



NRC NEWS

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“P.C. for a New Era”

Prepared Remarks by

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Commissioner

U.S. Nuclear Regulatory Commission

at the

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I am pleased to be here today to address my second Regulatory Information Conference.

This conference is a good opportunity for us to gather together to discuss the important regulatory work that the Nuclear Regulatory Commission does. It is also a good opportunity for each Commissioner to take a step back and reflect on their work and the direction the agency is heading.

I have enjoyed hearing the thoughts of my fellow Commissioners yesterday and this morning – and look forward to hearing from Commissioner Lyons. Being the fourth Commissioner to speak is not always an easy job, but I have to say it is easier than being the fifth. Sometimes, I think it might be easier to just say “ditto” – but I won’t do that this time.

So taking a step back, as I reflected on the last year and on the potential for new reactor license applications, the one thing that came to mind repeatedly was the need to be vigilant regarding the safety of the current fleet.

And one issue seemed to be central to that effort. It is a very “P.C.” issue – I don’t mean politically correct or personal computer – I mean “public confidence.” Just as safety culture is an important environment to foster, public confidence is an important metric for the Commission to be mindful of.

First, I would like to explain why I think public confidence is crucial. But before I discuss that, I want to be clear about two important definitions: First, who is the public? Too often, we immediately think of the public as only “public interest groups.” That is one important group, but there are others: the

licensees and vendors are one. Members of Congress are another. Without this broader view, we think of the public as being critical and I think that is unfortunate because it hurts our communication efforts.

With that in mind, I believe public confidence is defined as having the trust of stakeholders, the licensees and the Congress. One point I would like to make clear: public confidence is not the same thing as public agreement or public acceptance. I believe the public – in the broadest sense – can have confidence in this agency without always agreeing with it.

This last year I have seen this agency gain and lose momentum in a number of key areas involving public confidence. Most important, I believe that the need to reassure the public is something that dominates a significant portion of the efforts of the Commission and NRC staff. That is true whether we want to acknowledge it or not. An excellent example was the need to reassure potential license applicants that the NRC's effort to modify Part 52 of our regulations was necessary. Again public confidence is not just dealing with public interest groups, but it is often dealing with licensees or even potential licensees.

I must admit I find a lack of complete public confidence in this agency surprising because the Atomic Energy Act basically mandates public confidence. Section 189a.(1)(A) of the AEA states:

“In any proceeding under this Act, for the granting, suspending, revoking, or amending of any license or construction permit, or application to transfer control, and in any proceeding for the issuance or modification of the rules and regulations dealing with the activities of licensees . . . the Commission shall grant a hearing upon the request of *any* person whose interest may be affected by the proceeding, and shall admit any such person as a party to such proceeding.”

This section makes it clear that the Nuclear Regulatory Commission has an obligation to provide the opportunity for public participation in every licensing action we take. This is a tremendous responsibility and a unique opportunity for the agency because it provides us with additional situations in which to strengthen public confidence.

Given the active role guaranteed to members of the public, there should not be a lack of public confidence in the NRC. After all – if anyone disagrees or has concerns with our decisions, they are allowed to raise an issue, present their views, and have their day in court, if you will. If the agency is doing its job well and communicating its actions clearly to the public, stakeholders should not feel the obligation to request hearings on licensing actions. More important, they will be should be willing to accept the outcomes as fair, appropriate, and balanced.

Now public confidence is not something that the agency should strive to achieve by changing the decisions it makes – these must always be based on safety and security considerations – but it is something the Commission must be mindful of, because a *lack* of public confidence causes additional work and resources to be taken away from the important safety mission of the agency. I want to focus on this aspect in my talk today, and most important, on why public confidence is crucial as the agency embarks on efforts to review applications for new reactors.

How can we strengthen public confidence? One of the best ways is by communicating with the public – which means both talking and also listening to the concerns people raise. As made clear in the Atomic Energy Act, we must communicate with anyone who has an interest in the work we do.

As I have mentioned before, effective communication means open channels between the agency and all stakeholders. It means we listen to the public and explain our actions clearly. It means we listen to the industry and explain our actions clearly. It means the industry and public must listen to each other and explain their actions clearly as well. And it means that members of the public must listen to the NRC.

