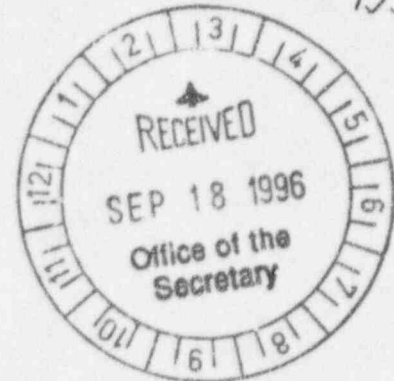


## STRATEGIC ASSESSMENT ISSUE PAPER



## DSI 14: PUBLIC COMMUNICATION INITIATIVES

## INTRODUCTION

In August 1995, the Nuclear Regulatory Commission (NRC) staff initiated a Strategic Assessment and Rebaselining Project. This project was intended to take a new look at the NRC by conducting a reassessment of NRC activities in order to redefine the basic nature of the work of the agency and the means by which that work is accomplished, and to apply to these redefined activities a rigorous screening process to produce (or rebaseline) a new set of assumptions, goals, and strategies for the NRC. The results of this project are intended to provide an agency-wide Strategic Plan which can be developed and implemented to allow the NRC to meet the current and future challenges.

A key aspect of this project was the identification and classification of issues that affect the basic nature of NRC activities and the means by which this work is accomplished. These issues fall into three categories. The first category includes broad issues defined as Direction-Setting Issues (DSIs). DSIs are issues that affect NRC management philosophy and principles. The second category includes subsumed issues. Subsumed issues are those that should be considered along with the DSIs. The third category includes related issues. These are issues that should be considered after the Commission makes a decision on the option(s) for a DSI. Also, as part of the project, other issues of an operational nature were identified. These are not strategic issues and are appropriately resolved by the staff, and are not discussed in the issue papers.

Following the reassessment of NRC activities, issue papers were prepared to provide a discussion of DSIs and subsumed issues, and to obtain a review of these broad, high-level issues. These papers are intended to provide a brief discussion of the options as well as summaries of the consequences of the options related to the DSIs. Final decisions related to the DSIs will influence the related issues which are listed, but not discussed, in each issue paper. As part of the Strategic Assessment and Rebaselining Project, the issue papers are being provided to interested parties and to the public. Following distribution of the issue papers, a series of meetings are planned to provide a forum to discuss and receive comment on the issue papers. After receiving public comment on the issue papers, the Commission will make final decisions concerning the DSIs and options. These decisions will then be used to develop a Strategic Plan for the NRC. In summary, the Strategic Assessment and Rebaselining Project will analyze where the NRC is today, including internal and external factors, and outline a path to provide direction to move forward in a changing environment.

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## I. SUMMARY

### A. Direction-Setting Issue

Recently, the NRC reviewed and published, after opportunity for public comment, its general policy on public responsiveness and the plans for improving public communication in offices having frequent interaction with the public. However, a broad look at overall approaches to achieving effective communication with the public could serve to increase the benefits of future public communication initiatives. Thus, in the area of public communication initiatives, the following DSI was identified:

What approach should NRC take to optimize its communication with the public?

Many factors, but two developments in particular, provide a background for evaluating of the existing overall approach and alternatives to that overall approach. First, NRC's interaction with the public is changing, and could change dramatically, as a result of advances in electronic media (such as use of E-mail and World Wide Web pages over the Internet) as well as legislative and executive initiatives relating to management and dissemination of Government information and service to the public. Second, the NRC has experienced some notable successes in public outreach activities during the 1990s, but has also experienced instances of late or otherwise ineffective efforts to notify or involve the public. In response to such developments, the agency may be adding new mechanisms for public communication without an assessment against overall agency objectives or an analysis of whether the new mechanism should replace existing activities. This issue paper examines these and other major factors that are likely to influence, and the options in approach that may serve to optimize, the agency's undertakings in public communication in an era of rapidly evolving information technology and declining resources.

### B. Options

#### Option 1: Continue Existing Approach

The agency's public communication activities (including information dissemination, public responsiveness, and public involvement) would continue with the existing goals and direction as set forth principally in the Principles of Good Regulation, the NRC Policy on Assuring Responsiveness to the Public, the NRC Policy on Public Access to Documents, and NRC planning documents. This approach affirms the existing, general goals and objectives in these documents, such as maximum dissemination of agency documentation to the public, timely and professional response to inquiries, and structuring of NRC activities to facilitate public participation. It involves adjustments or

documents. This approach affirms the existing, general goals and objectives in these documents, such as maximum dissemination of agency documentation to the public, timely and professional response to inquiries, and structuring of NRC activities to facilitate public participation. It involves adjustments or improvements on a largely case-by-case or office-by-office basis and in response to the identification of specific needs or challenges. It also includes consideration and implementation, as required, of the increasing Federal direction and guidance for information dissemination.

**Option 1a: Focus on Maximizing Effectiveness and Economy**

The NRC would maintain the same goals and emphases as under Option 1 but would direct a paramount focus on the management of public communication functions to make changes or improvements that achieve the best balance of the goals of maximizing the benefits and of minimizing the costs of the agency's investments in public communication. This balancing, along with the underlying analyses that are entailed, is a major objective of recent Federal initiatives, and selection of this option would place high priority on the implementation of these initiatives. At the level of the agency's overall objectives for public communication, it would suggest the need for greater focus on achieving efficient use of resources and ensuring the usefulness of NRC's programs to the public. At the outset, it could require coordinated planning for improvements or changes in public communication and an assessment of current activities. It could also require ongoing attention to the benefits and costs to the public and the agency of the proposed changes or improvements. Analyses would address the effectiveness and efficiency of alternatives (electronic information technology in particular) as well as opportunities for eliminating or adjusting existing forms of communication or levels of activity.

**Option 2: Place a Priority on Early Identification of Public Concerns and Methods for Public Interaction**

The Commission would direct paramount focus to early identification of public concerns and methods for effective interaction with the public in planning or conducting an agency action that is likely to generate substantial public interest or concern. An outcome could be the need for increased staff skills or personnel for anticipating major public concerns and pursuing methods of interaction with the public to understand and address those concerns.

