

## **EXPERTS WARN PROPOSED CLIMATE/ENERGY LEGISLATION WOULD DEREGULATE NEW NUCLEAR REACTORS IN MUCH THE SAME WAY THAT OIL DRILLING OVERSIGHT WAS “STREAMLINED” BEFORE BP SPILL**

*Repeating the Fatal BP Misstep: Assuming No Recent Calamity Means That Safety Rules Can be Scaled Back; Gulf Crisis Makes Clear the Folly of Letting Industry Write the Regulatory Playbook for Energy Sources with Huge Public Health, Environmental Risks.*

**WASHINGTON, D.C. – June 23, 2010** – Is Congress on the verge of repeating the deregulatory debacle that led to the BP oil spill fiasco in the Gulf of Mexico? Even as tens of thousands of gallons of oil continue to erupt each day from BP’s botched oil well, federal lawmakers are weighing legislation that includes BP-style deregulation of new nuclear reactors, which are the only energy source where the damage from a major accident would dwarf the harm done by a ruptured offshore oil well.

As the industry’s proponents in Congress tout the nuclear regulatory structure as superior to that used for oil drilling and even as a possible model for oversight of the petrochemical industry, the same individuals are quietly working behind the scenes to push through BP-like regulatory rollbacks that would dramatically reshape safety and environmental requirements for new reactors. These provisions might be incorporated into a climate bill or a narrower “energy-only” bill that could be voted on by the U.S. Senate as early as next month.

Leading experts are worried that these little-discussed provisions in proposed climate/energy legislation would further undermine Nuclear Regulatory Commission (NRC) safety reviews for new reactors by truncating the licensing process for new reactors, scaling back environmental impact reviews, and limiting public involvement in reactor licensing decisions. These measures would relax the healthy pressure that nuclear reactor neighbors can put on regulators to serve the public’s interest first, rather than that of the industry. (See details below on the proposed legislative provisions that set the stage for the BP-style deregulation of the nuclear industry.)

Dr. Jeff Patterson, president, Physicians for Social Responsibility, and professor, Department of Family Medicine, University of Wisconsin School of Medicine and Public Health, Madison, WI., said: **“The notion that the lack of a recent major accident makes such an occurrence a ‘remote possibility’ that therefore justifies safety deregulation is the same irresponsible thinking that set the stage for the BP disaster. As that calamity illustrates all too well, the more complex the technology involved, the greater the chance of catastrophic failure, despite safety redundancies being built into the systems. One of the crucial lessons from the oil spill in the Gulf is that measures to accelerate licensing, cut corners on safety and generally undermine regulation can lead to tragic consequences. Oil spill disasters and radiation disasters will continue to happen, and thus we need to drastically change the direction of our energy future. This is possible through the use of truly clean, renewable, and sustainable technologies.”**

Peter Bradford, former commissioner, U.S. Nuclear Regulatory Commission, and former chair of both the New York and Maine state utility regulatory commissions, said: **“It is both astonishing and shameful that – when evidence of the consequences of lax regulation and lax oversight washes ashore on tides of oil in the Gulf states and tides of red ink in housing and financial markets – Congress would consider cutting regulatory corners for new nuclear power. Regulatory delays are not causing nuclear power’s problems today. Instead, investors and lenders will not provide capital because of the high risks of reactor cancellation, cost overruns, and cheaper energy alternatives. Putting deregulation provisions for nuclear power in any climate/energy legislation will not save significant licensing time, but it will send the Nuclear Regulatory Commission exactly the wrong message from Congress – speed over safety. Congress will be flat lining effective regulation, not streamlining it.”**

Dr. Edwin Lyman, senior staff scientist, Global Security Program, Union of Concerned Scientists, said: **“It is reckless and inappropriate for Congress to pressure the NRC to speed up its technical reviews of new reactor applications, and to limit NRC’s authority to inspect reactors once they are completed. There are sound reasons why NRC reviews take time --- not the least being the fact that most of the applications raised major safety concerns. Forcing NRC to do a rush job would be inviting another Three Mile Island --- or worse.”**

Diane Curran, Esq., partner, Harmon, Curran, Spielberg & Eisenberg, LLP, said: **“The parallel here to the Gulf oil permitting is the proposed short-circuiting of legal processes that are designed to identify and address risks ahead of time. Proposed legislation would, for example, eliminate the independent review now conducted by NRC judges on uncontested issues and would make it easier for the government to avoid consideration of less dangerous alternatives to reactors. The BP spill provides an object lesson regarding the risks of eliminating legal processes for rigorous government oversight of safety and environmental risks because BP was allowed to start drilling without conducting the type of rigorous environmental analysis that is normally required by federal law. In the case of new reactors, the NRC has already seriously weakened key aspects of the legal processes for reactor review. Climate/energy legislation must not make matters even worse.”**