The NRC has a responsibility to communicate both with licensees and all other members of the public. We must clearly communicate our processes, intentions, and resource challenges to licensees. And we must make the scientific and technical aspects of our work as accessible as we can to the public. The public deserves clear and comprehensible information because they are the entity we serve.

Finally, there is certainly strong incentive for licensees to communicate directly with the public – since it is the public that possesses the clearly established ability to challenge licensing actions.

Yet even with our ongoing communication efforts and a formal role for any member of the public firmly in place, we still find we do not have the full trust and confidence of all members of the public.

I would like to talk about some examples of where we have eroded – or could erode – public confidence. Public confidence in the NRC is eroded each time we fail to resolve issues in a timely, clear, and transparent manner and it is improved when we do so. Several examples come to mind where the NRC has missed these opportunities, and I will talk about those in some detail.

The first area where we could lose public confidence involves emergency core cooling systems. NRC regulations require robust back-up core cooling requirements for plants. However, the agency has known for years – no, actually decades – that the sump screens for post-accident recirculation flow could potentially become clogged in the unlikely event that this equipment was needed.

As I said, we have had ample warning that sump clogging could be an issue. The NRC issued a generic letter entitled, POTENTIAL FOR LOSS OF POST-LOCA RECIRCULATION CAPABILITY DUE TO INSULATION DEBRIS BLOCKAGE. You may think that I am referring to a recent correspondence, but in fact this was the title of a generic letter from 1985. That letter clearly stated that assumptions to which the plants were licensed were not conservative enough. And it appears we were so concerned with backfit implications that little was done at the time.

It is twenty years later and we are still dealing with the same issue, now further complicated by recently discovered chemical interactions with the reactor coolant and other substances in containment. There are still things we do not know about this issue but we do know that there are sumps with screens that are too small.

It is time for the agency to establish an appropriate licensing basis and for the industry to finish the job by putting in larger or redesigned sumps in a timely manner. We have an *immediate* issue that could potentially negatively affect the emergency core cooling systems at 69 pressurized water reactors if they were ever needed, and we should solve it quickly. The safety case has clearly been made, and it has been known for several decades. Now the NRC needs to follow through and resolve this issue.

Doing so has the potential to improve public confidence by demonstrating that the agency is working aggressively to continue to ensure the safety of the current fleet of reactors. Failing to act on this in a timely way, consistent with the schedules we have laid out, will erode public confidence.

A second example of where we have lost public confidence involves decommissioning. We only have to look to the recent events involving tritium contamination inside the fence line of several reactor sites around the country to understand the significance of this issue.

Many people have made the point that releases of low levels of tritium have little safety significance. That may be true, but the relevant issue here is that we have found preexisting leaks and unmonitored releases and have had to focus our resources on these issues. With better public confidence to begin with, the NRC would have to do less work to describe the true risk significance of these situations. Instead, we have had to do a lot to deal with this issue and this has taken resources away from more safety significant challenges.

The public is concerned about the operation of these complex facilities, and one of the things that concerns them the most is a fear that there are things happening at the plants that we do not know about. We may eventually confirm that every case of tritium contamination was inconsequential. The fact that we did not know it was occurring, however, weakens public confidence in our ability to quickly discover an unexpected event that *does* have a significant impact on safety. That is the real public confidence issue tritium poses today.

Tritium contamination also poses a long term challenge of assuring the public that these sites can be effectively decommissioned. We have repeatedly been told that the best time to deal with contamination is early on. During a recent staff Commission briefing I asked Mr. Kurt Haas, from Big Rock Point, what we could do to improve site decommissioning. He responded by pointing out that it is best to clean up contamination when it occurs.

Minimizing any on-site contamination reduces future exposure and waste at the end of the plant's operation. This just makes good sense. It will assure the public that we are doing everything we can to keep reactors operating safely today, to ensure these sites can be returned to productive use once they are decommissioned, and to fulfill an important part of our mission -- protecting the environment.

