

5

IMPLEMENTATION ISSUES

Implementation of the recommendations in this report will require actions and cooperation by a large number of parties. This chapter provides a brief discussion of two implementation issues that the committee believes will be of interest to Congress:

- (1) Timing Issues: Ensuring that high-quality, expert analyses are completed in a timely manner.
- (2) Communication Issues: Ensuring that the results of the analyses are communicated to industry so that appropriate and timely mitigating actions can be taken.

5.1 TIMING ISSUES

The September 11, 2001 terrorist attacks forced the nation to begin a re-examination of the vulnerability of its critical infrastructure to high-impact suicide attacks by terrorists. The Nuclear Regulatory Commission was no exception. The Commission began a top-to-bottom review of security procedures at commercial nuclear power plants. This review resulted in the issuance of numerous directives to power plant operators to upgrade their security practices. The Commission also began a series of vulnerability analyses on spent fuel storage to terrorist attacks. These analyses are described in Chapters 3 and 4.

More than three years have passed since the September 11, 2001 attacks. Vulnerability analyses of spent fuel pool storage to attacks with large aircraft have been performed by EPRI (Chapter 3), and analyses of dry cask storage to large aircraft attacks have been completed by the German organization GRS (see Appendix C). However, the Nuclear Regulatory Commission's analyses of spent fuel storage vulnerabilities have not yet been completed and actions to reduce vulnerabilities, such as those described in Chapter 3, on the basis of these analyses have not yet been taken. Moreover, some important additional analyses remain to be done. The slow pace in completing this work is of concern given the enormous potential consequences as described elsewhere in this report.

The committee does not know the reason for this delay, nor was it asked by Congress for an evaluation. It is important to note that the Nuclear Regulatory Commission's analyses are addressing a much broader range of vulnerabilities than just spent fuel storage. The committee nevertheless raises this issue because it appears to be having an impact on the timely completion of critical work and implementation of appropriate mitigative actions for spent fuel storage.

5.2 COMMUNICATION ISSUES

During the course of this study, the committee had the opportunity to interact with representatives of the nuclear power industry to discuss their concerns about safety and security issues. The committee received numerous comments from industry representatives

about the lack of information sharing by the Nuclear Regulatory Commission on the vulnerability analyses described in Chapter 3. These representatives noted that information flow was predominately in one direction: From the industry to the Commission. The Commission was not providing a reciprocal flow of information that could help the industry better understand and take early actions to address identified vulnerabilities.

Restrictions on information sharing by the Commission have resulted in missed opportunities in at least two cases observed by the committee. Analyses of aircraft impacts into power plant structures described in Chapter 3 were being carried out independently by Sandia for the Commission and by EPRI for the nuclear power industry. Because of classification restrictions, EPRI was not provided with information about the Sandia work, including the results of physical tests that would have helped EPRI validate its models. Both Sandia and the industry would have benefited had their analysts been able to talk with each other about their models, assumptions, and results while the analyses were in progress. When the EPRI work was completed the Commission declared it to be safeguards information.¹ As a consequence, some of the EPRI analysts who generated the results no longer had access to them, and the results could not be shared widely within industry.

A similar situation exists with respect to the ENTERGY Corp. spent fuel pool separate effects analyses described in Chapter 3. ENTERGY is using similar approaches and models as Sandia but has received little or no guidance from Commission staff about whether the results are realistic or consistent. The ENTERGY analysts told the committee that they would have benefited had they been able to compare and discuss their approaches and results with Sandia analysts. Sandia analysts were prevented from doing so because of classification issues. Sharing of ENTERGY's results within the company or across industry may be problematical if they are determined to be classified or safeguards information by the Commission.

Several Nuclear Regulatory Commission staff also privately expressed to the committee their frustration at the difficulty in sharing information that they know would be useful to industry. In fact, from the contacts the committee had, there does not appear to be a lack of willingness to share information at the working staff level within the Commission. Rather, it seems to be an issue of getting permission from upper management and addressing the classification restrictions.

Much of the difficulty in sharing this information appears to arise because the information is considered by the Nuclear Regulatory Commission to be safeguards information or in some cases even classified national security information. Industry analysts and decision makers generally do not have the appropriate personal security clearances² to access this information. The committee learned that the Commission is making efforts to share more of this information with some industry representatives. The industry will be responsible for implementing any changes to spent fuel storage to make it less vulnerable to terrorist attack. Clearly, therefore, the industry needs to understand the results of the

¹ Safeguards information is defined in section 147 of the Atomic Energy Act and in the Code of Federal Regulations, Title 10, Part 73.2. See the glossary for a definition. Authority for designation of safeguards resides with the Nuclear Regulatory Commission.

² In fact, a personal security clearance is not required to access safeguards information. One only needs to be of "good character" and have a "need to know" as determined by the Nuclear Regulatory Commission.

Commission's vulnerability analyses to ensure that effective implementation strategies are adopted.

The committee also received complaints during this study from members of the public about the lack of information sharing. Commission staff have responded to these complaints by stating that such sharing could reveal sensitive information to terrorists, and that the public does not have a "need to know" this information.

The committee fully agrees that information that could prove useful to terrorists should not be released. On the other hand, the committee believes that there is information that could be shared without compromising national security. For example, general information about the kinds of threats being considered and general steps being taken to reduce vulnerabilities could be shared with the public. Information about specific vulnerabilities of spent fuel pools and dry storage casks to terrorist attacks as well as potential mitigative actions could be shared with industry without revealing the details about how such attacks might be carried out. Sharing information with industry is essential for ensuring that mitigative actions to reduce vulnerabilities are carried out. Sharing information with the public is essential in a nation with strong democratic traditions for sustaining public confidence in the Commission as an effective regulator of the nuclear industry, and for reducing the potential for severe environmental, health, economic, and psychological consequences from terrorist attacks should they occur.

5.3 FINDING AND RECOMMENDATION

FINDING 5A: Security restrictions on sharing of information and analyses are hindering progress in addressing potential vulnerabilities of spent fuel storage to terrorist attacks.

Current classification and security practices appear to discourage information sharing between the Nuclear Regulatory Commission and industry. During the course of the study the committee received comments from power plant operators, their contractors, and Nuclear Regulatory Commission staff about the difficulties of sharing the information on the vulnerability of spent fuel storage. Indeed, even the committee found it difficult and in some cases impossible to obtain needed information (e.g., information on the design basis threat). Such restrictions have several negative consequences: They impede the review and feedback processes that can enhance the technical soundness of the analyses being carried out; they make it difficult to build support within the industry for potential mitigative measures; and they may undermine the confidence that the industry, expert panels such as this one, and the public place in the adequacy of such measures.

RECOMMENDATION: The Nuclear Regulatory Commission should improve the sharing of pertinent information on vulnerability and consequence analyses on spent fuel storage with nuclear power plant operators and dry cask storage system vendors on a timely basis.

Implementation of this recommendation will allow timely mitigation actions. Certain current security practices may need to be modified to carry out this recommendation.

The committee also believes that the public is an important audience for the work being carried out to assess and mitigate vulnerabilities to spent fuel storage facilities. While it would be inappropriate to share all information publicly, more constructive interaction with the public and independent analysts could improve the work being carried out, and also increase public confidence in the Nuclear Regulatory Commission and industry decisions and actions to reduce the vulnerability of spent fuel storage to terrorist threats.