

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BRIEFING ON NRC STRATEGIC ASSESSMENT

PUBLIC MEETING

Nuclear Regulatory Commission
One White Flint North
11555 Rockville Pike
Rockville, Maryland

Monday, January 13, 1997

The Commission met in open session, pursuant to notice, at 10:08 a.m., the Honorable SHIRLEY A. JACKSON, Chairman of the Commission, presiding.

COMMISSIONERS PRESENT:

- SHIRLEY A. JACKSON, Chairman of the Commission
- KENNETH C. ROGERS, Member of the Commission
- GRETA J. DICUS, Member of the Commission
- NILS J. DIAZ, Member of the Commission
- EDWARD McGAFFIGAN, JR., Member of the Commission

STAFF AND PRESENTERS SEATED AT THE COMMISSION TABLE:

- JOHN C. HOYLE, Secretary
- EDWARD JORDAN, Strategic Assessment and Rebaselining Committee
- JOHN CRAIG, Strategic Assessment and Rebaselining Committee
- JACQUELINE SILBER, Strategic Assessment and Rebaselining Committee
- GEORGE PANGBURN, Section Leader Fuel Cycle Licensing Branch, NMSS
- FRANK MIRAGLIA, Acting Director, NRR
- THEMIS SPEIS, Deputy Director, RES
- STUART RUBIN, Chief Diagnostic Evaluation and Incident Investigation Branch, AEOD
- LAWRENCE CHANDLER, Assistant General Counsel For Hearings and Enforcement, OGC
- JAMES SHEA, Director, Division of Bilateral Cooperation and Assistance, IP
- JESSE FUNCHES, Deputy Controller, CFO

P R O C E E D I N G S

[10:08 a.m.]

CHAIRMAN JACKSON: Good morning, ladies and gentlemen.

Today the Commission will be briefed by the Strategic Assessment and Rebaselining Steering Committee on the results of the Nuclear Regulatory Commission interaction with stakeholders.

The Commission has received the Stakeholder Interaction Report prepared by the Steering Committee. We

requested this briefing in order to discuss the interaction process and to review the views provided through the meetings and public comments.

The environment, as you know, within which the Commission operates is changing on many levels. The NRC has seen indications that changes will occur in its responsibilities and its budget, in the expectations of our stakeholders, and in market forces.

Against the backdrop of these changes in our regulatory and fiscal environment, one of my first actions as Chairman was to initiate this strategic assessment and rebaselining. It is a Commission level activity. The process has provided a structure for determining where the NRC is, where the NRC needs to be in order to respond to change, and how the NRC will set its direction for the

4

future.

The Steering Committee -- and I would ask you, Mr. Jordan, to introduce the members at the table -- the Steering Committee, which will be briefing us today was drawn from most of the organizations within the agency to lead this effort. This is an ongoing process and we are here today to hear about the culmination of the second phase.

This phase focused on the Commission establishing preliminary views on the direction of the NRC and interacting with our stakeholders to gain their input and ideas concerning these preliminary views.

The Steering Committee issued its Stakeholder Interaction Report on December 23rd, 1996. We look forward to hearing from the Steering Committee on the results of the interaction.

Do any of my fellow Commissioners have any comments at this time?

If not, then Mr. Jordan, please proceed.

MR. JORDAN: Thank you, Madam Chairman and Commissioners. The purpose of this briefing, as you stated, is to report on the progress to date in obtaining and assessing stakeholders' interactions and public comment on the Direction Setting Issues.

And I would also, at this point, identify a couple
5
of personnel changes that occurred in the Strategic Assessment Committee. Jacque Silber and I were assigned in early January as cochairs of the committee replacing Jim Mello and Jim Johnson.

And now I'd like to introduce the other participants. John Craig has managed the support staff in this entire effort and has done an outstanding job.

I would then go through the individuals that are going to be providing comments and assessments of the Direction Setting Issues.

George Pangburn, on my left, is section leader, Fuel Cycle and Licensing Branch. He'll be discussing DSIs 2, 4, 5, 6, 7, and 9 and will go through those in numerical sequence, so there will be some shuffling of people at the table.

Frank Miraglia is acting director of NRR. He'll be discussing DSI 10, 11, and 24.

Themis Speis, deputy director, Research, will be discussing DSI 12 and 22.

Stuart Rubin, chief of the Diagnostic Evaluation and Incident Investigation Branch, AEOD, will be discussing DSI 13 and 23.

Larry Chandler, Assistant General Counsel for hearings and enforcement, OGC, will be discussing DSI 14.

Jim Shea, director, Division of Bilateral

6

Cooperation and Assistance, International Programs, will be discussing DSI 20.

And Jesse Funches, deputy controller, deputy CFO, will be discussing DSI 21.

These people, plus others of the Strategic Assessment Committee and staff, were intimately involved in preparing DSIs, in meeting with the stakeholders, and in assessing comments, and so there is a broader involvement than the people we've already recognized.

I would also take the opportunity to recognize Chip Cameron's role in facilitating interactions with stakeholders. This was a very open process and Chip facilitated not only the stakeholders but the staff in having those interactions.

CHAIRMAN JACKSON: And I would like to take this time to publicly commend him. I've heard nothing but good reports about his activities and how he's moved this along.

MR. JORDAN: At this point then, I'll turn to John Craig and ask him to provide a discussion of the process.

MR. CRAIG: Good morning.

I think the first topic I'd like to highlight as we get the back-up slides for stakeholder interactions, the first one up, is that the term "stakeholder" was an interesting one. It seems intuitively obvious, I think, but it turns out it's not.

7

[Slide.]

MR. CRAIG: We used the term in a matter of days as if we were familiar with it and we referred to internal stakeholders as people with NRC badges and external stakeholders as people without NRC badges, the public, industry and others.

And one of the public interest groups said they didn't want to participate in the stakeholders' meeting because they thought that connoted an endorsement. They didn't want to get that close. So there were some differing opinions, I guess, in terms of what stakeholders meant.

The stakeholder interaction process kicked off in mid-September 1996. We worked with the public strategies group to help us lay out a process to interact with internal and external stakeholders.

For internal stakeholders, the thought was that we'd utilize the normal lines of communication, and for external stakeholders, we would make information available, issue invitations to let them know what information they had available, let them know about the meetings and that we were requesting comments. The press release that went out and the documents that were distributed in mid September did that.

The documents that we issued to the public included a framework document which was a parallel, I think,

8

of the strategic plan. It talked about DSIs and overarching issues and it grouped the DSIs in several groupings.

We also had something we referred to as a process paper, and it told all stakeholders, internal and external stakeholders, how to get copies of the issue papers, how to provide comments.

We issued agency-wide announcements and we had an

initial mailing in September that was basically the mailing that we used as part of NPR, and it had about 80 broad groups in it, and the mailings, not only these but the subsequent ones, hit public interest groups, citizen groups, state agencies, industry groups. So it's a very broad reach of notification.

We also made presentations in September at the annual Agreement State Regulators Conference to explain the stakeholder process. And indeed we explained the strategic assessment and rebaselining initiative, the purpose, and tried to make clear the relationship between their comments on the issue papers and the importance of the comments in the Commission's deliberations and final decisions on the DSIs since they would be reflected in the strategic plan.

In early October, we also conducted meetings with managers here in the White Flint complex and had the same essential presentation. And they then followed up with their staffs, with internal meetings and discussions, to

9

emphasize the availability of the issue papers and to request comments.

Go to the next slide, please.

[Slide.]

MR. CRAIG: Also, in early October, we split the Steering Committee up into teams and made trips to four regional offices to go over the purpose of the strategic assessment initiative, as well as each one of the DSIs and to discuss them with regional staffs.

We briefed the agency partnerships, the ACRS. We had three mailings. The total of the mailings were about 1650, including the initial three phases.

Before each one of the stakeholder conferences, about a week in advance, we issued press releases in the geographic areas around Washington, Chicago, and Colorado Springs, so once again, to let the stakeholders in those areas know and remind them that the meetings were there and to solicit their attendance.

We had three stakeholder meetings, as I said. The first one was in Washington. The second one in Colorado Springs, the third in Chicago. During the process, we had requests for an extension of public comment period. As you know, it was extended and it ended December the 2nd.

