

United States Nuclear Regulatory Commission
Office of Public Affairs
Washington, DC 20555
Phone 301-415-8200 Fax 301-415-2234
Internet: opa@nrc.gov

S-96-28

FOR IMMEDIATE RELEASE

TALKING POINTS
INDUSTRY RESTRUCTURING AND THE NRC

BY

DR. SHIRLEY ANN JACKSON, CHAIRMAN
U.S. NUCLEAR REGULATORY COMMISSION

TO THE

WASHINGTON INTERNATIONAL ENERGY GROUP

December 11, 1996

- Good afternoon ladies and gentlemen. It is a pleasure to meet with you. I understand that these lunch gatherings of the Washington International Energy Group are intended to be informal to allow us the opportunity to share information. I will therefore keep my opening comments brief in order to allow us time for questions and discussion today.
- I understand that your interest in our discussion today is focused on electric utility industry restructuring and the NRC. The economic deregulation of the electric utility industry and the restructuring which is resulting is a part of the changing environment in which the NRC is operating.

Before making some specific comments on electric utility industry restructuring, I would like to provide a general discussion of the many changes facing the NRC and how we are positioning for change.
- NRC is operating in an environment which is experiencing many changes.
 - Changing responsibilities, changing legislation, changing resources, changing stakeholder expectations and changing market forces.

CHANGES:

FULL COMMISSION

- The NRC now has a full, five-member Commission. First time since June 1993, that the NRC has had a full complement of Commissioners.

Commissioners Diaz and McGaffigan will enhance our deliberative process on policy issues, and Commissioners Rogers and Dicus bring diverse backgrounds to the decision-making process.

DOE EXTERNAL REGULATION

- One of the most important potential areas is evaluation and regulation of certain U.S. Department of Energy activities.
- In 1995, DOE established an Advisory Committee on External Regulation.

Report, published last December, Committee recommended that DOE be regulated externally and named NRC as one of two potential safety regulators, the other being the Defense Nuclear Facilities Safety Board.

Many questions remain to be answered - Congress must address budget and, if needed, pass implementing legislation before additional NRC oversight of DOE facilities might occur.

Commission has not taken a formal position on the efficacy of external regulation of DOE's facilities - the Commission does feel that NRC would be the appropriate regulatory body to perform such an oversight role, given adequate resources and a reasonable time schedule to develop and initiate an appropriate regulatory program.

- NRC already has some oversight responsibilities for certain DOE activities - most notably the licensing of a high-level radioactive waste repository and the "greater than Class C" waste disposal facility.

High Level Radioactive Waste Program

Has been marked by calls for change -- notably in the most recent Congressional session.

I believe, based on what we know today, that a deep geologic repository is a technically feasible solution to the problem of permanently disposing of spent fuel and other high-level radioactive waste in the United States. The responsibility

for constructing and operating such a facility rests with the U.S. Department of Energy.

Delays in developing permanent disposal facilities, coupled with diminished space in spent fuel storage pools, have caused many utilities to turn to dry cask storage for spent reactor fuel.

NRC rules provide for both site-specific and general licenses for dry cask storage systems.

Dry cask storage is an interim solution to the spent fuel storage problem.

Increased interest in the development of a centralized interim storage facility for the United States. Legislation passed by the U.S. Senate, but was not taken up by the U.S. House of Representatives before Congress adjourned.

NRC believes that any legislation should provide for an integrated high-level waste management program, with three components: interim on-site storage, centralized interim off-site storage, and deep geologic disposal of high-level radioactive waste, primarily spent fuel.

Gaseous Diffusion

- Energy Policy Act of 1992 created additional oversight responsibilities for NRC in the form of a certification process for the U.S. Enrichment Corporation gaseous diffusion plants in Ohio and Kentucky.

The NRC issued the final compliance certificates November 26, 1996, and will assume regulatory jurisdiction March 3, 1997.

Tritium Production

- The NRC has been working, through an MOU with DOE, to assist them in determining primary and backup approaches to tritium production.

NRC will assess technical and licensing issues associated with tritium production in a commercial light water reactor.

REACTOR ISSUES

- Recent experience at operating reactors, for example, Millstone Units 1, 2, and 3, and Haddam Neck in Connecticut, have been of particular concern recently.
- NRC has initiated a number of actions.

A comprehensive review of the reactor licensing and operational oversight program.

