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REMARKS BY
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AT THE
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HOLIDAY INN CROWN PLAZA
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Good afternoon, ladies and gentlemen. It is indeed a pleasure to be here at this fifth annual NRC Regulatory Information Conference. Once again, it is gratifying to see that this Conference is so well attended, not only by so many from the United States, but from many foreign countries as well.

This Conference, in my view, is the singlemost important gathering of its kind -- indeed it is unique, focusing, as it does, on regulatory and safety developments of mutual importance to you in the industry and to us in the regulatory community.

Whatever success we as an agency have been able to achieve with this Conference -- and I do think it has been considerable -- is attributable, in large measure, to the fact that we seek to encourage extensive and open discussion between and among all of the participants, in the frankest possible manner. It is exactly that kind of unfettered dialogue that we value. So I encourage you, over the course of the Conference to do just that -- as I am sure you will.

I should also say that it is a special pleasure for me to appear before you this year, the fourth year that I have been invited to address this Conference, for what will be my final opportunity to speak to you from this podium in my current capacity.

As I announced this past Friday, I do not intend to seek reappointment to a second term and will therefore be concluding

my service as a Commissioner and leaving the Commission at the end of my term this coming June 30th.

I have enjoyed the opportunity to serve in this capacity and, in particular, to work with each and every one of my Commission colleagues over the past five years, as well as with the agency's fine and dedicated staff -- a staff that, in my view, has no equal in the federal government. I have also enjoyed coming to know many of you in this room, as I have visited your facilities or discussed with you issues concerning nuclear regulation and nuclear safety.

But at the conclusion of my term, I will have served for nearly 14 years in the federal government and, with two young children and a good part of my professional career in front of me, I must say I am looking forward to new challenges and opportunities.

It has become somewhat customary on an occasion such as this to reflect back on what has transpired during one's term of service, and then to engage in some informed prognostication about what the future holds.

In that spirit, as I was collecting my thoughts for this Conference, thinking back over the past five years and the hundreds and hundreds of issues that came before the Commission during that period, I was reminded of the remark that Yogi Berra once made: "It's hard to believe all the memories that I've forgotten."

In all seriousness, I don't intend to go through the customary review of what the agency has accomplished during the past five years. Nor am I presumptuous enough to believe that I can speak with authority about what the future holds for the nuclear enterprise and nuclear regulation. I'll leave that to others.

But I would like to focus on three issues in particular that have been of great interest to me over the past five years -- issues that I have devoted a great deal of time to during my tenure, not only because of the singular importance of each of these issues, as individual issues, but also because of the broader importance of each of these issues from the standpoint of the regulatory process and how we at the agency carry out our responsibilities.

The three specific issues that I have in mind will come as no surprise to those of you who have come to know me and the matters in which I have taken an interest -- the agency's maintenance rule; the Part 52 process for the issuance of design certifications, early site permits, and combined construction and operating licenses; and the license renewal process set forth in Part 54. I pick these three initiatives not only because I've devoted a great deal of time on each of these topics, but, more

specifically, because, in a manner much different from most issues that come before the Commission, where regulatory policy is developed in an incremental way, each of these three issues found the agency endeavoring to do something truly revolutionary -- to effect fundamental changes in our regulatory approach and to do so with the adoption of a comprehensive regulatory initiative on a complex technical issue.

In the case of the maintenance rule, of course, that initiative represented the agency's first significant effort to apply a performance-based regulatory policy in a comprehensive way to a matter of great safety importance -- the maintenance of nuclear powerplants.

In the case of Part 52, the procedures for advanced reactor design reviews and licensing, the agency has endeavored to reverse over thirty years of practice in the licensing of nuclear powerplants, by insisting that safety and environmental issues -- whether they relate to a vendor's design, a utility's proposed site, or an applicant's proposed construction and operation plans -- be addressed early in the process, with a corresponding opportunity for the public to participate at that early stage.

