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CHAIRMAN RICHARD A. MESERVE

KEYNOTE ADDRESS FOR 1999
STATE LIAISON OFFICERS' NATIONAL MEETING

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Good morning and welcome to the 1999 State Liaison Officers' meeting. As you know, I have served as Chairman of the Nuclear Regulatory Commission for only one month. I suspect that many of you may have forgotten things that I have yet to learn. Nonetheless, I welcome the opportunity to share some perspectives with you.

In my prior life as a practicing attorney, I had many interactions both with Agreement States and other states on licensing and regulatory issues. I was thus aware of the role of the states in assuring public health and safety. My short tenure as Chairman has served only to reinforce the importance of the NRC's linkage with you if the NRC is to achieve its fundamental mission. I thus view our relationship as essential to the NRC's success and I am hopeful that it will continue to be cooperative and productive. As a result, I welcome the opportunity to meet with you early in my term.

We are in a period of remarkable innovation at the NRC. Let me discuss some of the broad areas of change at the NRC and then turn to some particular issues of significance that bear on our relationship with the states.

I. NRC Issues

As I am sure you are fully aware, we are in the middle of a significant restructuring of the utility industry. In a growing number of states, the competitive market determines the price of electricity and thus profitability for all forms of electricity generation is dependent on achieving economically efficient operations. This has important implications for the NRC's work.

On the one hand, the changed financial environment reinforces the need for us to be vigilant in demanding safe operations by licensees. The NRC must assure that the pressures to reduce costs do not become incentives to cut corners on safety. Protection of the public health and safety will always remain our transcendent mission and responsibility.

On the other hand, this changed environment reinforces the need for the NRC to regulate efficiently -- to regulate in a fashion that imposes the minimum degree of burden consistent with getting the job done. This implies a careful approach both in crafting new regulatory initiatives -- making sure that the benefits outweigh the costs -- and a willingness to

cast a critical eye on existing policies and practices. In this connection, the Commission is engaged in a comprehensive effort to reevaluate the entire foundation for the regulation of reactors by seeking to apply the insights arising from probabilistic assessments in modifying regulatory requirements. This is termed "risk-informed" regulation and it will consume the efforts of many of our staff over the next several years.

In addition to the application of risk insights in regulations, the Commission is pursuing reactor license renewal. As I am sure you know, the Atomic Energy Act authorizes the NRC to issue a reactor license for a 40-year term, while providing the possibility of license renewal. In light of the fact that many reactors can safely be operated for an additional period of time beyond 40 years, the NRC has established a process to allow license renewals for up to an additional 20 years in appropriate cases. The first two applications for renewal are now in process and others are expected.

The NRC has recently issued its safety evaluation report on the proposed renewal of the operating license for the two Calvert Cliffs nuclear power plants, concluding that there are no safety concerns that would preclude renewal of the license. The renewal of the license for the three Oconee nuclear units remains on schedule. As I am sure you know, the Commission received an adverse ruling by the U.S. Court of Appeals for the D.C. Circuit concerning the request by the National Whistleblowers Center to intervene in the Calvert Cliffs proceeding. But, in a striking development, the court recently vacated that decision and ordered further briefing and argument. I do not believe that this case, regardless of the outcome, will constitute a significant setback in our efforts to assure the timely processing of renewal applications.

In the materials and waste area, many challenges are also looming. In the years ahead, the agency will have to grapple with the problems associated with the geologic disposal of high-level waste -- a task that will present very thorny technical, legal, social, and political problems. The consideration of issues associated with Yucca Mountain, if the Department of Energy decides to pursue licensing, are sure to be trying and difficult. Moreover, the associated transportation issues will certainly have implications for the states. In the interim, we must continue to address the issues associated with dry cask storage of spent nuclear fuel. In addition, more nuclear utilities are beginning to decommission, requiring a more effective regulatory framework. In this area, utilities are seeking new ways to satisfy the License Termination Rule while reducing decommissioning costs. The staff will be challenged to consider new concepts under a performance-oriented approach while ensuring that radiological criteria are met.

It will also be necessary and appropriate to apply in the materials context some of the lessons learned from the development of a risk-informed and performance-based approach to the regulation of reactors. There are four major categories of regulated materials activities that would benefit from greater application of risk-assessment methods: 1) the long-term commitment of a site or facility to the presence of nuclear material (e.g., high-level waste disposal); 2) use of engineered casks to isolate nuclear material under a variety of normal and off-normal conditions; 3) physical and chemical processing and possession of nuclear material at a large-scale facility (e.g., fuel fabrication); and 4) use of either sealed or unsealed byproduct material in industrial and medical applications. However, the characteristics of nuclear materials regulation differ in important respects from those relating to reactor regulation -- materials regulations are driven by exposure standards, as opposed to measures of facility damage; there are a far wider diversity of activities undertaken by materials licensees than by reactor licensees; materials activities are not dominated by a clear-cut risk feature, such as

core damage; and operational risk, as opposed to accident risk, may be the central feature of the regulation of materials. Nonetheless, despite these differences, we believe the application of risk insights can and should be applied to materials regulation in the years ahead. This, of course, will have implications for counterpart state regulation, as I will mention in a moment.

