

Nuclear agency needs independent appointees

By Peter A. Bradford

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Two of five seats are vacant on the U.S. Nuclear Regulatory Commission, the independent federal agency responsible for the safety of the 104 operating U.S. nuclear power reactors, as well as several applications for new reactors in the southeastern U.S., including two in Georgia. President Barack Obama's impending NRC appointments will determine whether the agency cleans up leadership deficiencies that have long undermined public confidence in the NRC and that could jeopardize nuclear safety.

The NRC is a very capable technical agency with many dedicated, professional staffers. But the NRC's safety leadership is ultimately determined by the quality of the presidential appointments and the extent of congressional supervision. Safety suffers when that leadership focuses unduly on the economic interests of the nuclear industry and on cheerleading for new nuclear reactors.

Here are some examples of the culture that needs to change at the NRC:

Immediately after the Sept. 11 attacks, the NRC rushed out a claim that nuclear power plants were designed to withstand such plane crashes. This claim, which had no basis, was later withdrawn. Not withdrawn was a claim made by NRC attorneys a day after the catastrophe, while the ruins of the World Trade Center towers still smoldered, that acts of terrorism against nuclear facilities were too unlikely to require NRC review.

In 2002, NRC senior management overrode a staff recommendation that the Davis-Besse plant — located halfway between Detroit and Toledo, Ohio — shut down promptly to check the integrity of its reactor vessel, a feature critical to the safety of the plant. When the plant eventually did shut down, a rust hole as big as a football was discovered in the reactor vessel. The essential cooling water was contained by a thin stainless steel liner that was never designed for that crucial purpose. The NRC's inspector general concluded that the agency had placed the economic interest of the licensee ahead of its responsibility to protect the public.

In 2003, the NRC nominated the official who had overseen the Davis-Besse shutdown delay for the highest possible civil service financial award, a 35 percent salary bonus — or about \$40,000. The NRC inspector general concluded that the same official had, during the time covered by the salary award, knowingly inserted a false statement into a letter sent by the NRC chair to the Union of Concerned Scientists.

When President George W. Bush appointed Gregory Jaczko to the NRC in 2004, he and Congress insisted that Jaczko not participate for a substantial period in matters related to the potential Yucca Mountain waste repository since Jaczko's previous employer, Sen. Harry Reid

of Nevada, opposed the project. When President Bush subsequently named Dale Klein to chair the agency, no similar requirement was imposed despite the fact that Klein had been paid to appear in an industry advertising campaign attesting to the suitability of Yucca Mountain to house the nation's nuclear wastes. (Obama recently transferred the chairmanship from Klein to Jaczko).

On a 2004 trip to China to support the sale of Westinghouse reactors, NRC chair Nils Diaz publicly assured the Chinese that the Westinghouse design would soon be approved by his agency. Diaz was supposed to be keeping an open mind about the Westinghouse design pending the staff review. Such a statement by the head of the NRC can only have discouraged any staff reviewer who might have been considering raising a safety concern.

Former Sen. Pete Domenici of New Mexico, then chair of the subcommittee with jurisdiction over the NRC, claimed in his 2004 book, "A Brighter Tomorrow: Fulfilling the Promise of Nuclear Energy," that he had compelled the NRC to reverse its "adversarial attitude" toward the nuclear industry by threatening to cut its budget by one-third during a 1998 meeting with the chair. This sad story of congressional bullying and subsequent regulatory acquiescence reflects badly on overseer and regulator alike.

In recent years, the NRC has eviscerated the structure for resolving public safety concerns the agency previously had observed for 40 years. To give one of many examples, lawyers can no longer cross-examine witnesses but must submit their questions to the licensing board chair, who decides whether to ask them. Since these public hearings have never been a major source of licensing cost or delay (and have uncovered serious safety concerns), such measures can only be intended to spare the industry and the NRC from the embarrassment and inconvenience that can come from active public involvement.

Other examples abound. They are not offset by any episodes of overreaching on behalf of the general public.

If nuclear power can continue to improve its existing safety record, the real challenge confronting potential new reactors lies mostly in the fact that they are much more costly than other ways of reducing the emissions that cause climate change, a problem the NRC can't solve. However, the tendency of the NRC commissioners and their overseers in Congress and the White House to act as industry boosters, to shut out the public rather than responding to their concerns, and to slight the NRC's environmental responsibilities is the same pattern of complacency and risk-taking that has so recently proven catastrophic in our nation's financial regulation.

President Obama pledges an era of more alert economic regulators who will strive to avert future economic meltdowns. His NRC appointees need also to have proven track records of vigilance, competence and solicitude for the public welfare. Needlessly adding a nuclear accident or two to the cascade of regulatory failures that now weighs down our economy will not fight climate change, promote economic growth or restore faith in the U.S. government.

Peter Bradford is a former commissioner of the U.S. Nuclear Regulatory Commission and also served as chair of both the New York and the Maine utility regulatory commissions.