The Stakeholder Interaction Report includes comments that were dated, I believe, December the 12th. It

10

actually includes comments that we received approximately December the 19th. We have two additional comments that have been forwarded to the Commission -- one from a private citizen, one from EPA -- and George is going to talk about the comments we received from EPA.

The copies of the Stakeholder Interaction Report are being made available to the public this week. They're going to go up on the Internet, Fed World. They're going to be available to NRC employees through the auto system. They're also going to be available in the PDR. The issue papers themselves, transcripts from the public meetings, as well as copies of the written comments are also going to be available through the same mechanisms.

MR. JORDAN: We'll cycle through all the DSIs in numerical order and we would offer you the opportunity as we go to ask questions and make comments on each one, and then we'll have an opportunity for comments when we're all done.

CHAIRMAN JACKSON: But you're going to march along pretty fast?

MR. JORDAN: We're going to march along pretty fast. And so we're limited to five minutes or less per item. I'm sure some will get a little more and some a little less.

COMMISSIONER ROGERS: Excuse me. I wonder if at some point you could give us an indication of how many

. 11

individual commenters there were on each of the DSIs. In other words, I'm sure the numbers vary quite a bit depending on the DSI, just to get some feeling about --

CHAIRMAN JACKSON: Will the people who are discussing them, can they just mention that?

MR. JORDAN: We'll ask them to mention it, and if not, we'll provide that subsequently.

CHAIRMAN JACKSON: Sure.

MR. JORDAN: And so --

MR. CRAIG: I'll just note, in the Stakeholder Interaction Report itself, at the end of each DSI, there's a listing of the commenters. There's a feel there, and I'll add, because people have asked me how many commenters were there, some organizations commented in writing and verbally at each one of the meetings and then sent in comments. So the number is a rough number. Any number you hear will be a rough number, just due to the duplication.

CHAIRMAN JACKSON: And were there many comments that came off of the Internet? I think you had put --

MR. CRAIG: There were a small number. Most of the ones were received at the stakeholder conference or mailed directly to the Secretary. A small number came in off the Internet.

MR. JORDAN: George, would you begin with your DSI item number 2.

. 12

MR. PANGBURN: First slide, please.

[Slide.]

MR. PANGBURN: DSI 2 deals with the issue of should NRC seek to expand its authority and responsibility to include DOE facilities.

Next slide, please.

[Slide.]

MR. PANGBURN: The Commission's preliminary views on this DSI contained three basic points: that NRC would not take a position on accepting broad responsibility for regulation of DOE facilities and would neither encourage nor oppose legislation giving broader authority; that given adequate resources and a reasonable time period, that NRC could provide adequate regulatory oversight of DOE if asked; and that if NRC were to be given oversight responsibility, the Commission would prefer that it be done in an incremental fashion and that some type of prioritization methodology be used to determine the types of facilities that, if subject to oversight, would provide the greatest potential benefit to health and safety.

Next slide, please.

[Slide.]

MR. PANGBURN: In terms of comments that we received on this particular DSI, there were 37 written comments and 21 commenters spoke at the stakeholder meetings

. 13

around the country.

Most of the commenters felt that NRC should take a position regarding regulation of the Department of Energy and did not support the Commission's preliminary view on

this particular issue.

Several commenters strongly encouraged the Commission to aggressively pursue external regulation of DOE under Option 1B, which would divide regulatory responsibility for DOE among the federal and state agencies in the same way it now occurs for commercial facilities.

With respect to the initial bullet on this page, the breadth of that comment was very strong. We received it from CRCPD, the Conference of Radiation Control Program Directors, the Organization of Agreement States, the United States Enrichment Corporation, as well as a number of individual states, and --

COMMISSIONER MCGAFFIGAN: Could I ask a clarifying question?

When you say commercial facilities, do you mean commercial reactor facilities or what --

MR. PANGBURN: Commercial facilities, reactor and non-reactor.

COMMISSIONER MCGAFFIGAN: Most of the non-reactor are fairly unique facilities. Would the state -- thinking of New Mexico, would the state really be up to trying to

14

regulate the facilities at Sandia and Los Alamos, the non-reactor facilities, as we would an Agreement State?

MR. PANGBURN: Certainly some of the states offered that view. And I think what we're looking at here is that we have the same general breakout of responsibilities that currently exist, namely, that NRC would regulate radiation safety and that EPA would regulate general environmental. To the extent that states are Agreement States, would regulate that particular aspect of it.

COMMISSIONER MCGAFFIGAN: Would we have to go through, if we followed this option, renegotiating with the states what the states with significant DOE facilities -- Colorado, New Mexico, Washington, et cetera, you know -- what they controlled and what we controlled?

MR. PANGBURN: I believe that would be the case. It would probably have to be done on a state-by-state basis.

CHAIRMAN JACKSON: I think it would depend, would it not, Commissioner, on, one, what the overarching legislation had to say, and secondly, within that context, what historical precedent had to say, and third, what capability had to say.

COMMISSIONER MCGAFFIGAN: Right.

CHAIRMAN JACKSON: And probably then be, as you pointed out, within all of those things to negotiate it on a

15

state by -- on a facility-specific basis.

MR. PANGBURN: As John mentioned, we received comments late from EPA. Those comments were sent to us electronically. We don't have a formal hard copy signed out, but EPA indicated in their comments that they supported NRC regulation of safety and EPA regulation of environmental hazards, which, as I read it, is an encouragement of Option 1B, namely, the same existing, as opposed to the breakout that was provided in the Advisory Committee's report, which would have split up responsibility between NRC and OSHA, for example, under the facility safety and occupational safety.

CHAIRMAN JACKSON: And I think both we and EPA, as I recall, have operated with MOUs with OSHA as appropriate involving worker safety.

MR. PANGBURN: The next slide, please.

[Slide.]

MR. PANGBURN: This is DSI number 4. The issue is, what should the NRC's strategy regarding states becoming and remaining Agreement States?

The next slide, please.

[Slide.]

MR. PANGBURN: The preliminary views of the Commission on DSI 4 were focused on Option 3, which was to continue the current program, including adopting current initiatives. In addition, to encourage more states to

16

become and remain Agreement States, primarily through non-monetary incentives; to explore providing seed money and/or financial grants to encourage states to seek status; to provide training to Agreement States without charge on a space-available basis. Funding for travel and technical assistance, however, would be borne by the Agreement States.

The next slide.

[Slide.]

MR. PANGBURN: Significant comments on DSI 4. We received 48 written comments and 19 oral comments at the stakeholder meetings. There was general support for the Commission's preliminary view, that is, Option 3. However, the Agreement States and some other commenters felt very strongly that NRC should reinstate funding of Agreement State training, travel, and technical assistance.

Although some licensees opposed reinstatement of funding, this opposition was limited. Commenters considered that a significant benefit of NRC-sponsored training is enhanced consistency and compatibility and suggested that NRC reinstate funding to support this end.

If I may, EPA's views on this, as you recall, there were five options in the paper, the first of which was to turn the program over to EPA. EPA noted that that was their preferred option, assuming that they receive the resources to do the job.

17

Option 2, to strongly encourage states to become Agreement States, EPA had no view on.

Option 3, the Commission's preferred view, EPA felt was their second choice.

EPA had no views on Option 4, which is to treat Agreement States as coregulators.

And finally, on Option 5, which is to devolve AEA material regulation to the states and withdraw the federal preemption, EPA had major concerns about this option given that their rescission of subpart "i" was based on NRC's program of protection of public health and safety.

CHAIRMAN JACKSON: Let me ask, were there any comments on innovative options for providing training, say, using information, technology, and was there any discussion relative to -- as far as the travel part based on a tiering approach where some feel there is some differential ability of states to pay for training, travel, and technical assistance where some states, in fact, collect in excess of their cost, and others, either because of legislation or structurally, have less ability? Was there any discussion about some kind of tiering that reflects that differential ability?

MR. PANGBURN: I don't recall anything specific to the question that you posed. Certainly the states offered the notion that they might be able to reimburse NRC in kind

18

by providing services, namely, to do inspections of NRC

facilities located within their borders as a way of making up for resources.

