

July 26, 2001

The Honorable Jeff Bingaman
Chairman
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Chairman Bingaman:

Enclosed is the Nuclear Regulatory Commission's (NRC) response to your question asked at the June 26, 2001, hearing on the Price-Anderson Act. We will be releasing the response to the public on July 27, 2001.

Sincerely,

/RA/

Dennis K. Rathbun, Director
Office of Congressional Affairs

Enclosure:
As stated

cc: The Honorable Frank Murkowski

QUESTION: How does the Commission intend to license modular reactors? Will each module be licensed separately, in which case each module would be subjected to a separate \$83.9 million or \$88.1 million deferred premium, or will the entire multi module system be licensed under one license, in which case the entire system would only be subject to a single \$83.9 million or \$88.1 million deferred premium?

ANSWER.

The Commission believes there are substantial doubts whether it has the authority to treat multiple modular reactor units as only one facility for purposes of the retrospective assessment because the specific financial protection and retrospective assessment provisions in section 170b. are specified for a “facility”, elsewhere defined as a single reactor or even an important component part of a reactor. In our view, Congress should amend the Atomic Energy Act if it seeks to assure that multiple modular units at a single site are treated as a single facility.

The Commission believes that Congress should amend the Act if Congress concludes that multiple modular reactor units at a single site should be treated as a single facility for Price-Anderson purposes. The Commission is also of the view that any statutory changes proposed to address this matter should be made within the Price-Anderson provision itself (section 170 of the Atomic Energy Act) so as to limit the potential for unintended impacts of changes on the overall regulatory framework. Redefining the term “facility” exclusively within section 170 in a way different from the way it is used throughout the Atomic Energy Act and legislative histories will have the advantage of not disturbing existing law and implementing rules with respect to non-Price-Anderson issues.

Consistent with this view and in response to the request that we provide legislative language, we have drafted an amendment to section 170 of the Atomic Energy Act that would treat multiple modular units at a single site as a single facility for purposes of the Price-Anderson retrospective assessment. In evaluating whether to pursue such a provision, the Congress might consider the need to trigger the maximum insurance and retrospective assessment provisions against the impact and equity of such requirements on multiple modular units and on existing plants.

If Congress determines that multiple modular units at a single site should be treated as a single facility for purposes of the retrospective assessment, Congress might consider an insert to Section 170b(1), following immediately after the first proviso and before: “Such primary financial protection . . .”:

And provided further, That for multiple modular reactors located at a single site, a combination of such reactors (irrespective of whether they are licensed jointly or singly) having a total rated capacity between 100,000 and 950,000 electrical kilowatts shall, exclusively and only for the purposes of this section, be denominated a single facility having a rated capacity of 100,000 electrical kilowatts or more.

This provision would define a range of power levels -- the current threshold of 100 Mwe to an upper limit of 950 Mwe -- for which a combination of multiple modular reactors would be treated as a single facility for the retrospective assessment. We use 100 Mwe as the lower limit because it is the longstanding threshold power level that Congress established as the level at which Price-Anderson coverage must be provided.

We suggest 950 Mwe as a possible upper limit because it roughly approximates the median power level of the large currently licensed power reactors (55 licensed reactors have rated power levels between 800 and 1105 Mwe). If chosen, 950 Mwe would avoid conflict with the existing retrospective premium assessments in the secondary insurance pool. However, there are many different fairness and equity arguments on this issue and the Commission does not have a view or preference as to the specific limits - that is a policy decision for Congress.

If Congress were to choose to amend Section 170 to treat multiple modular units at a single site as a single facility for purposes of retrospective assessment, there is no doubt that there are other formulations that would achieve the same result.