And with the Part 54 license renewal rule, we have an initiative that, while it does not so much constitute a fundamental change to an existing regulatory policy, represents an effort to fashion a brand new process for considering requests to extend licenses for operating nuclear plants.

Each of these regulatory initiatives is instructive for a variety of reasons, but of particular interest to me -- and the focus of my remarks here today -- is the approach that we as an agency took to the promulgation and implementation of these three rules -- where we were effective in the decisions that were made or the actions that were taken, and where, in retrospect, we perhaps would have done things differently.

The Maintenance Rule

Let me begin with the maintenance rule, because, in my view, there are important lessons to be drawn from our experience to date with this rule and its implementation.

Of particular note, I would emphasize four aspects of the approach that we, as an agency, took to the development, promulgation, and implementation of the maintenance rule that, in turn, contributed to what I consider to be a real regulatory success story:

First, the Commission immersed itself in the details of the maintenance rule during the drafting process, working in close conjunction with the staff in the formulation of the language of the rule, as well as the explanatory material in the Statement of Considerations. As many of you know, I undertook an active role in pressing for the performance-based approach that served as the conceptual underpinning for this rule, and then participated extensively in the drafting of the language of the rule and the accompanying Statement of Considerations. From my experience with this initiative, there are three points in this regard that it seems to me are worth emphasizing:

- o It is important to have a clear sense of what your objective is, of what you wish to accomplish with a regulatory initiative. What is the issue that you're seeking to address and how best can you accomplish that? Indeed, you will not, as the Cheshire Cat said to Alice in "Alice in Wonderland", get to where you're going by simply walking long enough, if you, in turn, lack a clear sense of "where you want to get to." In the case of the maintenance rule, while some disagreed over whether there was an issue here that warranted regulatory attention -- that is to say, whether there ought to be a maintenance rule at all -- those of us who believed that there was a need for, and value in, establishing a regulatory framework to govern the conduct of maintenance sought to lay out early in the process how we wished to address that concern -- through a performance-based approach that maximized licensee flexibility and focused the regulatory regime on the result not the process. And I would submit that that clear and consistent articulation of regulatory philosophy by the Commission at the time of the promulgation of the rule and throughout the development of the implementing guidance has kept that effort focused on ensuring that the result is, indeed, going to be performance-based.
- o The devil is in the details, and more often than not, important policy questions are embedded in what, on the surface may appear to be simply minor technical questions or "matters of implementation." I'll come back to this point in a minute.

- o Finally, there is no reason that a notice and comment rulemaking need necessarily take two years or longer. Indeed, I saw first-hand what can be accomplished with the kind of focused and determined attention that the staff devoted to this effort. And I'll return to this subject in the context of my remarks on license renewal.

The second major attribute worth noting about the maintenance rule is that after its promulgation, there continued to be an active interest and involvement from the Commission level in the development of the implementing guidance. This point simply cannot be overemphasized because, in my view, it is of central and singular importance. There is a tendency at the agency -- and I mean this as no criticism of my colleagues, because I suffer from the same tendency, nor do I intend it as a criticism of the staff -- but there is a tendency for the Commission to view its work as largely complete upon the promulgation of a final rule. Historically, we have treated what happens after that point as "implementation" and, in turn, have viewed that as the staff's responsibility. Too often, we have found that important policy questions have arisen after promulgation of the rule, in the process of developing the implementing guidance or in implementing the rule itself. One might argue that this is the result of a poorly-considered regulation that failed to flesh out all of the policy questions at the time of promulgation -- and if the Commission would simply take more time, or listen more carefully to those who comment on the rule, this problem could be avoided. I personally reject that view. Indeed, I think that what we've found with all three of the initiatives that are the subject of my remarks today is that no one can fully anticipate all of the policy questions that will arise in the implementation of a complex regulation. The answer, in my view, is for the Commission itself -- which, after all, is responsible for establishing policy -- together with our senior agency managers, to remain fully engaged in the implementation of a rule after its promulgation. While some might see that as "micromanagement", my own view is that that's exactly the kind of "attention to detail" that is at the heart of any successful organization. Indeed, that's exactly what happened with the maintenance rule and, so far, the results have been quite favorable. By contrast, unfortunately, that kind of Commission-level attention has not happened until just recently with the implementation of the license renewal rule, a subject to which I will return in a moment.