**Option 3: Place a Priority on Expanding General Public Outreach**

The Commission would direct public communication activities toward more active efforts to ensure that the agency effectively explains to the most affected and interested segments of the general public the licensing and regulatory processes and the major aspects of the safety philosophy and bases for NRC's

regulatory programs. A major outcome would be the need to increase resources for the development and delivery of informational products and presentations that are effective in increasing public knowledge on these subjects.

## II. DESCRIPTION OF ISSUES

This section includes a description of the legal and regulatory basis for NRC's functions in public communication, an overview of related NRC policies and programs, and a discussion of other external and internal factors that may influence the choice of an approach to optimizing these functions.

### A. Legal and Regulatory Bases

The agency's public communication functions, broadly understood as including informing the public, responding to the public, and involving the public, have a wide variety of bases and embrace a correspondingly broad set of activities. Communication with the public occurs throughout the agency, in some cases as a matter of law, in some cases as a matter of discretion, and generally with much flexibility regarding implementation of the law (e.g., in the choice of the dissemination media, the number and types of dissemination channels, and timing).

The agency's discretion to engage in public communication beyond what is legally required is quite substantial. The agency is generally authorized to take such actions (e.g., holding public meetings) as it deems necessary or desirable in performing its mission. See, for example, Atomic Energy Act of 1954 (AEA), as amended, Section 161bc. Yet, public communication has many mandatory bases that are designed to make information available to the public and to prohibit restrictive practices.

Most of these mandatory requirements relate to a specific type of activity such as conducting open meetings (and providing minutes or transcripts) of agency advisory committees or open meetings of the Commission subject to certain exceptions. On a broader basis, the Freedom of Information Act requires that the agency publish in the Federal Register its substantive rules and policies of general applicability, as well as its rules of procedure. The act also requires that the agency make certain other documents, such as adjudicatory decisions and staff manuals, available for inspection, and make other information available to the public upon specific request for that information unless it falls within certain exemptions from mandatory disclosure. The agency is authorized to charge a fee for such services in certain instances.

Of particular pertinence to the direction-setting issue is the increasing legislative direction and related guidance on information dissemination, information technology and information resources management. As explained in



more detail in the appendix, the Paperwork Reduction Act (PRA) of 1995 establishes general requirements and policies in these areas, and Office of Management and Budget (OMB) Circular A-130 further implements these provisions in guidance and direction for Federal agencies. These and related sources of legal requirements promote the use of information technology for achieving efficiency and effectiveness in disseminating information. As a general directive, agencies are to disseminate information in a manner that achieves the best balance between the goals of maximizing the usefulness of information and minimizing the cost to the government and the public. Agencies are also directed to disseminate information on timely and equitable terms and regularly solicit and consider public views on information dissemination activities.

A more detailed overview of these laws and other legal requirements, such as provision of hearings relating to certain licensing matters, is provided in the appendix.

#### B. Public Communication and Responsiveness Policies

As a matter of policy, the agency has gone beyond an objective of meeting minimal mandatory legislative and executive requirements and has been active in promoting general policies of openness and responsiveness. It has relied on dissemination of agency documents as a key function for communicating with the public and ensuring public confidence in the NRC, but has also undertaken other initiatives such as increasing the use of public workshops for rulemaking activities.

The agency's understanding of the important role of public communication in performing its mission is evident in such agency documents as the Principles of Good Regulation and the agency's policies on Assuring Responsiveness to the Public and on Public Access to Documents. These documents reflect a commitment to making as much information available to the public as possible relating to NRC's health and safety mission. They also reflect the view that good regulation includes solicitation of all available facts from interested members of the public and other involvement of the public in the regulatory process, as well as timely release of information and response to public inquiries. Pertinent provisions of these documents are discussed in detail in the appendix.

#### C. Other External and Internal Factors

##### 1. Legislative and Other Federal Initiatives

As noted previously, legislative and executive branch directives are moving the agency toward greater use of electronic technology for operational efficiency and information dissemination and toward more strategic management

of information resources. Further Federal guidance is unlikely to alter this direction. Indeed, further governmentwide direction is more likely to point toward further reduction of the maintenance and use of official paper records.

## 2. Technological Developments

Technological developments, in and of themselves, may also directly influence public communication strategies. They include technologies to disseminate information, including the Internet, compact disk/read-only memory, digital/virtual libraries, and groupware. The NRC currently has 25 electronic bulletin boards, an external Word Wide Web home page, and several Internet list servers, although the agency is only beginning to explore the opportunities for optimizing public communication through use of such technology. Moreover, in the next several years an increase in availability of public access to NRC information through these channels is likely.

A highly significant impact of technology may result from the development of the new Agency Document Access and Management Systems (ADAMS), designed to replace NUDOCS. ADAMS has the potential to replace most of the agency's other text and document management systems. This could result in greater efficiency and speed in communication both internally and to the public. Currently, use of NUDOCS is rather cumbersome, particularly for members of the general public. Identifying the existence of pertinent documents or information through certain finding aids can be a complex task that is then followed by the need to find corresponding microfiches that contain documents appearing to be pertinent to the user's needs.

Resources associated with implementing and taking advantage of new technology frequently involve significant costs. Rapid technological changes may also create internal management issues such as quality control, coherence among information products, and appropriate timing for distribution internally and externally. However, use of electronic media should ultimately decrease the use and cost of paper and associated services (postage, printing costs, copy services) and perhaps the resources required for other public communication activities.

## 3. Public Involvement

Superfund legislation will likely involve some form of community resource boards that could indirectly influence or create a demand for use of similar groups by the NRC at sites to be decommissioned. Increased decommissioning of nuclear power plants may increase the demand for highly-skilled facilitation of meetings with and among affected parties. Commission decisions to initiate major rulemaking in areas of substantial public controversy or concern may also include proposals to enhance public involvement.

#### 4. Public Confidence

Skepticism and mistrust continue to be an element of the media's and public's attention to NRC's programs. A lack of media and public knowledge about NRC's role, philosophy, and regulatory program exacerbates this problem. It must be acknowledged that some failures or lapses in the performance of licensees or lapses in NRC's oversight occur and inevitably require the attention of the NRC, the media, and other segments of the public. Public communication can address the public's understanding of the significance of such events and the adequacy of the NRC response.

