



NRC NEWS

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“Achieving a Consistent, Flexible Framework for
Regulation of Nuclear Materials”

Commissioner William C. Ostendorff
United States Nuclear Regulatory Commission

OAS Annual Meeting

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Introduction

Good afternoon ladies and gentlemen. I am honored to be here to speak at this year’s annual meeting. I would especially like to thank David Walter for providing me this opportunity. I had the chance to meet with many of you in April at the CRCPD Conference in Providence, R. I.-it is great to be with you again. I look forward to our continued engagement on the important topics before this conference. I commend the OAS and Conference leadership for their thoughtful, highly relevant agenda.

I also want to extend my gratitude to the State of Oregon for hosting this annual meeting. This is my first trip to Portland. I am grateful for the opportunity this weekend to enjoy this unique city, with the beauty of its surrounding landscape, its many cultural activities, and its lively restaurants.

On a personal level, I always learn something new when getting away from the office - this trip is no exception. As a regulator, I value seeing first-hand the activities in those areas where the Commission is considering policy issues. I want to listen to and hear from the Agreement States- your perspectives are critical in informing my decision-making. With this in mind, I have sought opportunities to meet with state representatives on five separate visits to facilities in Agreement States since being sworn in as Commissioner in April. These include the Waste Control Specialists site in Texas, the Studsvik waste processing facility in Tennessee, a blood irradiator in Rhode Island, a food irradiator in New Jersey, as well as nuclear medicine

facilities at the University of Pittsburgh Medical Center. These in-the-field visits have been informative, and I want to thank the states for hosting me. I also met with OAS representatives earlier this month to obtain your perspectives on current policy issues- I appreciate your efforts in coming to D.C. to meet with the Commission.

The common message brought home during these meetings and visits has been the reinforcement of the crucial and growing responsibility of the Agreement States. There are now 37 Agreement States regulating about 19,600 licensees. In comparison, the NRC regulates about 3,000 industrial and medical licensees. You, individually and collectively, provide oversight of the safe use of radioactive materials that are used thousands of times daily- materials that help treat and diagnose disease, make our food safer, and inspect products used in a variety of modern industrial applications. The quantity and diversity of licensed sources require the states' continued vigilance. Nation-wide, the NRC and Agreement States share a common goal of ensuring safety and security. We are most fortunate to make the claim that we currently experience a high level of safety in industrial, academic and medical uses of radioactive material. But, we cannot- and with your continued vigilance will not- become complacent.

We recognize the risk-significance of this material in recalling an incident that occurred in India this April, when several persons were hospitalized, and one man died after being exposed to pieces of a radioactive source hidden in a shipment of scrap metal. Furthermore, the recent events in the Gulf of Mexico have provided insights into the tragic consequences of a lack of both regulatory rigor and industry focus on safety. That said, I am pleased to note that the states, in partnership with the NRC, have continued to set a high bar, and together we work to ensure the safe and secure use of radioactive material.

I am a supporter of the notion that the Agreement States are more adept at recognizing the issues within your state, and at accommodating the distinct needs of your stakeholders than we are at the NRC. I applaud the efforts of New Jersey regulators working with the NRC staff in transitioning New Jersey to an Agreement State since the last OAS meeting. I look forward to the NRC's close interaction with other states interested in becoming Agreement States.

Personal Background

In prior positions in the Departments of Defense and Energy, I frequently had to make decisions that set the basic standards for how we would operate. However, these experiences also emphasized that the success of such decisions depends on the ability to allow for flexibility in implementation that accounts for individual circumstances. These previous experiences are analogous to the partnership between the NRC and the Agreement States, in which there is a clear need not only for a consistent set of standards, but also for sufficient flexibility in the timing and approach for states' implementation of these standards.

What I would like to highlight today is that our goal should be to develop a consistent, national framework of common-sense, technically informed standards that ensure safety while permitting appropriate flexibility in implementation for individual states. I would like to focus on this concept by discussing it in the context of recent joint efforts between the NRC and the states in four areas: security, event reporting, low-level waste and knowledge management. Our

partnership in each of these four areas demonstrates how we can simultaneously foster consistency at a national level and flexibility in implementation for the states. We can succeed in meeting this goal through frequent communication, collaboration on forging solutions to issues, and coming to agreement on priorities when possible.

