that is necessary at TA-55
10 [Technical Area 55] is applied, when they are at Area
11 G, in trying to characterize uncertified waste and ship
12 it to WIPP, it's not that there's anything wrong with
13 what is being done, but things could be done more
14 effectively and more efficiently if we analyze the
15 hazards and do as much as necessary in order to conduct
16 the operation safely.

17 I believe, in fact, I mean, the standard that
18 I was referring to on the type of approach that we
19 should take when we characterize uncertified waste for
20 shipment to WIPP, it is something that would actually
21 help for them to describe, you know, what they are
22 trying to accomplish. Instead of taking the approach
23 that they were using perhaps Technical Area 55, they
24 could take the approach that is necessary in order to
25 expedite transuranic waste characterization,

1 certification, and taking the waste to WIPP which the
2 Board has pointed out to us, transuramic waste in Area
3 G, you can see the houses from Area G. Please expedite
4 this work and take the transuramic waste to its final
5 disposal site rather than spending perhaps efforts
6 beyond what is necessary in order to conduct the
7 operation safely.

8 So I actually believe that the work that they
9 are doing now, you know, what the Administrator and Dr.
10 Cook have been explaining, will assist us, will assist
11 us in the Environmental Management Program connect in
12 the areas where we actually have to perform
13 environmental management cleanup with the M&Os, in our
14 duty lies at Los Alamos or at Y-12 which as you know we
15 have a substantial amount of work, also at Y-12 from
16 the NNSA M&O. So there are challenges, to answer your
17 question precisely, you know, there are challenges.
18 When we want to expedite work because the risk of
19 having the waste there is a lot larger than some of the
20 controls that have to be placed that perhaps go beyond
21 what is necessary. And I believe that that is one of
22 the issues that will be addressed with the effort that
23 they are in the process of doing in NNSA.

24 VICE CHAIRMAN ROBERSON: Okay. Thank you.

25 CHAIRMAN WINOKUR: I want to thank you all

1 for the time you spent with us, the testimony,
2 answering our questions very patiently, very
3 appreciative of that. Thank you, Mr. D'Agostino, Dr.
4 Cook, Dr. Triay, and Mr. Chung. And that will end this
5 portion of the hearing.

6 We're going to move to a public comment
7 section immediately, so thank you.

8 (Pause.)

9 UNDER SECRETARY D'AGOSTINO: Thank you.

10 CHAIRMAN WINOKUR: In accordance with the
11 Board's practice and as stated in the Federal Register
12 notice, we welcome comments from interested members of
13 the public. A list of those speakers who have
14 contacted the Board is posted at the entrance to the
15 other meeting room. We have listed the people in the
16 order in which they contacted us or if possible when
17 they wish to speak. I will call the speakers in this
18 order.

19 There is also a table at the entrance to the
20 room with a sign-up sheet for members of the public who
21 wish to make a presentation but did not have an
22 opportunity to notify us ahead of time. They will
23 follow those who have already registered with us in the
24 order in which they have signed up.

25 In order to give everyone wishing to speak an

1 equal opportunity, we ask presenters to limit their
2 original statements to five minutes. The Chair will
3 give consideration to additional comments should time
4 permit. Presentations should be limited to comments,
5 technical information, or data concerning the subjects
6 of this meeting. The Board Members may question anyone
7 making presentations to the extent deemed appropriate.

8 The first speaker we have is Katherine Fuchs,
9 the Program Director of the Alliance for Nuclear
10 Accountability. Welcome.

11 MS. FUCHS: Okay. Well, thanks for having
12 me.

13 My name is spelled Katherine,
14 K-A-T-H-E-R-I-N-E Fuchs, F-U-C-H-S.

15 I am here today representing the Alliance for
16 Nuclear Accountability [ANA] which is an organization
17 of 36 -- 35 community groups across the country,
18 communities living downwind and downstream of the DOE
19 nuclear sites.

20 First of all I would like to thank the DNFSB
21 for all of your oversight efforts, particularly at the
22 Waste Treatment Facility in the Hanford reservation and
23 the Chemistry and Metallurgy Research Replacement
24 nuclear facility at Los Alamos National Lab.

