

March 27, 2003

MEMORANDUM TO: Martin J. Virgilio, Director
Office of Nuclear Material Safety
and Safeguards

THRU: John T. Greeves, Director /RA/
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards

FROM: Janet P. Kotra, Team Leader /RA/
High Level Waste Public Outreach Team
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards

SUBJECT: TRIP REPORT ON PARTICIPATION IN A TECHNICAL MEETING
OF THE INTERNATIONAL ATOMIC ENERGY AGENCY DIVISION
OF RADIATION AND WASTE SAFETY, "WASTE SAFETY
STANDARDS-STAKEHOLDER DIALOGUE," VIENNA, AUSTRIA,
FEBRUARY 24-27, 2003

Attached is a trip report documenting the Division of Waste Management's (DWM) staff participation in a technical meeting of the International Atomic Energy Agency (IAEA) Division of Radiation and Waste Safety. The subject of the meeting was the potential value, and means for providing broader stakeholder involvement in developing IAEA safety standards for radioactive waste. This report expands on a "quick-look" report distributed on March 6, 2002. DWM believes the content of this report may be of interest to the Commission, and recommends that the Office of International Programs forward the report to the Commission.

Attachments: As stated

cc: J. Craig (EDO)
J. D. Lee (OIP)
T. Rothschild (OGC)
L. Silvious (NSIR/DNS/ISS)
M. Federline (NMSS)
T. Sherr (NMSS/OD)
J. Kennedy (NMSS/DWM)

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NRC FOREIGN TRIP REPORT

Subject

Participation in a technical meeting: the role of stakeholder involvement in the development of safety standards for radioactive waste

Dates of Travel and Countries/Organizations Visited

February 24-27, 2003, International Atomic Energy Agency (IAEA), Vienna, Austria

Author, Title, and Agency Affiliation

Dr. Janet P. Kotra, Team Leader
High-Level Waste Public Outreach Team
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards

Background/Purpose

The IAEA Commission on Safety Standards (CSS) is a standing body of senior government officials holding national responsibilities for establishing standards and other regulatory documents relevant to nuclear, radiation, waste, and transport safety. It has a special overview role for the IAEA's safety standards and provides advice to the Director General on the overall program related to the establishment of safety standards. The CSS has identified the need to "...involve the industry, operators and users to a greater extent in ...the preparation and review process" for IAEA safety standards. In its strategy for safety standards, the CSS states that "...the challenge is to broaden the perception and recognition by all governments, regulatory bodies, operators, and users, as well as the public." In 2001, the Director General of the IAEA articulated his vision for IAEA Safety Standards for radioactive waste management as a global reference points which will provide consistently high standards of protection for people and the environment. The IAEA Board of Governor's, in the same year, requested the Secretariat: "...develop a step-by-step programme of work aimed at addressing the broader societal dimensions of radioactive waste management." To this end, a Technical Meeting took place, in Vienna, assembling experts from various stakeholder perspectives, to advise the Division of Radiation and Waste Safety on the need for such a program and to make proposals.

Abstract: Summary of Pertinent Points/Issues

During the week of February 24-27, 2003, in Vienna, Austria, Dr. Janet Kotra represented the U.S. Nuclear Regulatory Commission (NRC) and the U.S. at a Technical Meeting of the IAEA's Division of Radiation and Waste Safety. The meeting was devoted to consideration of increasing stakeholder involvement in developing IAEA safety standards for radioactive waste. IAEA convened the meeting to respond to a request of the IAEA Board of Governors to develop a step-wise program of work aimed at addressing the broader societal dimensions of radioactive waste management. To consider the potential value of such a program for improving global acceptance of its waste safety standards, IAEA assembled experts from a wide range of stakeholder perspectives, including regulators, developers, electric utilities, non-governmental organizations, municipal government, citizen organizations, and sociologists. Dr. Kotra was asked to present a regulator's view on how to engage a broader community of stakeholders. Selected representatives of the other stakeholder groups also made

presentations from their respective viewpoints. There was an agreement within the group, as a whole, that was clearly supportive of the ultimate IAEA objective of greater inclusiveness in the standard development process. At the same time, the group urged caution and gradual pursuit of a larger base of experience, as IAEA evaluates possible strategies for broadening stakeholder access and involvement in its standard-setting process. At the end of the meeting, the group prepared a draft consensus report. The report introduced the group's proposal for setting up a step-wise program for broadening stakeholder input to IAEA's development of waste standards.

