

United States Nuclear Regulatory Commission
Office of Public Affairs
Washington, DC 20555
Phone 301-415-8200 Fax 301-415-2234
Internet: opa@nrc.gov

No. S-96-11

FOR IMMEDIATE RELEASE

"LOOKING BACK, ASSESSING THE PRESENT,
AND PLANNING FOR THE FUTURE"

BY

DR. SHIRLEY ANN JACKSON, CHAIRMAN
U.S. NUCLEAR REGULATORY COMMISSION

AT THE

NUCLEAR ENERGY ASSEMBLY
WASHINGTON, D.C.
MAY 30, 1996

INTRODUCTION

Good morning, ladies and gentlemen. It is a pleasure to have this opportunity to address the 1996 annual meeting of the Nuclear Energy Institute. Last year, when I appeared before this assembly, it marked my first speaking engagement as a member of the Nuclear Regulatory Commission (NRC). Now as I approach my first anniversary as Chairman of the NRC, I would like to use this opportunity to talk about some of the challenges we have faced during the past year, what I think we have accomplished, and what I see as the issues which lie ahead for the industry and NRC.

If one looks at objective measures of safety performance, on the whole, safety performance in the nuclear power industry has improved. This gain, I believe, is attributable, in large part, to increased emphasis on:

- improved maintenance practices,
- consideration of risk in the operation and maintenance of nuclear plants, and
- self-assessment of events to identify root causes of problems and to ensure effective corrective actions.

At the same time, the year has not been without troubling aspects either for the industry or the NRC. We have seen a few nuclear plants performing not as well as they should, and we have seen deficiencies in NRC processes as well. Because we live, not in

an ideal world, but, in the real world, we recognize the tendency of the media and the public to focus on the few things that go wrong, rather than on the many that go right. This is not unique to the nuclear area, of course, but, I think there is a special sensitivity on the part of the public where the issue involves nuclear energy. What this means to me, in terms of public acceptance, is that neither the nuclear industry nor the NRC can afford to tolerate anything short of excellence. When problems do arise, I think it is important that we look not only at correcting the specific situation, but also ask ourselves whether there are underlying deficiencies which allowed the situation to occur.

At the NRC Regulatory Information Conference in April, I discussed several issues of concern, including performance, communication, and self-assessment. I would like today to concentrate on two additional issues, one new and one old, that confront the industry. These are deregulation and restructuring of the electricity utility industry and high-level waste. In addition, I will briefly comment on my vision for the NRC, as we move toward the completion of what has been an extremely intensive Strategic Assessment and Rebaselining effort.

DEREGULATION AND RESTRUCTURING OF THE ELECTRIC UTILITY INDUSTRY

As you are well aware, the electric utility industry has entered a period of deregulation and restructuring that potentially could have profound impacts on the long-term ability of NRC's power reactor licensees to obtain adequate funds to operate and to decommission their nuclear plants safely. Although the NRC is not an economic or rate regulator, we have recognized over the years a possible relationship between access to capital and safety of operations. While the NRC has seen much evidence that an efficiently operated facility is a safe facility, we are and must remain vigilant lest economic pressures result in degradation in safety at operating plants.

While transition strategies for deregulation will vary from state to state, and from utility to utility as issues such as "stranded assets," taxes, etc., are grappled with, and must be grappled with, the NRC needs to ensure that adequate decommissioning funding is available whether nuclear plants operate to the end of their license terms, or they shutdown prematurely. In addition, given the potential for significant write-down of assets, and reduced access to ratepayers that deregulation may engender for power reactor licensees, some increase in financial qualifications monitoring is appropriate as electric utilities are deregulated. The NRC needs to be sure that we are apprised in a timely manner of any potential changes to our licensees or to those who exercise control over them that could affect safety or our safety oversight, and whether significant changes in the organizational and/or financial support for each plant are contemplated.

Traditionally, the electric utility industry has functioned as a regulated monopoly, providing essential electrical services under an exclusive franchise in exchange for having rates closely regulated by State Public Utility Commissions (PUCs) and the Federal Energy Regulatory Commission (FERC). This economic regulatory system has provided for over 100 years of reliable and relatively reasonably priced power, while maintaining the financial health of almost all electric utilities. Primarily due to this established economic regulatory process, the NRC has exercised reduced financial oversight of its electric utility licensees. The NRC also allows its electric utility licensees, unlike most other licensees, to accumulate funds for decommissioning over the 40-year terms of their operating licenses. However, with the advent of deregulation, the NRC's assumptions regarding assurance of access to funds must be reevaluated. Almost certainly, we will need to change some of our policies based on this re-assessment.

