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Talking Points for Informal Remarks

by

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before the

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Good afternoon. I'm delighted to be here this afternoon to share with you my thoughts about some significant issues that I believe are important to the NRC and the nuclear industry.

#### Opening the Process

- Since joining the NRC, I have been impressed by the good safety record in the nuclear industry. And this impression has been heightened by my recent visit to plants in both Eastern and Western Europe.

From the time I began preparing for my confirmation hearings and then took my place as the Chairman of the agency, I have realized -- in a way that is not possible as an outsider -- that this good record is not a matter of luck. This safety record represents a commitment to safety not only by the NRC but by the industry as a whole. I have seen good plants and bad plants and I want to tell you that I have been impressed by the level of safety of plants in the United States. I also have come to appreciate the competence and dedication of the staff of the NRC.

- But I have also recognized that in many ways the public does not share this perception. This has led me to one of my initial and long-term efforts at the NRC -- changing the way we do business to assure more openness to the public, a change which is necessary to facilitate public understanding of the nuclear industry. I talk about public understanding because I think that people want information about matters that touch their lives. They want their questions answered. They want to have a sense that they are being listened to. Members of the public depend on us for sound decisions about nuclear safety, about nuclear waste, about nuclear medicine for diagnosis and treatment. These individuals deserve enough information so that they can decide for themselves whether those decisions are sound.

- My focus in this effort to open the process to greater public understanding is broader than public participation in the kinds of agency proceedings which some of you may have been involved with in the past -- our formal adjudicatory hearings and licensing actions. It seems to me that the NRC may have relied too heavily on its formal hearing process as the vehicle for informing and interacting with the public.

- Most of the NRC's ongoing regulatory activities do not involve a formal process. Yet the public has a right to know the facts on a continuous basis about the NRC and about NRC-licensed activities. The public needs to know what the NRC does and why: our strengths, our weaknesses, and the limitations of our role, vis-a-vis that of our licensees. If things go wrong, the public must of course be told promptly and candidly. And by the same token, when things go well, the public has a right to know that too. The NRC should be willing to provide realistic assessments at all times. We need to tell the whole story, both the good and the bad.

A recent example of the kind of opening of the process that I'm talking about is the Yankee Rowe pressure vessel embrittlement issue. The petition to shut down the Yankee Rowe plant was dealt with in full view of the interested parties. There were Commission briefings where all interested parties were heard and public meetings near the plant. There was full disclosure of all assumptions and calculations to all parties.

NRC's role, as I see it, consists of making sure that the efforts of the nuclear industry are both deep enough and broad enough to solve known problems. The NRC must continually demonstrate its vigilance, fairness, and rigorous adherence to a safety-first approach to regulation. The more open our process is to public scrutiny, the more our commitment to safety will be evident.

Standardization: Part 52 and Pending Legislative Proposals

- Another top priority for the Commission has been establishing and implementing the process for certifying advanced light water reactor standard designs.

The NRC's rule revamping the nuclear plant licensing process, Part 52, became effective nearly two years ago. The primary purposes of the rule are (1) to encourage standardization of future nuclear power plants by the use of certified designs, and (2) to permit resolution of siting and design safety issues before construction starts. We do this via a combined construction permit and operating license. A combined license would be issued only after pertinent issues, including development of emergency plans, are resolved. Key to this concept is a set of acceptance tests (ITAAC). Satisfactory completion of all ITAACs will mean that the facility has been



constructed in accordance with the requirements of the Atomic Energy Act, the Commission's implementing regulations, and all conditions set forth in the facility's license.

In promulgating Part 52, the Commission was sensitive to the importance of meaningful public participation. The rule therefore has been structured to provide for public participation in rulemaking hearings on certified designs and in formal hearings at an early point in the process prior to the commencement of construction. A more limited opportunity for hearings is provided prior to plant operation if an appropriate showing can be made that the plant has not been constructed in conformance with its acceptance criteria and there are no other means, including negotiations, to resolve the dispute.

The potential benefits from Part 52 are wide-ranging in scope. The public is no longer well served by the old two-step licensing process. Under the old process public input on some critical issues came only after construction was virtually complete and after the applicant had invested billions of dollars in the project. The licensee did not have adequate assurances that it would be permitted to operate a facility after construction had been completed. Part 52 should remedy both of these problems. It will also provide for a degree of predictability in the regulatory process unprecedented in the history of plant construction. Where the combined license has been issued based on a certified design, design changes will be strongly discouraged.

Although the Commission is quite proud of Part 52, and does not believe that enactment of licensing reform legislation is essential at this time, the Commission recognizes that legislation could further improve the licensing process.

In particular, challenges to Part 52 raise uncertainties about certain aspects of the Commission's authority to control the timing and form of the pre-operational hearing. Litigants challenging the rule claim that Part 52 contravenes the Atomic Energy Act because of the limitations imposed on postconstruction hearings. In November of 1991, the full United States Court of Appeals for the District of Columbia Circuit heard oral argument on this issue. The NRC argued strongly that Part 52 is fully in accord with the Atomic Energy Act. We anticipate that a decision will be rendered during the first half of 1992.

