

No.: S-16-009

October 11, 2016

Contact: Office of Public Affairs, 301-415-8200

**Prepared Remarks of Chairman Stephen G. Burns  
Texas A&M University Department of Nuclear Engineering  
October 11, 2016**

Good evening and thank you for inviting me here to speak with you tonight. I am glad to see you all here and I look forward to your questions.

I thought an interesting topic to cover for tonight's seminar would be my regulatory philosophy. But before I get to that, let me set the stage for what is going on in the regulated industry and the NRC at the moment. Then I'll recap a bit about my background and what has contributed to my current philosophy. And then I'll get into what I call the "regulatory craft."

Let me set the stage, focused primarily on the nuclear power industry. The NRC and the industry is in a period of very dynamic change. Just a few years ago, we were preparing for a tremendous upswing in interest in building and operating new nuclear power plants, and the NRC starting hiring up and getting ready. For a variety of reasons, that wave has been more of a trickle. And while we do have some new plants under construction and several applications in various stages of review, it's not nearly what had been anticipated.

At the same time, the economics of the energy sector have significantly changed. We're seeing an acceleration in plants closing and entering decommissioning long before their licenses expire. With the low cost and abundance of natural gas, producing electricity via nuclear power simply isn't profitable in some areas. Some argue that the market under-values nuclear energy capacity.

Meanwhile, the NRC is being criticized by some, including some members of Congress, for over-regulating the industry and serving as an impediment to innovation. And our budget, our staffing and the fees we charge the NRC's licensees are also under close scrutiny

On the other hand, in this post-Fukushima Daiichi world, we're also being criticized by some groups and individuals for being too beholden to industry and for not being as far-reaching in imposing safety requirements as they would prefer, or for allowing nuclear plants to even operate at all in this country. So rock meet hard place.

These are the challenges facing the NRC right now. The NRC, as you may know, is headed not by a single administrator, but by a group of five appointed by the President and confirmed by the Senate. No more than three can come from a particular party, and all serve staggered five year terms no matter which party is in office. Designation of a Commissioner as Chairman is solely at the discretion of the President.

At the moment, we have two openings on the Commission, but we can function just fine as a three-member body.

As Chairman, I have equal responsibility and authority in all decisions and actions of the Commission as do the other Commissioners. I do have some additional responsibilities as Chairman, including serving as the agency spokesperson.

How I ended up as Chairman is a bit unusual. I'm one of the few career staffers who found their way to the top of the NRC's organization chart. Before I retired from federal service in 2012, I spent more than 30 years at the NRC, starting as a staff attorney after graduating from law school, and ending as the General Counsel for the agency. That experience significantly informs my approach to regulation and my decision making.

Before rejoining the NRC as a Commissioner in late 2014, I served as Head of Legal Affairs of the Nuclear Energy Agency (NEA) of the Organisation for Economic Co-operation and Development in Paris, and that experience also contributed to my philosophy, particularly as it relates to seeking consensus.

I mentioned that the members of the Commission are typically three from one party and two from another. I was appointed by President Obama for a Democratic seat on the Commission, but I'm a registered Independent. I think that's important to mention here because it informs my practice of being independent in my thinking and philosophy, although my colleagues who are registered members of political parties also strive for independence in thinking and philosophy about regulatory issues.

I don't adhere to a rigid ideology that compels a certain outcome each time, although I believe I'm predictable in terms of my approach of evaluating each matter before me on a case-by-case basis, and applying rules deliberately and consistently across the board.

I'm independent in that I am open to new ideas and solutions of others. I listen open-mindedly to all stakeholders without becoming beholden to just one point of view. I believe that problems must be clearly defined but I think there is rarely only one solution to a problem. I also don't believe the NRC always has the right answer to address a given problem.

What I hope is clear from my voting record is that I don't compromise on safety and security for this nation's nuclear plants. But what I hope is also clear is that I believe the NRC must continue to challenge itself, to ask hard questions, to wrestle with finding the balance between too much regulation regulation that goes too far in trying to achieve zero risk – and sufficient regulation to provide “adequate protection,” as is our legislative mandate.

We can be neither too lax nor too strict as we weigh risks. And we must not conduct our decision making in a vacuum. We must consider real life and actual operating experience, and we must consider public and stakeholder input to guard against making decisions in isolation.

This balancing act is what I call the regulatory craft.

Supreme Court Justice Stephen Breyer wrote a fascinating book, published in 1991, on the subject of risk and regulation. The book is titled “Breaking the Vicious Circle: Toward Effective Risk Regulation.”

In this book, Breyer points out that regulators generally have a two-part job – risk assessment (i.e. measure it) and risk management (i.e. what are we going to do about it). In the risk assessment part of the equation, NRC decisions will be informed by the probability and consequences of an event. For the management part of it, we’re going to use our broad discretion to exhibit predictable and stable decision making.

Breyer’s book underscores that the public’s evaluation of risk often differs radically from the experts, and he writes: “when we treat tiny, moderate and large risks too much alike we begin to resemble the boy who cried wolf.”

I agree. So, to me, practicing the regulatory craft means, in essence, not crying wolf. It means striving for the “sweet spot” between under regulation and over regulation. It means constantly striving to pursue effective regulation without imposing undue burden and stifling innovation. We need to set certain boundaries that allow the licensee to innovate within the framework we lay out.

As the NRC faces the challenges I outlined a moment ago, I think the concept of “regulatory craft” is particularly important now. As the agency takes a hard look at itself, I believe we are moving back to a “back to basics” in our approach to our mission. I believe we can be assertive and focused on the basics of safety and security, but can still question what we do in a thoughtful and productive way.

One way the Commission is participating in this new perspective is by looking closely at rulemakings from a fresh perspective. In the past year or so, the Commission has voted to delay or eliminate a variety of rulemakings, and to focus clearly on “must do” requirements and less on “nice to do” ones.

One question you might have right now – and certainly would have after reading Breyer’s book is the attainability of finding the regulatory sweet spot where stakeholders, staff and the industry all agree with the Commission’s decisions. And, yes, I agree that is an ideal that may not be totally within our grasp a kind of Holy Grail. But I don’t think that is reason enough to not try. And to maybe get close. If nothing else, that pursuit keeps us heading in the right direction. The quest itself is important.

That pursuit fits well into the NRC’s Principles of Good Regulation, for which we also strive, and which, I hope, you might take some time to study.

Quite briefly, those principles are:

- Independence – the importance of the regulator to remain separated from the promotional organs of government, and be independent of the industry it regulates and other non-governmental organizations, and of any undue political influence.
- Openness – In a field as complicated and controversial as ours, it's important that regulators execute their craft in an open and transparent manner.
- Efficiency – In our case, the American taxpayer, the rate-paying consumer and the licensees are all entitled to the best possible management and administration of regulatory activities.
- Clarity – The regulatory regime should be coherent, logical and practical.
- And Reliability: – Stakeholders must be confident in the prompt and fair administration of appropriate regulations.

I'm going to stop here. I'm sure you have lots of questions for me. So fire away.