I might ask, Cardelia, can you speak to the Chairman's question?

MS. MAUPIN: Concerning that question, some states like New Mexico stated that most of their funding went into one general fund, so they were not able to get funding directly for training for their staff because of the competition there. So the smaller states really have a problem in terms of getting those monies.

In addition, some state people have to take their own annual leave to come to NRC training courses.

CHAIRMAN JACKSON: When I spoke of tiering, though, that approach is meant to address the issue that there is a differential ability of the regulators in certain states to pay, including to what extent they have control over the funds, as well as what the working conditions are in terms of their coming to courses.

But there was no specific targeted discussion?

MS. MAUPIN: No.

CHAIRMAN JACKSON: Okay.

MR. JORDAN: I was very interested in the area, as you might imagine, from my role in AEOD and training, and I did not see a clear recommendation that would, in fact,

19

parse those out in any organized way. It is a very difficult situation.

CHAIRMAN JACKSON: Okay.

MR. PANGBURN: Hearing no comments, I'll move to the next DSI, which is DSI 5, what should be the role and scope of the NRC's low-level radioactive waste program.

The Commission's preliminary views on this DSI supported Option 2, which was to assume a strong regulatory role in the national low-level waste program that would encompass all the activities that were performed before recent reductions in the low-level waste program.

Next slide, please.

[Slide.]

MR. PANGBURN: We received 49 written comments and 19 oral comments on this DSI. I would note that there was not a clear consensus regarding the preliminary views, that low-level waste generators, including NEI, CORAR, and some individual licensees and some Agreement and non-Agreement States favored the Commission's preliminary view, as did the Advisory Committee on nuclear waste.

However, many Agreement State commenters opposed the Commission's preliminary views that the current low-level waste program be expanded. Agreement State commenters preferred an option that was somewhere between Option 3 of continuing the current program and Option 4, to recognize

20

progress and reduce the program.

CHAIRMAN JACKSON: And when you say continue the current program, that current program does reflect the recent reduction?

MR. PANGBURN: That's correct.

CHAIRMAN JACKSON: So when they say between that one and Option 4, recognize progress and reduce program, they mean reduce it further beyond the reductions that have already occurred?

MR. PANGBURN: That's accurate, yes.

COMMISSIONER DICUS: What was the position of the host states?

MR. PANGBURN: The host states --

COMMISSIONER DICUS: Did they have a comment position?

MR. PANGBURN: My recollection, as far as this first view, namely, to support the Commission view, was that New Jersey and California supported that, but that other states that have ongoing programs supported the majority of the Agreement State views captured under the second bullet.

EPA's views on this were that they opposed the first -- the Commission's first option, namely, assuring a leadership role. They felt that it was inconsistent with NRC's role as an independent regulator. They had no comments on Options 2 through 4.

21

Option 5, which was to transfer the entire program to EPA, was, once again, their favored view, assuming they received adequate resources. And Option 6, assured storage, was not something that EPA supported, but rather that they preferred disposal.

I'll move to DSI 6, then. This DSI deals with the question of, in recognition of current uncertainties, how should NRC approach the present high-level waste situation?

[Slide.]

MR. PANGBURN: The next slide contains the Commission's preliminary views, which were that NRC should maintain the existing program. But the Commission noted that it would like to explore taking a more active role in resolving issues in the high-level waste program consistent with NRC's mission.

If I could turn to the next slide.

[Slide.]

MR. PANGBURN: The comments in this particular DSI, we received 41 written comments and 15 comments from oral presenters at the stakeholder meetings. Support for the preliminary view as stated was limited, with most commenters calling for some modification of the preliminary view, that is, possible -- a combination of parts of other option or options.

Overall, the commenters were divided in support of

22

their option. For example, the Organization of Agreement States didn't have a consensus view, but the states appear to be split between Options 2, 3, and 5.

Significantly, the Department of Energy, the State of Nevada, Clark County, some Agreement States, and the Nevada Nuclear Waste Task Force supported the Commission's preliminary view.

With respect to EPA's view, they had no comments on the preliminary view, but had several comments on Options 1 and 2, no comments on Options 4 and 5. Those comments were in the nature of clarifications, not in expressed support one way or another.

CHAIRMAN JACKSON: Okay.

MR. PANGBURN: DSI 7 addresses what should be the future role and scope of NRC's materials program, and in particular, NRC's regulation of the medical use of nuclear material?

[Slide.]

MR. PANGBURN: The next slide shows the Commission's preliminary views which included a combination of Option 2, continue the current program, ongoing program, with improvements, and decrease oversight of low-risk activities with continued emphasis on high-risk activities.

Specifically in implementing Option 3, NRC would

utilize the risk-informed, performance-based approach to

23

determine which activities in the materials area, and specifically medical area, are low-risk activities.

Next slide, please.

[Slide.]

MR. PANGBURN: Most commenters supported the Commission's preliminary views, and in particular, several licensee and professional organizations changed their positions from an earlier endorsement of the National Academy of Sciences' recommendation, which was to devolve the medical program to the states. The breadth of this view on support of the Commission's preliminary view was substantial. It was -- included Agreement States, professional societies, and individual licensees.

Commenters also strongly supported, and as we noted to you in the transmittal of this document, strongly supported a single federal agency being responsible for regulation of all radiation sources, including NARM.

There are several points here. First, the breadth of this view, again, the states, OAS, CRCPD, American College of Nuclear Physicians, Society for Nuclear Medicine, NEI, Mallinckrodt and others, supported this.

Now, there were different views on what the nature of that federal role should be. In some cases, it was a more traditional role that focuses on the program that we currently have of regulation at the federal level and at the

24

state level. In some cases, it was limited to simply standard setting and allowing the states to implement programs as they saw fit.

It was very clear that the federal agency that should undertake this should be NRC, and it was equally clear that it should not be EPA. That was a strong view in all the public meetings that we were in, as well as in written comments, and that should we proceed in this regard, that we should take into account the fact that States' knowledge and expertise could lessen the resource requirements and possibly make this option more palatable to the Commission.

EPA's views on this. They had no comment on the first option, which was to take on additional regulatory responsibility on NARM, X-ray and accelerator materials. They supported Option 2, which was to continue the current program with improvements since that program is the basis for rescission, again, subpart "i".

They agreed that Option 3, which was part of the Commission's preliminary view and involved decreasing oversight of low-risk activities, was reasonable, but care needs to be taken. That point was also made by a number of states and individual licensees that, in moving towards removing controls, it had to be done carefully and in close coordination with the states.

25

Options 4 and 5, however, discontinuing the medical program, except for oversight of devices and discontinuing the entire materials program were major concerns to EPA, once again, because of the rescission of subpart "i" and EPA felt that if that option was selected and EPA was not the regulator of materials licensees, that some other vehicle might be needed to assure public health and safety as a result of emissions from materials licensees.

COMMISSIONER ROGERS: Could you give us the

numbers of comments on that?

MR. PANGBURN: 42 written comments on this one and 16 oral comments at the stakeholder meetings.

DSI 9 deals with what should be NRC's strategy to take advantage of new and different approaches to optimize site remediation at the site decommissioning management plan or SDMP and other problem sites.

On the next page, we have the Commission's preliminary views. This particular preliminary view used part of four options, namely, to change the decommissioning review process, focus on those cases in which progress can be made, and transfer stalled sites to EPA, to take an aggressive position to develop regulatory frameworks for lower cost decommissioning waste disposal, and to develop a strong litigation strategy.

26

In addition, the Commission indicated Option 2 should be tested on a pilot scale for a few selected materials licensees. Program participants should be volunteers.

With respect to Option 6, the staff should also examine the level of risk associated with each site and focus on better progress in making determinations on disposition of sites.

Determinations on whether to send to EPA's Superfund program a stalled site, high-risk site or a low-risk site should be made on a case-by-case basis.

And finally, that the implementation process for Option 6 should not preclude the Commission from reviewing the low-risk stalled site if conditions warrant, nor should the process automatically send the site to the EPA's Superfund program.

Next slide, please.

[Slide.]