Security

I will first address the topic that has been at the forefront of many discussions between the States and the NRC due to all the activity in this area— that is, the revisions to security requirements. The strong working relationship and healthy communication that exists between the NRC and the Agreement States has been apparent in our collaboration to revise the security requirements including the recent proposed 10 CFR Part 37, and our progress on the National Source Tracking System. The NRC appreciates the continuous support of the states in these security efforts. While our interactions on these issues have sometimes highlighted the challenges with applying federal requirements at a local level, our ability to work through these difficulties is a testament to our strong partnership. Some hurdles inevitably remain as we finalize these programs. Still, our joint efforts so far demonstrate our ability to achieve success, which is ensuring that the critical elements of the state and federal programs are considered and incorporated, while maintaining adequate state flexibility.

10 CFR 37

One current example of a joint NRC/ Agreement State effort is the proposed 10 CFR 37 security rulemaking. After the events of Sept. 11th, the NRC worked with the states to issue enhanced security orders for Category 1 and 2 sources. The post-9-11 controls were robust in ensuring safety and security, and established some additional standards that bring necessary consistency in critical areas. The NRC is now proposing to issue generically applicable security requirements similar to those imposed in the security orders. In developing the proposed 10 CFR 37 rule, we removed unnecessarily burdensome requirements in some areas, while in other areas we proposed to incorporate enhancements based on operational experience.

Active and frequent coordination will continue to be part of the public process of finalizing the rule. We appreciate the states' early and specific feedback on the appropriate timing of revisions, the resource impacts, and the areas where adaptability should be incorporated. This type of interaction helps to avoid unnecessary impositions, facilitates leveraging of local programs, and allows us to fully consider distinctions among states that might impact how the rule is implemented. We will consider all of the submitted comments on the proposed rule and collaborate fully with the States in making a decision on what the requirements should contain.

NSTS

In addition to the development of Part 37, we continue work on the National Source Tracking System. Since its inception, the states and the federal government have diligently worked together on system content and requirements for the NSTS. This national, comprehensive tool provides greater accountability for the highest risk sources. It is an example

of a program that was formed based on a national need for consistency in the way that sources are tracked, but required the help and insights of the states to be a success. Without the states' aid in deployment, we would not be where we are today. The NSTS was deployed only one and a half years ago, and yet today approximately 1,400 licensees are now reporting information on over 70,000 sources.

Now, I am not here to say that all of this has been smooth. We encountered challenges with implementation, as expected in pioneering such an unprecedented tool. I appreciate the states' patience as we continue to address these issues together. I commend the collaborative efforts to streamline the credentialing process. We will continue to work together on identifying improvements to facilitate and encourage its use. The formation of the Change Control Board, which includes representation from both the Agreement States and industry, is an excellent demonstration of our continued partnership in addressing system upgrades. Having a national tool for tracking Category I and II sources is important for security- I am encouraged by how we have worked together to achieve this critical objective to ensure source accountability.

The lessons learned from the deployment of NSTS will be of use in future enhancements including expansion of web-based licensing and license verification to include Agreement State data. The NRC recently adopted Ohio's system as the basis for the federal License Tracking System, which will serve as the infrastructure for the new web licensing. The NRC will continue to work toward ensuring that, if Agreement States want to use web-based licensing, they will be able to do so. This will contribute to having a single system which accounts for the various needs of the states. We look forward to your further recommendations on how to improve this system.

Events

Now, let me turn to the second area of joint efforts between the Agreement States and the NRC- that of event reporting. Our partnership in reporting and response to events – both security and safety related - continues to be something that both the NRC and the Agreement States do extremely well. Event responses and reporting are coordinated, which ensures actual and potential safety issues are addressed in a timely manner. This practice further contributes to information sharing on root causes and lessons learned. This is vital to prevent recurrence and to pragmatically assess the effectiveness of our regulatory framework. In this manner, the sharing of event information contributes to a common framework, but within this framework, individual states make decisions on appropriate follow-up actions. The need for information sharing on the root causes of events will accelerate with evolving medical technology. I am encouraged that there are several topical discussions on events during the meeting.

Some of the discussions tomorrow will appropriately center on the events at the Veterans' Affairs Medical Centers. The follow-up that occurred in response to these events is one example of excellent coordination between the NRC and the Agreement States. Continuing to share information on these significant events in open forums – such as this annual meeting – will help to ensure that both the Agreement States and the NRC have common information on which to base independent regulatory actions such as any needed follow up inspections at additional facilities.

