

# UNITED STATES OF AMERICA NUCLEAR REGULATORY COMMISSION

Title: BRIEFING ON STATUS OF EFFORTS TO ENHANCE SAFETY OF USERS OF  
BY-PRODUCT MATERIALS

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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BRIEFING ON STATUS OF EFFORTS TO ENHANCE SAFETY OF  
USERS OF BY PRODUCT MATERIALS

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[PUBLIC MEETING]

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Nuclear Regulatory Commission  
One White Flint North  
Rockville, Maryland

FRIDAY, AUGUST 5, 1988

The Commission met in open session, pursuant to  
notice, at 10:02 a.m., the Honorable LANDO W. ZECH, Chairman of  
the Commission, presiding.

COMMISSIONERS PRESENT:

- LANDO W. ZECH, Chairman of the Commission
- THOMAS M. ROBERTS, Member of the Commission
- KENNETH CARR, Member of the Commission
- KENNETH ROGERS, Member of the Commission

1 STAFF AND PRESENTERS SEATED AT THE COMMISSION TABLE:

2 S. CHILK

3 W. PARLER

4 J. TAYLOR

5 R. CUNNINGHAM

6 B. BERNERO

7 D. NUSSBAUMER

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## P R O C E E D I N G S

[10:02 a.m.]

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2  
3 CHAIRMAN ZECH: Good morning, ladies and gentlemen.  
4 The purpose of the briefing this morning is to discuss the  
5 status of efforts to enhance the safety of users of byproduct  
6 materials. This is an information briefing.

7 In August of 1987, the Commission approved and  
8 directed the staff to implement the recommendations of the  
9 Materials Safety Regulations Review Study Group. Many of you  
10 will recall that the Materials Safety Regulations Review Study  
11 Group was established to independently review the activities  
12 related to safety within the licensing and inspections program  
13 for fuel cycle and materials facilities.

14 The summary group report contained a total of 22  
15 recommendations. Today's briefing will focus on the progress  
16 and the status of staff efforts to implement these  
17 recommendations. The Office of Nuclear Materials Safety and  
18 Safeguards will brief the Commission this morning on this  
19 subject. Do any of my fellow Commissioners have any comments  
20 or opening remarks to make before we begin?

21 If not, Mr. Taylor, you may proceed.

22 MR. TAYLOR: As you indicated, Mr. Chairman, this is  
23 to update you on where the staff stands. In the paper, an  
24 extensive list was provided, but the staff has picked some of  
25 the major issues to review with you this morning. I'll turn to

1 Dr. Bernero who will introduce Mr. Cunningham for further  
2 discussion.

3 MR. BERNERO: The principal presentation will be by  
4 Richard Cunningham, the cognizant Division Director, but before  
5 we start, I'd like to make one point. Perhaps the most  
6 significant finding or lesson learned from that group was the  
7 regulatory gap involving chemical hazards.

8 We have scheduled for the Commission on next Tuesday,  
9 an extensive discussion of our relationships with OSHA, EPA and  
10 FEMA on this regulatory integration where we're getting outside  
11 of the nuclear hazard and into the chemical hazard.

12 To avoid confusion, we won't address that to any  
13 significant degree here. That doesn't mean it's unimportant.  
14 It just makes more sense, of course, to do it next Tuesday.  
15 With that, I'd like to turn the presentation over to Richard  
16 Cunningham.

17 CHAIRMAN ZECH: Fine, thank you very much. You may  
18 proceed.

19 MR. CUNNINGHAM: Mr. Chairman, I'll be speaking from  
20 the briefing charts that were available and sent to the  
21 Commission.

22 [Slide.]

23 MR. CUNNINGHAM: The first chart simply introduces  
24 the subject. I might mention that some of the initiatives  
25 which I will touch upon, go beyond the MSRRSG report itself.

1 They are involved in the upgrading of our safety program.

2 [Slide.]

3 MR. CUNNINGHAM: Chart Number 2 simply gives a  
4 timeline on the actions of the MSRRSG report. There were 22  
5 recommendations in all. Many of these recommendations are  
6 programmatic that will require a continuing effort; some have  
7 clear endpoints, such as issuing an emergency planning rule.

8 [Slide.]

9 MR. CUNNINGHAM: On Chart 3, the recommendation of  
10 the MSRRSG was to issue an emergency planning rule. That rule  
11 was submitted to the Commission on July 15. It applies to  
12 about 30 major materials facilities. It specifies the  
13 requirements for response plans. It requires compliance with  
14 the Community Right-To-Know Act which is an act that was passed  
15 following the Bhopal incident to enhance chemical safety.