In response to this potentially revolutionary change in the industry, I initiated a re-evaluation of NRC policy regarding decommissioning funding last fall. Since then, there have been several briefings, both at the Commission and the staff level, from NEI and other industry representatives, State and Federal rate regulators, the financial community, and other stakeholders. In January, the Commission directed the staff to develop a comprehensive action plan to provide a framework for this re-evaluation. As one of the elements of this action plan, we issued an advance notice of proposed rulemaking (ANPR) in April that seeks additional information on electric utility restructuring, in general. We encourage your comments, especially on the particular issue of additional measures to ensure adequate decommissioning funding.

The NRC is also evaluating policy guidance, including a Standard Review Plan (SRP), on the specific actions we intend to take and the procedures we intend to use in response to deregulation initiatives. We plan to issue this policy guidance later this spring, and we welcome NEI's comments. Although I cannot offer details at this time, I predict that this policy guidance will include: (1) a discussion of our safety concerns with respect to rate deregulation; (2) a discussion of the current regulatory framework we use to conduct financial qualification, antitrust, and decommissioning funding assurance reviews for the mergers, holding companies, and other restructurings that we have seen so far; and (3) a discussion of our planned approach to future reviews as rate deregulation accelerates.

As part of this review, the NRC plans to address our responsibilities vis-a-vis State and Federal rate regulators and our view of the responsibilities of co-owners of nuclear plants. Although the PUCs and FERC have primacy over rate matters, the

NRC recognizes that it must meet its mandate to protect public health and safety. We are actively pursuing increased contacts with the PUCs through NARUC and FERC to broaden areas of cooperation where our interests and responsibilities overlap.

Because of the complexity of new business arrangements that we have seen proposed or discussed, and because of our concern about the timing of asset divestiture in relation to rate deregulation, we will be taking a more proactive role in informing licensees of their obligation under our regulations to report to us new ownership arrangements. Where appropriate, the NRC will seek additional information to determine whether licensees remain "electric utilities" as NRC defines that term; or conversely, whether some mechanism must be put into place to ensure decommissioning fund collection through parent company guarantees, or other appropriate mechanisms.

Notwithstanding our initiatives in these areas, I do not think there has to be any inconsistency between NRC's goal as a regulator and yours as businesses operated for profit. With sensible cooperation, where appropriate, among the NRC as safety regulator, FERC and the PUCs as rate regulators, and yourselves, I believe that the nation can have both adequate protection of public health and safety and the economic benefits of a deregulated environment: increased competition and reduced electricity prices. But to emphasize, NRC's concern is and always will be with safety.

HIGH LEVEL WASTE

Deregulation is an area in which many of you have cautioned me, during the past year, to "proceed slowly." I would like now to discuss an area in which almost everyone seems agreed that matters have proceeded far too slowly for far too long, and that is High Level Waste.

During the past year, I have had the opportunity to visit the Exploratory Studies Facility at Yucca Mountain. I walked through the tunnel last summer, and was impressed with the accomplishments achieved. The tunnel will provide important data for use in determining the acceptability of the site for a HLW repository.

The Environmental Protection Agency is currently developing site-specific standards consistent with the National Academy of Sciences recommendations. Since the Nuclear Regulatory Commission must conform its regulations to the EPA standards, NRC staff is working in parallel with the Environmental Protection Agency staff and is already formulating a strategy for developing our regulations. Currently two options are being considered: a modification to the existing NRC HLW regulations in 10 CFR

Part 60, or developing separate site-specific regulations for Yucca Mountain.

Whichever approach is chosen, the regulatory framework must ensure the protection of the public and environment. However, it is important that the standards developed are practical and implementable. The licensing standards should allow appropriate intervention on important safety issues, but maintain the licensing proceeding focused on reasonable assurance of protection of public health and safety.

The current NRC high-level waste program is based, not on addressing all technical or regulatory issues related to the licensing decision, but on ten key technical issues which the NRC believes, based on today's information, are potentially significant to repository safety. These ten issues were discussed at the International High Level Radioactive Waste Management Conference in Las Vegas last month. The NRC will develop acceptance criteria and review procedures as necessary to evaluate resolution of these issues and to provide NRC comments on DOE's viability assessment.

Activities of the NRC Spent Fuel Project Office also have increased. This office was established to conduct licensing reviews for storage and transportation of spent fuel and high-level waste. Its scope of responsibilities includes central interim storage, and on-site storage of spent fuel, including dry casks. As activities have increased, the NRC staff has noted two areas related to dry cask storage that need increased attention - including attention by reactor licensees. The first is adequate oversight of cask fabrication activities. The second is proper evaluation and documentation of any changes made in cask designs without prior NRC approval. The NRC has responded to these issues by incorporating guidance into a standard review plan and inspection procedure. An NRC workshop held two weeks ago to discuss these documents was well attended.

The event this week at Point Beach, where a welding arc ignited a small pocket of accumulated hydrogen gas in a loaded fuel storage cask displacing the shield lid, highlights the need to thoroughly address all aspects of HLW storage and disposal, including rigorous safety reviews of the design, fabrication, loading and unloading of casks. Although there has been no indication of damage to the cask or the fuel, the consequences of an event of this type can be far-reaching.