The diligent work and safety focus of the states, as well as the success from incorporating lessons learned, is apparent in the low number of events which are significant enough to qualify as Abnormal Occurrences each year. One thing I would like to take a moment to point out is that the Abnormal Occurrence Report to Congress tends to be dominated by medical events. This should not be misinterpreted as evidence that the underlying medical practices reported in the medical events are less safe, but that it is easier to have an Abnormal Occurrence when using this type of material, given that it is one of the only applications of the use of radioactive material where humans are intentionally exposed to radiation. The NRC acknowledges that the States have a broader mandate than we do in that you regulate certain activities such as the use of CT scans and X-rays which we do not regulate. Keeping this in mind, the recent press articles regarding increased radiation exposures due to CT scans emphasizes the importance of continuing to communicate lessons learned from other *analogous*, regulatory venues that may apply to the materials that we both regulate. The NRC appreciates that the states also regulate the use of materials and radiation that is not regulated by the NRC. Because the states oversee the vast majority of materials licenses, the States have a critical role in helping to increase attention to safety culture in the materials area.

A common challenge the NRC and the states face is how to effectively communicate the risk significance of various activities. The medical industry has done a good job of communicating the beneficial use of nuclear technology, but effective communication regarding the risk-significance of various uses of radioactive material remains a challenge for regulators in some areas. This challenge – delivering on-going, clear communications that can be readily understood by the layperson – deserves our time and attention.

Waste Disposal

I will now turn to the third area of joint efforts – that of low-level waste disposal. I note that you appropriately have several discussions on waste issues during the meeting. This is a timely topic given the current national status of low-level waste. I encourage those of us in the regulatory community to proactively think about how to best communicate and help the public gain familiarity with the relative risks of waste disposal activities.

It is imperative that a solution to low-level waste disposal be developed by the states, and that the federal government set the framework and basic standards to permit such a solution. Clearly, there is value in achieving a consistent regulatory approach across state boundaries, particularly with respect to rules that have trans-boundary impacts. Still, given the public and state interest in waste disposal, the need for state flexibility in arriving at a solution is essential to the success of any strategy.

Currently, the Commission is contemplating updating its policy on blending of wastes to address large-scale blending to convert B/ C wastes to Class A waste. In efforts to gain a comprehensive understanding of the divergent perspectives on this issue, I have visited the Waste Control Specialists disposal site and the Studsvik facility, and held discussions with various stakeholders. These discussions and visits have emphasized the importance of risk-

informing the NRC's policy and permitting state flexibility in implementation of any final NRC approach.

Last Thursday, I visited the Humboldt Bay decommissioning site in northern California. Seeing the site first-hand, and hearing their perspectives on the challenges in decommissioning without adequate access to low-level waste disposal capacity reinforced the need for innovative solutions on the part of the states and industry.

Knowledge Management /Training /Leveraging Resources

The fourth and final area I would like to discuss is that of knowledge management. With the onset of the nuclear renaissance, and given the reality of a constrained budget environment, the federal government and the states face the same challenge of acquiring and maintaining needed human capital. A shortage of young entrants into the nuclear sector, along with a maturing workforce means that knowledge management is critical. And, while our nation's economic outlook is slowly improving, we also recognize that everyone is looking to reduce costs in this tight budget situation.

The NRC has taken a proactive step to address this challenge by reinstating support for licensing and inspection qualification training for Agreement State personnel. This was a constructive and important decision. We have received positive feedback from the states on the frequency and content of the courses. Some state program directors have stated that, had it not been for the NRC's program, they would not be able to train their people. So, this program is having a true, positive impact. As a Commissioner, I will continue to be an advocate for this program.

In this constrained budget climate, interstate cooperation and information exchanges will help to leverage resources. The NRC fully supports this type of interstate collaboration. This meeting, itself, is an excellent forum for knowledge management and mutual learning. Another instance of interstate mutual aid is the Integrated Materials Performance Evaluation Program (IMPEP) Review process, in which states participate in the reviews of their fellow states and the NRC. This enables us to identify areas where states and the NRC might benefit from seeing other state's approaches to common issues.

Also, with advances in communication networks, I am encouraged by the states' and the NRC's effective transfer of knowledge on new technologies, lessons learned, and human capital solutions. The FSME public website is one example of an excellent communication tool with our state stakeholders. This open information sharing helps to further foster our partnership while maintaining the ability for each state and the NRC to make independent decisions with the information provided.

Concluding Remarks

In concluding, I would like to reinforce that the Agreement States and the NRC are partners performing a common mission vital to protecting public health and safety. Through this partnership, we can continue to develop a regulatory approach that promotes consistency where

needed, yet maintains flexibility. Working towards consensus solutions on our common priorities will help to minimize complications that can arise from a diversity of regulatory approaches.

Open and routine communication will allow us to keep achieving desired results. On behalf of my fellow Commissioners, I thank you all for your continued efforts on all these fronts. Specific feedback from the entities on the scene allows our staff to make better-informed decisions. Together, we can continue to support a regulatory framework that provides sufficient requirements to ensure that the public and our workforce are adequately protected. Thank you for your commitment to doing this important mission well. I will be happy to take your questions.

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