Before these reactor-specific issues arose (several of which were identified by concerned utility employees), the staff already had concluded that improvements were needed in the NRC's management of allegations. The agency implemented considerable changes to our allegation program.

Our inspectors have improved inspection reporting to communicate results and conclusions more clearly to licensees and the public.

Our senior managers are revising processes for determining which plants will be placed on the "NRC Watch List," which requires enhanced NRC oversight, or warrants some other action.

The NRC has responded to plant problems with internal "lessons-learned" reviews.

INTERNATIONAL

- We are well aware that change is not just a concern for the U.S. We are seeing change throughout the world and understand the importance of interactions with all affected.

This includes areas such as waste disposal, reactor aging, utility restructuring, decommissioning, risk assessment, regulatory effectiveness, transparency, and public accountability.

ELECTRIC UTILITY RESTRUCTURING

- Change also is affecting the electric utility environment and inevitably will impact on business practices of the U.S. electric utility industry.

Industry is restructuring in an effort to become more competitive, in response to Federal and state regulatory initiatives.

- Major NRC Issues

Economic pressures may affect maintenance and safety of operations.

Adequate decommissioning funds must be available when needed.

RESPONDING TO CHANGE

- Let me take a moment to address how NRC is positioning to respond to the many changes I have identified and preparing to be ready for change which we may not be fully aware of at this time.

RESTRUCTURING

- NRC traditionally has relied on its inspection and plant assessment programs to identify any adverse trends in safety performance.

Based on inspection program results, plant performance reviews, and other evaluative mechanisms, including the Senior Management Meeting, the NRC can take whatever action may be appropriate to protect public health and safety.

If new business arrangements, competition, or other economic constraints result in any impairment of safety, our assessment mechanisms must detect those problems early.

Commission has asked staff to examine measures to identify plants where economic stress may impact safety.

- NRC needs to ensure that adequate decommissioning funding is available, whether nuclear plants operate to the end of their license terms or shut down prematurely.

Since deregulation may change the economic umbrella for some licensees, the NRC may need to monitor their financial qualifications more closely.

Last fall, I initiated a reevaluation of NRC policy regarding decommissioning funding.

NRC issued an advance notice of proposed rulemaking (ANPR) in April, seeking additional information on electric utility restructuring in general. The ANPR explained that the NRC was concerned that some additional decommissioning funding assurance might be needed for those power reactor licensees no longer

subject to rate regulatory oversight by FERC or the State regulatory commissions.

NRC's decommissioning regulations already have some built-in capability to address rate deregulation.

Currently, NRC regulations allow only licensees meeting the NRC's definition of "electric utility" to use the external sinking fund method of decommissioning funding assurance. Power reactor licensees that are no longer considered "electric utilities", within the current NRC definition, will be required to provide some other method of assurance, such as a letter of credit or surety bond, for any unfunded balance of decommissioning costs.

As indicated in the ANPR, the NRC believes that additional measures may be required. Regulatory changes might include eliminating ambiguities in the NRC's definition of "electric utility", and taking account of alternative methods of providing assurance of decommissioning funding - for example, pooled insurance, if available, or accelerated funding of decommissioning. The NRC staff currently is developing a proposed rule in light of comments received.

The NRC also has issued, for public comment, a Draft Policy Statement on the Restructuring and Economic Deregulation of the Electric Utility Industry.

NRC has drafted Standard Review Plans (SRPs) in the areas of financial qualifications and decommissioning funding assurance and anti-trust reviews. We soon will be issuing the draft SRPs for public comment to evaluate whether the NRC review process in these areas should be changed as a result of deregulation.

The draft policy guidance includes a discussion of our planned approach to future reviews as rate deregulation accelerates. In summary, the NRC will:

- (1) Continue to conduct financial qualifications, decommissioning funding, and antitrust reviews as described in the Standard Review Plans developed in concert with the Policy Statement;
- (2) Identify all owners, indirect as well as direct, of nuclear power plants;

- (3) Establish and maintain staff-level working relationships with state and Federal rate regulators, including NARUC, FERC and the SEC;
- (4) Evaluate the relative responsibilities of power plant co-owners/co-licensees; and
- (5) Reevaluate our regulations for their adequacy to address changes resulting from rate deregulation.

We also are examining potential changes in reportability requirements with respect to decommissioning funding.

have been tracking the work of the Financial Accounting Standards Board (FASB), for possible endorsement of an FASB reporting standard for decommissioning fund status, if such a standard is developed and issued in a timely manner.