A third example of where we have lost public confidence is in providing information. I am pleased with the progress the NRC has made toward becoming more open and transparent by emphasizing better communication with stakeholders. We have held more open meetings with more stakeholder participation and the Commission has made a conscious effort to release additional staff papers and other background material.

I am not satisfied, however, because I believe we still can do better. The entire federal government has struggled since September 11, to deal with the appropriate amount of information to be released. Much information is required by law to be made available. Much is required by law to be protected. In the middle is a vast desert of information that could be potentially harmful, but also is potentially beneficial, depending upon how it is used.

I firmly believe that information which is classified or protected from release by law should be guarded by public servants. For all other information, we should constantly ask the question "Is there a valid

legal or security-related reason why this information cannot be released?” If the answer is a certain ‘yes,’ we should protect the information but also look for ways to summarize and explain our actions. If the answer is ‘no’, we should promptly release that information. Moreover, the agency needs to do a better job ensuring that our answers to these questions are consistent. The reasons for this are clear. The more we do to transparently explain the Commission’s actions, the more we improve public confidence in our decision-making.

That is no more important than in security. Both licensees and public interest groups have expressed concerns about the actions taken by the Commission following September 11th. Some have called the Commission actions too much. Some too little (I’ll let you figure out which groups go with which concerns). In situations like this public confidence is critical, because the NRC’s decisions and reasoning cannot always be made public due to security concerns. In discussing this issue we inevitably reach a point at which the best we can do without revealing sensitive information is to say “trust us” and that trust must come from public confidence.

Another facet of “public confidence” is ensuring the industry we regulate trusts us to be able to design an effective regulatory framework. I believe we have lost some of that confidence in the way we have handled the regulation of fire protection.

The agency’s wake up call occurred with the Brown’s Ferry fire in 1975 and the NRC had new fire protection regulations in place by 1979. Yet all these years later we still find it necessary to clarify the requirements for safe-shutdown electrical circuits and to curtail a rulemaking on allowing the use of manual actions. We have tolerated and worked our way through unclear expectations, misinterpretation of the regulations, bulletins, generic letters, Regulatory Information Summaries and enforcement discretion, and an untold number of exemptions from the regulations.

We now believe we have a way to cut through this regulatory web by risk-informing the fire protection regulation. I am hopeful that this will be a workable situation. If it is, it will go a long way to restore the confidence of the public and our licensees.

Why does this matter? It matters because of the situation I mentioned earlier regarding the industry’s skepticism about the need to change Part 52. I counseled caution about this in my vote on the proposed rule and continue to be concerned about our ability to make these changes efficiently and quickly.

One issue that we can look to as a barometer on public confidence is Emergency Preparedness. This area involves the trust of all levels of government, local communities, and licensees. I do believe, the agency has done a tremendous amount of work in this area over the years – its earliest work even served as part of the foundation for the way the nation structures emergency management efforts. In the past year, we augmented emergency preparedness requirements to ensure licensees provide more timely notification of security-based emergencies, had appropriate security-based emergency classification and action levels, and generally heightened the emergency response planning for security related emergencies. While significant government planning and coordination deficiencies were discovered during this year’s devastating hurricanes along the gulf coast, the NRC’s radiological emergency planning efforts stood out as an example for the rest of the federal government. Credit for that achievement goes to our dedicated emergency preparedness staff, the people in the affected communities, and the licensees. But, I believe the Commission can and must do more.

It is the NRC's responsibility to evaluate a licensee's onsite emergency plan and the agency relies on the Department of Homeland Security to provide recommendations about the adequacy of State and local emergency plans. The NRC has the ultimate authority and responsibility to ensure the adequate protection of public health and safety around nuclear power plants. The Homeland Security Department and the NRC have rules and guidance that detail the format of the plans licensees and state and local governments should have in place. We regularly evaluate these plans through exercises, drills, and information requests. But I am concerned that we have raised unclear expectations about what that means for local communities.

Our regulations set forth procedural requirements for the development and maintenance of plans but they lack specific criteria about how these plans should work. In other words, we verify that the plans exist and have the required components but we have not perfected a mechanism for verifying whether or not they will be effective. This is a challenge across the emergency management field, but is nonetheless important to our efforts.

