The Regulatory Information Conference met in the Grand Ballroom at the Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Rockville, Maryland, at 8:00 a.m., Michael F. Weber, Director of the Office of Nuclear Reactor Regulation, facilitating.

PRESENT:

STEPHEN G. BURNS, Commissioner, Nuclear Regulatory Commission

MICHAEL F. WEBER, Director, Office of Nuclear Regulatory Research
DIRECTOR WEBER:  Rounding out our Commissioner plenary presentations, I now have the honor to introduce Commissioner Stephen G. Burns, who began his service on the Commission November 5th, 2014, with a term ending June 30, 2019. Mr. Burns served as the 16th Chairman of the Nuclear Regulatory Commission from January 1st, 2015 through January 23rd of this year.

Now serving as a Commissioner, he continues to be engaged in the work of the agency, and in its safety and security mission. Commissioner Burns had a distinguished career in nuclear safety, both at the NRC and internationally. This may be his 27th regulatory information conference but --

(Off mic comment.)

DIRECTOR WEBER:  But he missed three while he was in France he mentioned, although it is his third as a Commissioner of the Nuclear Regulatory Commission. Immediately prior to rejoining the NRC, Commissioner Burns was the head of Legal Affairs at the Nuclear Energy Agency of the organization for Economic Cooperation and Development in Paris, from 2012 to 2014, and prior to serving at NEA, Commissioner Burns served as a career employee at the Nuclear Regulatory Commission for 33
years, from 1978 until 2012.

In this capacity, Commissioner Burns served in a variety of challenging roles, including serving as NRC's general counsel from May 2009 to April 2012, as the deputy general counsel before that, beginning in 1998, and also of note Commissioner Burns served as the executive assistant to former NRC Chairman Ken Carr and served as the first director of the Office of Commission Appellate Adjudication.

He received the NRC's Distinguished Service Award in 2001 and the Presidential Meritorious Executive Rank Award both in 1998 and 2008. Commissioner Burns received his juris doctorate degree with honors in 1978 from the George Washington University here in Washington, D.C., and his Bachelor of Arts degree magna cum laude in 1975 from Colgate University in Hamilton, New York. Ladies and gentlemen, please join me in welcoming Commissioner Steven Burns.

(Appause.)

COMMISSIONER BURNS: So I'm not going to talk about Colgate basketball, but I'm only interested in hockey anyway, and so anyway. So you guys can all worry about those things. Thanks for the introduction, Mike. Actually Mike and I worked together on Chairman
Carr's staff some time ago, and that was a great honor for both of us and a great learning experience for us as well.

First, a couple of just acknowledgments of staff, and I could probably say ditto to a lot of the comments that have already been made, and actually I kind of like this going last. So I anticipate some of the questions and I'll say what she said or what he said or something like that at the end.

But I do want to first offer my congratulations to Christine Svinicki for her designation as Chairman in January. I worked with her. I talked about my career and she talked about hers here at the NRC, while I was in -- or in different capacities over a number of years, and I've always appreciated her quick wit, her sharp mind and her strategic viewpoint.

We've had a good transition. It's under -- sometimes a little challenging circumstance in January but I think it's worked well, and I've asked my former Chairman staff to give her and her staff support as we do the transition. I think that's gone very well, and I think that's one of the great things I think about the agency, where we're able to do that.

I also want to take my -- this opportunity to express my appreciation to senior management who
supported me so well during my two years as chairman is, you know, at the point I was being lured back to the NRC from Paris, you can't believe I did that still, right?

But you know, I really never expected to step into the role of chairman. But the staff, many of whom when we were -- well, I was going to say had a lot more hair on our heads, but looking down at a couple of my colleagues, at least mine was a little darker at the time. But some of these guys like Bill and like Vic, Glenn Tracy and others, I worked with as we were sort of growing up at the NRC and across the career and learning things and applying that.

I appreciate their service and those of all the senior management and their support, particularly during the time as chairman. Because basically, you know, even though in the chairman capacity you really have to rely not only on your colleagues, on the Commission to support, you know, support you where our viewpoints align, and so when we reach consensus and decisions to go forward.

But particularly on the staff, senior management and line staff as we carry out our safety and security programs. So again, I appreciate that. I also wanted to acknowledge my personal staff. As the audience may not be aware, the Chairman's Office, and
this really goes back to the time of Chairman Zech. It was structured to be a larger office than individual Commissioners' offices.

When I took on the extra responsibility to be the chairman, I decided not to fully staff up, you know. We had a few more than the Commissioners' office, but I really wanted -- I wanted to sort of grow into the role and see what we really needed, and the folks I had there, I was really impressed with and really stepped up to the bar.