MR. PANGBURN: We received 35 written comments on this and 15 oral comments in stakeholder meetings. There was broad support for the options identified in the Commission's preliminary view and for taking serious steps to reduce the burden and intrusiveness of regulations. Most commenters called for close coordination with them in any systematic review of and revisions to the regulations.

27

With respect to EPA, they had no comments on Options 2, 7, 8, and 9, which encompassed most of the Commission's preliminary view.

The current program, Option 1, they felt was acceptable. They strongly opposed Option 3, which had to do with using alternative scenarios and criteria for decommissioning.

Option 5 was acceptable as long as resources were provided, and Option 6, which was part of the Commission's preliminary view involving transfer of stalled sites to EPA they felt was a piecemeal approach and that, if NRC could not assure cleanup of problem sites, they should give the entire program to EPA.

CHAIRMAN JACKSON: Are you done?

MR. PANGBURN: Yes.

CHAIRMAN JACKSON: Any comments on these options that -- these DSIs? The figures on the number of comments?

MR. PANGBURN: For DSI 9?

CHAIRMAN JACKSON: 9.

35 written and 15 oral?

MR. PANGBURN: Yes, 35 and 15.

CHAIRMAN JACKSON: Okay. Thank you.

MR. JORDAN: Next is Frank Miraglia with DSIs 10 and 11.

MR. MIRAGLIA: Moving on to DSI 10, as stated, is:

28

Given the current environment, what should the Commission's policy be on future reactors?

[Slide.]

MR. MIRAGLIA: The next slide indicates the Commission's preliminary views. The Commission recognized the economic decisions by license applications will be determined by the level of support, that we should continue to give priority for reviewing standard and advanced reactor designs, early site approvals, and licensing for new reactor applicants.

In addition, the preliminary guidance from the Commission indicated that the staff should develop implementation guidance that would address the maintenance of the utility requirements documents that had been developed through first-of-a-kind engineering, address an orderly closeout of the work performed, for example, a simplified boil and water reactor and the MHTGR, and then evaluate the design certification process for lessons learned.

[Slide.]

MR. MIRAGLIA: The next slide indicates the number of comments. There were 19 written comments and 13 oral comments at the three stakeholder meetings. Several commenters supported the elements of Option 2 and the Commission's preliminary views with some modification.

29

The comments with respect to being more specific as to the types of issues that should be addressed and the focus that should be given to testing the next two phases of part 52, namely, the siting and the COL phase, there was a level of interest expressed primarily by the industry in that regard.

There were some comments that endorsed Option 3. And Option 3, if the Commission would recall, is to refocus, given that there is no applications on the horizons, to reallocate, and so there were a number of comments in that regard.

CHAIRMAN JACKSON: What was the breadth of the support for these different views?

MR. MIRAGLIA: I would say from the three meetings and the comments, that the industry supports continued focus and application of resources to these new designs, to the point of, at one point, ranging from a comment that the economic -- or the viability of the nuclear option, one needs to demonstrate the part 52 process in its entirety, so there is a group within the utilities and the nuclear industry that has that as a view.

Clear recognition, as was recognized in the previous reports to the Commission on this particular issue, that this has implications for offshore sales and the economic variability of the nuclear structure within the

30

U.S. by maintaining that kind of technology. So it would range from there, and the public view would be that -- would be on the other extreme. But I would say there was support for some continued focus.

The question of applications and who would support applications in this area was discussed and indicated that funding in that would probably be minimal, but that there

should be some continued focus.

Given the Commission's position, and I responded to some of those concerns in saying, if applications were put before us, given this preliminary view, that they would be assigned priority commensurate with the applications before us and other ongoing activities.

COMMISSIONER ROGERS: Is there anything much said on the utilities requirements document? That's something we focused on a bit.

MR. MIRAGLIA: There was one comment that I recall, Commissioner Rogers, that indicated that it would have to be done and looked at as to what the future need would be and that type of thing. We just recognized that it was there. It may be worth doing, but someone would have to forward that effort.

Moving on to DSI 11, which is: Given the changes in the external/internal environment, what are the implications for the current strategies for the operating

31

reactor oversight program?

There were three options in that DSI. Option 1 is essentially continuing the comprehensive program and examining -- systematic examination for improvements and lessons learned.

Option 2 was to further encourage industry to develop generic guidelines that we can endorse, provide increased opportunities for public involvement, use technology to improve efficiencies of our processes, and to examine some effectiveness in how we staff multiple-unit sites, and to improve the understanding and effectiveness of our performance program, assessment program.

Option 3 was to utilize the work re-engineering processes to further identify improvements within the program, come back to the Commission for approval for those areas of review, and we should look at best practices from regulatory agencies, foreign and domestic, nuclear and non-nuclear.

In terms of comments received, and again, in terms of numbers, there were 26 written comments, 13 oral at the meetings.

One commentator, at least for this paper, directed right at the issue, shared that there's a public perception of trying to reduce the risk. That has a negative perception from the point of view of the public and if it's

32

done setting regulations, and it all looks towards reducing risk that has a negative connotation.

That theme or that question came up, I guess, looking at risk-informed that has to be done in a balanced way. I think that's really the essence of that comment.

There was a lot of support for Option 3 --

CHAIRMAN JACKSON: That reducing risk has a negative --

MR. MIRAGLIA: No. That increasing cooperation with the industry in that process could have the perception of only looking at it in one direction.

But another outcome of the process is to increase some of the burden in the regulatory process with respect to how we interact with industry in that kind of process, and that comes up in some of the other DSIs and the role of industry and the like. We stated that we have to do it in a balanced, public, open kind of way.

CHAIRMAN JACKSON: So you're saying that this

comment then related specifically to the Commission's move toward risk-informed, or you're saying it permeated things more broadly than that?

MR. MIRAGLIA: It was with respect to not with risk-informed, but as to working in a cooperative way with industry to reduce regulatory burdens from a risk perspective. That's -- it was the industry involvement that . 33

created that kind of concern. It was commenters that supported Option 3 to varying degrees, indicating that that was resource intensive; however, for certain areas, that that might be a very productive thing to do and to look at business process re-engineering.

There was a suggestion that we look at the role of resident and effectiveness of the resident inspector program within the context of that program.

In addition, there was comments regarding effectiveness of our enforcement policy that should have been discussed within the context of that program.

COMMISSIONER MCGAFFIGAN: Could I ask, the DSI we just discussed and the next three are among the more resource intensive of the DSIs. Was there any sense among the commenters of limits or where, if we were going to need to -- there are also -- many of the commenters presumably are bill payers. Were they comfortable with spending additional resources -- and maybe this is a question for the next three papers as well -- to pursue these preliminary views?

MR. MIRAGLIA: I think there were concerns throughout the conference on many of the DSIs about the cost. I think the perception that -- I'll give you my perception and an overview assessment of the comments. 34

The industry and the fee-payers, be they reactors or materials, feel that this risk-informed approach, where it would lead to less burden and commensurate with risk, has a benefit.

And I think a simple way of expressing it is, it's worth that increased cost to develop that because the paybacks over the longer term may be beneficial. I think that would be a broad overview.

Perhaps Themis can speak to that to some degree when he talks about the risk-informed. But I think that would be a simplistic or simplified overview of how they looked at that. It's something that needs to be done. It has up-front costs and -- but the benefit would be coming in the future with regulations that are more risk-informed.

MR. SPEIS: The next DSI deals with risk-informed, performance-based regulation. The DSI states: What criteria should NRC use in expanding the scope in applying a risk-informed, performance-based approach to rulemaking, licensing, inspection, and enforcement?

The next DSI summarizes the Commission's preliminary views. Higher risk activities should be the primary focus of agency efforts and resources, which can be accomplished by building up the PRA concepts to the extent they're applicable.

Staff should continue the current efforts, which . 35
is Option 1, on the pilot programs and continue to evaluate the performance data from operational experience as it becomes available.

These activities as they're scheduled are

presently captured in the PRA implementation plan.

Staff -- in addition to Option 1, the Commission's views were that the staff should proceed in the direction of enhancing the PRA implementation plan. This is kind of moving cautiously towards implementing elements of Option 3.

