DSI-11

(26)

STATE OF ILLINOIS

DEPARTMENT OF NUCLEAR SAFETY

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Jim Edgar
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December 2, 1996

Mr. John C. Hoyle
Secretary of the Commission
U.S. Nuclear Regulatory Commission
ATTN: Chief of Docketing and Services Branch
Washington, DC 20555-0001

Re: Strategic Assessment and Rebaselining Initiative

Dear Mr. Hoyle:

The Illinois Department of Nuclear Safety (Department) is hereby providing its comments on the U.S. Nuclear Regulatory Commission's (NRC) Strategic Assessment and Rebaselining Initiative. Having had the opportunity to reflect on discussions of these issues at two public meetings, these comments are the official comments of the Department and therefore may be different from preliminary views earlier expressed by the Department's staff. The following summarizes our principal comments on the Direction Setting Issues (DSI) our detailed comments on individual topics are enclosed.

Oversight of the Department of Energy (DSI 2)
Should the NRC seek to expand its regulatory authority and responsibilities to include DOE facilities?

NRC's position that, if asked, it could provide adequate regulatory oversight, is the correct posture. The NRC, however, should plan to use the division of radioactive materials regulatory authority that is currently applied to commercial facilities. Agreement States should have the opportunity to regulate materials use at DOE facilities as they would for any commercial entity.

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NRC's Relationship with Agreement States (DSI 4)
What should be NRC's strategy regarding states becoming and remaining Agreement States?

The NRC should return to the strategy used prior to October 1, 1996. Specifically, NRC must recognize the many benefits received by the NRC and its licensees from the states and return to a policy of funding training, travel and technical assistance for Agreement States. NRC should use intangible incentives to encourage more states to become Agreement States, and recognize that Agreement States are NRC's co-regulators. If necessary to achieve these objectives, NRC should seek appropriations from Congress for the functions involving Agreement States. Illinois, and probably other Agreement States, are willing to assist NRC in its discussions with the appropriate congressional committees to obtain the necessary funding. However, our support for legislative changes would have been more focused had NRC not chosen to unilaterally impose its current policy on funding Agreement State activities.

Low-Level Waste (DSI 5)
What should be the role and scope of the NRC's low-level radioactive waste program?

As we have expressed before, we strongly recommend that NRC recognize that low-level radioactive waste (LLRW) management is a state responsibility, that NRC recognize the progress being made in this arena and reduce its LLRW program. NRC's pursuit of the Commission's preferred option to assume a strong regulatory role in the national program will only serve to confound the progress of individual states.

High-Level Waste and Spent Fuel (DSI 6)
In recognition of current uncertainties, how should NRC approach the present high-level waste situation?

NRC should assume that the important elements of the national HLW program include not only a repository and centralized interim storage, but also on-site dry cask storage and transportation. Simplification of the hearings process, pursuing binding resolution and early negotiation of issues seem worthwhile for the NRC to explore.

Materials/Medical Oversight (DSI 7)
What should be the future role and scope of the NRC's Nuclear Materials Program, and in particular, NRC's regulation of the medical use of nuclear material?

Although the discussion of this DSI purports to address all material oversight, it primarily addresses the medical area. We support NRC's initiatives to streamline the licensing process, eliminate duplicative or contradictory regulations, and update regulatory guidance for all categories of licensees, not just medical licensees. The use of radioactive material in this country is safe for workers because there are established requirements for users of radioactive materials. The public is protected because of the regulatory community's diligence in ensuring that individuals using radioactive material do so safely. In some cases, it is necessary to modify the regulations to be less prescriptive, but it is not necessary to relinquish all controls over the safe use of radioactive material.

Decommissioning - Non-Reactor Facilities (DSI 9)
What should be NRC's strategy to take advantage of new and different approaches to optimize site remediation of the Site Decommissioning Management Plan and other problem sites?

The Department continues to object to the radiological dose limit of 15 mrem/yr contained in the proposed decommissioning rule. We have repeatedly objected to this value primarily because the technical justification for this proposal has not been provided, and the dose limit is unnecessarily restrictive. The radiation protection standards in 10 CFR 20 of 100 mrem per year and the 25 mrem per year limit in 10 CFR 40 Appendix A are reasonable and protective of public health and safety and the environment.