Discussion

The invited experts received little guidance about the specific product or products sought by the conveners of the meeting. Despite this, however, the meeting was extraordinarily effective in bringing together accomplished participants with extensive and diverse experience involving stakeholders in public policy and radioactive waste issues. Without exception, discussions were vigorous, frank, informative, and highly productive. It is recommended that NRC continue to participate in exchanges of this nature. The results of the meeting will be documented in a final report jointly prepared by the attendees. This report will be presented for consideration of the IAEA Board of Governors and General Conference, of the individual safety standards committees (Nuclear Safety, Radiation Safety, Waste Safety, and Transport Safety), and of the Secretariat.

The following summarizes some of the broad areas of agreement achieved by this diverse panel of technical experts:

General Observations:

The IAEA currently enjoys a position of international credibility on the technical issues associated with safe management of nuclear waste. It has achieved this largely because of the quality and integrity of its technical work, and the support of its member states around the world. The Agency has identified a need to facilitate wider acceptance and application of its waste safety standards through involvement of a wider range of stakeholders. To achieve wider acceptability, it must be recognized that the ultimate purpose of wider involvement is to improve the standards that result from a process that incorporates such involvement. If effective, such involvement will foster greater awareness of the existence and usefulness of international standards, integrate further relevant expertise in the development of such standards, contribute to ensuring that standards are acceptable in a wider variety of contexts, and enable consistent use and application.

Safety Standards Exist in a Social Context:

The group report emphasized that formulation of safety standards serves a social purpose, reflecting the evolving values of protection of people and the environment, as well as changing social priorities. Decisions about risk management inherently require social and ethical judgments, based on sound technical and scientific knowledge. Scientific and technical knowledge can help us identify and understand risks, and the implications of our decisions for controlling those risks. Such knowledge alone, however, cannot provide the social and ethical judgments about the choices that are necessary. For example, the choice of whom should bear a risk (a particular community, or the regional or global population) is primarily a social and

ethical choice rather than a strictly technical one. Similarly, what constitutes a reasonable or undue burden for future generations is germane to assessing the safety of interim versus longer-term management approaches, but remains, at heart, a social and ethical judgment. Technical excellence is understood to be a necessity, but is not, of itself, sufficient to garner widespread acceptability.

Broader Stakeholder Involvement is Necessary:

Public policy experience with addressing a wide range of risk issues increasingly demonstrates the need for stakeholder views to be incorporated in risk management in order that decisions have wide acceptability. The group agreed that it is only through eliciting the views of stakeholders that public servants and decision makers can understand and incorporate social and ethical judgments, along with technical expertise, into decisions that adequately reflect society's collective view of the acceptability or lack of acceptability of given risks.

Framers of international safety standards aspire to respond to and reflect some measure of international consensus on what constitutes acceptability to ensure high levels of safety. It is important to recognize the changing nature of any consensus, especially in an area where research and development continue to advance and where decisions affect fundamental values and expectations of society at large. As knowledge and experience increase, social and technical expectations change, and the opportunity to incorporate social dimensions develops. To continue to serve their intended purpose, the process of developing safety standards needs to evolve to incorporate both advances in technical knowledge and changes in social preferences. In turn, this requires an evolving and responsive process for involving stakeholders.

Attributes of Effective Stakeholder Involvement:

Experience and analysis of stakeholder involvement in many member states has revealed certain common characteristics of effective practices. These include:

- Transparent and open-decision-making;
- Participation by a broad variety of interests;
- Accessible information to facilitate meaningful involvement;
- Responsiveness to the issues and concerns expressed;
- Straight forward language to enable common understanding;
- Accountability; and
- Forward-thinking, anticipating, monitoring and preparing for changing social norms.

Thus, the process for developing safety standards should include stakeholder input both at the early stages of identifying and selecting areas where standards are needed, and in formulating and updating the standards themselves.

Role of IAEA:

IAEA has a role in supporting member states, and in modeling good practice when it comes to stakeholder inclusiveness. The Agency should develop its own practices of stakeholder involvement first, and then seek to support and encourage member state activities in this arena.

The purpose of this work can be described as providing greater transparency and accountability, and thus authority, to the IAEA Safety Standards through identifying the views of a wider range of stakeholders and incorporating these views. This requires that the process of decision making, and the justification for standard setting decisions, be made public. In short, the group agreed that before IAEA attempts to advise member states about stakeholder involvement, IAEA should first develop its own practices and acquire its own base of experience. In its report, the group presented a proposal for IAEA development in this area, which draws on good practice and expert advice.