In summary, there have been both significant progress in and challenges to the HLW program in the past year. During the next few years, the participants in the national HLW program have the opportunity to participate in significant activities by focusing on the most important aspects of repository safety and

performance, spent fuel management, and rulemaking. The NRC is prepared to carry out its role as an independent, credible regulator in these times of reduced resources.

VISION

As the topics of restructuring and high level waste indicate, the environment within which NRC operates is changing on many levels. The NRC, like other Government agencies, is facing increasing budget constraints as the Federal Government grapples with the deficit. At the same time, the NRC is being asked to take on new responsibilities relating to its mission.

In light of this changing environment, the Commission has been in the process of attempting to better articulate its vision of the agency's current and future role. This overarching vision incorporates three principles which have guided a number of our recent initiatives: (1) affirming our fundamental health and safety mission, including its national defense and security elements; (2) ensuring regulatory effectiveness; and (3) positioning the NRC for change.

At this stage in the U.S. nuclear industry, a critical part of the health and safety mission of the NRC is the regulatory oversight of operational safety which focuses on conservatism in operations, and the assurance that equipment -- especially the most safety significant equipment -- is appropriately maintained during a time of economic challenge and restructuring. To this end I will be monitoring the upcoming implementation of the Maintenance Rule. We also need to be sure that licensees are operating in conformance with their licensing bases, and that the 50.59 process, for making changes without prior NRC approval, is implemented correctly and consistently.

Ensuring regulatory effectiveness has many facets. It means keeping a primary focus on adequate protection of public health and safety, and minimizing risk at reasonable cost as a basis for any new regulation or change to an existing one. It also means considering ease of implementation, consistency with other applicable statutes and guidelines, fairness, and the fit of the regulation into the entire regulatory program. An important element of regulatory effectiveness is the use of risk analysis insights. The movement to risk-informed, performance-based regulation allows both the NRC and nuclear licensees to focus their resources on the most safety significant aspects of nuclear operations, while maintaining safety defense-in-depth. I have directed the staff to develop guidance for both industry and NRC use of risk information to support regulatory decisions on an expedited basis.

The NRC must position itself to respond to a changing environment. Shortly after being appointed Chairman, I initiated a Strategic Assessment and Rebaselining at NRC. This effort will establish a framework within which NRC can plan and make programmatic decisions. To initiate the process a Steering Committee of senior NRC managers was dedicated to the process. The strategic assessment aspect, completed in February, surfaced key strategic issues, questions, and decision-making points to be addressed by the Commission. Over 4000 activities were reviewed during this phase.

The second phase has identified key direction-setting issues and policy options for consideration by the Commission. The Commission is reviewing policy papers, and is currently considering options and documenting preliminary decisions. Before final decisions are made on the direction-setting issues, we will offer an opportunity for a public comment, and meetings will be held with stakeholders to obtain input on a number of the issues and preliminary decisions. I encourage all of you to participate in this process.

Before I close, let me give you several additional impressions from my recent trip abroad - impressions that I believe, underscore the U.S. need to assess our capability to change if we are to continue to lead. Today, Asia's Pacific Rim is the fastest growing market for electricity in the world. In their search for the optimum energy mix, many Asian countries are looking to nuclear power as a viable option to address the electricity shortage.

My trip leads me to believe that Japan and South Korea, with their advancing nuclear programs, will take a lead in developing new markets for their nuclear technology in the Far East, and perhaps elsewhere. Further, the country that sets standards and rules in new technologies will also have the competitive edge. This has not gone without notice in Japan and South Korea. Asia, too, is the fastest growing market for U.S. exports, giving the U.S. a large and expanding economic stake in the region.

The Japanese program, in particular, was highly stimulating. I was impressed by their progress in areas such as materials testing and non-destructive examination. At the same time, I have to confess that it was sobering for me to compare their efforts with the currently reduced state of nuclear research in the U.S. program. Some of my hosts noted with regret that some particular fields related to nuclear research do not seem to be attracting the level of expert attention and capability in the U.S. that they received in previous years. Since my return, I have encouraged the NRC staff to explore expanded opportunities for collaboration in nuclear safety research to offset any impact on our programs due to budget limitations.

CONCLUSION

In conclusion, I would like to reiterate both the continued improvement of plant safety and performance in recent years and my caution that none of us -- not in industry, not at NRC -- allow ourselves to be lulled into complacency by this record. There will be no dearth of challenges in the coming years. There are changes in the industry, such as restructuring, that demand careful foresight and indepth analysis. There are programs, such as high level waste management, that need our continual attention to ensure that a timely, safe, and cost-effective result is achieved. Regulators and the regulated have a common task: to assess current performance rigorously; to learn from both our successes and our shortcomings; and to strive for continued improvement in the future.

Thank you for your attention.

####