16 I requires prompt notification of NRC and offsite  
17 officials of incidents. It does require that the plan be  
18 offered to local agencies for comments and provide those  
19 comments to NRC when we approve the plan. It requires  
20 training, periodic refresher training, and it requires annual  
21 drills.

22 [Slide.]

23 MR. CUNNINGHAM: The next recommendation in Chart 4  
24 of the MSRRSG had to do with general licensees and policies  
25 related thereto. Some other things that the staff has learned

1 in looking at the general licensing question; there is a need  
2 for improved accountability, or I think perhaps a better word  
3 that Commissioner Rogers suggested, was accounting.

4 We have a number of initiatives going, the main one  
5 being to develop the online computer tracking system for  
6 accounting of these devices that are out there. We are also  
7 looking at product testing, product identification so that they  
8 don't get lost in scrap. Some other things -- quality  
9 assurance and so forth. These will be subject to further  
10 examination and are possible candidates for further rule-  
11 making.

12 [Slide.]

13 MR. CUNNINGHAM: The next recommendation of the  
14 MSRRSG was to require radiography certification. Our  
15 initiatives go beyond certification. We are working with the  
16 American Society of Non-Destructive Testing, who does have an  
17 initiative for certification. Their initiative, and we are  
18 working directly with them -- we're on their task group. Vandy  
19 Miller is on that task group. Their initiative will be put  
20 before the ASNT Board in late September. I believe it will be  
21 September 23rd.

22 They will have an implementation plan by then and  
23 they do owe us a letter on how they plan to implement this so  
24 that we can adjust our program accordingly. We have a proposed  
25 rule out for public comment. The comment period was extended



1 to August 16. The rule requires upgrading of equipment --  
2 things such as position indicators of the radiography source,  
3 plus use of alarming dosimeters.

4 We have thus far received 75 comments. Most support  
5 the rule but there are some issues raised in these comments  
6 which the staff will be required to address. MSRRSG made  
7 several recommendations related to the information on Chart 6.

8 [Slide.]

9 MR. CUNNINGHAM: They asked for implementation of the  
10 systematic safety assessment for large facilities and they  
11 asked to expand the scope of licensing and inspection to  
12 include nuclear radiation safety, process safety and so forth.  
13 You will recall that we did team inspections in FY '86 and '87  
14 of all the fuel cycle plants with team specialists, including  
15 fire safety, chemical safety, quality assurance, management  
16 control and so forth.

17 We are now presently doing 7 other assessments in the  
18 materials area. People like large radiopharmaceutical  
19 manufacturers, Squibb and Malincrondt, plus several other large  
20 licensees, OSHA, EPA mine safety people are participating in  
21 these team assessments. They are invited and for the most  
22 part, they do participate. The team assessments are a  
23 continuing effort.

24 Prior to renewal of large licensees, particularly the  
25 fuel cycle licensees; we will do a team assessment about a year

1 before the application is due for renewal and feed back that  
2 information so that it's included in the application for  
3 renewal.

4 [Slide.]

5 MR. CUNNINGHAM: Performance evaluation factors -- we  
6 used that term to distinguish between the NRR program for  
7 performance indicators. This was not a recommendation of the  
8 MSRRSG, but it is an important part of our program. Region III  
9 had a pilot program in 1987.

10 They examined and had a list of factors that included  
11 things such as management oversight, financial security,  
12 training, allegations, reported events, violations and so  
13 forth. They looked at 98 licensees, using these factors.  
14 Twelve were targeted for follow-up.

15 The advantage of this is, of course, that it allows  
16 us to marshal our resources for targeted facilities that  
17 appear that they might have problems developing. What we have  
18 done now is issue a temporary instruction to have a pilot  
19 program expanded so that each region conducts a pilot program.  
20 Then, based on the findings of this pilot program over the next  
21 year, we will make adjustments in our performance evaluation  
22 factors and plan to continue that program.

23 COMMISSIONER ROGERS: Excuse me. Just before you  
24 move on to something else, at one time about a year ago  
25 November, your action plan involving onsite safety assessment

1 review, that was with respect to recommendation number 6, was  
2 to develop and utilize performance indicators. I know you've  
3 talked a little bit about that just now, but you didn't quite  
4 use those words. Have you given up on trying to develop  
5 performance indicators in this area?

6 MR. CUNNINGHAM: We did two things. One was to  
7 eliminate the confusion within the staff because of the use of  
8 performance indicators for the operating reactor community. We  
9 changed the name to performance evaluation, which perhaps  
10 better fit the types of things that the NMSS staff in the  
11 regions wanted to measure in these types of licensees, because  
12 if you were just statistically following certain things, it  
13 didn't apply.

14 These are perhaps a little bit more of an overview  
15 factors, leaning a little bit closer to SALP type information.

