



NUCLEAR ENERGY INSTITUTE

DSI-14
(17)

Dr. Thomas D. Ryan
SENIOR VICE PRESIDENT
REGULATORY POLICY & REFORM



November 27, 1996

Mr. John C. Hoyle
Secretary of the Commission
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

ATTENTION: Chief, Docketing and Service Branch

SUBJECT: NRC Strategic Assessment and Rebaselining
(61 *Federal Register* 195; October 7, 1996)
Request for Comments

Dear Mr. Hoyle:

The Nuclear Energy Institute (NEI),¹ on behalf of the nuclear energy industry, has reviewed the Direction Setting Issue (DSI) papers which form a part of the NRC Strategic Assessment and Rebaselining Initiative. The purpose of these papers is to discuss key issues affecting the future strategic direction of NRC and provide options for selection by the Commission. The NRC has requested comments from all "stakeholders" to be considered as part of the Commission's decision making process. Our comments on each DSI paper are organized in the following format:

1. What, if any important considerations have been omitted?
2. How accurate are the NRC's assumptions and projections for internal and external factors?

¹ NEI is the organization responsible for establishing unified nuclear industry policy on matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI's members include all utilities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel fabrication facilities, materials licensees, and other organizations and individuals involved in the nuclear energy industry.

3. Do the Commission's preliminary views respond to the current environment and challenge?

4. NEI Recommendations

The NRC is to be commended for undertaking this effort. It is important to periodically review the overall direction of the agency, particularly given the dynamic circumstances in the nuclear industry today. The DSIs identified through the early phases of this assessment are reasonably complete, highlighting the areas in which strategic decisions are needed. Many of our comments highlight areas where the staff analysis of the issues does not include viewpoints significantly different from the status quo.

We are concerned that insufficient review time will reduce the effectiveness of the stakeholder comment process. The stakeholders had a very limited time to solicit and compile comments from their constituencies. We recognize that the public comment period was extended, but the two week extension was announced too late in the process to affect the collection of comments from NEI's members. It is likely that other "stakeholders" representing large constituencies, including licensees with multiple internal organizational groups, were similarly constrained.

Of greater significance is the amount of time the NRC has indicated will be used to assess the comments. NRC staff indicated during the workshops that "Stakeholder Interaction Reports," compiling the comments, would be forwarded to the Commission for consideration within three weeks after the comment deadline. This schedule would make it very difficult for NRC management to consider the variety and volume of public comments that are likely to be received. It could restrict the ability to revise the thinking that went into the initial papers, to define and flesh out new options which may be suggested by the comments, or to provide analysis of such new options for the Commission's consideration. We encourage NRC to take the time necessary to derive full benefit from this important endeavor.

A significant omission from this strategic assessment is the current enforcement policy. That policy has a pervasive effect on the relationship between the NRC and its licensees and on the message the public perceives regarding the safety significance of problems. Other federal agencies with safety mandates, and many foreign nuclear regulatory authorities, have different approaches to enforcement. Some of these are structured differently specifically to encourage compliance, rather than punish non-compliance. NEI strongly encourages the NRC to subject the enforcement policy to the same type of review, examining options different from the

agency's historical practice, as has been applied to other programs in many of the DSIs.

In many of the DSI papers, past actions of the agency are summarized, but often not critically evaluated. Instead, it appears to be accepted that past regulatory actions were necessary and remain appropriate as continuing regulatory requirements. In fact, many of these actions were in response to specific events and issues, may not have been the most effective means of dealing with the issue, and are inappropriate as continuing burdensome requirements since the causes of the events have been dealt with. A more thorough assessment of previous NRC actions could produce lessons on how the agency could have been, and could be, more effective in addressing issues. Today, the regulatory problems at the Millstone station are the issue of the moment. References to these problems permeate the DSI papers. The papers could well have had a different tone had they been prepared a year earlier. While it is necessary to deal with compliance problems when they are found, it seems inappropriate for individual situations such as Millstone to color so completely the strategic picture for a regulatory agency.