Public trust may also flow from public acceptance of or agreement with the substance of the judgments that the agency makes in its licensing and regulatory activities. Although judgments on matters of substantial public concern are not likely to be universally accepted, documenting the agency's activities, involving the public, and explaining the agency's activities and processes are important means of achieving public trust in the agency's processes as well as its judgments.

As deregulation heightens competition, the population of regulated facilities ages, and the waste disposition policy remains unresolved, public attention to NRC regulatory matters will continue and may increase. Increased consideration by the agency of risk-informed, performance-based approaches to regulation and reductions in licensee reporting and other requirements of marginal benefit to safety may also generate increased need for effective explanation of the bases and processes supporting NRC's approaches in these areas.

#### 5. Diffuse Implementation and Management of Information Dissemination

The NRC currently does not have an integrated strategy for information management, of which dissemination is a facet. Information dissemination functions are spread among IRM, ADM, SECY, and other offices. This process has sometimes resulted in duplicative systems, facilities, and distribution channels for agency information and adoption of technologies on an ad hoc or reactive basis.

#### 6. NRC Programs

A principal form of communication has been through the operation of the Headquarters public document room (PDR) and 87 local public document rooms (LPDRs) in the vicinity of nuclear power plants, fuel cycle facilities, contaminated sites, and the proposed Department of Energy high-level waste repository. The Office of the Secretary (SECY) manages the Headquarters PDR, and the Office of Administration (ADM) manages LPDRs. The NRC has released and is maintaining a collection of more than 2 million documents for viewing

and copying in the Headquarters PDR. And it continues to add about 320 new documents to the collection each day. To optimize the use of this large collection for both onsite and offsite users, SECY has staffed the PDR with technically trained reference librarians and has designed and developed a computerized, online system with search software customized for the types of searches typically performed by members of the public.

The agency also makes information available through arrangements with several Federal information dissemination centers, and more recently began providing electronic access to several NRC information systems (including the agency's primary document management system--NUDOCS), electronic bulletin boards, and the agency's World Wide Web home page. ADM manages the NRC external home page, coordinates the Freedom of Information Act (FOIA) and Privacy Act programs, publishes NRC documents in the NUREG series, coordinates the dissemination of public meeting notices, and coordinates the publication of NRC Federal Register Notices and NRC regulations and the maintenance of several information locator publications such as the NRC Citizen's Guide. Among other things, the Office of Information Resources Management (IRM) manages NRC electronic bulletin boards, external access to NUDOCs, and the maintenance of several information locators. One of the electronic bulletin boards managed by IRM is utilized by SECY to display documents of specific interest to public FEDWORLD users. This PDR bulletin board has become one of the most accessed bulletin boards on FEDWORLD, second only to that of the Internal Revenue Service.

For general outreach activities, the Office of Public Affairs (OPA) plays a key role in fostering media and public understanding of NRC activities and decisionmaking. In Management Directive 5.5, Public Affairs Program, the Commission has assigned to the OPA the following two principal objectives:

To make available to the public through the news media and other channels of communication full and complete information on NRC activities to assist the public in making informed judgments regarding NRC activities.

To keep NRC management advised of public interest in proposed policies, programs, and projects so that public affairs actions may be planned, evaluated and executed.

Further, the directors of NRC offices and divisions are required to coordinate with the Director, OPA, on such matters as proposed public information issuances and news media inquiries for non-routine information. Associated activities are to include development of policies, programs, and procedures for communicating information about the agency's mission, policies, program, and activities to the media and the general public.



OPA personnel inform the media by issuing news releases, speeches, and fact sheets; distributing reports, decisions, and other documents; arranging for press conferences; having NRC officials respond to media questions after Commission meetings, staff meetings with licensees, plant visits, special inspections, and other significant meetings; and talking to the media in person or by telephone. OPA also makes available on request a video about NRC and supplies speakers, with a standard slide presentation, to interested groups, including area schools.

The Office of The General Counsel provides another form of public outreach service, the public liaison function, for use by the staff or the Commission, as requested on a case-by-case basis. This activity includes the design and implementation of consultative and consensus-building processes to increase the effectiveness of public involvement in Commission regulatory activities; convening and facilitation services for public involvement processes; and maintenance of a network of contacts with interests affected by the Commission's regulatory activities, including industry, citizen groups, and tribal, State and local governments.

The Office of Congressional Affairs (OCA) assists the Commission in meeting its statutory responsibility to keep Congress fully and currently informed and in preparing for public hearings. OCA also coordinates NRC's responses to Members of Congress to help Members respond to constituent requests for information about NRC's programs and responsibilities.

## 7. NRC Experiences

The Commission's efforts to implement a Below Regulatory Concern (BRC) policy, adopted in July 1990, have been serving as a historic point of reference for considering ways of optimizing public communication and responsiveness to the public. The BRC policy was an attempt to establish a broad framework to guide Commission licensing and regulatory decisions for exempting the use of small quantities of radioactive materials in the areas of decommissioning, waste disposal, recycling, and manufacture of consumer products. See SECY-95-301, "Analysis of the Costs and Benefits of the Enhanced Participatory Rulemaking Process" (December 20, 1995).

Although the NRC had solicited public comments and held a public meeting on the subject approximately 1½ years before the BRC policy was adopted, its issuance created widespread public reaction and included the passage of State laws and local ordinances to prevent application of the policy and, eventually, Federal legislation invalidating the policy. The Commission found that groups supporting and opposing the policy were highly dissatisfied with the process that had led to its issuance.

It appears that the Commission used inadequate processes to obtain sufficient and comprehensive information on the need for such an overall policy, the impacts in such areas as solid waste management, and the role of local governments in such decisions. Although the Commission endeavored to undertake a consensus process to reevaluate the policy, key potential participants preferred litigative and legislative options at that point. The principal lessons learned, as stated in SECY-95-301, p.3, were the following:

- provide an opportunity for public involvement at a time and in a manner that makes clear to all that they have the ability to influence the outcome;
- involve the full spectrum of affected interests;
- provide an opportunity for affected interests to exchange information with each other on their concerns and viewpoints;
- be objective and open-minded when considering the comments of affected interests; and
- document how these comments were considered in the decision-making process.

