

From: [Jeff Skov](#)
To: [DeJesus, Anthony](#)
Cc: [Bladey, Cindy](#)
Subject: [External_Sender] Chairman Burns" 2016 RIC Keynote Principles and PRM-2-15
Date: Monday, March 21, 2016 2:08:21 AM

Anthony – I reviewed Chairman Burns' keynote address (see [here](#)) for the NRC's 2016 Regulatory Information Conference (RIC) with interest. Please note his first words:

William Shakespeare said "What is past is prologue" and Yogi Berra is credited with saying "It's déjà vu all over again." And both might agree that you need to "Learn from history or be doomed to repeat it."

Please note this passage also, on the importance of public trust to the effectiveness of the NRC:

Risk makes people nervous and mere invocation of "adequate protection"—even "reasonable assurance"—may not provide the confidence they need that their regulator, basically, has their back. So what is a regulator to do?

This might be where I lay out my "five point plan" or give you "three things to think about." Instead, I'm going to give you just one concept to think about, and that concept's connection to risk and the public's perception of the NRC's regulatory role.

That concept is trust. Or, as the agency's Strategic Plan states as our vision: A trusted, independent, transparent, and effective nuclear regulator.

Let's focus just on trust for the moment. Researchers have found—and we know this intuitively—that trust plays an important role in how we accept and respond to risk. Our acceptance of risk in, say, smoking, eating bacon, global warming, nuclear power—is related in no small part to how much we trust the person or institution telling us what the risk is.

If we don't trust them—or we don't know them well enough to place our trust in them—we are skeptical of their risk calculations and risk communication. We won't believe in the reliability of their information or trust their judgement or their decisions. We may not believe them when they say there is no wolf at the door.

I bring this up because the Chairman's keynote principles *are entirely consistent with and supportive of PRM-2-15*. First, the proposed rules would ensure that NRC's violations are deliberately and thoughtfully addressed such that the agency need not be "doomed" to repeat them. This comports with the Chairman's first keynote principle.

Second, the proposed rules would help restore the public's trust in the NRC, which has been diminished by the D.C. Circuit Court of Appeals' determination that the agency was "defying" and "flouting" federal law (see [here](#); search for "defying" and "flouting"), and continued to do so despite two prior warnings from the Court (see [here](#); search for "if the Commission failed to act" re the 2011 warning, and search for "clear warning" re the 2012 warning).

The agency's continuing silence relative to its ongoing ability to implement the same law (see discussion [here](#); search for "NUREG-1100") further erodes the public's trust.

Recall that the law at issue, the NWPA, is a Public Health and Welfare statute. It is contained in Title 42 of the U.S. Code, entitled "The Public Health and Welfare." Recall also that the D.C. Circuit Court of Appeals determined in 2011 that *NRC currently has the ball to implement the NWPA* (see [here](#); search for "the Commission maintains a statutory duty" or "the ball"). The Court's subsequent, extraordinary 2013 ruling (see [here](#); and also see [here](#) for a discussion on the extraordinariness of the 2013 ruling) served to reaffirm that determination and remind us of the continuing vitality of the NWPA as U.S. law.

I appreciate the Chairman's wisdom and insight, and his efforts to promote those at the RIC. I wholeheartedly agree with the important keynote principles he espoused—that the agency must "Learn from history or be doomed to repeat it" and that the effectiveness of a regulator is, critically, a function of the trust it earns from the public. *The rules proposed in PRM-2-15 directly advance both of the Chairman's keynote principles. They answer the Chairman's important question: "So what is a regulator to do?"*

Please convey these thoughts to the rulemaking staff. I know from long experience that any anxiety associated with making a recommendation—even a sensible, rational, principle-based recommendation—is greatly diminished once you know the "big boss" not only supports the same principles, but also actively promotes them.

Please also convey my admiration and respect to Chairman Burns if you have the opportunity.

Regards,

Jeff.

Jeffrey M. Skov
jmskov@earthlink.net
972-953-8823 (cell)