There is agreement between the NRC and industry that safety performance has improved over the last several years. Performance indicators monitored by NRC and industry both demonstrate such improvement. Nevertheless, the total burden imposed by regulatory requirements continues to increase. There is danger that this increasing burden will make it economically infeasible for some nuclear power plants to continue operation, thus depriving the nation of a reliable, clean source of electric power. Such an outcome is not in the public interest if safety is not in question. An improved focus is needed in the nuclear regulatory process on safety significance. We note that Chairman Jackson has often expressed her support for the concept of risk-informed, performance-based regulation. We agree that this is an excellent mechanism for providing the needed focus. It would allow issues to be addressed in their appropriate context, considering both their individual significance and the overall level of safety performance in the industry. It would lead to more efficient means to address those issues that require action. It would appropriately allow for individual variation in the response to an issue, as it is seldom the case that a single specific action is the appropriate, effective response for all members of a class of NRC licensees. The regulatory process needs to recognize this, and allow problems to be addressed in the manner which will be most effective given the circumstances of individual licensees. We encourage the NRC to utilize fully this strategic planning process to further the transition to this more effective and efficient regulatory regime.

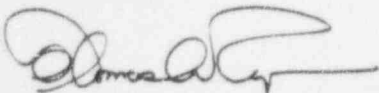
Mr. John C. Hoyle
November 27, 1996
Page 4

Several of the DSIs would benefit from a practical definition of an adequate level of protection of public health and safety. It is difficult to discuss how to (1) improve public communication, (2) improve the efficiency and effectiveness of the regulator, and (3) properly focus a regulatory oversight program without defining the baseline against which effectiveness can be measured. Without a more objective definition of adequate safety levels, one cannot determine when programs are successful or address a perception that more needs to be done. The NRC needs to develop means for applying the safety goals in a practical manner in order to provide a benchmark that is useful for determining when and how much additional action is required to assure safety.

Significant management attention will be required to implement any changes that result from this strategic planning process. The experience with risk-informed performance-based regulation is instructive in that regard. The Commissioners and senior staff management repeatedly have made comments supportive of such approaches to regulation. There appears to be an understanding, at the policy level, that it is appropriate to deal with issues in their particular safety context. This policy has not been effectively transferred to the working level of the staff. Inspectors and reviewers, whose actions impact NRC licensees on a daily basis, remain focused on detailed, prescriptive approaches. They continue to be concerned with how the "requirements" of NRC guidance documents are met, regardless of the safety objective and inherent flexibility of guidance. It will be very important for the Commission and staff management to devote considerable effort to translating any policy changes resulting from this rebaselining to changes in practice at the working level, so that they may indeed improve the effectiveness of the regulatory process.

We appreciate the opportunity to comment on these issues. We are willing to meet with the Commission or staff to discuss our comments or the related broader issues. Please contact me at (202) 739-8013 if there are any questions regarding our comments.

Sincerely,



Thomas D. Ryan

TDR/RWH/ec
Enclosure

Mr. John C. Hoyle
November 27, 1996
Page 5

c: Hon. Shirley Ann Jackson, Chairman
Hon. Kenneth C. Rogers, Commissioner
Hon. Greta J. Dicus, Commissioner
Hon. Nils J. Diaz, Commissioner
Hon. Edward McGaffigan, Jr., Commissioner
Mr. James M. Taylor, EDO

Nuclear Energy Institute Comments

on

Direction Setting Issue Papers

from

NRC Strategic Assessment and Rebaselining Initiative

November 27, 1996

DSI 14 -- Public Communications Initiatives

1. What, if any, important considerations have been omitted?

- The paper's focus is improving the information exchange between the NRC and the public for the purpose of involving the public in the regulatory process. The paper discusses the need for liberal access to information by the public, public outreach on emerging issues and communications mechanisms that are critical to setting the stage for increasing public confidence. One significant omission from the paper, however, is the NRC's role in communicating to the public and working with licensees in the emergency public information area.
- The NRC is proposing several options for modifying its communications programs without first determining the scope and effectiveness of its existing programs or clarifying the responsibilities and accountabilities within those programs. There is no discussion of how the NRC intends to measure the effectiveness of initiatives designed to improve public communications and little thought expressed on how these communications activities will lead to increased public understanding and confidence.

The NRC should evaluate the effectiveness of the current public communications program before undertaking an effort to modify the program. The agency acknowledges "the full level of resources currently devoted to public communications activities is difficult to assess because of the variety of organizations and personnel that engage in public communication."

Once this assessment is complete, and the agency's mission and objectives have been clarified, it would be appropriate to establish goals and objectives, benchmarking them against private sector and other public sector programs.

- As described in section II.C.5, the NRC does not have an integrated strategy for managing communication with the public. As a result, the agency's process to communicate to the public "has sometimes resulted in duplicative systems, facilities, and distribution channels for agency information and adoption of technologies on an ad hoc or reactive basis."