Adding to the confusion is that there is the widespread perception that radiological emergency preparedness is equivalent to evacuation, but evacuation has its own challenges as a protective action. For instance, there is not a strict regulatory standard for the time in which evacuations must be completed. Evacuation time estimates that licensees are required to prepare are informational – they would be used to inform protective action recommendations in the event of an emergency. But because there is such a belief among many members of the public that evacuation is the best option for a radiological emergency, any discussion about recommending alternative actions would seriously erode the public's confidence in the agency. That doesn't necessarily mean it would be wrong to have that discussion, but we need to be aware of the difficulties it would present.

We must move the dialogue away from broad generalizations toward a more-detailed and productive discussion of what goal emergency plans must be able to accomplish, what options there are for achieving that goal, and how quickly we must be able to get it done. Once these issues are decided, we must find a better way to measure and enforce any new requirements.

Not only is emergency preparedness crucial in its own right, but as I mentioned it serves as a barometer for measuring public confidence in the NRC. Continuing to address this complicated issue honestly, directly, and with the full participation of stakeholders will do more to strengthen the agency's credibility with the public than any of the issues I have raised today.

I have talked about the issues we face with the current fleet of reactors. I would like to turn briefly to an area where we have been able to improve public confidence – safety culture.

The regulation of safety culture is one of the most complex but important issues we have reached common ground on over the last year. We agreed that a strong safety culture is important, both at our agency and among our licensees. We agreed we must reinforce a culture in which everyone feels empowered, emboldened, and encouraged to ask the next question, the difficult question, and not to simply accept what is presented to them. The difficulty, of course, lay in deciding exactly where to draw the appropriate line between management issues that are the responsibility of licensees and health and safety issues that require an NRC oversight role.

Because this is such a complex and longstanding issue, I am tremendously pleased with the great

progress the staff has made over the last year. Staff worked collaboratively with all stakeholders, including the industry, public interest groups and members of Congress, to develop a method to address safety culture as part of the Reactor Oversight Process. The development of consensus on this effort is no small feat and serves as a real testament to the value of public participation in the work of the NRC. I predict this success will pay public confidence dividends in the months and years ahead. I look forward to the implementation of this new initiative beginning this summer and to progress reports next year.

I have talked a lot about public confidence. Now I would like to explain why it is so important to the future of the agency.

Public confidence, and again I mean the public broadly, is a prerequisite for a successful effort to review license applications for a new fleet of reactors. These next few years are going to present many anticipated and unanticipated challenges. If we do not establish trust among all stakeholders now, we will have difficulty convincing the public that any new reactors will be safe and secure. If we do not build this trust and public confidence now, the result will certainly be difficult and lengthy hearings throughout any new reactor license review process. Several of my fellow Commissioners have discussed a design-centered approach for reviewing multiple applications. While implementing such an effort will be a staff management issue, I believe it is important that the Commission vet and endorse the method the agency chooses to deal with this challenge. This is another opportunity to strengthen public confidence in the process and I have written a memorandum to my colleagues explaining my views. Again, the more we do now to instill public confidence, the less work we will have to do when any new applications are submitted.

The more the agency can do now to prove to the public that we can be trusted to do our job of being an effective regulator, the fewer members of the public will feel obligated to do our job for us. That is, I believe, the purpose of the Atomic Energy Act requirement that the NRC allow “*any* person whose interest may be affected by the proceeding” to participate in the hearing process. The goal of this provision is not to end up with a flood of contested issues but rather to encourage the agency to do the right thing – engage and communicate with all stakeholders early in the process – which will ultimately decrease the number of hearing requests submitted by the public.

As I mentioned at the beginning of my speech, I have been consistently impressed by the professionalism of NRC staff. That expertise and dedication, along with the growing and dynamic participation of all stakeholders, makes me confident that the agency can overcome these existing issues.

In the end, strengthening public confidence is the only viable path forward that will allow us to successfully address the future challenges we face. I thank you and I look forward to working with you to achieve these goals together.