I want to acknowledge a few who have not come with me, back up to the 18th floor and some of them -- first, Clare Kasputys who's continuing on in Chairman Svinicki's office. Clare is one of almost what I would call these national assets because of her understanding and knowledge of the budget and administrative processes with the NRC. So I want to thank her.

I want to thank Holly Harrington who was in Office of Public Affairs, but did part-time duty helping me with speech writing, and the speed and skill with which she did that was very impressive. Lastly, Johari Moore, who was my technical assistant for materials. She really has one of the sharpest minds we had in the office and her advice on an array of issues was very
valued, and I loved her very dry and droll sense of humor
and sharp wit. It was a good compliment.

In the Burns family, humor is important, you know. Going back to I know my grandfather, but I was going to tell a pun, but he would say probably I'd say two-thirds of a pun, P-U, okay. All right. So that's my joke for the day. Anyway, but Johari's transiting on in NSIR, expanding her career, and I hope she has a long career with this agency, because I think she's going there.

And then of course I want to acknowledge the staff that did come back up with me to the 18th floor. Steve Baggett, who's also served the Commission in other capacities; Nan Valliere as well. Tracy Stokes, who came to me from the Office of General Counsel.

My administrative assistant is Kathleen Blake and Sandy Cianci. I really appreciate to continue to work with them, and of course Jason Zorn, who I had hired into the NRC through the Honors Program in the Office of General Counsel.

He had wandered outside the agency and I drew him back from Pittsburgh to work with me, and he's been a great support and great help to me. So I wanted to start out with those thanks, and how are we doing on time. Okay. But when I reflected on what to talk about
today, actually sort of I don't know whether this is one of these sort of old man moments or what, but if I go back 40 years, 40 years ago I applied for a job at the NRC.

Not this time of year; I think it was probably closer to the September time frame. But at the same time, I did reflect on what I was doing four years ago. So I was in law school and I was on the George Washington Law Review and I wrote an article for the law review on Congress and the Office of Technology Assessment.

How many of you remember OTA? Yeah, okay. There are a few of us there. It was abolished after, in the 1990's or the early 2000's. I can't remember quite when, but the idea, when I go back and read my old note, and I'll tell you why I'm mentioning my old note in a minute, is you know, this notion of trying to get better.

It was an effort in looking at getting better at science and technology, and how it's incorporated in the public policy process. One can argue about the merits of OTA or not. But that sort of realizes is I've been sort of at this even at law school, and this was not -- I was a German major, you know. If you want me, I can recite a poem for you later if you'd
like from memory, a Goethe poem, a beautiful poem.

But you know, this is not something I really thought I would get into. But I realize now I've been sort of at it about 40 years. Now why did I mention my note? Well when I went back to look at it on Hine Online, which is one of these electronic research services, it said I was something like the 50,467th most read person in the Hines Online.

So what I'm trying to do is have you guys kind of look it up so I get down to about 49,000 or something like that today. But in any event, one of the things I realized, and I think even coming back to the agency, certainly my time at NEA, but also in the General Counsel's office and working with the technical staff, working with the legal staff is this thinking about what I talked about last year called the regulatory craft.

I'm not going to repeat the speech I gave last year, but maybe I can build upon it in some small way. We talked a lot this morning, and I think appropriately so, sort at the pivot point we may be at as an agency, having gone through the Project Aim process, which again and I, you know, I compliment those both on the staff and Chairman MacFarlane and the other Commissioners for encouraging that process in 2014, particularly as a way of -- for us to take our own destiny
in our hands, to the extent that we can.

You know, still with, you know, the oversight of the Congress, the discipline you have through the budgetary process, through the executive branch. But something that says we -- let us think about what makes sense going forward, and we've gone a far way with that.

But one of the -- you know, when we come through Aim and we're particular projects and now what we talk about is a sustainability and how we move on from it, which means, you know, we've gotten through the things like redesigns, and some processes. We've I think recentered some processes. Vic talked about backfitting, for example.

We've done those types of things. We've cut back on things like perhaps the excessive use of toner cartridges and things like that. Those things can, as we all know, those things can, you know. Yeah. You need to be in that business in terms of, right. So you can cut those kinds of costs.

But I think there's still something to be said about what we need to do is continually focus on what it means to be a regulator, and as I say I've talked about the regulatory craft in some past speeches. But ultimately it's about how our people sort of understand
and work through the regulatory process. I think that's the essence, and I think that's a lot of what I think we're focused on as an agency.