16 MR. BERNERO: I'd like to add to that if I could.  
17 The reactor operation is, of course, a central process -- a  
18 single reactor vessel, a single power generating plant and  
19 there's a great similarity from one to the other and never mind  
20 that they're a BWR or PWR. In the materials licensing arena,  
21 the processes are much more scattered. They're chemical plants  
22 or things like that. They differ -- you know, a  
23 radiopharmaceutical plant versus a fuel fabrication plant.

24 It is indeed much more of an overview, even of a  
25 management evaluation like thing where you're looking at

1 operations of much more diverse types.

2 COMMISSIONER ROGERS: I appreciate that very much.  
3 It's just that I'm sure that that situation hasn't changed  
4 since you wrote this in '87 and what did you have in mind in  
5 '87 when you talked about performance indicators, which was  
6 perfectly correct, but it was correct then too.

7 MR. TAYLOR: The change in name came about solely to  
8 eliminate confusion.

9 MR. BERNERO: The earlier ones were along the lines  
10 of performance indicators, but they were groping a little bit  
11 too much towards statistical data -- that is, the percentage of  
12 floor area that might be contaminated or availability  
13 statistics or things like that. It didn't give useful flavor  
14 to it, so part of the name change is a change of scope or  
15 philosophy too.

16 CHAIRMAN ZECH: Let's proceed.

17 [Slide.]

18 MR. CUNNINGHAM: The next chart is Slide 8, Technical  
19 Staff Training. We're moving on this on several fronts.  
20 First, there is an overall training program initiative for the  
21 agency as a whole. That's a six-phase process starting with  
22 identification and grouping of job positions and then  
23 identifying training needs and finally, through a series of  
24 steps and processes, to provide the training and to review and  
25 critique training.

1           The training center has hired a health physicist  
2           which we need for our training programs to coordinate the  
3           training programs, in addition to which we have been speaking  
4           with OSHA as part of this MOU that will be discussed next week,  
5           training courses that can be made available to our inspectors.  
6           They have three training courses that they are making available  
7           and we plan to have inspectors attend some of these courses.  
8           They concern hazardous materials, safety and health in the  
9           chemical industry and fire protection and life safety.

10           In addition to that, we have other training of our  
11           people. For example, we sent three of our younger engineers to  
12           a two-semester fire safety course at a local university here.  
13           We have training like that that continues on.

14           CHAIRMAN ZECH: Do you have any of those training  
15           slots open to agreement state personnel?

16           MR. CUNNINGHAM: I don't know the answer to that for  
17           OSHA, Mr. Chairman. I just don't know the answer to it. I  
18           should mention that GPA does have training programs and they're  
19           making their slots open to our personnel. I think they are,  
20           but I just don't know the answer to that. Well, we can answer  
21           that next week.

22           CHAIRMAN ZECH: Fine, maybe you can tell us about  
23           Tuesday.

24           [Slide.]

25           MR. CUNNINGHAM: Slide 9, Part 20 Rulemaking. The

1 MSRRSG recommended that we implement the proposed revisions of  
2 Part 20. The schedule presently calls for submission of the  
3 rule to the Commission in September. It did slip a little bit  
4 to resolve ACRS and CRGR comments. There are some difficult  
5 technical issues and administrative procedures, mainly  
6 recordkeeping requirements that we want to carefully examine to  
7 make sure we aren't duplicating recordkeeping requirements in  
8 other areas of our rules and make those things compatible.

9 So there were some important recommendations and  
10 changes made based on ACRS and CRGR considerations that we took  
11 into account.

12 On the next slide we have communications. The MSRRSG  
13 recommended improved communications between headquarters,  
14 regions and the licensees. We have a number of initiatives  
15 here. The NMSS newsletter second issue came out within just  
16 the past couple days. We have put on workshops. We have made  
17 and are continuing to make presentations at professional  
18 meetings. With respect to headquarter and regions, we have  
19 monthly conference calls, daily communications on specific  
20 issues, inspection accompaniments and, of course, our national  
21 review.

22 One bullet that was left off there that should have  
23 been on was information notices to our licensees. I think this  
24 is an important one. Just last week we issued two information  
25 notices. One was on an enforcement case, and another was kind

1 of interesting because it shows how we are cooperating with  
2 other Federal agencies.

3 FDA is responsible for safety of medical devices.  
4 There was a problem developed, strictly a mechanical problem  
5 with a brachytherapy device. It wasn't a radiological problem.  
6 FDA knows how the manufacturers are but they don't know who the  
7 users are, so we took this information from FDA and issued a  
8 bulletin to all our licensees notifying them of the problem.  
9 So that is an example of how we cooperate with other agencies.

10 [Slide.]