As a consequence of the experience with the BRC policy, the Commission initiated an enhanced participatory rulemaking to develop a proposed rule on the radiological criteria for the decommissioning of NRC-licensed sites. The process included seven regional workshops and a special workshop on a specific issue--site-specific advisory boards. It also included other features that are now a normal part of the rulemaking process: the use of advance scoping meetings for an environmental impact statement; provision of the staff's draft of the proposed rule to workshop participants and the public (in addition to the normal process of making the draft available to Agreement States); and the use of an electronic bulletin board for submitting and downloading comments on the proposed rule.

As explained more fully in SECY 95-301, one fundamental component of an enhanced participatory rulemaking process is early comment on the rulemaking issues, before the staff determines its approach to the rulemaking issues, to maximize the grasp of pertinent data, implementation problems, and major areas of agreement and disagreement. A second component is involvement of the full spectrum of interests affected by the rulemaking. A third component is facilitation of a discussion of the issues among representatives of the various interests for purposes of creative problemsolving and potential narrowing of the issues.

The enhanced participatory rulemaking for radiological criteria for decommissioning appears to have produced a number of benefits. These benefits include the following:

- strong support for the process from a cross-section of participants;
- an exchange of information and views among the participants about the process;
- development of contacts for ongoing communication with the various interests regarding the proposed action and other NRC actions;
- surfacing of several significant issues and ideas for further interaction with the NRC on rulemaking issues; and,
- a thorough review of potential issues by the NRC staff through the use of a focused discussion paper and workshop agenda on the principal regulatory issues.

Finally, it is hoped that the process will lower the likelihood of legislative and litigative challenges.

The incremental costs of the enhanced participatory process beyond those normally incurred in a complex rulemaking were not insubstantial. However, further planning and use of the process could lead to refinements to reduce cost.

In the materials area, the staff has undertaken a number of initiatives for involving the public in decommissioning discussions at some of the most controversial decommissioning sites. This approach has involved the gathering of community leaders, the licensee, the NRC, and other interested governmental agencies for a series of meetings near the site. The effort has been structured to include discussion on such issues as NRC's regulatory process, principles of radiation safety, as well as specific issues concerning the decommissioning of the facility. It is believed that these meetings enable the NRC to demonstrate its commitment and expertise to concerned citizens and begin to build relationships of trust and to engage the participants in a constructive dialogue about their concerns and questions.

#### 8. Recent NRC Initiatives

For the rulemaking process, the Office of Nuclear Regulatory Research is already planning to build on the success of early and substantive public involvement in the decommissioning rulemaking by setting up an electronic bulletin board for all future rulemakings and routinely holding workshops for particularly complex or controversial rulemakings. The Commission also

intends to explore more interactive concepts in the use of electronic media, such as RuleNet, to enhance public involvement in agency rulemakings. RuleNet is a pilot NRC program that allows the public to obtain information from NRC, offer views and comments, and interact with other participants over the Internet even before a proposed rule is drafted. The NRC's rulemaking process now requires preparation of a rulemaking plan that includes consideration of whether enhanced public participation should be used and describes any special measures or procedures to be used such as negotiated rulemaking.

Among its recent public responsiveness initiatives, the Commission has also revised its process under which members of the public may petition the NRC to take specific enforcement action regarding a licensed, operating facility. This type of petition is commonly called the 2.206 petition in reference to its authorization under section 2.206 of the NRC's regulations.

The NRC reviewed the 2.206 process with the objective of making the process more effective, more easily understandable, and more credible. Among other things, the improved process does the following:

- offers the petitioner, under certain circumstances, the opportunity for an informal non-adjudicatory public hearing as part of the petition review process;
- provides copies of pertinent correspondence to participants in the petition;
- identifies a single NRC contact for each petition;
- informs the petitioner that the 2.206 process is a public process that does not protect the identity of the petitioner or the contents of the petition from the public, and ascertains whether the petitioner wishes to proceed or resubmit it as an allegation;
- establishes an electronic bulletin board to provide the public with monthly status updates on all pending petitions.

An on-going initiative concerns NRC enforcement conferences with a licensee, a vendor, or other person against whom enforcement action may be taken. These conferences are held before the NRC makes its final decision on a significant enforcement action. Under a pilot NRC program, the public is now invited to observe one of every four enforcement conferences. In addition, summaries of all enforcement conferences, NRC actions, and licensee responses are made available in the NRC's Public Document Rooms.



### III. DISCUSSIONS

#### A. Discussion of Direction-Setting Issue

What approach should NRC take to optimize its communication with the public?

As noted previously, the Commission has determined that public communication plays a significant role in the effective performance of the agency's regulatory responsibilities. The NRC's Principles of Good Regulation recognize that good regulation requires that the agency seek facts and opinions openly and from diverse sources within the public. Further, open and candid transaction of the public's business, public participation in the regulatory processes, timely and easily understood statements of the agency's regulatory positions, and open channels of communication with the Commission's diverse classes of customers in the public help establish the conditions for good regulation. Efficient use of the public's resources is a fundamental obligation of the agency that requires attention to costs and benefits of approaches to public communication, and that obligation is a reason for the increasing Federal direction to consider means of disseminating information electronically. The discussion of options that follows addresses the ways in which approaches to public communication fulfill such goals and objectives.

#### B. Discussion of Subsumed Issue

What approach, if any, should the agency take to increase the basic knowledge of the public about NRC's safety philosophy and execution of its regulatory program?

This issue is subsumed in the general issue because its resolution requires evaluation of certain factors that inform resolution of the DSI, and decisions on the direction-setting options may largely determine resolution of the subsumed issue. For instance, the agency's public release of documentation of agency activities increases the availability of knowledge of NRC's programs and philosophy. However, a decision to direct paramount attention to the improvement of general outreach activities should lead to a considerable increase in the number of NRC's information products that are designed specifically to make such matters plainly understandable to the general public.