And on the next viewgraph, staff should perform a thorough review of the basis for nuclear materials regulations and processes to identify and prioritize those areas that may be amenable to a risk-informed, performance-based approach. This assessment should lead to a framework similar to that that we have developed for commercial reactors.

There was also another point which is not listed in the viewgraph, that the staff should evaluate and clarify any technical and/or administrative issues associated with performance-based approaches during regulation such as inspection activities and enforcement.

And the next viewgraph summarizes the significant comments -- the more significant comments. There were 49 written comments and 23 oral comments, and of course there's some overlap between them, as John mentioned earlier.

36

The majority of the comments were implementation type of comments. I don't see that any comments would affect the Commission's preliminary views.

Almost all commenters supported the Commission's view that, in general, the NRC should focus on higher risk activities and, consequently, most commenters supported a transition towards more risk-informed, performance-based regulatory approaches.

But although most commenters supported the concept of risk-informed, performance-based regulation, there was not, in general, agreement on the approach. And we tried to summarize all the comments into four categories. These categories are the following.

I want to make sure that we recognize and understand the distinction between risk-informed and performance-based. For example, some commenters used this distinction to urge caution in moving towards performance-based aspects of risk-informed, performance-based regulation. Others urged us to pursue more aggressively the risk-informed part, for example, in our inspection activities.

The next category of comments I listed, demonstrating a commitment to change the regulatory environment and to establish a new strategic direction. There are many issues that the Commission will have to

37

decide, for example, one of them being if PRA is to be useful, the NRC and the industry must decide or reach an agreement on what areas they are able to be applied on.

The other one, I put them under fostering public confidence and ensuring public understanding of the process. For example, some suggested that a transition to a risk-informed, performance-based regulation could be seen by the public as a relaxation of our current regulations or requirements, and possibly this would decrease the public's perception of NRC's credibility.

And finally, the other category, they urged the Commission to establish an objective standard for protection of public health and safety, for example, set an objective standard for what is adequate health and safety. That's a good one for the lawyers.

Also, they want us, especially the industry, to start using the safety goals.

So basically, these are some of the most important components.

MR. JORDAN: Comments? Okay, Stu.

MR. RUBIN: Good morning. My name is Stu Rubin. The first DSI I discuss is DSI 13, the role of industry.

[Slide.]

MR. RUBIN: As shown on the next slide, the DSI asks the question: In performing its regulatory

38

responsibilities, what consideration should the NRC give to industry activities?

Next slide, please.

[Slide.]

MR. RUBIN: The issue paper included five different options or strategies for interacting with industry as shown in the slide. The Commission in its preliminary views had a preference for two of those options and indicated some limited interest in a third.

Regarding the preferred options, the Commission stated that the staff should move forward as rapidly as possible within our budget to evaluate on a case-by-case basis current and any future proposed initiatives that would further the NRC's reliance on industry's activities as an alternative to our own regulatory actions. And to accomplish this, the Commission indicated that the staff should also develop guidance on how we would go about evaluating such proposals.

As shown in the second item, the Commission also gave its preliminary endorsement of the fourth option, which involved increasing NRC interaction with industry groups and professional societies in order to develop new national consensus codes and standards and guidance documents as a means of strengthening the quality and the rigor of NRC's regulatory framework, and to support more efficient and

39

effective consistent compliance with that framework.

The Commission also indicated that any implementation of Option 4, the staff should focus its initial efforts on working with industry to develop standards and guidance for the application of PRA methods and to develop such standards for the medical use area as well.

Finally, the Commission had a preliminary view that, although it was not a preferred option at this time, the designated industry representative folks might have some potential application to large, broad-scope materials licensees in cases where NRC's on-site inspections were conducted relatively infrequently.

Turn to the next slide.

[Slide.]

MR. RUBIN: In all, there were 31 written stakeholder comments and 18 oral comments on DSI 13. With regard to those significant comments first, there was very broad consensus among -- within the nuclear power industry that the NRC should in fact move forward expeditiously with the current program to evaluate initiatives proposing increased NRC reliance on industry activities.

Power reactor commenters indicated that the agency actions within the current framework was more appropriate than to go with the more aggressive pursuit of a broad-

40

based expansion of industry's role, a more proactive

framework that was defined in the second option.

There was also a broad desire within the nuclear materials community for NRC placing increased reliance on material licensing, self-oversight activities, and self-assessment was specifically identified as an area that they thought additional reliance should be placed there.

CHAIRMAN JACKSON: Let me make sure I understood something. In the power reactor comments, did you say that those commenters essentially preferred the status quo?

MR. RUBIN: An aggressive, expeditious pursuit of the current program or approach, that's correct. Other commenters, such as the ASME, Public Service, also endorsed the Commission's preliminary view favoring Option 1, saying it was responsive to the current environment challenge.

Even so, as shown in the second bullet, there was a note of caution expressed by some of the commenters, including Public Citizen, that if NRC were, in fact, to place additional reliance on industry self-oversight, it was our view it would lead to some loss of public confidence in the agency as an effective and objective regulator.

And finally, as shown in the last item on this slide, there was also very broad stakeholder support for the Commission's preliminary view that the NRC go ahead and increase its interaction with industry groups and

41

professional societies in order to develop new codes and standards and guidance documents for more rigorous and consistent licensing compliance with our framework.

I should also mention, although it's not on the slide, there were a number of stakeholders in the materials program especially who favored NRC increasing its support for accreditation and certification as a means for both improving materials licensing, safety performance, and providing a positive basis for NRC reducing its regulatory oversight activities and the radiation safety officer position was cited as an example where certification programs were viewed as one that would improve the performance among licensees in that area.

CHAIRMAN JACKSON: What were the numbers again?

MR. RUBIN: We did have 31 written comments and 18 oral comments.

CHAIRMAN JACKSON: That's what I thought, okay.

COMMISSIONER DIAZ: Is there any other information, any agency, any role model we can look at in determining how strong can interaction be with industry without interfering with the agency's mandate and its relationship with industry, how many people are doing it in the government and what stage are they?

You know, what is the --

MR. RUBIN: Well, within the context of this

42

particular DSI, I don't recall that there were any comments made. But within the context of DSI 23, enhancing regulatory excellence, there were some commenters that suggested that there be a comparative analysis between NRC's approach to regulation and -- in excellence and other agencies, such as FAA and EPA, that sort of thing.

COMMISSIONER DIAZ: In other words, are we leading the pack or is somebody running at the same pace as we are regarding industry involvement?

CHAIRMAN JACKSON: FAA in fact has specific industry involvement already and the various forms it takes. I think it's a good suggestion for us to understand where

other agencies are and what the judgment is about the effectiveness of those approaches -- of those uses and how that has affected the -- both the judgment as to impact on the mission, the effectiveness in carrying it out, as well as any resource questions and public perception.

There's a lot to learn, I think, and so I'm saying that the FAA at least already has things that have been part of how they do things all the time, but I think it's a fair question relative to other agencies also.

MR. JORDAN: Okay, next is DSI 14. Larry.

MR. CHANDLER: DSI 14 poses the issue of: What approach should NRC take to optimize its communications with the public?

43

In its preliminary views, the Commission suggested principally Option 2, which would call for placing a priority on early identification of public concerns and methods for public interaction.

The Commission suggested that the term "public" be interpreted in its broadest possible sense. It would include, then, not simply members of the public as we traditionally use it, but members of industry, other affected organizations, as well as the public, that both bilateral formal and informal communications be covered, that the use and reliance, advancement of technology should be carefully examined before it's used to assure that there is appropriate planning and coordination for public involvement with the centralized focus, some integration before the fact, but recognizing that implementation should still be the function of the various program offices.

The Commission also suggested that the staff give consideration to Option 1A, which requires further consideration on maximizing the effectiveness and economy of the methods of communication that are being used to assure that we have a consistent methodology and coordinated planning of these activities, that we give due consideration and examination of the highest cost activities that we perform, and that we perform assessments of the improvements that we take into consideration before they, in fact, are

44

implemented.

In terms of the significant comments that were received, and there were some 34 written comments, approximately 16 -- excuse me, 34 written and about 16 oral comments provided, most commenters preferred a combination of options. Option 2, even as augmented with Option 1A, was not enough.