Operating Reactor Program Oversight (DSI 11)
Given the changes in the external/internal environment, what are the implications for the current strategies for the operating reactor program?

Option 1 describes the general process of oversight that must be applied to any well-managed on-going activity. If this is accomplished properly, Options 2 and 3 naturally become areas subject to review.

Risk-Informed, Performance-Based Regulation (DSI 12)
What criteria should the NRC use in expanding the scope in applying a risk-informed, performance-based approach to rulemaking, licensing, inspection and enforcement?

NRC should focus on those areas that constitute the most risk to the public using the best available to accomplish that task. If risk assessments can be relied on to identify the risk contributors, they should be used in the regulatory process where it makes sense to do so. If

risk assessments cannot be relied on, then more conventional means, or some combination of analyses, should be used. Inherent in risk analyses are uncertainties caused by lack of objective data. The better the data, the more assurance we have that risks can be predicted. Data can be resource intensive to gather. Hence, there is a cost/safety benefit tradeoff. We believe that rigorous Probabilistic Risk Assessment (PRA) should be required of nuclear power plant licensees. They should also meet pre-defined standards for accuracy and completeness, and should be kept current.

Public Communication Initiatives (DSI 14)
What approach should the NRC take to optimize its communication with the public?

We concur with the Commission's preliminary views. Public concerns must be identified and addressed as early in the process as possible. Agreement States have routinely asked the NRC for the opportunity to provide early and substantive input into rules and policies being developed by the NRC that have impacts on Agreement States. Option 2, giving priority to early identification of public concerns, appears to address some of the concerns raised by Agreement States. Agreement States, representing regulatory authorities equivalent to the NRC, can use their experience and expertise to contribute toward identification and resolution of issues, and help identify otherwise unforeseen impacts.

International Activities (DSI 20)
What is the appropriate role of NRC in the development and implementation of policies on international nuclear matters?

The discussion in this DSI failed to address the involvement that Illinois and other states have in responding to incidents and issues that result from importation of contaminated items from outside the United States. One could conclude that if NRC can afford to fund international activities with licensee fees, they could also afford to maintain funding for Agreement State training and travel.

Fees (DSI 21)
In making decisions about what activities the NRC should perform in support of its mission, to what extent should fees be considered?

Illinois can appreciate NRC's challenge in carrying out its mission of protecting the public health and safety while complying with statutes that restrict funding alternatives and attempting to implement a system of fees that is fair and equitable. Illinois and the other

Agreement States face similar challenges. We endorse Option 3 because we perceive it is the option most likely to achieve the result discussed under DSI 4 of restoring funding for Agreement State programs. We direct the NRC to our comments to DSI 4 on the many benefits provided to NRC by the Agreement States. We would anticipate that if NRC insists on charging the Agreement States for assistance from NRC, the Agreement States will sooner or later begin charging NRC for assistance to the NRC.

Research (DSI 22)
What should be the future role and scope of NRC's research program?

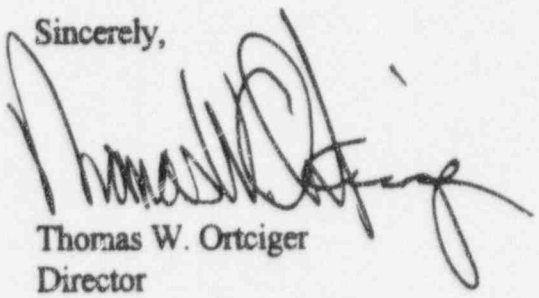
Much of the scope of current research is directed at predicting the mode and/or consequences of failure of a particular system or system component. This seems to be the trend regardless of the type of system (i.e., reactor, HLW repository, LLRW facility, tailings pile). There should be a body of experience available, after more than 30 years of performance related observations for such facilities, to allow some research into examinations of how these systems have evidently protected the public from the hazards of radiation. It would be useful, and refreshing, to research the degree and basis for these successes instead of mostly limiting our evaluations to predictions of future failures.