### IV. OPTIONS

As a result of its review of this issue, the steering committee concluded that the high-level goals that the agency has outlined for its public communication activities need no major revision. The options that have been developed do not identify mutually exclusive paths to follow in designing and carrying out

NRC's public communication activities in the future. Each of the strategic options identified is expected to include elements of dissemination, involvement, and general public outreach, but once an option is chosen, the staff would give priority to that approach when it updates or modifies a communication activity. The chosen option will provide direction for resolving tradeoffs in allocations of resources to public communication activities.

For example, if the Commission chose Option 2, then the staff would proactively consider ways to achieve early involvement and opportunities for interactive exchange with the public in each of the activities it undertakes (e.g., rulemakings, site decommissioning, reactor licensing, and enforcement activities). Such a strategy would not mean that, in all instances, the staff would engage in such interactive activities, but the planning and decisionmaking process for carrying out the activity would take into account, as an integral part of the process, opportunities for and the benefits and costs of such involvement.

Table 1 contains a summary of the general attributes of the options. Option 1a would result, at least in the short term, in a continuing emphasis on making documents available and responding to the public, but would require, unlike Option 1, a focus on additional attention and resources for more systematic and broad analysis of costs and benefits. Option 2 (anticipating and involving) and Option 3 (general public outreach) represent alternative emphases. Ultimately, the data and analyses developed under Option 1a could result in a different overall emphasis or a different emphasis in public communication for a particular agency function or an affected segment of the public.

#### Option 1: Continue Existing Approach

##### Option

The agency's public communication activities would continue with the existing goals and direction, as set forth principally in the Principles of Good Regulation, the NRC Policy on Assuring Responsiveness to the Public, and the NRC Policy on Public Access to Documents, and with the existing emphasis and approaches to improvements.

#### 2. Background

This option affirms the existing general goals and the existing policies, such as maximum delivery to the public of documentation of the agency's activities, and points toward adjustments or improvements in response to the identification of specific needs or challenges. The principal characteristic of the current approach is high emphasis and reliance on disseminating

documentation of NRC's activities and decisions and high attention and effort to responding to individual inquiries. Although the NRC identified certain recent and planned improvements in public communication in its Report on Responsiveness to the Public, the report does not identify an overall strategy for establishing priorities among planned improvements.

### 3. Impact

One outcome of this option is that the agency would continue to meet and frequently exceed the major legal requirements relating to public communication. Another outcome is that it would tend to maintain the current allocation of resources or programmatic functions relating to public communication within the agency. The full level of resources currently devoted to public communication activities is difficult to assess because of the variety of organizations and personnel in addition to the principal and obvious functions such as that of the Office of Public Affairs, that engage in public communication.

This option could involve gradual consideration and implementation of increasing Federal guidance on such functions as information technology and information management, including information dissemination. The existing approach does not provide a single point of responsibility for the coordination and management of information dissemination and public communication generally. Consequences of this include multiple forms of distribution of the same information. Although this sort of duplication of effort suggests potentially unnecessary inefficiencies, providing diverse sources of information also increases the opportunities for various segments of the public to obtain that information (for example, paper distribution meets the needs of those with limited access to electronic means of receiving information). NRC's effort to make publicly available as much documentation of agency activity as possible also serves to reduce the need to respond to individual inquiries and to process FOIA requests.

Continuation of the existing approach could result in selected active efforts toward public interaction on a case-by-case basis if the benefits were expected to be significant (workshops on significant rulemaking) or the costs of failure to seek such interactions were predicted to be high (public interactions near the site of a problem facility). It also would tend to maintain existing level of effort toward general public outreach, that is, development of materials and activities that directly endeavor to increase public understanding of the agency's regulatory processes and programs. As a consequence, the agency might not receive as many facts and options from diverse sources within the public, or as much public participation or understanding, as it might under a different option.

### Option 1a. Focus on Maximizing Effectiveness and Economy

#### 1. Option

The current goals and directives for public communication activities would be preserved but the agency would focus the management of public communication functions on making changes or improvements that achieve the best balancing of the goals of maximizing the benefits and minimizing the costs of the agency's investments in public communication.

#### 2. Background/Bases

The requisite balancing, along with the underlying analysis that this option entails, is a major objective of recent Federal initiatives. Thus, selection of the option would establish high priority on the implementation of these initiatives.

#### 3. Impacts

The present goals and objectives for public communication would not be altered except perhaps for increased integration of the values of cost-effectiveness and economy. These current goals and objectives would continue to serve as criteria for determining benefits that would accrue from new initiatives, and would lead to continued performance of public communication functions in excess of legal requirements.

An outcome could be enhanced coordination and management of changes or planned improvements for public communication. This option could require, at the outset of planning for such changes, consideration of the benefits and costs for the public and the agency, including the effectiveness and efficiency of major alternatives and opportunities for elimination or adjustment of the existing forms or levels of relevant activity. Alternatives could include non-agency sources of information and methods of distribution. Efficient and effective uses of electronic information technology could receive considerably heightened consideration. The ultimate result could be more efficient and effective use of resources for public communication activities.

However, this option could lead to an initial commitment of significant resources to the identification of the benefits and costs of the existing activities (considering the diverse forms and sources of public communication, including, for example, the kinds and costs of activities for communicating with the public by resident inspectors) and some ongoing commitment of resources to the analyses of such costs and benefits. A recent informational paper to the Commission, SECY-95-301, illustrates the type of analysis that would be performed and considered with more regularity and in conjunction with other pertinent analyses if this option were adopted.



Further, this option could lead to increased efforts to ascertain or measure the experiences and expectations of NRC's primary classes of customers through such activities as feedback mechanisms, in particular programs or public meetings. For example, the agency could obtain feedback on users of NRC's home page by category of user and utilize automated electronic distribution lists for different public interests.

If a high degree of immediate implementation were pursued, this option could require a substantial short-term investment of resources, via an agency task force or a contract for consulting services, or both, for identifying the various forms, costs, and benefits of existing methods of public communication. Optimal implementation could require personnel with skills for assessing the costs of existing activities, identifying related uses and costs of information technology, and designing and conducting methods of obtaining feedback on the benefits of alternative forms of communication or information dissemination. A consistent methodology and coordinated planning for implementing this approach could also serve to obtain the full benefits of such an approach. A lower-cost, longer course of implementation might involve a choice to examine the effectiveness and efficiency of activities that are clearly of high cost or to use largely existing resources for better assessment of proposed incremental changes or improvements.