The third attribute that characterized the agency's approach to the maintenance rule was the decision to establish a process for the development of the implementing guidance that ensured the high-level involvement of agency management, as well as the high-

level involvement of industry representatives. The efforts of Jim Sniezek, Bill Russell, and Jack Heltemes on our side, and the efforts of Corbin McNeil on behalf of the industry, proved successful time and time again in coming to grips with important issues that, absent that kind of attention, might have languished unresolved. And on top of that, the schedule set out at the beginning for developing the guidance -- with a goal of having the guidance finalized and the Regulatory Guide in place by June 30th of this year -- is a schedule that will be met.

The fourth and final point that I would make about our approach to the maintenance rule is that we decided, early on, to "road test" the regulatory guidance through an extensive verification and validation program at a number of nuclear power facilities, before adopting the guidance in final form. And that process proved to be extremely valuable, certainly to the agency and I trust to the industry.

These four attributes of the approach taken by the agency to the maintenance rule -- extensive involvement by the Commission itself in the initial formulation of the rule and the accompanying statement of considerations, with a clearly understood regulatory objective; continued involvement from the Commission level in the implementation of the rule, once promulgated, to oversee the resolution of policy issues; the involvement of senior-level managers from the agency in the development of the implementing guidance; and a verification and validation program to work out any kinks in the guidance -- have, in my view, been at the heart of a very successful regulatory initiative, the maintenance rule.

Indeed, I would submit that these very same elements would serve as a valuable template for any complex rulemaking undertaken by the agency in the future.

Part 52 -- Advanced Reactors

If I could turn my attention to Part 52, the advanced reactor framework established by the Commission in 1989, let me say a word or two about that process.

The Part 52 rule, with its provisions for early site permits, the certification of standard designs, and the issuance of combined licenses, is, in my view, perhaps one of the most complex and innovative rulemakings that the agency has ever undertaken. Largely procedural in nature, it poses a host of subsidiary policy and technical issues that, for some time now, have been the subject of considerable discussion within and between the agency, the industry, and the general public.

As might be expected in a rulemaking of this complexity, there were several major policy questions that emerged shortly after the promulgation of Part 52 -- issues such as "level of design detail", the role of the EPRI Requirements Document, and the approach to ITAAC, just to mention a few.

While we were perhaps somewhat slow in recognizing the policy significance of these various issues -- again, this was a situation where, after the promulgation of Part 52, Commission attention to the issue was perhaps not as focused or probing as it might have been -- I do believe that since 1990, the situation has changed dramatically, again for some of the same reasons that I cited in discussing the maintenance initiative. Indeed, the increased Commission and senior NRC staff management attention and involvement that we have seen since 1990 in the resolution of several important policy issues -- something that was the direct result of a series of Staff Requirements Memoranda issued by the Commission in 1989 and early 1990 -- has resulted in remarkable progress.

In my view, the success that we have had in resolving the difficult implementation issues that we have faced thus far in implementing Part 52 is a real tribute to the hard work and dedication of the NRC staff. Moreover, I believe it illustrative of the tremendous capability of this agency when the Commission and senior management focus on an area and give it a high level of attention. Emphasis on detail and follow-through have served us well thus far in implementing Part 52 and I am confident that, if this emphasis is maintained, successful implementation of Part 52 is a certainty.

The License Renewal Rule

With the time remaining, I'd like to turn my attention to what I consider to be the most significant regulatory issue currently confronting the Commission, the issue of license renewal.

As you know, the Commission promulgated the license renewal rule in 1991, following a lengthy rulemaking process and extensive deliberations within the staff and at the Commission level. And in so doing, we felt quite confident at the time that we had established a process that was well-defined, that would provide a stable and certain regulatory framework within which to consider license renewal applications.

