November 10, 1994

MEMORANDUM TO: The Chairman

FROM: John C. Hoyle, Acting Secretary /s/

SUBJECT: COMIS-94-013 - REVIEW OF THE DELAYS IN THE INVESTIGATION OF ROSEMOUNT NUCLEAR INSTRUMENTS, INCORPORATED

This memorandum is to inform you that all Commissioners have concurred in your proposal to send a memorandum to the staff requesting a review of the causes of the delay in completion of the investigation of Rosemount Nuclear Instruments, Incorporated.

This completes action on COMIS-94-013.

Attachment:
As stated

cc: Commissioner Rogers
Commissioner de Planque
EDO
OGC

November 10, 1994

MEMORANDUM TO: James M. Taylor
Executive Director for Operations

FROM: John C. Hoyle, Acting Secretary /s/

SUBJECT: COMIS-94-013 - REVIEW OF THE DELAYS IN THE INVESTIGATION OF ROSEMOUNT NUCLEAR INSTRUMENTS, INCORPORATED

The Commission requests that you conduct a review of the causes of the delay in completion of the OI investigation of Rosemount Nuclear Instruments, Incorporated, which was initiated by the request of the EDO on February 9, 1990, as more fully set forth in SECY-94-255: Proposed Enforcement Action Against Rosemount Nuclear Instruments, Incorporated (Rosemount). In SECY-94-255, the staff proposed issuance of a notice of a Severity Level II violation for Rosemount's careless disregard of 10 CFR Part 21 requirements by failing to adequately evaluate or to inform its customers, between 1984 and December, 1988, of the potential for degraded transmitter operation as a result of sensor cell oil-loss in Rosemount's 1150-series transmitters.

The Commission paper states that the EDO referred related allegations regarding Rosemount to OI for investigation on February 9, 1990, but that the OI report was not issued until November 12, 1993. In October, 1992, OI asked the Vendor Inspection Branch (VIB) to perform an inspection of Rosemount's compliance with the requirements of 10 CFR Part 21 and Appendix B to 10 CFR Part 50. This was approximately 32 months after the referral of allegations by the EDO to OI for investigation, including circumstances surrounding possible violations of 10 CFR Part 21 by Rosemount. SECY-94-255 further indicates that the Vendor Inspection Branch performed its inspection at Rosemount in February and March, 1993, but did not formally issue its report until March 1994 due to difficulty in documentation of manufacturing and design inspection details which Rosemount considered proprietary.

The review should address: (1) the reasons for the long delay in completion of the OI investigation and VIB inspection report; (2) any preventable causes of undue delay that can be identified, including any inadequacies in management or staff performance; and (3) any existing or planned corrective actions to eliminate or alleviate identified causes of undue delay. While the

investigation of Rosemount did not find a basis for proposing issuance of a civil penalty, the review should also address whether sufficient procedures exist for appropriate attention to avoidance of a statute of limitations defense should such a long investigation develop evidence that would support a civil penalty.

(EDO) (SECY Suspense: 3/3/95)

cc: The Chairman
Commissioner Rogers
Commissioner de Planque
OGC
OCA
OIG