IAEA Should Proceed in a Step-Wise Process:

The group set forth a proposed process with the intent of providing IAEA with a step-wise approach that would enable them to:

- Inform stakeholders about the IAEA and its roles;
- Widen stakeholder involvement in the development of the IAEA's safety standards; and
- Eventually foster stakeholder involvement in decision making processes on radioactive waste management in member states.

The group recognized that some member states would like to have information on approaches that could be used to enable them to involve more stakeholders in their radioactive waste management programs. The group did not agree that this should be the role of either the group or of IAEA at this time. The group would encourage member states to look at work already underway, for instance, in the Forum for Stakeholder Confidence organized by the Organization for Economic Corporation and Development/Nuclear Energy Agency (OECD/NEA) and consult the summary document outlining the Forum's experience in the area of stakeholder dialogue. In time, by undertaking a process similar to that recommended by the group, IAEA may develop information about methods that have worked well for IAEA, and lessons that IAEA has learned. This may then be of assistance to member states in developing their own stakeholder involvement programs.

The group recommended that IAEA proceed in a step-wise manner, believing a deliberate, step-wise approach would:

- Provide greater transparency in the IAEA process;
- Divide the process into manageable and accountable steps;
- Provide an overall plan for stakeholder involvement in the IAEA's safety standards work, but provide opportunities to learn and adapt the process to input received;
- Enable the process itself to be refined and developed from the input obtained from stakeholders; and
- Provide break points for the IAEA and others to reflect and review what has been achieved before going on to the next step

The group noted that IAEA has no special expertise that would enable it to undertake the recommended process on its own. The group suggested that IAEA organize regular interaction and input from experts appropriate to the specific step of the process under consideration.

The IAEA has already identified a list of issues that it thinks would benefit from wider input from stakeholders (e.g. long time scales, natural versus man-made exposures, acceptable burdens for future generations, meaning of reversibility and retrievability, etc.). IAEA should adjust and refine this list based on input from stakeholders during the process itself.

Proposed Process for Involving Stakeholders:

The group recommended a process for stakeholder involvement comprising the following steps:

- Provide information on the plan for stakeholder involvement and discuss it with member states to obtain their input;
- Develop simple, accessible, plain language information on the IAEA;
- Announce the Agency's willingness to engage with a wider range of stakeholders and its ideas for doing this;
- Send out a letter with a questionnaire and launch a website containing the questionnaire asking people about how they would like to be involved in the IAEA process and to identify issues they think should be discussed;
- Hold a conference with a wide range of stakeholders to provide feedback on the outcomes of the questionnaire and discuss the issues people would like the IAEA to obtain more input about and how people would like to work with the IAEA;
- Write a report on the conference outcome and how the IAEA plans to progress with stakeholder involvement and obtain feedback on the report; and
- Further actions.

Enhance the Existing IAEA Process:

Lastly, the group identified other activities that the IAEA could undertake in parallel with the above process, as part of its current program:

- Widen membership of the expert groups working on safety standards to enable discussion on technical and non-technical issues;
- Develop a database of stakeholders the IAEA should contact about its intentions for widening stakeholder involvement;
- Encourage member states to consult more widely in their countries when developing and reviewing safety standards; and
- Develop a library of reports on stakeholder involvement that has been undertaken in various member states and lessons learned.

I am satisfied the draft report prepared by the group sets forth a reasonable, thoughtful approach for gradual expansion of stakeholder interaction with the IAEA waste standard-setting activities. The report is an accurate reflection of the consensus opinion of the group. At the same time, I am also satisfied the proposed program of work, if adopted by IAEA, would still afford the U.S. delegation enough opportunity to evaluate the value added of individual steps and provide feedback to IAEA on the overall direction of IAEA's efforts to engage stakeholders. That being said, I would note that, on the last day, IAEA staff cautioned the group that any action on the proposed plan of work was dependent on the support of member states. Mention was made of recent U.S. recommendations that IAEA efforts to address stakeholder involvement should be "eliminated" in the IAEA budget. Under these circumstances, in its

future interactions with other members of the U.S. delegation to IAEA, NRC staff may wish to reexamine the consistency of its position with regard to the overall U.S. position on IAEA actions in this arena.

Pending Actions/Planned Next Steps for NRC

Knowledge gained and contacts made at this meeting will inform and be applied to the activities of NRC's HLW public outreach program. NRC staff will continue to interact with the IAEA staff throughout the completion of the report of the February meeting.

Points for Commission Consideration/Items of Interest

None at present. NRC staff will track actions which stem from this meeting and will raise any policy issues to the Commission.