The Commission's preliminary views were actually supported only by three of the commenters, that being Illinois, Texas, and Oregon.

A number of commenters provided suggestions to improve the current process: better public meetings, the language that's being used, the formality of the structure that often is employed at these meetings, transcripts. The use of the term "stakeholders" John Craig alluded to at the outside has an effect of turning people off in some events.

Early involvement, anticipating better, as the Commission had suggested, the need to involve the public, again, the public in the broadest sense, in these activities.

There were also suggestions for independent reviews of the 2.206 petitions. A number of commenters addressed both the formality of the hearing process and some of the formalities still existing in the 2.206 process,

although some of the concerns I think raised have already

45

been dealt with in some recent suggestions by the Commission for improvements in the 2.206 review process, this comment referring to the suggestion that people not previously associated with the issue be involved in reviewing the comment, the issues raised in the 2.206 petition.

A number of commenters stated that the NRC should first decide what it hopes to achieve in its public communications. Is it interested in informing the public, involving the public, soliciting the views and thoughts of the public, then choosing the best option for achieving that goal?

Commenters suggest the NRC should establish specific goals to assess the effectiveness of its programs and look to the experiences of both private sector, state, and other organizations for guidance.

It's been suggested, for example, that the folks in Colorado, the state as well as Public Service of Colorado, have had very successful programs in connection with Fort St. Vrain. And EPA also has had good success in some of its activities related to Superfund sites that should be considered in our process.

Responding to Commissioner McGaffigan's question earlier regarding the resource implications, I don't really think that any of the commenters specifically focused on the resource implications. In fact, some of the numbers I think

46

that you've gotten are thinking about -- were really developed after the fact in these cases.

Interestingly enough, a large number of the commenters here favored more emphasis on Option 3, which would have a more proactive involvement, more of an educational and up-front involvement than is suggested by the other options.

And clearly, that option, I think, would have the greatest resource implications, that probably beyond -- likely beyond those which the staff has already been considering.

COMMISSIONER ROGERS: Just before you leave this independent review of 2.206, I just wanted to understand that. That's still within NRC, though; we're not suggesting anybody else?

MR. CHANDLER: No. There were a couple of thoughts raised on the 2.206 process. First of all, the thought that you have other staff people than were involved in the original issue review the 2.206 petition that's submitted; and two, even consider the use of someone like CRG or ACRS to look at some of the issues that are raised.

COMMISSIONER DIAZ: How strong was the support for Option 3 expanding?

MR. CHANDLER: It's hard to say how strong it was. There were a lot of diverse and diffused comments suggesting

47

greater NRC involvement in the educational process would have a benefit in terms of assuring some greater credibility, perhaps, that it would take some of the burden off the industry in the sense of showing a more independent assessment of what the issues are than the industry can credibly put forward in some instances.

I would say it was a relatively strong comment, but again, very diffused.

COMMISSIONER DIAZ: Any other comments?

MR. JORDAN: I just would comment that the process that the committee has just gone through is relevant to this, that we've, I think, been more proactive in obtaining public comment and sort of fits in with the tone of this.

DSI 20. Jim.

MR. SHEA: Yes. DSI 20 considered the question of NRC's appropriate role with regard to international activities.

[Slide.]

MR. SHEA: The next slide shows the Commission's preliminary views on DSI 20 in which the Commission selected Option 4 in which NRC would conduct international activities of importance and benefit to its domestic mission or U.S. national interests, both of those, rather than just focusing on its domestic mission.

And the remainder of the slide indicates the --

48

what that would involve, more specifically, that we would participate in international policy and priority formulation, perform our current role in export-import licensing and related matters, in particular, international safeguard issues, perform our current and prospective role in implementing treaties, participate in international exchange activities that would benefit our domestic program for U.S. national interests -- these would be mutual benefit exchanges -- and continue to provide, as we do now, a wide but carefully selected range of international safety and safeguards assistance.

I might note that research was not included, international research. There's a separate paper on that. That does not include DSI 20.

[Slide.]

MR. SHEA: The next slide continues with the Commission's preliminary views. At the same time as Option 4, the Commission stated that the NRC will examine the budget and priority of individual activities in the international area and develop a plan to prioritize those activities, and this would include research, drawing on work in DSI 22, so the Commission could look at possible reductions or expansions in programs in a systematic way with an eye on the budget.

And the Commission also noted that since we are

49

licensee-fee based, we would have to look closely at how these activities related to our mission as we do that study.

The comments that came in numbered 37 written and nine oral submissions, mostly domestic, although some came from abroad. We found that most of the commenters supported the Commission's preliminary view on Option 4, both the Commission's choice of the option and also the Commission's emphasis on prioritizing NRC's international activities. There were specific comments on that.

This support included industry, particularly NEI, with their view that this would help avoid foreign accidents, but at the same time, they noted that they felt others beyond the nuclear industry should pay for activities that do not directly benefit licensees.

Several commenters noted that there were safety benefits that resulted from NRC's international activities and encouraged a continuing NRC leadership role in this area.

There were several that suggested that we should improve coordination of safety assistance with public and private groups to improve the effectiveness and efficiency.

This would be more, I think, in the implementation phase that this would be carried out.

While most supported Option 4, the OAS and most state regulators supported Option 3. They noted that -- and . 50 this Option 3, by the way, would be NRC conducting activities of benefit just to our domestic mission.

They noted that this would free up money that's now spent for international activities that could be used instead for purposes such as Agreement State training. That was the main reason they cited for supporting Option 3, although we did have one comment asking why NRC should give assistance to countries that are not buying U.S. reactors, for example.

There were some that supported Option 5, which is to expand our international activities, such as the State Department and ABB and some of the state regulators. And that was, I guess, about the sum of the comments, if there are any questions you might have.

COMMISSIONER DIAZ: This phrase, "commenters suggested that increased coordination of safety assistance," were any comments from any of the other agencies regarding increased coordination of activities that were in the international arena?

MR. SHEA: From the other government agencies? No, I didn't see any of that. The State Department did say that there should be a systematic review of safety assistance, as was proposed in the DSI 20 paper, because it was timely and there had been some successes, but also some problems in implementing assistance.

. 51

The comments that we received in this area were mainly from the private sector saying we should look at WANO and coordinating more closely with DOE, for example.

COMMISSIONER DIAZ: Some of those comments refer to increased coordination with other agencies?

MR. SHEA: Yes, that's right, particularly DOE.

COMMISSIONER DIAZ: Particularly DOE?

MR. SHEA: Yes, and that was noted in DSI 20 as well.

MR. JORDAN: Any other comments?

Jesse.

MR. FUNCHES: DSI 21 involved implementation of the requirement to recover 100 percent of the NRC's budget by assessed fees. There were two questions associated with the DSI. The first one is the broader issue of: To what extent should fees be considered in making a decision about what activities the NRC should perform in support of its mission?

Four options were evaluated and they ranged from no consideration fees to considering fees for all NRC activity.

A second part of the DSI had to do with alternative ways to fund NRC's activities. The question that was posed was, what funding mechanism should NRC pursue to fund activities not required to be funded through

. 52 appropriations?

Next chart, please.

The Commission's preliminary view was to adopt Option 2 with respect to the broader issue of considering fees and decision. The preliminary view was that programmatic decisions in response to NRC mandates would not

be driven by fees but would be based on their contribution to public health and safety.

The Commission also noted that in addressing new activities, they would request that fees be addressed as part of their decision to add new activities to NRC.

With respect to the funding mechanism, the preliminary view was to support alternative 2, which would continue to fund approximately 100 percent of the appropriated budget through fees. Reimbursable agreements would be used to fund those activities that we're not mandated to perform.

As a subpart of that, the Commission's preliminary view would also support working with OMB to look at alternative ways to remove the FTE's constraint associated with reimbursable work.

There were 33 written comments on the DSI. Of those 33, approximately 50 percent were from our Agreement States or an organization associated with Agreement States.

There were eight commenters at the three

53

stakeholder meetings. There was general support for both Option 2 and the funding mechanism, that is, the Commission preliminary views; however, several of the industry commenters supported funding mechanism number 1.

Under that alternative, we would include from the fee base costs that serve the collective interests of the public, and that would be approximately 10 percent of the NRC's budget.