### **PROVISIONS OF CONCERN IN PROPOSED LEGISLATION**

Problematic provisions (proposed in the draft of the American Power Act) that could be enacted as part of a climate bill or an energy-only bill are as follows:

- ***Section 1108 - Undermining NRC Safety Review Before Reactor Startup.*** This provision eliminates the NRC’s ability to prevent startup even if fundamental safety components were compromised in the construction process. Currently, inspections, tests, analyses and acceptance criteria (ITAAC) are the specific requirements that the utility must meet to assure that a reactor was built according to design specifications. Under the APA, some of the 900 inspections, tests and analyses could be done early on while construction is still underway – meaning that they could age or be damaged after passing inspection.
- ***Section 1109 - Gutting Environmental Analysis in New Reactor Licensing.*** This provision sets an impossibly high standard for including an evaluation of the need for power, the cost of the new reactor, and alternative energy sources within the NRC licensing process. Current regulations do not require that an Early Site Permit application include these assessments, but they must be addressed in the subsequent environmental impact statement for the Construction and Operating License (COL). This section would require that any information added to the subsequent EIS is “new” and “significant in that the information would materially change the prior findings or conclusions.” (The shortcuts on environmental impact statements and front-end review are now considered a key regulatory failing contributing to the current BP spill.)
- ***Section 1101 – Pressuring the NRC to Further Truncate Reactor Licensing.*** In what is a classic case of favoring “speed over safety,” this provision requires the NRC to implement an “expedited procedure” for issuing COLs for new reactors under certain conditions. Nuclear reactors already have the most streamlined licensing process of any type of industrial facility in the U.S. What is actually delaying the processing of reactor applications is not the licensing process, but the fact that the industry has been unable to submit adequate design proposals or to respond to the NRC in a timely fashion.
- ***Section 1105 – Eliminating Independent Safety/Environmental Review of New Reactors by NRC Judges.*** The Atomic Energy Act of 1954 currently requires that any person who is affected by the proposed construction and operation of a nuclear reactor can get a hearing on the application, and that all remaining uncontested issues will also be reviewed by NRC judges in a “mandatory hearing” before construction can begin. Section 1105 would amend the Atomic Energy Act to eliminate mandatory hearing for uncontested issues as part of reactor and uranium enrichment facility licensing processes. “Uncontested” does not mean “unimportant.” The mandatory hearing plays a crucial role of supplementing the contested hearing process, in which few issues – and sometimes no issues – survive NRC’s arduous procedural requirement for admission of issues to a hearing. Without a mandatory hearing, it would be possible that no public hearings are held in the licensing of a new reactor. As desirable as that may be to the nuclear industry, the additional lack of accountability and transparency in no way serves the public interest.

Based on current regulatory shortcomings, Congress should actually be looking at strengthening reactor regulation, rather than weakening it, according to the experts. Chief among the needed remedial steps are:

- Clarifying how the NRC must address severe or even "worst-case" radiological release scenarios in its regulations, given the Deepwater Horizon example. For example, in recent years, the NRC has resisted pressure to undertake such analysis of the risk posed by terrorist attacks on dry casks used for spent reactor fuel stored on the ground of operating reactors, even though such attacks could result in more severe releases than most other accidents.
- Overhauling NRC's cost-benefit procedures, which make it nearly impossible for existing or new reactors to add design features that would enhance safety.
- Maintaining current containment, emergency planning, control room staffing and security requirements for proposed small modular reactors.
- Maintaining the mandatory hearing and require that it be conducted by NRC judges (who have time to review lengthy applications) rather than NRC commissioners.
- Assisting qualified citizen intervenors raising new issues of safety or environmental significance, as recommended by all of the major reviews of the accident at Three Mile Island but never enacted.

#### **ABOUT THE PSR SAFE ENERGY PROGRAM**

The Physicians for Social Responsibility (PSR) Safe Energy program focuses on protecting public health, taxpayer dollars, and national security by preventing the construction of expensive, dirty, and dangerous new nuclear reactors. More than sixty years since the first civilian nuclear reactor was turned on, we find a mature industry still dependent on government subsidies and economically unsound, mired in unresolved safety issues, and a threat to public health. In order to address climate change, protect public health and meet our energy needs economically, we must stop subsidizing dirty, dangerous nuclear power and focus on real solutions with renewable energy and efficiency. For more information go to <http://www.nuclearbailout.org> and <http://www.psr.org>.

**CONTACT:** Leslie Anderson, (703) 276-3256 or [landerson@hastingsgroup.com](mailto:landerson@hastingsgroup.com).

**EDITOR'S NOTE:** A streaming audio recording of the news event will be available on the Web as of 3 p.m. EDT on June 23, 2010 at <http://www.nuclearbailout.org>