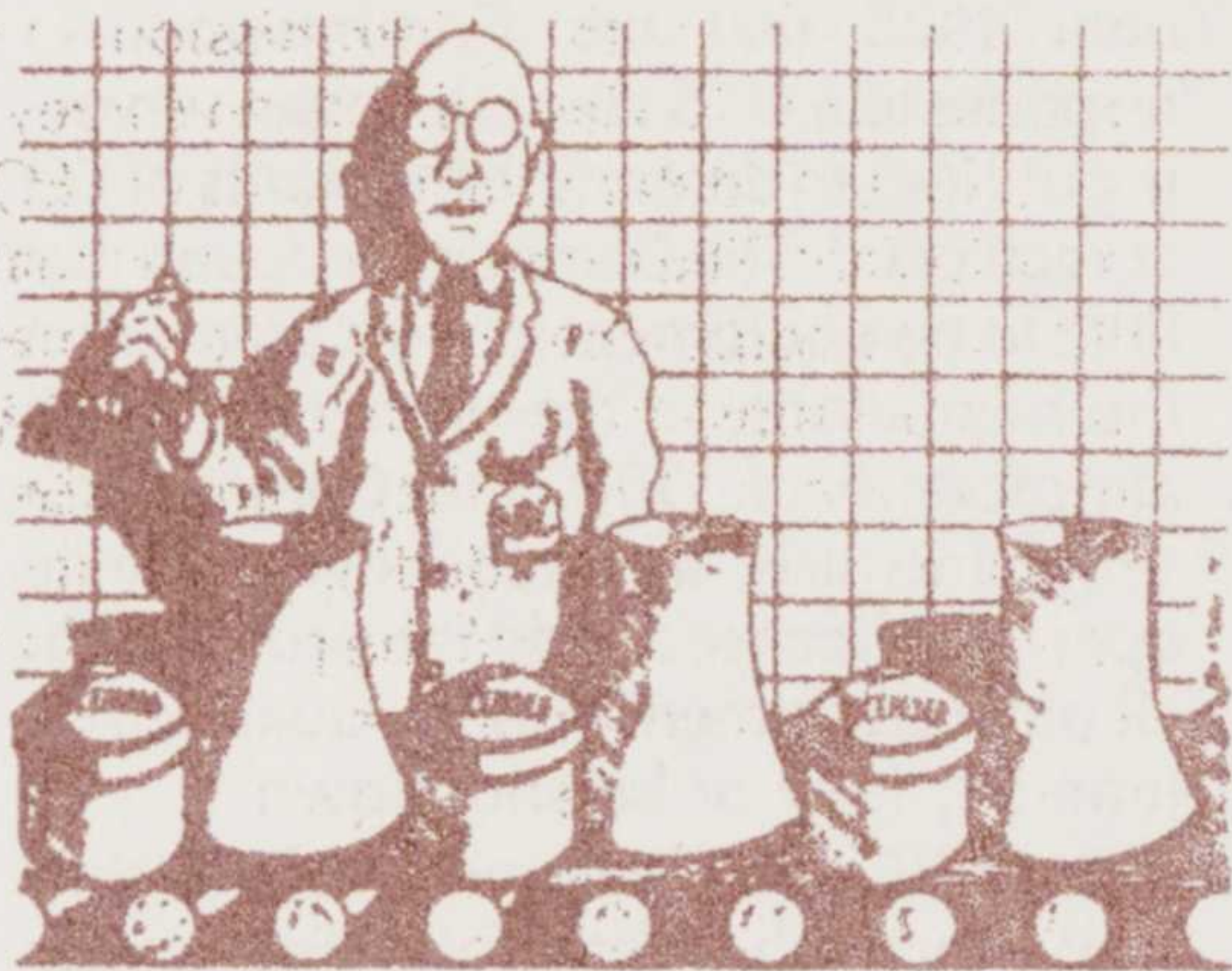


The Decline of Nuclear Regulation

When Congress created the Nuclear Regulatory Commission in 1975, there was a widespread hope that the basic barrier undermining effective nuclear regulation had been overcome. After all, the NRC's predecessor, the Atomic Energy Commission, had been charged with the schizophrenic missions of both promoting and regulating nuclear power. But this new agency, the NRC, could be an effective regulatory body, devoted solely to protecting the public health and safety. The AEC's promotional efforts were turned over to the Energy Research and Development Administration (ERDA, which later became the Department of Energy). Today, however, with a Commission appointed entirely by President Reagan and a new chairman—retired Admiral Lando Zech—waiting in the wings, the NRC is poised to again become, in practice if not in name, the agency it was created to replace.