I think that's what you heard, particularly Vic and a number of details that Vic was talking about, in terms of where we need to focus. So and it's not an easy task. We don't walk into this building or the buildings across the street becoming sort of effective regulators.

You know, we come out of different disciplines. I came out of law school. We have people coming out of the Nuclear Navy, out of engineering schools, maybe have had some industry or other types of experience coming in, and you just don't sit them down and say do it.

I actually had an attorney once, and I realize in the interest of a good work environment, he says I'm using this as a metaphor. I could have smacked him upside the head because what he did, he had a -- there's a young attorney who came to work for me. She had been my summer clerk. She comes into the office her first week or second week. He dumped something on the desk and said oh here, give me this by the end of the day.

Now nobody really knew it. I found out
about this and was absolutely appalled, because though she had been at the NRC before, she really wasn't into the, if you will, into the system yet. Really having that understanding of what's your role. You come out of law school, well we're going to do some law. Or we know we're going to sit here and talk about what the law is.

But then you have to realize you've got to interact with that client, that client who may be that technical expert. He might be that office director. He might be that peer that's the project manager. It might be you're going to a meeting with somebody from, you know, with people from the outside, where you have NGOs, where you have licensees who are all engaged.

So it's not just a matter of showing up and you're here and you've got to do the work. You've got to be, you know, you've got to be inculcated in terms of what the dynamic is, what it is about our job and how we do it and how we can do it well.

So before I go on about what that is, what I think we can focus on, one of the things I think for us as we come into the agency, and here I'm going to perhaps drift from sort of the technical realm that the agency primarily works in, but we have to understand the context, and maybe that's this intersection of law and
technology.

I know Chairman Diaz used to talk about that a lot, and I think there's a lot to that. So it's this integration, if you will, of the science, of the engineering, but also the framework that's the institutional, the legal framework that we work in, and having us understand that and having new folks here at the NRC and actually a continual reminder for those of us who have been around and continue to work in the area. I think it's very important.

And as we know, within our framework, the hallmark is the Atomic Energy Act of 1954. While we have interesting debates about what it means, ultimately we come down to that concept, that very in effect simple or deceivingly simple phrase "adequate protection" and what it means in a particular context in a particular regulation, and the particular environment that we regulate in.

And of course seeking that, we're going to have healthy debates. We're going to have folks, at one level you're concerned about whether you've gone too far, whether you've not gone far enough. Those are the debates that we have. That's the interesting thing, and all -- what common sense, I think, dictates an understanding in the context of what we have under the
Atomic Energy Act, is there is no such thing really as zero risk.

And that's not what we should attend to as regulators or attempt to make as an unattainable goal. We have to get the mentality infused in those we work with, to ensure that we make that understood in terms of those we regulate and those we are obligated to regulate for, to protect, the American public.

So what I might turn to is perhaps a little bit of law. I hesitate to call it nuclear law, and one thing I would say is if you beg my indulgence, is perhaps a starting point for this, even for us here at the Nuclear Regulatory Commission, and I would say of course because we are a federal agency, are the starting points of the U.S. Constitution.

So why am I talking about the Constitution? What does that have to do with the regulation of nuclear safety. I think at a lot as it turns out. To quote James Madison, who's not a nuclear engineer, but James Madison writes in Federalist No. 51, that great collection of documents that talk about our Constitution, Madison writes "In framing a government which is to be administered by men over men," let's say people over people, "the great difficulty lies in this: You must first enable the government to control the
government, and in the next place oblige it to control itself."

That's that interesting dynamic. I think Madison and others who, as they wrote about in the defense or in the advocacy for the Constitution. His statement outlines in broad terms what the Supreme Court later has articulated as the limited powers of the federal government on the Constitution.

The Court described this construct as "The federal government is acknowledged by all to be one of the numerated powers. That is, rather than granting general authority to perform all the conceivable functions of government, the Constitution lists or enumerates the federal government's powers." It's the Constitution's express conferral of powers, some powers, make it clear that it does not grant others, and the federal government can only exercise the powers granted to it.

So if we look at that construct a slightly different way, a basic premise of our entire system of government is that citizens or associations of citizens or organizations that they form get the benefit of the doubt when it comes to government action. Such a notion is reflected, for example, in the backfit pool I would argue, which prescribes that the agency must undertake
an analytical process and justify its position before
imposing new requirements on the regulated.

It's also reflected in the legal structure
of our country and our government, which under the
Administrative Procedure Act prescribes specific
standards for agencies of government to apply before
imposing new burdens on society. Now sometimes this
framework can seem like an onerous impediment to agency
action.