Option 2: Priority to Early Identification of Public Concerns and Methods for Public Interaction

1. Option

This approach would increase staff responsibility and accountability for early identification of public concerns and methods and options for effective public interaction in planning or conducting agency action that is likely to generate substantial public interest or concern. Methods for public interaction include, for example, use of public liaison services, electronic means of interactive communication, public meetings, and alternative dispute resolution techniques and selected outreach efforts on the bases for the agency's program.

2. Background

The agency's historic experiences with the BRC policy and recent successes with public liaison activities in the materials area provide key background information. Among its recent initiatives, the agency is already requiring that a rulemaking plan include consideration of whether to use procedures for enhanced public participation. Currently, however, public liaison functions are performed primarily on an ad hoc, case-by-case basis.

### 3. Impacts

Selection of this option would require attention to early identification of public concerns and methods for public interaction in a variety of regulatory processes. This approach would serve the goals of obtaining information from diverse sources within the public, contributing to early and constructive progress toward identification and resolution of issues, and ensuring that the agency understands and responds well to public concerns. Ultimate consequences could include more successful resolution of issues without legal challenges or unforeseen impacts.

Outcomes could include the need for greater development of facilitation and communication skills for interacting with the public and in presenting complex materials to a nontechnical audience, as well as for dealing with conflict. On a programmatic basis, possible outcomes could be an expanded public liaison function or inclusion of designated public liaison personnel in program offices. At present, very limited resources are explicitly devoted to this approach as an ongoing function.

The resource implications of this option could vary substantially, depending on the precise organizational and programmatic choices for implementation that are selected. However, additional NRC public liaison personnel and increased use of enhanced participatory processes would have associated costs, as would training requirements.

The focus of technology use would be on both sending and receiving information and especially on ways to encourage interactive communication, for example, through increased use of interactive technology (as in RuleNet, videoconferences, and electronic meetings). Use of technology could mitigate some incremental costs such as travel for some activities.

#### Option 3: Place a Priority on Expanding General Public Outreach

##### 1. Option

1. The Commission would direct public communication activities toward greater and more active efforts to ensure that the agency effectively informs the public about the agency's regulatory processes and major aspects of the agency's safety philosophy and regulatory program.

##### 2. Background

Although a variety of agency activities contribute to general public outreach, OPA has a lead responsibility for general public outreach, primarily through the news media. OPA personnel inform the media by issuing news releases, speeches, and fact sheets; distributing reports and other documents reflecting

NRC actions; arranging press conferences and responses to media questions; and talking to the media in person or by telephone. For example, the OPA staff in Headquarters and the regions handles an estimated 12,000 news media inquiries annually. Fact sheets and pamphlets on NRC activities are developed as resources permit through collaborative efforts with the NRC staff. OPA has a limited budget for contract support--approximately \$40,000.

Very recently, OPA also established an external home page. This page contains limited but such basic information as press releases, speeches, media briefing papers and fact sheets, systematic assessment of licensee performance reports, and the NRC's watch list.

### 3. Impacts

This option would place a priority on an expanded media program and general public outreach. It also would suggest the need for increased coordination with programmatic offices for developing and presenting information that would achieve the goal of an effective exposition of the major aspects of safety philosophy and bases for the regulatory program.

Resource implications of this option would vary substantially depending on the scope of the programmatic choices and the extent of reliance on the NRC staff. However, full implementation would appear to require a substantial increase in OPA personnel (OPA currently is budgeted for 14 full-time equivalent employees, including regional OPA staff) and in its level of contract support funding.

Devotion of such resources could lead to the development and distribution of more pamphlets, exhibits, and videos on selected topics, such as NRC's role in regard to nuclear waste, radiation, decommissioning of nuclear facilities, and licensed uses of radioisotopes. For example, an existing informational product of this nature, a video about the testing of a spent fuel transportation cask for safety, could be actively offered or presented to segments of the public that might develop concerns because of a proposed transportation route involving that kind of cask. However, production of a single video would likely cost more than the existing annual contract support budget. However, these types of activities, while constituting a potentially substantial short-term investment, could be performed largely by contract.

This option could also lead to substantial use of a speakers' bureau for personal presentations in appropriate forums such as public conferences and meetings and schools and universities. This and other interactive means of general public outreach such as media and public training and additional visibility of the NRC at meetings, symposia, forums and conferences would require increased staff time and represent a longer term investment.

The focus of technology use would be on providing clear and effective communication about NRC processes and decisions and public opportunities to participate in the regulatory process. Examples would be tutorials on risk-informed, performance-based regulation; explanations of the bases for recent regulatory decisions on the Word Wide Web; and an E-mail address for getting quick answers to questions on NRC's regulatory processes. In addition, resources could be devoted to making more key documents of public interest available on an external home page.

Implementation of this option could require great attention to avoidance of an appearance of a promotional role, oversimplification of contentious issues, or expenditures insufficiently related to performance of the agency's mission. On the other hand, effective implementation could serve to increase public understanding of what the NRC does, build confidence in NRC processes and judgments, and expand awareness of opportunities for participating in NRC processes.

#### V. RELATED ISSUE

After the Commission has made decisions concerning the Direction-Setting Issue discussed above, additional issue(s) such as those related to implementation details will be addressed as the Strategic Plan is implemented. The related issues are listed in this section to provide a more complete understanding of the higher level Direction-Setting Issue.

Considering the many new channels for disseminating information electronically, what are the appropriate levels for all forms of information dissemination (including traditional outreach and paper-based methods, as well as the newer electronic methods) in order to strike a balance between the goals of maximizing the usefulness of the information to the public and minimizing the cost to the Government and the public?

This issue is related to, but not subsumed by, the issue that is the subject of this issue paper. It requires evaluation, planning, and decisionmaking at a more operational level.