Not that the NRC ever became the sharp-eyed regulatory body envisioned by Congress. The new NRC quickly demonstrated it possessed as strong a penchant for nuclear power promotion and plant licensing as did the old AEC. Even as safety regulations began to fill reams of paper, enforcement of the regulations remained weak to nonexistent. Hundreds of outstanding safety issues were



routinely tagged with the label "generic" (meaning that they affected more than one plant and thus weren't applied to any specific plant) and left unresolved for years. The primary reason for the regulatory lethargy was the NRC's belief, even conviction, that a serious accident just wasn't possible. It was an attitude that pervaded every official action undertaken by the commission.

In fact, the Kemeny Commission, formed by President Jimmy Carter to investigate the causes of the 1979 accident at Three Mile Island, concluded, "With its present organization, staff, and attitudes, the NRC is unable to fulfill its responsibility for providing an acceptable level of safety for nuclear power plants." The Kemeny Commission also confirmed that creation of the NRC had not resulted in the hoped-for emphasis on safety. "We find that the NRC is so preoccupied with the licensing of plants that it has not given primary consideration to overall safety issues." Even the federal government was forced to admit the NRC had abdicated its responsibilities.

For a short time after the TMI accident, under pressure from a newly-informed and wary Congress and public, the NRC began to take on the trappings of an agency serious about its mission to protect the public health and safety. An unstated, but nonetheless real, moratorium on the issuance of new plant operating licenses

took place in the climate of uncertainty following the accident. Ten-mile Emergency Planning Zones were established around nuclear plants, and workable—at least on paper—evacuation plans were made a requirement for plant licensing. A TMI Action Plan, ostensibly aimed at correcting the design and equipment problems that led to the accident, was developed and plants were forced to backfit their reactors to meet the new emphasis on safety. Special attention was paid to Babcock & Wilcox reactors—the company that designed the now-molten Unit-2 at TMI. Increased emphasis was placed on operator training.

It didn't last long. The utilities began charging the NRC with overreacting to TMI. The public and Congress, once again thinking the problems were solved, began to turn their attention to other issues. An avidly pro-nuclear President was elected. A new chairman of the NRC, Nunzio Palladino, was appointed, with the expressed mission of speeding the licensing of new reactors.

Now, nearly seven years after TMI, it is rare to find even lip service paid at the NRC to the need for stricter safety regulations and oversight. The NRC Commissioners, none of whom were with the agency during TMI, have shown little interest in safety issues; Commission votes uniformly follow the industry line. Only one Commissioner, Reagan appointee James Asselstine, has demonstrated any streak of independence. Ironically, by the end of his term, Palladino began to be considered a moderate on the panel, at least in comparison, and was criticized by the industry for not speeding plant licensing quickly enough. Lando Zech, who assumes the chair in July, is not likely to make that mistake.

In nearly every conceivable safety area, the NRC, in the name of regulatory "reform" and with spurious justification, is backing off from effective safety regulation, promoting industry self-regulation,