Issued an administrative letter on June 21, 1996, informing licensees of their obligation, under our regulations, to report to the NRC any changes in ownership arrangements that would constitute a direct or indirect transfer of the license.

Current regulatory framework provides us the authority to obtain the information we need to determine whether restructuring actions are creating problems in operational safety, or in financial assurance for decommissioning.

Examining how to further strengthen our capabilities in these areas. As the ANPR and Policy Statement actions indicate, we intend to monitor these issues closely, to take whatever action is required in specific cases, and, as necessary, to modify our regulatory framework.

- Stress that our initiatives in these areas should not be construed as implying that we view economic deregulation somehow to be inconsistent with adequate nuclear safety.

NRC's primary concern is with safety, not economics, except as it affects safety and decommissioning funding assurance.

My own view - protection of public health and safety is entirely compatible with a deregulated environment.

With sensible cooperation, where appropriate, among the NRC as safety regulator, FERC and the State regulatory commissions as rate regulators, and yourselves, I believe that the nation can continue to enjoy the benefit of safely

operated, soundly regulated nuclear-generated electricity, along with the economic benefits of deregulation.

STRATEGIC ASSESSMENT

- Against the backdrop of change in our regulatory and fiscal environment, one of my first actions as Chairman of the NRC was to initiate a Strategic Assessment and Rebaselining of the agency.

Goal of Strategic Assessment -- look at where we were, how internal and external factors signaled changes, where we need to be to respond to changes, and what direction and strategies we should implement to allow us to respond successfully to our changing environment.

In September of this year the NRC issued the preliminary results of our strategic assessment. Have held public meetings in order to hear from our stakeholders.

The staff currently is reviewing comments received and the Commission then will make final decisions on the direction setting issues.

Results of the Strategic Assessment and Rebaselining will be:

first, a clear articulation of the direction the Commission will take in responding to our responsibilities and changing environment, and

second, a framework within which the Commission will make its decisions.

ORGANIZATIONAL CHANGE

- Insights gained from recent experiences associated with the reactor facilities in the northeast United States, as well as other changes and indicators, have convinced the Commission to conclude that a new alignment of our top management was necessary.

On December 2, 1996, I announced this new alignment.

This organization will strengthen our ability to perform our mission of protecting public health and safety.

In brief, the organization has an Executive Council. EDO, CFO, and CIO.

Establishes a management structure which should provide the NRC with a comprehensive agency-wide foundation for accomplishing our mission. This also will ensure that financial management and information management systems properly respond to regulatory program needs.

Within EDO
Deputy for Regulatory Programs.

Ensures that regulatory programs which cross organizational boundaries at the office level are implemented in a consistent and coordinated manner.

Regional reporting will no longer be separated for the materials and reactor programs.

Deputy for Regulatory Effectiveness, Program Oversight, Investigations and Enforcement

Better able to diagnose trends in licensee performance and regulatory program effectiveness earlier, and to make mid-course corrections as appropriate, we might have been able to avoid the need for costly and time-intensive lessons-learned reviews to diagnose where we have not been as effective as we could have been.

As we move to an era of nuclear power industry restructuring and declining NRC and industry resources, it is imperative that we are able to diagnose potentially declining licensee performance as early as possible.

INTERNATIONAL COUNCIL OF NUCLEAR REGULATORS

- Important for nations of the world to share their collective experience.

For about a year, I have been proposing that the world's nuclear regulators establish a better mechanism for cooperation on subjects of mutual interest.

While nuclear safety must remain the responsibility of nation states in which the technology is utilized, I have recommended to other senior regulators that an International Council of Nuclear Regulators (ICNR) be formed. This group would meet regularly to provide a high-level policy focus for international efforts to enhance nuclear safety from a regulatory perspective.

The ICNR would provide a means for sharing broad policy perspectives on technical, legal, economic, and administrative issues. The ICNR would not duplicate the technical activities or programs of the many other international bodies which are active in nuclear safety (e.g., NEA, IAEA, WANO, and G-24).

The initiative was discussed in September at the OECD/NEA sponsored meeting of Senior Regulators who expressed support for the idea and agreed that a smaller working group should convene to develop the terms of reference.

I will be hosting this working group meeting in mid-January.

CONCLUSION

I would be pleased to answer any questions, on these or any other topics, at this time.