PILOT PROGRAM ON EXTERNAL REGULATION OF DEPARTMENT OF ENERGY NUCLEAR FACILITIES

Joseph E. Fitzgerald, Jr.
Chairman, DOE External Regulation Task Force
November 12, 1998

CHRONOLOGY: NRC

- 1993 - Secretary O'Leary announces intent to seek external regulation of nuclear facilities
- 1994 - Proposed Congressional legislation calling for an end to DOE's self-regulation of nuclear safety introduced
- 1995 - Advisory Committee on External Regulation recommends that all aspects of DOE nuclear safety be externally regulated
- 12/96 - Secretary O'Leary announces intent to submit legislation to transfer oversight of nuclear safety to NRC and recommends a 10-year transition
- 11/97 - Secretary Peña and Chairman of NRC agree to pursue NRC external regulation of DOE on pilot basis; MOU signed November 21, 1997
- 10/98 - Congress requires DOE to include OSHA and "all appropriate State and local entities" in pilots

CHRONOLOGY: OSHA

- $ 1993 - Secretary O'Leary announces intent to seek external regulation of worker safety and health by OSHA
- $ 1995 - MOU, DOE/OSHA effective June 19, 1995, establishes transition activities
- $ 1995 - Advisory Committee on External Regulation recommends OSHA regulate worker safety and health
- $ 1996 - OSHA Pilot at Argonne National Laboratory
- $ 1998 - OSHA agrees to second OSHA pilot at Oak Ridge and provides coordination visits to NRC pilots at Oak Ridge and Savannah River
- $ 10/98 - Congress requires DOE to include OSHA and "all appropriate State and local entities" in pilots

PURPOSE OF NRC PILOT PROGRAM

- To help both agencies gain experience related to NRC regulation of DOE facilities
- To develop actual information on costs and benefits of external regulation
- To support joint recommendation by DOE and NRC to Congress on whether NRC should be given authority to regulate nuclear safety at DOE nuclear facilities

STRATEGY FOR PILOT PROGRAM

$ **Three-pronged approach:**

- **Pilot facilities/sites**
- **Generic policy issues**
- **Lessons-learned from on-going licensing actions**

SCOPE OF MOU AGREEMENT

- Non-Defense Programs facilities & operations
- 6 to 10 pilots over two years (FY 1998-1999)
- Simulated regulation of nuclear safety, worker radiation protection and occupational safety and health

Additional Congressional mandate: State and local regulatory options to be evaluated

PILOT SITES

$	OSHA Argonne National Laboratory	Winter 1996
$	Lawrence Berkeley National Laboratory- (NRC)	Fall 1997
$	Radiochemical Engineering Development Center (Oak Ridge National Laboratory - NRC)	Spring 1998
$	OSHA (Oak Ridge - ORNL/ETTP) Pilot	Summer 1998
$	Receiving Basin for Offsite Fuel (Savannah River - NRC)	Summer 1998
$	Pacific Northwest National Laboratory	Winter 1998
$	Accelerator Laboratory (e.g., BNL or ANL)	Spring 1999

NEW CONGRESSIONAL MANDATE

$ **Energy and Water Development Appropriations conference report brings new direction to pilot program:**

- **Pilots to include NRC, OSHA, and appropriate State and local entities**

- **Address all issues involving OSHA and State and local regulation of worker safety at Lawrence Berkeley National Laboratory by March 31, 1999**

- **Initiate a pilot program at multi-program non-defense laboratory (e.g., Argonne National Laboratory or Brookhaven National Laboratory)**

- **No pilots will be conducted at weapons sites**

RESPONSE TO CONGRESSIONAL MANDATE

- $ Expand Lawrence Berkeley National Lab Pilot (March 99)
- $ Expand Pacific Northwest National Lab Pilot (Winter 98)
- $ Add either Argonne National Laboratory or Brookhaven National Laboratory for a 1999 Pilot
- $ Review State and other regulatory options

RESPONSE TO GAO REPORT

- In May 1998 GAO recommended DOE clarify its position and develop a strategy on external regulation
- In response, DOE reiterated the commitment to pursue external regulation through the pilot program
- DOE will select more difficult and complex sites after consultation with Congress

EMERGING ISSUES

Regulatory Jurisdiction is Unclear

- $ **Who should administer NEPA at DOE sites?**
- $ **Who should provide Price-Anderson Indemnification?**
- $ **Who should regulate accelerators?**
- $ **Should states regulate DOE for safety and health?**
- $ **Who should regulate occupational radiation protection?**
- $ **Who should hold the NRC license: DOE, contractor, both?**

EMERGING ISSUE

Regulatory Framework Must Fit

- $ **Configuration control, procedures**
- $ **Decontamination and Decommissioning (D&D)**
- $ **Co-located Workers**
- $ **Criticality Safety**
- $ **Material Control and Accountability**

EMERGING ISSUE

Transitional Costs Likely to Vary Widely – What is Cost Effective?

- $ **Pre-licensing compliance upgrades and facility backfits potential cost drivers – transition considerations crucial**
- $ **D&D represents "outlier" for all sites if NRC regulated – some accomodation needed**
- $ **Regulatory transactional costs uncertain – experience suggests additional near-term DOE/contractor resources may be required if regulated**