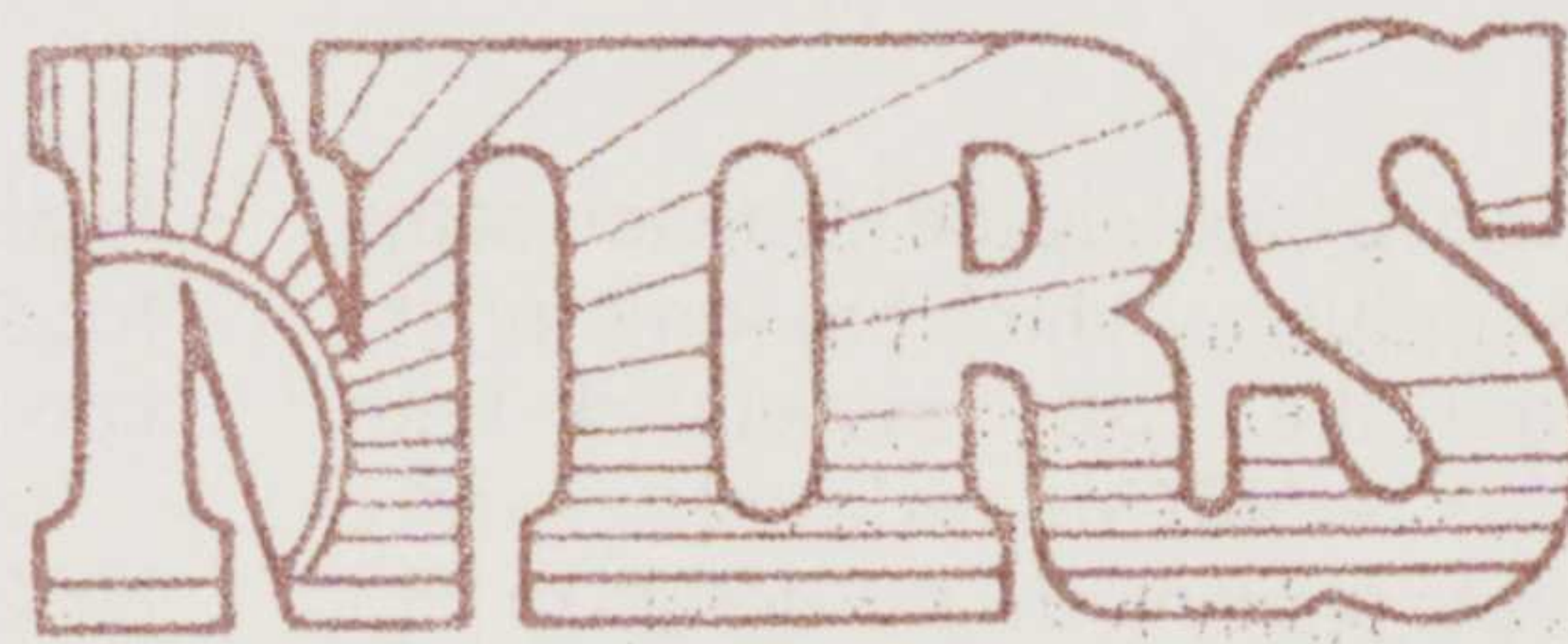
and tacitly placing the financial health of utilities above the enforcement of strict safety standards. The use of cost-benefit analysis, once an inconceivable notion to apply to safety issues, has become commonplace to the point where the new Executive Director of Operations, Victor Stello, has seriously proposed that a dollar limit be set on the amount a utility must pay for backfits. Once the prescribed ceiling was met, the utility would have to spend no more on backfits, regardless of the safety consequences. "You have to draw it back to dollars," Stello told the Commissioners, "that's what it's really all about."

The fact that such a proposal could even be considered—and once considered remain, as it does, under discussion—speaks volumes about the new NRC attitude toward safety regulation. There was a time, after all, when the Atomic Energy Act was interpreted as forbidding cost factors when addressing safety issues.

Backfits

Perhaps no other issue so clearly demonstrates the decline of nuclear regulation as the NRC's adoption, on September 20, 1985, of its final backfit rule. The substance of the rule can only be regarded as the NRC's complete capitulation to the industry it is charged to regulate. Commissioner Asselstine, who voted against the rule, charged in his dissenting comments, "In adopting this backfitting rule, the Commission continues its inexorable march down the path toward non-regulation of the nuclear industry." He continued, "The Commission's adoption of this rule is truly an unprecedented step in the annals of regulation. I can think of no other instance in which a regulatory agency has been so eager to stymie its own ability to carry out its responsibilities."

The rule, which is, in Zech's words, intended to bring "discipline" to the backfit-



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