25 DNFSB's research and recommendations

1 regarding mixers at the Waste Treatment Facility and
2 seismology at the CMMRNF have the potential to protect
3 ANA communities from catastrophic radioactive and
4 chemical accidents and to ensure that American
5 taxpayers will not be responsible for costly corrective
6 or cleanup measures of these facilities.

7 ANA also thanks the DNFSB for examining DOE
8 efforts to implement ISM.

9 ANA is very concerned about the trend of
10 contractors regulating themselves. Though efficiency
11 is important, it should not eclipse concerns about
12 worker and public safety.

13 Performance measures and compliance standards
14 are not enacted to make things difficult for
15 contractors. They are enacted to ensure the highest
16 safety measures possible to protect the public.

17 As we've seen last year during the Deep
18 Horizon Oil Spill in the Gulf of Mexico, we know what
19 happens when corporations write their own regulations
20 and contingency plans. Profit margins often are placed
21 ahead of public safety.

22 While this has been devastating in the case
23 of the oil spill, it would be even more calamitous in
24 the event of a nuclear accident.

25 What happened at the Deep Horizon oil rig was

1 not strictly speaking an accident in that it was
2 preventable, but no one dedicated the time or resources
3 to preventing it. We cannot allow the same
4 circumstances to arrive to -- arise inside the DOE's
5 nuclear complex.

6 As I listened to the webcast of this
7 morning's sessions I found it very unfortunate that
8 Secretary Chu's experience working in the national
9 laboratories demonstrated that rules, orders and other
10 oversight provisions regulating high risk nuclear work
11 impeded progress on non-nuclear projects. This should
12 not be the case.

13 However, in ANA's estimation it would be much
14 more damaging if the high safety standards for DOE's
15 nuclear work were done away with in order to improve
16 efficiency on non-nuclear projects. The DOE's nuclear
17 programs should be oriented to providing American
18 taxpayers with maximum benefits, and ANA is unclear
19 about how reducing public oversight and accountability
20 measures for contractors implementing these programs
21 will benefit American taxpayers.

22 If strict performance measures, redundancy,
23 and multiple levels of oversight are needed anywhere
24 it's in nuclear programs. Although ANA commends the
25 DOE on seeking to build trust as it moves forward with

1 its mission, we fail to understand how doing so -- how
2 doing away with safety metrics will build trust with
3 the American public.

4 Sorry. ANA also does not trust the
5 contractors will hold themselves rigorously to safety
6 standards without the possibility of penalties for
7 failing to do so.

8 Additionally, the DOE's failure to implement
9 past DNFSB recommendations certainly has not built
10 trust with the public.

11 Transparency is important, but not just
12 between the DOE and contractors. Transparency must
13 also exist between the DOE and the public and between
14 contractors and the public. It is our money that's
15 flowing to these contractors, and they should be
16 accountable to the taxpayers.

17 ANA communities are the ones assuming the
18 risks involved with project at DOE nuclear facilities,
19 and we also demand transparency with contractors. We
20 fear that allowing contractors to operate on the honor
21 system will mean decreased transparency and
22 accountability to these communities.

23 So again, I would just like to thank the
24 Board for all the oversight that you've already
25 exercised and say that the alliance looks forward to

1 your continuing oversight as DOE continues to implement
2 ISM.

3 CHAIRMAN WINOKUR: Thank you for your
4 testimony. Would you please submit it for the record?

5 Are there any other members of the public who
6 wish to peak at this time?

7 (No audible response.)

8 I see none.

9 The record of this proceeding will remain
10 open until June 27, 2011. I would like to reiterate
11 that the Board reserves its right to further schedule
12 and otherwise regulate the course of this meeting to
13 recess, reconvene, postpone or adjourn this meeting and
14 exercise its authority under the Atomic Energy Act of
15 1954 as amended.

16 This concludes this meeting and hearing of
17 the Defense Nuclear Facilities Safety Board. We will
18 recess and take up the call of the Chair when that time
19 is necessary.

20 Thank you.

21 (Whereupon, at 4:07 p.m., the meeting in the
22 above-entitled matter was concluded.)

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25 //

REPORTER'S CERTIFICATE

DOCKET NO.: --
CASE TITLE: DEFENSE NUCLEAR FACILITIES SAFETY
BOARD (Revised/Corrected)
HEARING DATE: May 25, 2011
LOCATION: Washington, D.C.

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the Defense Nuclear Facilities Safety Board.

Date: 9/20/11

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