#### VI. COMMISSION'S PRELIMINARY VIEWS

Staff actions regarding the various options should be held in abeyance pending the Commission's final decision on this issue paper. The Commission's preliminary views are:

The NRC should place a priority on early identification of public concerns and methods for public interaction in making regulatory decisions that are likely to generate substantial public interest or concern (Option 2). This approach



is consistent with NRC's Principles of Good Regulation. The NRC should interpret the term "public" in its broadest sense, understand who our various publics are, and focus on what they need in order to facilitate interaction and dissemination of information. For this purpose, the public includes private citizens, interest groups, licensees, states, media, congress, the executive branch, and the international community. Recognition should be given to both bilateral formal and informal communication, and particular attention should be given to review and improvement of formal communication. The appropriate role of technology as a facilitating/enabling device should be carefully examined within this context (e.g. particular care should be given to considering the forms of information dissemination such that the NRC does not eliminate paper in favor of electronic communication without full consideration of the public's ability to access information electronically). Although there should be centralized planning and coordination of a methodology for anticipating and involving the public in regulatory matters and decisionmaking, responsibility for implementing the methodology should reside with the program offices. The roles of the line organization and the Office of Public Affairs in facilitating public responsiveness should be clearly understood.

In addition, the NRC should focus on maximizing effectiveness and economy in its existing program for public communication (Option 1a), and in anticipating and involving the public (Option 2). As initial steps, the NRC should develop a consistent methodology, and coordinated planning for implementation of this approach, focus on examining the effectiveness and efficiency of activities that are of highest cost, and perform better assessments of proposed improvements to the existing approach. The NRC will consider the effectiveness and efficiency of certain formal forms of communication such as Freedom of Information Act requests in a manner consistent with the law. The Commission would envision establishment of a coordinating group and development of a plan to implement this philosophy.

## APPENDIX

This appendix contains a more detailed discussion of the legal and regulatory bases for the NRC's functions in public communication and of the NRC's current policies than is presented in the strategic issue paper on public communication initiatives. Thus, it is an important supplement to the paper for such matters as details of the increasing Federal guidance on information dissemination.

## A. Legal and Regulatory Bases

General Disclosure and Openness Requirements: Principal statutory bases for general disclosure and openness requirements include the FOIA, PRA, the Government in the Sunshine Act, the Administrative Procedure Act and the Federal Advisory Committee Act. For example, FOIA requires that each agency publish certain items of information in the Federal Register, including substantive rules and statements of general policy; make available certain other information for inspection and copying (adjudicative orders and opinions, statements of policy and interpretations not published in the Federal Register, and administrative staff manuals and instructions to the staff that affect members of the public); and make available other agency information to members of the public upon specific request unless the information falls within certain exemptions from mandatory disclosure. As a further illustration, the Administrative Procedure Act requires that the agency publish proposed rules for public comment and explain the basis for rules that it adopts.

Hearings: The Commission's statutory licensing scheme includes the requirement that the Commission grant a hearing at the request of any person whose interest may be affected by a proceeding for issuing, suspending, revoking, or amending any license or power plant construction permit, and must admit such a person as a party to the proceeding. In some cases, NRC procedures provide for full trial-type adjudicatory hearings and, in certain other cases, provide for a more informal process largely involving written submissions.

In addition, the Administrative Procedure Act sets forth adjudicatory procedures that include requirements, in some cases, for providing an opportunity for submission of facts and arguments by interested parties and creation of a record of the decisionmaking. That statute also gives an interested person the right to petition the agency for issuance, amendment, or repeal of a rule.

**Public Affairs:** The prime role of the Chairman, including his or her supervision of the Office of Public Affairs, is explained in Reorganization Plan No. 1 of 1980. That plan states that the Chairman "shall be the official spokesman for the Commission, and shall appoint, supervise, and remove, without further action by the Commission, the Directors and staff of the Office of Public Affairs and the Office of Congressional Relations."

**Congressional Affairs:** NRC's Office of Congressional Affairs assists the Commission in fulfilling a special statutory responsibility for public communication, that is, interaction with Congress. Aside from various statutory requirements for reporting particular events and activities to Congress, the Energy Reorganization Act of 1974 directs that the Commission keep the committees of the Senate and House of Representatives that have jurisdiction over the functions of the Commission fully and currently informed about the Commission's activities.

**Recent Information Dissemination Laws and Directives:** Congress has also been providing increasing direction regarding information resources management in the Federal agencies, including information dissemination activities. The principal item of legislation is the Paperwork Reduction Act of 1995.

The Paperwork Reduction Act directs the agency to manage information resources to increase program efficiency and effectiveness and to improve the integrity, quality, and utility of information to all users within and outside the agency. With respect to information dissemination specifically, the act requires that each agency--

- (1) ensure that the public has timely and equitable access to the agency's public information, including ensuring access through --
  - (A) encouraging a diversity of public and private sources for information based on government information;
  - (B) in cases in which the agency provides public information maintained in electronic format, providing timely and equitable access to the underlying data (in whole or in part); and
  - (C) agency dissemination of public information in an efficient, effective, and economical manner;
- (2) regularly solicit and consider public input on the agency's information dissemination activities;

- (3) provide adequate notice when initiating, substantially modifying, or terminating significant information dissemination products.

The Paperwork Reduction Act also proscribes certain actions that would restrict the distribution of information to the public or interfere with the timely and equitable availability of the information.

The act establishes a number of policies regarding information technology. It requires that agencies "promote the use of information technology to improve the production, the productivity, efficiency, and effectiveness of agency programs, including dissemination of public information."

More recently, the Information Technology Management Reform Act of 1996 (ITMRA) has addressed the need for agency goals and performance measures specifically pertaining to, among other things, delivery of services to the public through the effective use of information technology. Under ITMRA, the NRC must appoint a chief information officer (CIO) who reports to the agency head and whose primary responsibility is information resources management.

In Office of Management and Budget (OMB) Circular A-130, "Management of Federal Information Resources," OMB implements statutory responsibilities regarding guidance to agencies under the Paperwork Reduction Act and related statutes. For purposes of determining whether and how to disseminate information to the public, the circular (Section 8a(5)(d)) states specifically that agencies shall--

- (i) Disseminate information in a manner that achieves the best balance between the goals of maximizing the usefulness of the information and minimizing the cost to the government and the public;
- (ii) Disseminate information dissemination products on equitable and timely terms;
- (iii) Take advantage of all dissemination channels, Federal and nonfederal, including State and local governments, libraries and private sector entities;
- (iv) Help the public locate government information maintained by or for the agency.