However, truth be told it is intended to be
an impediment and sometimes difficult by design. So as
individual citizens, we recognize the value of this
impediment when it comes to things like our rights under
the Fifth Amendment not to have property seized by the
government arbitrarily, or the limits on the taxation
authority of the IRS, of the right not to be detained
by police without cause.

It may be harder to take these limits in
mind sometimes when it comes more civil authorities, and
from the perspective of government regulation in an
area. But it's necessary I think to remind ourselves
of it from time to time. So that leads us to authorities
of the NRC. The Supreme Court has explained time and
time again that a regulatory agency operates solely
within the authorities given to it by the Congress.
For the NRC, that is primarily the Atomic Energy Act and a few other things along the way, the Energy Reorganization Act and some others. While our authority under the statute is broad and permits a significant exercise of discretion by the agency, it's not unbounded.

As I alluded to earlier, I think the starting point of all this inquiry is our mandate that the NRC provide reasonable assurance of adequate protection. It's not an absolutely assurance again or 100 percent expectation of absence of risk. So why is that important when it comes to understanding how to be a regulator?

Well, I think every decision that we make must be viewed through this lens, and an essential function of the NRC is to determine how much risk is acceptable and when establishing regulatory requirements. When it drafted the Atomic Energy Act, the Congress was trying to establish a balance between establishing a strong regulatory framework for an emerging industry using novel technology, while at the same time not stifling its development.

Worlds evolve, and the promotional and regulatory organizations within the Atomic Energy Commission that were established at the time were broken
apart for good reason. But it's important to remind ourselves that peaceable uses of atomic energy for "the maximum contribution to the general welfare" continues to be the policy expressed in the Atomic Energy Act.

So let's back up to what it means to become a regulator. Within those general principles I've said, I think there are probably three things we need to focus on in the agency. I think we are, and I think those are areas where I think we need to continue to focus. One is training and development. I mentioned my young colleague who started out and basically throwing, you know, rewrite the Atomic Energy Act on the first day of work, something like that.

So that's training and oversight. I think it's management oversight, management leadership and stakeholder engagement. Let me briefly address each of those. So as I said, our staff often come from different pipelines, Nuclear Navy, industry, university, law schools, other schools. They came into our doors knowing the principles of engineering and science and law, but we don't necessarily know how to be a regulator.

So part of our task here as, you know, senior officials in the agency, as managers, as experienced staff is to help that process along. Some
of it is done, I think, by training. You know, what you
go through, how it affected, if you will, the tribal
lore, the culture is transmitted. Some of it is by
example. It's by the example of us as Commissioners,
of senior management. It is of peers. It is the
ability to engage with each other as in peers. It is
those sort of support groups within your cohort.

It is, and this is one of the things I've
always thought has been a strength of NRC, it is this
willingness to look across disciplines. You know, we
get a lot of -- over the years, I probably -- if I had
collected all the lawyers jokes and my engineer jokes,
I'd probably have -- well I could probably publish a
book.

But part of that comes out of the
camaraderie that we develop, and knowing that we are
part of a mutual support system. That's what's
important and that's what's important for us to continue
to engage with in this agency. Vic touched on it in
terms of some of the things I think the staff wants to
try to do.

You know, we recognize in terms of sort of
the feedback or the temperature-taking we get from some
of the surveys, that helps us go on and helps us become
a tighter knit organization, to address those issues
where some people may not feel that they have that capacity or that engagement or acceptability to raise issues at all. That's something we have to keep working at.

And we have to -- it is within that sense is by -- again by example, and by coaching and all, is this finding that -- and it is, we've had a lot of grail quests here today, and I've used in other speeches, you know. I'm like Percival on the grail quest. But it is, I think, a quest of trying to find either that sweet spot in developing how do we look at that.

We engage, we raise the issues. Ultimately, we have to resolve the issues. But that's what we need to inculcate into our staff. So that's part of our training and it is again, as I say, it's formal and informal. Management oversight, it says without saying, we have to, as senior leadership, the Commission, the senior leadership, the offices, we have -- and down to the first line supervisors, who in many ways I think have the most difficult task.

We have to keep inculcating that culture that looks at how do we find the optimal solutions. How do we assure that we tease out what's important from what just may be a distraction in terms of safety issues? You know, NRC is often and I sort of cringe sometimes
when we're talked about as the gold standard.

But what I think the NRC needs to do is always seek to achieve highest standards of performance, but do so with the balanced perspective on the significance of activities and the overall context of our regulatory responsibility, and the overarching objective to be focused on the right things.