The Commission has supported the licensing reform provisions in S. 1220. It places appropriate limitations on postconstruction hearing opportunities, while still allowing for meaningful public involvement in the licensing process at an early stage. We have also found it satisfactory because it does not circumscribe the Commission's existing discretion.

As we read the bill, the Commission would still be authorized, as under current law, to place the burden on the holder of the combined license to provide proof that the plant could be safely operated. We also do not see S. 1220 as eliminating judicial review of Commission decisions to authorize plant operation.

## Safety and Financial Health

The final area that has become a particular interest of mine that I'd like to discuss with you today is how safety of nuclear plants is related to financial health.

To succeed from both a financial and a safety standpoint a utility must have a solid and predictable cash flow. I do not mean that a utility experiencing financial difficulties should have its operating licenses immediately revoked and its power plants shut down. My concern is based more upon the long-term implications that inadequate cash flows can have.

As I have reviewed the capital expenditure programs, the O&M budget allocations, and the financing options of the approximately 20 nuclear power plants I have visited, I have noticed that those utilities that are seen as good performers generally have a dedicated and planned program of capital re-investment for their plants. They recognize the value of their capital assets and actively work to ensure that these interests are protected and remain strong.

Many of the facilities considered to be poorer performers seem to have more sporadic capital investment strategies. Graphs of their capital investment history resemble roller-coasters -up and down, back and forth. The physical plant forces management into making decisions reactively instead of implementing a program to maintain the plant in an effective and efficient condition. While this does not, in and of itself, adversely affect the current safety and status of a plant, it is a bad sign. We, as the regulating agencies for the industry, must realize that nuclear power plants do not always have the luxury of being able to fix things after they break. Dedicated preventive maintenance is required if safety and availability are to be assured, and capital upgrades are an essential part of the overall maintenance picture.

Good utilities realize that only through continual capital upgrading can the safety and overall availability of the plant be guaranteed. Neither the profits of the shareholders nor the service to the public is achieved if a utility gains 10 days of operations this year at the cost of 20 days next year. Proper planning and resource management must be integrated into the overall operating strategy for the facility if both profits and benefits are to be maximized.

Sound and effective operations are directly related to safety. The plants considered to be the best performers, from a business sense are, by and large, the plants that are committed to safe and prudent operations. And, when reviewing the performance indicators of the various organizations who monitor such things (like us at the NRC and the Institute of Nuclear Power Operations [INPO]), these same plants are the ones that seem to be efficient and cost-effective. This apparent contradiction is not a surprise, if reviewed closely.

I believe those factors necessary for a plant to be considered a top performer from a business sense and from a safety sense coincide. A top performing plant must be well-designed, well-built, and properly maintained. If the design and construction of the plant do not support its optimal operation -- if the plant is not maintained so that it can generate as much power as possible -- then, it will not produce revenue for the utility.

Second, the staff must be qualified and well trained. If they can't conduct normal plant operations and minimize the effects of abnormal operating conditions or preempt NRC intervention -- if they can't recognize when to rapidly shut down to preclude unnecessary damage to equipment or strong NRC actions -- then, the plant will not be able to sustain long-term operations.

Finally, management must be farsighted and creative and the entire workforce must be committed to quality. If management doesn't instill a sense of pride and commitment within the workforce -- if they don't provide the facilities and incentives necessary to support effective and efficient operations -- if the entire organization is not committed to operating the plant in the best manner possible -- then, the facility will lose its direction and drive, and will become a liability to its owners. In sum, I see that the attributes which are keys to an operationally safe facility are the very same attributes needed for financial success!

Consequently, no regulator -- federal, state, or local -can be responsive to the utilities they regulate or the American public they serve if they do not fully understand the financial operations of the companies they oversee. Responsible regulation cannot be conducted unless both the short-term and long-term ramifications of decisions are thoroughly considered. Neither the industry nor the regulators can afford to let generating capacity become inadequate due to decisions which serve the immediate concerns of interest groups while not serving the overall interests of the public. Neither the industry nor the regulators can allow stagnation to occur by encouraging or requiring power plants to operate with out-dated or inefficient equipment when more modern, more efficient, environmentally superior applications can be integrated into these facilities. Neither the industry nor the regulators can afford to lose sight of the fact

that decisions concerning the health and safety of the public can be undercut by unwise economic decisions.

I don't believe these views should be seen as novel for a Commissioner of the NRC. This philosophy does not reduce, in the least, the NRC's commitment to assure the public's health and safety. The Commission's commitment to safety is not diminished and remains paramount. I believe that this philosophy represents a coordinated decision-making approach to safety and "economical" regulation, that is, one that considers both the physical and fiscal well being of the public and the utility industry.

I appreciate your time and consideration this afternoon. Thank you.

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