The circular further requires implementation of an information dissemination management system that must ensure that information dissemination products are necessary for proper performance of agency functions; consider whether products from other sources are equivalent to an agency dissemination product



and reasonably fulfill the agency's responsibility; ensure that members of the public with disabilities whom the agency has a responsibility to inform have a reasonable ability to access the information dissemination products; and establish and maintain communications with the members of the public and with State and local governments so that the agency creates information dissemination products that meet their respective needs.

Circular A-130 (Section 8a(8)(d)) also directs agencies to use electronic media and formats, including public networks, as appropriate and within budgetary constraints, in order to make government information more easily accessible and useful to the public. It also includes the following provisions: electronic media and formats are appropriate when the agency maintains the information electronically; electronic media or formats are practical and cost-effective ways to provide public access to large, highly detailed volumes of information; the agency disseminates the product frequently; the agency knows a substantial portion of users have ready access to the necessary information technology and training to use electronic information dissemination products; and a change to electronic dissemination, as the sole means of dissemination, will not impose substantial acquisition or training costs on users.

#### B. Public Communication and Responsiveness Policies

NRC's Principles of Good Regulation include pertinent principles that have specific relevance to public communication. These include the following elaborations on the principles. Good regulation must be:

**INDEPENDENT:** All available facts and opinions must be sought openly from licensees and other interested members of the public. The many and possibly conflicting public interests must be considered....

**OPEN:** Nuclear regulation is the public's business, and it must be transacted publicly and candidly. The public must be informed about and have the opportunity to participate in the regulatory processes as required by law. Open channels of communication must be maintained with Congress, other government agencies, licensees, and the public, as well as the international nuclear community.

**EFFICIENT:** The American taxpayer, the rate-paying consumer, and licensees are all entitled to the best possible management and administration of regulatory activities....

**CLEAR:** Regulations should be coherent, logical, and practical. There should be a clear nexus between regulations, agency goals and objectives whether explicitly or implicitly implied. Agency positions should be readily understood and easily applied.

Responding to the National Performance Review's emphasis on "placing the customer first," in 1994 the Executive Director for Operations launched a Public Responsiveness Initiative that sought plans for improvement of public communication from NRC offices having frequent interaction with the public. A draft report was issued for public comment in March 1995, and several dozen comments were received. In the Final Report on Responsiveness to the Public, published in January 1996 (NUREG/BR-0199), the agency describes recent and planned improvements for serving the public in mission-related and administrative areas.

One component of the recently issued final report is the NRC Policy on Assuring Responsiveness to the Public. It declares the following:

It is the policy of the NRC to be responsive to the public. The public includes individual citizens, public interest groups, petitioners, licensees, industry groups, contractors, the Congress, and all with whom we do business. Responsiveness entails

- structuring NRC business activities to facilitate and encourage public participation,
- making NRC documents readily available to the public through public document rooms and electronic media,
- responding in a timely manner to business requests and public inquiries,
- understanding and respecting the impact that NRC activities can have on those with whom we do business.

The report also includes the NRC Policy on Public Access to Documents, which states the following:

The policy of the NRC is to make as much information as possible available to the public relating to NRC's health and safety mission, in accordance with its legal responsibility to protect some types of information.

Management Directive 3.4, "Release of Information to the Public," and Handbook 3.4 discuss public availability of information in the possession of the NRC, and the handbook contains an extensive table of NRC documents that the agency routinely releases to the public.

Table 1. Summary of Options

Attributes	Option 1 Respond and Make Agency Documents Available	Option 1a Same as Option 1, with a Balance Between Costs and Benefits	Option 2 Anticipate and Involve	Option 3 General Public Outreach
Approach	Make available as much agency documentation as possible and respond well to public inquiries	Respond to requests and reduce their number by making available the documentation and information that the public finds useful	Identify and address public concerns in a manner that helps NRC progress toward informed decisions that are accepted by the public	Increase efforts to develop and present informational products and presentations that inform the general public and the media about the regulatory process and bases for NRC decisions
Communication mode	Primarily noninteractive	Primarily noninteractive	Interactive	Both interactive and noninteractive
Primary communication methods	Letter responses Publications (paper or electronic) Documents in public reading rooms Electronic access to documents	Similar to those of Option 1, with increased focus on using technology as an enabler to achieve efficiencies.	Facilitated meetings Electronic conferences Videoconferences	Diverse methods, such as tutorial publications and brochures, explanations of basic regulatory processes and decisions on the NRC home page, media training, public outreach activities
Content	Requested information and information that is a byproduct of agency regulatory processes	Similar to that for Option 1, except focus is on providing the information that the public finds useful	Information that helps participants understand each other's views and helps the NRC progress toward informed decisions	Information that helps the public understand the regulatory process and NRC decisions
Type of function	Staff response and information management	Staff response and information management	Facilitation, ombudsman	Public affairs
Planning and management	Decentralized planning and management	Creation of focal point for planning, possible consolidation of functions	Centralized planning and coordination or decentralized in program offices	Continued centralized planning and coordination by Office of Public Affairs
Performance measures	Timeliness and quality of responses, percentage of releasable documents made available, number of FOIA requests	Timeliness and quality of responses based on feedback, percentage of releasable documents that the public finds useful made available, number of FOIA requests, cost of the public communication program	Amount of participation, amount of litigation	Improved level of public understanding of the regulatory process and bases for NRC decisions, measured through surveys or other methods

## ACRONYMS

ADM	Office of Administration
AEA	Atomic Energy Act
BRC	Below Regulatory Concern
CIO	chief information officer
FOIA	Freedom of Information Act
IRM	Office of Information Resources Management
ITMRA	Information Technology Management Reform Act
LPDR	local public document room
OCA	Office of Congressional Affairs
OMB	Office of Management and Budget
OPA	Office of Public Affairs
PDR	Public Document Room
PRA	Paperwork Reduction Act
SECY	Office of the Secretary