Power Reactor Decommissioning (DSI 24)
What should be NRC's strategy for regulating decommissioning activities at power reactor sites?

There is no technical basis for the selection of 15 millirem per year as a decommissioning standard. With this in mind, we support the concept of revisiting the approach to setting residual contamination criteria and review scenarios independently of the EPA. With respect to the single issue of radiological criteria for decommissioning, we recommend that NRC select Option 3--the NRC staff would move slowly in implementing its current rulemaking approaches. Given that the NRC's approach to this issue is heavily influenced by its apparent need for agreement with the EPA, and given that the Commission needs to fully consider the Options for DSI 9, it is premature to move forward with the current rulemaking.

We appreciate the opportunity to contribute to the NRC's efforts to determine its future direction. If you have any questions regarding these items, you may contact me at 217-785-9868.

Sincerely,



Thomas W. Ortciger
Director

TWO:bc

Enclosure

cc: Jim Lynch, State Agreements Officer
NRC Region III

Comments on USNRC's Strategic Assessment and Rebaselining Initiative
by the Illinois Department of Nuclear Safety

Direction Setting Issue Paper # 11
"Operating Reactor Program Oversight"

The Direction Setting Issue (DSI)--"Given the changes in the external/internal environment, what are the implications for the current strategies for the operating reactor program?"

Specific Comments

Option 1

Review the reactor oversight processes in the context of lessons learned from current issues and develop processes and mechanisms to provide for systematic reexamination of reactor oversight activities to ensure their continued effectiveness.

Option 1 describes the general process of oversight that must be applied to any well-managed on-going activity. If this is accomplished properly, Options 2 and 3 naturally become areas subject to review.

Option 2

Seek new approaches within the existing reactor oversight framework to improve effectiveness, work with the industry to foster an environment that is conducive to continued improvements in performance, and provide increased opportunities for public involvement in the regulatory process.

Strategic assessment is very important because performance can deteriorate much faster than it can be improved. However, for strategic assessment to be effective, the NRC must establish realistic and clear guidelines and specific standards for measuring performance. This is even more important in the risk-informed, performance-based regulatory environment to which we are moving.

Option 3--Perform a Business Process Reengineering.

Option 3, like Option 2, should be part of Option 1. If the business process is not a subject of continual examination, in all likelihood the business will eventually fail.

Subsumed Strategic Issues

1. With the expected reduction on the number of licensing actions and reductions in resources, what is the appropriate way to manage change in this area?

As the electric industry is deregulated, power plants that are well-maintained will, as now, be the most efficient. If licensees achieve excellence in maintaining their plants, the NRC can concentrate more on risk-important areas and equipment.

An area of specific concern to states is emergency preparedness. Many in the industry and in the NRC consider it to be of secondary importance. One example of this was the de-emphasis when the SALP process was revised. Another example is that in only a few cases has a probabilistic risk assessment been performed that rigorously examined the off-site consequences (Level 3). After all, public safety is a prime responsibility of the NRC, licensees, and the states, and emergency preparedness is a major factor in fulfilling that responsibility.

2. How will the NRC ensure that, with the reduced number of licensing actions reviewed by the staff, the current level of safety will be maintained? Will there be a need to increase resources in other areas such as inspection?

No response

3. Is the Operating Reactor Inspection Program staff optimally organized, and are the resources distributed in a manner to utilize them most efficiently?

No response

4. What changes should be made to the resident N + 1 policy?

The NRC should allocate the number of resident inspectors to a site according to the performance of the licensee, not the number of reactors. See the comments on Option 2 regarding guidelines and standards for measuring performance.

C. Related Strategic Issues

1. How can we optimize the processes for evaluating the performance of power reactor licensees?

No Response

2. How should the NRC modify its rules and approach regarding review of financial qualifications issues so as to focus its resources more sharply on assessing the impact of economic stress on safety performance?

The NRC should ensure that realistic and clear performance guidelines and specific standards are set and achieved. The NRC should concentrate on licensees' adherence to those alone and leave financial decisions to the licensees' Board of Directors and their stockholders.