On one hand, the NRC says the lack of an integrated system results in duplicative efforts to communicate to the public. However, the agency also explains that the Office of Public Affairs (OPA) has been assigned objectives to communicate to the public through the media

and other means and to keep NRC management advised of public interest in proposed policies, programs and projects so that public affairs actions may be planned, evaluated and executed.

If OPA has responsibility in these areas, have these management expectations been communicated clearly throughout the NRC? The agency must also define the respective roles of the headquarters OPA and communications staff in the regional offices regarding public communication regarding licensees. The paper cites an apparent lack of clearly defined areas of responsibility: "...the agency may be adding new mechanisms for public communications without an assessment against overall agency objectives or an analysis of whether the new mechanism should replace existing activities."

- The NRC must establish one focused integrated communication strategy with clear accountability for the function. In so doing, the NRC should consider:
 - * Defining the public trust and confidence message,
 - * The level of influence NRC desires over public opinion of the NRC,
 - * Measurable goals,
 - * Analysis of important audiences,
 - * Content of the information to be provided,
 - * Format through which the information is effectively presented, and
 - * Measurement of results achieved.
2. How accurate are the NRC's assumptions and projections for internal and external factors?
- Other recent federal government initiatives geared toward building public trust and confidence may provide additional relevant information regarding the external factor of public confidence.
 - The NRC needs to clearly define the cost/benefit of each of the proposed alternatives in the paper. The agency issues volumes of information that have little to varying degrees of value to the public, and more focus should be applied to understanding and resolving inefficiencies and problems associated with the current communications program. The NRC also must improve coordination with management of its licensees on the communication of significant information that impacts the licensee. This coordination is essential to educate policymakers on a federal, state and local level on issues that pertain to nuclear facilities and to communicate operational and policy issues clearly and succinctly with residents living near those facilities.

- To improve communications with the public, the Commission's desire to focus on expanding computer-based technology and reliance on the Internet is justified but needs to be tempered, i.e. posting preliminary information without thorough review or dated information. The agency may be able to gain significant experience from other federal agencies who have launched similar initiatives.
3. Do the Commission's preliminary views respond to the current environment and challenge?

The Commission's preliminary views address the most pressing need to engage the public on emerging regulatory issues. But beyond that, the paper is a very general, albeit comprehensive, summary of communication philosophy. Notably lacking is the element of building public trust and confidence as it relates to this philosophy. The NRC must acknowledge as an overarching goal of its strategic assessment the need to establish the credibility of the agency.

Overall, the Commission's views appear to be generally consistent with the current environment. In particular, the NRC emphasizes:

- Early identification of public concerns and development of appropriate communications strategies,
 - The need to focus on maximizing effectiveness and economy in the existing program and examining high-cost activities, and
 - The need to perform better assessments of proposed improvements to the existing approach.
4. NEI Recommendation
- Option 1 focuses on increased integration of the values of cost-effectiveness and economy. This concept should be fundamental to any change to the program, rather than set aside as part of only one option. This option comes the closest to meeting the need for a baseline evaluation of the existing communications programs and should be the first step taken to improve the NRC's communications activities.
 - Option 2 seems most appropriate for the current state of the industry. Some licensees advocate adding an aspect of self-promotion by the NRC from a public confidence-building perspective. The elements of this option are part of any successful public information program and need not be considered mutually exclusive. The role (and success) of the NRC in guarding and improving public safety should be an additional theme in the NRC's communications with the public.

- The final decision on what option or combination of options to choose must be based on cost benefit. While some of the ideas in the decision setting issue paper appear sound, the cost of implementing some of them may be very high. Some initiatives that merit inclusion:
 - * Increased use of electronic information technology to improve efficiency,
 - * Establish a single point of contact—responsible and accountable for NRC communications,
 - * Take a more forward looking approach for early identification of issues likely to be of concern to the public (avoid a repeat of the below regulatory concern situation),
 - * Increase focus on evaluating the cost/benefit of the NRC communications function, and
 - * Take a more focused approach on distributing information to the public so only that which is useful and understandable is distributed.

Elements in all of the options presented by the NRC should be factored into a single comprehensive program with clearly defined goals, objectives, processes, responsibilities and performance measurements. The first step in this process should be a self-assessment involving participation by public sector communications organizations to establish a baseline for change and improvements.

- NRC should promote effective and balanced NRC communications with the public to avoid the appearance of only reacting to public outcries. Routine educational opportunities, i.e., monthly public meetings conducted by the site resident and/or the site project manager from NRR, should be considered. Greater sensitivity to the impact of its communications on a generally non-expert audience should be promoted.