They also encouraged the use of a reimbursable agreement to avoid costs that do not benefit licensees.

Several state commenters also supported assessing fees to federal agencies for specific services. This would be funding mechanism number 3. This was -- this was similar to what they do for state agencies that they regulate.

Some commenters were concerned about the future of fees. Specifically, they were concerned about potential factors that could increase fees in the future.

One particular area they were concerned about was the possibility of early reactor shutdown and decommissioning and more states becoming Agreement States. The concern there is that if you reduce the number of fee-paying licensees, those costs that the NRC incur that are not a function of the licensee, therefore, would have to be spread to a smaller base.

Another concern that was expressed as it relates

54

to future fees was the impact of fees as you enter into restructuring of the industry. Their concern there was that fees would become a higher percentage of the profit margin or the -- that they might receive.

There were two commenters that supported funding mechanism number 4. That basically says, go to Congress and request that no fees be assessed.

CHAIRMAN JACKSON: Any comments or questions? Can I ask you to ask folks to talk faster?

MR. JORDAN: Yes.

MR. SPEIS: The next DSI addresses the future role and scope of NRC's research program. The next viewgraph shows the Commission's preliminary views. The Commission initially supported a combination of options that were seven to start with.

First they said that we should have a research program. We should include both -- elements of both confirmatory and exploratory research -- that's Option 4 --

and they should be balanced in such a way that both current as well as potentially emerging issues are being addressed, and the Office of Research, in consultation with the other program offices, should develop criteria for determining what the core research program should be which will be able to respond to both programmatic needs as well as anticipate future needs, and the Office of Research should work with

55

the other offices to develop criteria and provide it to the Commission for their approval prior to the development of these core research programs.

Continuing with the preliminary views, the next viewgraph, the staff should continue to support the educational grant program, Option 6, but this program should be reevaluated at least every two years.

And also, the staff should continue to support active participation in international safety programs which should be prioritized and appropriately integrated with NRC's research efforts and also considered in the establishment and maintenance of the core research capability.

And, also, the Commission wants us to address a number of specific questions which were raised in the DSI paper.

Getting to the significant comments, there were 29 written comments and nine oral ones, half a dozen NRC staff persons that provided -- also provided comments to this DSI.

In both the written comments and those provided at the stakeholders' meeting, there was general agreement that the NRC should continue to support the research program which involves both confirmatory and exploratory research.

One commenter suggested a more aggressive research program is appropriate but without explicitly specifying

56

whether the program should be more exploratory or confirmatory. That commenter was the ACRS, by the way.

Several industry commenters suggested that cooperative research with industry is an option that should also be considered. The paper itself addresses cooperative research with international, but there is no explicit mention of cooperative research internally in the United States with our industries.

A number of commenters also raised concerns about the lack of openness of the NRC's research program, and here they referred mostly to the process, being active participants from the initial phases from the definition all the way to carrying the program itself, instead of giving the results at the end.

CHAIRMAN JACKSON: Any comments or questions?

Thank you.

MR. RUBIN: Okay. The next DSI is DSI 23, enhancing regulatory excellence.

[Slide.]

MR. RUBIN: Shown on this first slide is DSI as it was originally cast, is very narrowly defined, and asked the question: How can the NRC achieve regulatory excellence by improving its regulatory standards, rules, and requirements?

The paper itself is much broader in scoping regulatory excellence to apply to all of the NRC's

57

regulatory programs, not just to the rules and regulations phase.

The paper provided two strategies for achieving

regulatory excellence. The first was, continue the current program, which is often reactive. The second was to take a substantially more proactive approach to regulatory improvement.

Next slide, please.

[Slide.]

MR. RUBIN: The Commission in its preliminary view favored the more proactive approach to improvement embodied in the second option.

And as shown in the first item, the Commission indicated that the proactive improvement campaign should be designed to improve our own internal effectiveness and we should set for ourselves a goal of excellence in the performance of both our staff and our internal processes.

Moving down to the second item, the Commission also indicated that the focus of the more proactive improvement approach should not be limited to just the agency's regulatory functions and programs, but should also be broadly applied across all the agency's activities, including its management and support functions and activities.

Next page, please.

58

Total of 32 written stakeholder comments were received and 21 oral comments from the public meeting on DSI 23.

First, there was extremely broad support for the Commission's preliminary view that the NRC embark on a more proactive approach to improving regulatory effectiveness. Support for this strategy came from the stakeholders in both the power reactors area as well as materials program area and was generally favored by the agency's own internal staff who had comments on this issue.

But within the broad consensus favoring the proactive option, there was considerable diversity of the ideas as to the appropriate focus and emphasis and the priorities for improvement, as well as the appropriate process and the pace that the agencies should employ in pursuing excellence.

For example, many stakeholders equated enhancing regulatory excellence with the NRC replacing its prescriptive framework of regulations, standards and guidance with a more risk-informed and performance-based regulatory approach, or with NRC modifying or eliminating requirements with marginal safety.

However, even so, Public Citizen did remark that they believed that the recent changes that were made in connection with the marginal safety program amounted to what

59

they call in the industry deregulation, rather than pursuit of regulatory excellence.

Also, NEI and OAS indicated that enhancing regulatory excellence for them meant, for example, that NRC would strive to proportion its resource expenditures to the risk significant or safety issues involved.

Nonetheless, despite the diversity of the comments and the views on priorities as noted in the next to the last bullet, the stakeholders broadly, generally agreed that -- with the Commission's view that this proactive approach should be broadly applied to all the agency's functions, not just to regulatory programs, emphasizing the issue paper.

A number of commentators also urged that external stakeholders be brought in to participate in the agency's internal review processes that would be initiated as part of

this more proactive approach.

And finally, as was mentioned just briefly before, a power reactor industry group, NEI, indicated that the NRC ought to consider having another federal agency, such as EPA and FAA, conduct a peer review evaluation of NRC's processes as an alternative additional means of enhancing regulatory excellence.

CHAIRMAN JACKSON: Thank you.

Any comments or questions?

MR. JORDAN: The last one.

60

MR. MIRAGLIA: DSI 24: What should the NRC strategy be for regulating decommissioning activities at power reactors?

Preliminary views of the Commission was to continue the current direction, approach, and to explore some innovative approaches.

The Commission, in its preliminary view, gave some examples of approaches that should be considered. And consistent with the Commission guidance, we sought comment on those approaches, transfer of the power plants to Agreement States after fuel had been put into dry storage and putting the resident inspectors in all phases of decommissioning, or only in specific phases or not at all, and having a performance-oriented approach for radiological assessment of the site that's to be released.

The options were to continue the program at its current pace or to be more aggressive. Significant comments, there were 28 written comments, 19 oral comments at the three meetings.

Strong support for being more aggressive, particularly in context with developing the site release radiological criteria. That seemed to be the center. They recognized that the current approach had a series of rulemakings, but those rulemakings couldn't proceed until there was a good understanding of what the goals for

61

decommissioning were going to be. So there was strong support for being aggressive in that area.

There was one group of commenters that supported Option 3 and -- which was the one to slow down because a concern was expressed that perhaps there couldn't be a good agreement between NRC and the EPA with respect to the site radiological and they would prefer us to have that role. So, again, I would look at that as a -- in terms of Option 2.

They raised questions. Also, commenters were -- indicated that the impacts of deregulation on decommissioning funding, recognizing that there is an activity there, but again, there's a linkage to keep the process moving at a fast pace.

With respect to the three approaches that were discussed, there was little support, particularly from the Agreement States, for taking the authority for the sites after they had been decommissioned.

With respect to the resident, the preferred option of the three approaches there is that the current practice of having inspection available during major phases of decommissioning seemed to be the preferred approach with respect to that issue, and certainly, having a performance-based radiological assessment of the site was preferred, but again recognizing one needed to have specific criteria to

62

shoot for, and that's how you do the site decommissioning rule, and that summarizes the comments on DSI 24.

CHAIRMAN JACKSON: Very good. Any --

MR. JORDAN: I have a closing remark to make at this point, and I think it's important that we not only recognize the staff work, but the responses that we got from stakeholders, internal and external. Stakeholder involvement was, I thought, excellent.