Finally, I must also mention the need for the NRC to maintain its connection to the broader international community. As the recent incident in Japan has revealed, an event anywhere in the world can cause heightened concern about nuclear-related enterprises everywhere. As a result, the NRC needs to continue to work with its counterparts abroad to advance nuclear safety throughout the globe. Moreover, in a world that is awash with plutonium and highly enriched uranium, we need to work internationally to find ways to reduce the risks that these materials present.

II. State Issues

Let me turn now to a variety of issues or concerns that have arisen over my few weeks at the NRC that bear directly on the work of the states. I welcome your perspectives on these matters because I understand the need for the NRC to work cooperatively with the states to achieve appropriate resolution of these matters. I will discuss five issue areas. These include the need for consistency, the allocation of lead responsibility, consideration of a clearance standard, rulemakings affecting states, and assuring public confidence.

1. Consistency. There is clearly a need for consistency in regulatory approaches across international, national and State boundaries, particularly with respect to regulations that affect international trade and interstate commerce. There is an ongoing need for the NRC to work with international and other federal agencies on the development of guidelines for controlling the import or export of contaminated materials and products, as well as with the states on the identification and recovery of orphan sources and the control of licensed devices to minimize loss or inadvertent disposal. In light of the increasing concerns that are being expressed by metal recyclers, I expect that concerted action will be required in these areas at the international, national and state levels in the years ahead.

Moreover, there is a need to make greater efforts to assure consistency with respect to regulatory approaches, particularly for those actions that have impacts across state boundaries. For example, manufacturers and distributors of products that are shipped throughout the United States now frequently must deal with different licensing practices and regulations in as many as 31 different Agreement States, in addition to the NRC requirements for the rest of the country. It is important that we take steps to minimize the costs and confusion that can arise from the diversity of regulatory approaches.

As one minor step that might facilitate greater consistency, let me mention a suggestion that was made by my fellow Commissioner, Jeff Merrifield, at a recent nuclear materials stakeholders' workshop on November 9. He suggested that the NRC's website might provide a link to and a common source of information about proposed changes to state regulations, thereby enhancing awareness of changes by potentially impacted groups or individuals and helping assure that states receive comments during rulemakings concerning problems of inconsistency. We are considering this suggestion, but no doubt other efforts to encourage consistency are also in order.

2. Lead Responsibility. The Commission will need to examine the implications of the fact that we now have 31 Agreement States -- perhaps soon 35 Agreement States -- and that the states now regulate the majority of materials licensees. Traditionally, although the NRC has a well defined program of consultation with Agreement States, the NRC has been the initiator of regulatory changes. It may now be appropriate for the states to assume a greater responsibility for undertaking regulatory revision. The Organization of Agreement States and the NRC have effectively used staff working groups to address a number of regulatory issues. In addition, the Conference for Radiation Control Program Directors (the "CRCPD") has worked effectively in the past with the NRC and other Federal agencies to develop model state regulations for radiation protection. Perhaps there is the potential for it to take a leadership role in developing regulatory initiatives in the materials area. In any event, the NRC will establish a working group with Agreement State and CRCPD participation to examine the potential framework through which the regulation of nuclear materials can be accomplished in the future.

3. Clearance Standard. One issue that is likely to attract significant attention of the coming year relates to the NRC's exploratory efforts to determine whether to develop a national standard for clearance of material with small amounts of residual radioactivity. In June the NRC published an issues paper in the Federal Register to start the process of obtaining the views of stakeholders on this issue. The matter is attracting increased attention as a result of the recent public and Congressional interest in the decision by the State of Tennessee to authorize the release of volumetrically contaminated nickel that is recycled from a DOE facility and would contain trace amounts of fission products. There is an argument for a consistent national approach to such matters, particularly since material that is released by one state may well be used in another state. All states should have a keen interest in this subject since it goes beyond material regulated under the Atomic Energy Act to include Technologically Enhanced Natural Radioactive Material (TENORM), which is an area of exclusive state jurisdiction.

4. Rulemakings. I should also mention a number of ongoing NRC initiatives that will have an impact on the Agreement State programs. The proposed final rule for Part 35, "Medical Uses of Byproduct Material," is now before the Commission for final action. That rule uses risk insights, together with other factors, to establish requirements that better focus licensee and regulatory attention on design and operational issues that have importance to health and safety. The staff worked closely with the CRCPD SR-6 committee on a parallel rulemaking approach to develop a draft "Suggested State Regulation" for Part G, "Medical Uses of Radionuclides." Let me add that in addition to undertaking the modification of Part 35, the Commission is considering a related initiative to risk-inform 10 CFR Part 40, "Domestic Licensing of Source Material," which could also have implications for state regulations applicable to TENORM.

5. Public Confidence. We all need to remember that there is an overarching obligation on the part of the NRC and the states to meet all these challenges in a fashion that justifiably enhances public confidence. We work in a field in which public concern can easily arise. Our decisions must be fair, and must be perceived as being fair. Moreover, providing a fair opportunity for all to speak their views is essential; the public simply will not accept decisions from which it has been excluded. Thus, we must all approach our work in a way that includes the affected public in ways that are meaningful and that contribute to sound decisions.

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In sum, we have an abundance of challenges to confront together. I look forward to working with you as we address them and appreciate the opportunity to meet with you this morning.