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UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

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BRIEFING ON PROGRAM TO IMPROVE

REGULATORY EFFECTIVENESS

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PUBLIC MEETING

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Nuclear Regulatory Commission

Commission Hearing Room

11555 Rockville Pike

Rockville, Maryland

Wednesday, May 14, 1997

The Commission met in open session, pursuant to notice, at 3:04 p.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

EDGAR McGAFFIGAN, JR., Member of the Commission

STAFF AND PRESENTERS SEATED AT THE COMMISSION TABLE:

JOHN C. HOYLE, Secretary

JOSEPH CALLAN, EDO

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

DAVID MORRISON, Director, Office of Nuclear Regulatory Research

JAMES LIEBERMAN, Director, Office of Enforcement

THOMAS MARTIN, Acting Associate Director for Technical Review, NRR

DENWOOD ROSS, Director, AEOD

GUY CAPUTO, Director, Office of Investigations

P R O C E E D I N G S

[3:04 p.m.]

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

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

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

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

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

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

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

Mr. Jordan will continue this briefing.

MR. JORDAN: Thank you.

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

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

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

Could I have slide 2, please.

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

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

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

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

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

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

While the basic concept has remained, these

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

Could I have the next slide, please?

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

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

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

Could I have the next slide, please?

CHAIRMAN JACKSON: Before you go, Mr. Jordan --

MR. JORDAN: Yes.

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

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

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

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

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

MR. JORDAN: Yes.

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

MR. JORDAN: Yes.

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

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

[Laughter.]

MR. JORDAN: And we will cover that.

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

MR. JORDAN: Slide 4, please.

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

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

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

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

MR. JORDAN: Yes.

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

MR. JORDAN: Yes.

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

MR. JORDAN: Yes.

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

MR. JORDAN: Yes.

CHAIRMAN JACKSON: Okay. And --

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

MR. MARTIN: Concept.

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

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

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

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

CHAIRMAN JACKSON: Okay. Right.

Commissioner McGaffigan will add ten more.

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

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

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

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

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

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

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

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

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

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

MR. CALLAN: Let me say something, Tom.

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

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

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

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

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

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

CHAIRMAN JACKSON: Commissioner McGaffigan, you

still have --

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

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

Commissioner Rogers.

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

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

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

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

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

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

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

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

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

CHAIRMAN JACKSON: Commissioner Diaz I think has a question.

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

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

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

Slide 5, program objectives.

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

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

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

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

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

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

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

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

That's just some examples of --

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

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

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

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

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

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

CHAIRMAN JACKSON: Okay.

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

issues.

CHAIRMAN JACKSON: Slide 6?

MR. MARTIN: Slide 6.

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

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

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

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

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

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

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

CHAIRMAN JACKSON: Commissioner McGaffigan and Commissioner Rogers.

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

MR. MARTIN: Correct. Yes.

COMMISSIONER McGAFFIGAN: Should that be a criterion or is that just implicit?

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

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

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

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

MR. MARTIN: Yes.

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

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

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

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

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

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

CHAIRMAN JACKSON: Commissioner?

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

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

MR. JORDAN: Yes.

CHAIRMAN JACKSON: Commissioner McGaffigan?

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

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

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

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

So not all measures of timeliness would --

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

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

COMMISSIONER McGAFFIGAN: So that's not --

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

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

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

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

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

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

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

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

the foundation for this particular effort.

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

CHAIRMAN JACKSON: Okay.

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

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

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

For example, develop an implementation plan that

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

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

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

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

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

I think it would be useful at this point first of

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

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

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

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

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

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

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

MR. MARTIN: Yes.

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

MR. MARTIN: Yes. Absolutely.

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

Slide 8.

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

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

The types of areas that would be put into the mix

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

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

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

COMMISSIONER ROGERS: Please.

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

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

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

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

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

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

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

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

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

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

CHAIRMAN JACKSON: Commissioner Diaz and then Commissioner McGaffigan.

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

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

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

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

MR. JORDAN: It's a tool.

MR. CALLAN: It's a tool.

COMMISSIONER DIAZ: Right.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAIRMAN JACKSON: Well, I think --

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

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

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

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

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

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

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

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

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

Yes, Commissioner Diaz?

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

Commission should be going.

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

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

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

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

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

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

Proceed.

MR. MARTIN: Slide 9.

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

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

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

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

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

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

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

Next slide.

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

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

Risk and impact insights will be applied to the

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

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

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

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

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

The next slide, please.

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

to develop regulatory effectiveness insights from their enforcement perspective.

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

Could I have the next slide, please.

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

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

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

Next slide, please.

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

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

MR. JORDAN: It would begin materials in April of

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

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

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

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

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

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

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

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

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

have to be vigilant about.

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

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

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

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

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

CHAIRMAN JACKSON: Okay. Commissioner Rogers?

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

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

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

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

CHAIRMAN JACKSON: Commissioner Dicus?

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

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

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

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

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

CHAIRMAN JACKSON: Commissioner Diaz.

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

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

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

MR. JORDAN: Yes.

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

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

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

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

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

MR. JORDAN: Not at all.

COMMISSIONER DIAZ: Okay.

CHAIRMAN JACKSON: Comment?

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

COMMISSIONER McGAFFIGAN: I will try to be a

broken record only briefly.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CERTIFICATE

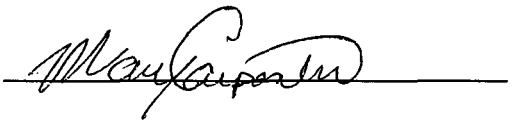
This is to certify that the attached description of a meeting of the U.S. Nuclear Regulatory Commission entitled:

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

PLACE OF MEETING: Rockville, Maryland

DATE OF MEETING: Wednesday, May 14, 1997

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

Transcriber: 

Reporter: Jon Hundley

REGULATORY EFFECTIVENESS PROGRAM

Edward L. Jordan
Thomas O. Martin

May 14, 1997

BACKGROUND

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

GOAL AND CONCEPT

Goal:

Improve NRC's regulatory focus and performance

Concept:

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

PARALLEL PATHS

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

PROGRAM OBJECTIVES

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

SCOPE OF ISSUES

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

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

Initial development will focus on power reactors.

SOURCES AND SELECTION OF ASSESSMENT AREAS

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

POTENTIAL ASSESSMENT AREAS

REGMAT

- Water Chemistry
- Unique Design Features

DATA/EXPERIENCE

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

REAS

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

PROGRAM ASSESSMENTS

Optimum balance of site and in-office activities

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

HANDLING REGULATORY EFFECTIVENESS FINDINGS

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

ROLE OF DEDO OFFICES

RES

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

AEOD

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

ROLE OF DEDO OFFICES (CONTINUED)

OE

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

OI

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

IMPLEMENTATION PLAN

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

IMPLEMENTATION PLAN (CONTINUED)

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

RESOURCE REQUIREMENTS

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