The committee entered that process with some feeling of risk or impending problems, but it worked out very well and the stakeholders were very, very thoughtful and constructive, and the committee finds that it was a positive experience and perhaps a model we would utilize again in a future exchange.

CHAIRMAN JACKSON: Thank you.

Following on that, you have presented and provided and shared with us a significant amount of information and insight gained as a result of your interactions with the stakeholders, and stakeholders is not being used in a pejorative sense here.

I know that this approach of sharing the Commission's views on policy with our stakeholders, including our own employees, licensees, as well as members of the public before the Commission reaches a final policy decision is new.

63

Can you tell me, beyond the specific input, some of what you've shared with us today? What do you think we've learned from this process that will be useful going forward?

MR. JORDAN: Well, I think the facilitation of comments -- the preliminary -- the sequence of preliminary decision, that is, there's some direction and thought been given based on staff proposal, and the staff proposals were not, except for the one I was involved in, biased towards a particular outcome, a particular option, but they were options presented with a discussion and not a recommendation for selecting an option.

The Commission selected from among the options and then offered that for comment. I think that's a very good model, and the public and our own staff viewed it as a positive approach.

CHAIRMAN JACKSON: Did it present any particular difficulties for you?

MR. JORDAN: The only anxiety is at the front end. There was a great deal of -- there was an investment of time and there is a -- then a calendar effect that no one believes that they've had sufficient time to comment, ever.

CHAIRMAN JACKSON: Well, that's true anyway.

MR. JORDAN: That's correct. And so there was a -- in fact, in this case, we did provide a two-week

64

extension for those that did have further comments and still we got substantive comments after that time frame. So that affects the calendar that one can do things.

But in terms of the benefits, I think the benefits outweighed the effect on the calendar and the risks.

MR. MIRAGLIA: I just would like to share an observation. I think the rest of the committee would also agree with the observation that it was unique in that it was decisions in many areas -- usually when we have public outreaches, it's focused on one area. We had a whole range of activities.

And one observation that hit me is that this is a

unique experience in that many of our licensees, from small materials to large reactors, were interacting at the same time, and the full breadth and scope of the agency's responsibilities and role were at least exposed to all.

I'm not sure they were understood by all, but the complete range of activities, and that was unique in terms of having everyone see what's on the agency's plate and what roles it plays and the various things, and that was a very unique aspect of this particular set of meetings.

I just thought I'd share that.

MR. JORDAN: That's an excellent point. And in fact the stakeholders commented in several of the meetings that they enjoyed the opportunity to interact among

65

different types of licensees and with the public and with industry groups.

CHAIRMAN JACKSON: So you're saying we facilitated that process?

MR. JORDAN: We facilitated that interaction, and we had a potential for failing to do that because, had we compartmentalized these in such a way that you didn't have the mix of materials and reactors and states and utilities and industry, we would have failed to have that crossing of interests. And so that was fortuitous, but it worked out right.

CHAIRMAN JACKSON: I'd like to get comments from the other two.

Ms. Silber.

MS. SILBER: Well, to follow on --

CHAIRMAN JACKSON: Three.

MS. SILBER: -- with what was made, we did observe through the meetings that we found it very interesting that we were drawing from a wide group of individuals and we found that individuals particularly, I think we anticipated the licensees, the large groups that deal with us, to have an interest in these meetings.

But we were quite surprised by some of the individuals who, at their own expense, and in some cases taking leave from their jobs and traveling some significant

66

distances, attended the meetings and also gave us some very valuable input that gave us a different perspective on a number of the issues.

CHAIRMAN JACKSON: Mr. Craig.

MR. CRAIG: Well, I just had one other perspective. It goes back to a point raised by Commissioner Diaz I believe earlier, and it is from the discussion of the stakeholders from the different individual perspectives.

I think they learned a great deal, not just about us, but about each other. I think as a result of that, the comments and the discussions and issues were much more beneficial to the staff and it was a very positive interaction to all the stakeholder meetings.

As Mr. Jordan noted, there was some apprehension before the first one, but after the first one, there was enthusiasm. It was a very positive experience for us and the stakeholders.

CHAIRMAN JACKSON: Mr. Chandler.

MR. CHANDLER: I would agree. It was a very positive exchange from both perspectives. One of the points that was pointed out that I think we need to bear in mind, it came up in the context of the DSI I spoke to on public communication, that was the way in which we present these

issues, the language we use.

In fact, someone commented that the issue papers

67

require 20 years of formal education to fully appreciate --

CHAIRMAN JACKSON: Is that all?

MR. CHANDLER: There was a good lesson in that. I think we need to be mindful of not only the technology we use to communicate with people, but the language we use as well.

CHAIRMAN JACKSON: Absolutely. Any follow-on comments or questions?

Commissioner Rogers.

COMMISSIONER ROGERS: Well, I noticed that NEI's comments, they set up a format to make their comments in and the first point of the format was what, if any, important considerations have been omitted? And I think they had some very interesting things they thought ought to be thought about here.

I'm just wondering if you had any other groups commenting that they thought there ought to be things in there that we've left out and just how we might, in some way or another, in cleaning these things up sweep those into the process.

MR. JORDAN: That there were, and that was one of the formal questions that we posed in the Federal Register notice, that people should identify omissions. And so that was -- that was in fact a useful way to identify.

CHAIRMAN JACKSON: Commissioner Dicus.

68

COMMISSIONER DICUS: No.

CHAIRMAN JACKSON: Commissioner Diaz.

COMMISSIONER DIAZ: Yes, I have one concern, maybe a suggestion.

This thing is getting closer and closer to being put together and maybe seeing the trees inside of the forest. I've got a concern how we are going to assign resources to carry out the, quote, mandate or programs of the strategic plan. Specifically, I'm concerned how we're going to develop our human resources to be able to tackle the different issues and be prepared to assume different roles of higher responsibility.

MR. JORDAN: Yes, and I won't try to answer that. I accept it as a concern that we all must have.

CHAIRMAN JACKSON: Well, I think it is obviously the long-range concern, and it has to do with long-range implementation as well as any renormalizations of our regulatory program.

That is something that I think Mr. Callan and the whole team of new managers know that they have to address head-on in terms of looking, overall, at core competencies and what we need to do, both in terms of responding to specific Commission direction coming out of this, but more broadly, positioning ourselves for any new responsibility. That's a big part of what the management team's job really

69

is.

Commissioner McGaffigan.

COMMISSIONER MCGAFFIGAN: The question I asked earlier was really a concern. I think that perhaps we would have been better off if everybody knew how much all these options were going to cost when they were talking about them, and I am concerned just -- it's a resource issue, whether we're going to be able to either go in for significant additional resources or find other parts of our

budget that we can cut back to pursue options, but there's a process for doing that.

The stakeholder comments might have been more on point to the process -- we're going to have to go through the next several months -- if they had -- if they had realized that some of these things weren't free.

CHAIRMAN JACKSON: I think everybody knows they're not and I guess I'd say yes and no. I would say when you're considering a plethora of options, there are always different ways the process can be handled, but a way to begin to give some focus that allows the staff to put some flesh on the bones in terms of what the resource implications are is to have the preliminary views.

In the end, we're going to have to determine what that prioritization is, given the understanding we have of our various stakeholders' concerns. But in terms of, you

70

know, making the hard-core marriage between the resources and the choices is really our job to do.

Well, the Commission would like to thank the members and staff of the Strategic Assessment and Rebaselining Steering Committee for a very informative and full briefing on this Stakeholder Interaction Report and related issues, and so I commend you for seeking a wide stakeholder input and participation.

You provided the Commission and I believe the public with a well-organized effort. The effort of information will be of great assistance to the Commission as we consider and make final decisions on the Direction Setting Issues.

The Commission in this meeting would like to thank the many organizations, licensees, NRC employees, individuals, and all who participated in the public meetings and/or who provided written comments. The Commission in fact values very much this input and will consider it in developing our final decisions on the direction of the NRC, and so unless there are any further comments for my full Commissioners, we stand adjourned.

We do have an affirmation for the Commissioners.

[Whereupon, at 11:48 a.m., the briefing was adjourned.]