You know what? That is a journey. That is an ongoing quest. Management can reinforce those principles through day-to-day oversight, engagements with the staff and agency operations, engagement with those who have an interest with what we do outside the agency, whether it's licensees, whether it's governmental officials, whether it's members of the public, NGOs, the press, the media.

We have to do it not just by proclamation, but by practice and have to implement it that way, and that's where management I think has the burden. Finally, what I would say, and I mention this again it is, this is not solely an internal reflection or journey. It is a quest on which we engage with others along the road, and if you read any of those old stories, and I had -- as a German major, I actually had to read some of the old things.

So those knights who went out didn't just
talk to themselves. They met interesting people. Sometimes you weren't quite sure who they were on the way and they turned out to be magicians and kings and pretty women sometimes, for some of these knights, along the way.

But what that says is it really is about engagement. It's about engagement with the industry. It's engagement with folks in the NGO community, with the general public that lives near the plants, with the press, with the Congress, with state officials, with local officials. That's again something we have to work at, I think at all the time. And that, what that emphasizes to me is what I've said across the years. That means basically we are independent, but we are not isolated. That for me is the greatest thing or objective I think we can achieve there.

So I've tried to scratch the surface here in the meanderings of these thoughts is, you know, I quote Mark Twain if I had more time, I would have written a shorter speech or to paraphrase Mark Twain. But so I come back again. So I think we have to recognize NRC can't operate in a vacuum and it shouldn't do so.

That's not only bad practice, but it's inconsistent with the law, which requires us to engage through rulemaking notices. We have a public hearing
process. We go beyond that in terms of trying to do engagement, and I know some of my international colleagues. I'm actually very -- I remember studying, for example, the changes in the French law and the Transparency Act of 2006.

The idea there to inform in particular the public information or the local information committees. So there are different practices around the world I think we can look at and learn from. So that's that engagement.

Again, we can't assume just because folks come in the door and we need that technical talent, that we know how to be regulators when we come in, so we need to work at that. And finally, I think I'll leave you with it's hard. It's hard being the regulator. But I don't ask for any sympathy for that being hard.

It's hard by design. It's because of the framework we work in to, and sometimes it's harder than others. I've heard some of these questions, and that gets at I think the point I'm trying to make about engagement and also thinking about what really makes sense in terms of safety, of security and the viability of the regulatory program.

So there are competing factors, tensions, pressures to reach the right decision at the end of the
day. You out there hold us to that standard, as well you should. I think we owe it to you, we owe it to the American people to judicially exercise our authority, keeping safety, keeping security at the front and first in line. Thank you.

(Applause.)

DIRECTOR WEBER: Thank you, Commissioner Burns. We have time for a couple of quick questions. So the first one is at a time when states like New York and Illinois are being asked to help ensure the competitiveness of nuclear power as a source of generation, should more weight be given to broadly held state interests under the Constitution, such as eliminating SafeStore (phonetic) and requiring immediate dismantlement for closed plants?

COMMISSIONER BURNS: Well, I think those are decisions. This is often the interesting thing, and I've come across in the last couple of years in terms of some of my travels is some of those decisions are really decisions of engagement outside the NRC's tent. What that, I think that means is what we are -- have to be focused on is focused on the technical aspects of what we do and the safety aspect.

We have to be up-front about, you know, up-front about that. This is what it means from out
standpoint, based on the best information we know, is to what the standard should be. Questions about, you know, fuel storage, whether you support basically efforts to help nuclear generation that might otherwise shut down, timing of Safestore, a lot of those things are engagements I think within either in the local, in local areas or regionally or national things that really are not primarily the NRC.

So I think what we have to do is keep, you know, on task with respect to honest assessment of what we think the technical risks are and move from there.

DIRECTOR WEBER: Okay, and the last question, is there a simple way to open and update the Atomic Energy Act to address some outdated aspects, such as foreign ownership and operation, without opening up the entire Act to review and mischief?

COMMISSIONER BURNS: No.

DIRECTOR WEBER: There you go.

COMMISSIONER BURNS: No. I might even say hell no.

DIRECTOR WEBER: All right, Commissioner Burns. Thank you very much.

COMMISSIONER BURNS: Thank you.

(Applause.)

DIRECTOR WEBER: This concludes our morning
plenary and we are now on our break. Please join us again no later than 10:55, so we can resume for our special guest plenary session. Thank you very much.

(Whereupon, the above-entitled matter went off the record at 10:31 a.m.)