Subsequent to that, and following the closure of Yankee Rowe and the indefinite deferral of the license renewal application from Northern States Power's Monticello facility, several questions arose at the Commission level with regard to implementation of Part 54 -- and, specifically, focusing on where things stood in

the implementation of Part 54 as a result of the decisions taken by Yankee Rowe and Northern States Power. Indeed, in November of last year, following a series of briefings on where things stood with regard to implementation of Part 54, I recommended to my colleagues that the Commission convene a series of briefings to hear from the staff on this subject.

Those briefings were held in December of last year, and I think it is fair to say that several concerns were identified as a result of those briefings, concerns that were laid out in a Staff Requirements Memorandum of December 21, 1992.

Without going into a lot of detail on each of the specific issues that arose in those briefings, and that have been the result of focused attention since that time, I would make two observations about our experience with license renewal:

First, the agency dropped the ball on license renewal. At the Commission level, I believe we viewed our task as largely complete upon the promulgation of the rule itself and, consequently, failed to devote the kind of focused attention that such an initiative requires on a continuing basis, following promulgation of the rule.

Second, as a result of the December briefings, the level of attention being devoted to this issue, coming from Tom Murley and Bill Russell in particular, and with the support of Bill Travers and Scott Newberry, has truly been remarkable. As I have observed before, there has been a real "sea change" in the agency's thinking on several key policy questions, including the definition of "age-related degradation unique to license renewal", how to achieve greater integration of the license renewal rule and maintenance rule, what an application must include, and what the enforcement implications are of the approach that is now being discussed.

The progress that we have seen is a direct result of the involvement of the Commission itself and of the agency's senior management. Indeed, I can say without fear of contradiction that we would not be where we are today without the kind of focused attention that we have seen over the past 6 months.

And, most importantly, the effort has culminated in the submission of a comprehensive recommendation just this past Friday -- contained in SECY-93-113 -- that, taken in conjunction with the earlier SECY paper on this subject, SECY-93-049, lays out a comprehensive approach to virtually every key policy question before us.

First and foremost, staff has given further thought to the basis upon which an applicant can demonstrate that an effective program

for managing ARDUTLR is not necessary under the provisions of 54.21(a)(5)(ii). In this regard, the staff has proposed an approach that would categorize most, if not all, nonsafety related structures and components in a fashion that would go a long way towards giving renewal applicants credit for activities carried out under the existing CLB, including the maintenance rule.

Beyond this, the staff has set forth an innovative approach to the replacement of structures and components, recommending that those structures and components that are replaced before the original operating term ends (i.e., at least one like-kind replacement between 20 and 40 years) and which are not projected to be affected by a significantly greater degradation rate during the renewal term, would not, on that basis, be subject to ARDUTLR.

There are several other important matters addressed in this recent SECY paper, including -- (1) the meaning of the term "acceptance criteria" as it applies to effective programs; (2) the meaning of the terms "character" and "magnitude" as they apply to the definition of ARDUTLR; (3) the staff's expectations for the descriptions of effective programs in a renewal application; (4) the practical implications of the effective program descriptions from an enforcement perspective; (5) record keeping requirements; and (6) the content of application submittals to justify continuation of exemptions and relief.

Given its complexity, I commend this latest SECY paper, SECY-93-113, to those of you with an interest in the issue of license renewal. For my own part, while I am not through studying all of the details of the staff's proposals, I must say that I am very favorably impressed.

But the point I want to make in a more general way is that the progress that we have seen over the past 6 months is a direct result of the high-level management and Commission-level attention that has been devoted to the important details of the license renewal process. As a result, we are now at an important crossroads with respect to the license renewal effort. Indeed, the discussion of implementation issues has matured to the point where I believe it is now appropriate and timely to move forward with the next step, some form of rulemaking to codify the approach recommended by the staff.

CONCLUSION

In conclusion I want to thank you all for your thoughtful attention and wish the best to all of you.