11 The next slide lists briefly a number of other  
12 recommendations the MSRRSG want. The first one is more  
13 agreement states. GPA is working on that. Maine,  
14 Massachusetts and Pennsylvania appear like there might be some  
15 good possibilities in the next two or three years. Michigan is  
16 a possibility, but that might be further down the road.

17 Establish technical positions. Non-radiological is  
18 not really an accurate portrayal because it's radiological,  
19 nuclear and non-radiological. This work fits in with the team  
20 assessments, and we are developing technical positions on  
21 management controls and QA, limiting conditions of operations,  
22 fire safety, chemical safety and so forth.

23 The next recommendations were performance versus  
24 prescriptive regulations. You may recall that when we briefed  
25 the Commission the last time, we said we will use performance

1 regulations where feasible and prescriptive regulations where  
2 necessary. We are developing some policy guidance to the staff  
3 to expand what we mean by this and provide better guidance for  
4 that. That guidance is out for comment at the present time.

5 The MSRRSG recommended more broad licenses. We feel  
6 that we have explored that just about as far as we can. We  
7 have done that over the years. We have broad licenses to the  
8 Navy and the Air Force now. The Army is a possibility. I  
9 might mention that GAO is auditing the Navy and Air Force broad  
10 licenses and also looking at the Army to see how that fits into  
11 that program.

12 MSRRSG recommended we issue more guides and standard  
13 review plans. Within the past year we have issued five new  
14 guides. We have three others ready following the Part 72 rule  
15 the Commission just approved. These guides are ready to go  
16 out. We have two others in draft right now, and we have two  
17 SRPs completed.

18 Guides are a part of the continuing program. They  
19 will have to be updated as new rules are issued. More guidance  
20 is necessary. I might point out that Part 20 is going to  
21 require guides for certain categories of licensees. It is a  
22 large rule, broad scope, and a radiographer has to know how  
23 that rule applies to him, as an example. So there will be more  
24 guides there. But this is a continuing program.

25 The next recommendation is coordinate major licensing



1 actions with licensees and regions. We have taken steps to  
2 improve that. Certainly the reorganization that took place a  
3 year and a half ago has helped this situation, and that is a  
4 broad recommendation, one that requires continuing work, and we  
5 have procedures to implement that.

6 Provide inspectors more latitude. The feeling with  
7 the MSRRSG was that perhaps the inspector could make a decision  
8 whether or not he should cite all violations he sees. The  
9 staff believes that if an inspector sees violations, he should  
10 note it and licensees should be cited for it. The way we  
11 address this, though, is we are trying to improve inspector  
12 training to look at the more important safety violations. He  
13 only has so much time when he goes into a plant, and we would  
14 like him to look at the kinds of things that are most important  
15 to plant safety, so there is a reorientation going on what we  
16 look at, and this fits in with the team inspection approach.

17 Finally, the MSRRSG suggested we have regulatory  
18 interpretations filed. It is a little bit misleading. The  
19 staff has developed a number of positions on how it applies the  
20 regulations, and there are several places where these can be  
21 found. There is a health physics position data base operated by  
22 NRR. There is policy and guidance directives. There are  
23 information notices and bulletins. What we are exploring now  
24 is ways to effectively catalogue all these and to recover the  
25 information so that when you get a specific type of issue

1 brought up to you, we can go to a computer, a PC, and recover  
2 information on how a similar situation might have been handled  
3 in the past. So we are exploring that possibility.

4 [Slide.]

5 In summary, Mr. Chairman, we do have coordinated  
6 implementation of the program under way. Most of the  
7 initiatives are long term and will be continuing efforts, and  
8 we are going to provide reports to the Commission semi-  
9 annually, as you requested, Mr. Chairman.

10 This completes my briefing.

11 CHAIRMAN ZECH: Thank you very much.

12 Are there questions from my fellow Commissioners?  
13 Commissioner Roberts?

14 COMMISSIONER ROBERTS: No.

15 CHAIRMAN ZECH: Commissioner Carr?

16 COMMISSIONER CARR: On the pilot performance  
17 evaluation factors program, I would like, if it would be all  
18 right, to send us up a paper describing what those factors are  
19 and giving us the results of your first pilot, and also that  
20 year of pilots that you have got coming up on each region. It  
21 surprised me we expanded it to the regions without any real  
22 look to see -- we didn't get a look at it -- to see how it  
23 would working, and you just automatically put it out to the  
24 regions. I don't know how it is working, so I would like a  
25 little better information on that.

1 MR. TAYLOR: Yes, we will have a paper on that.

2 COMMISSIONER CARR: On your training program, we made  
3 a recommendation last year that you provide core training to  
4 those inspectors, and it looks to me like you are giving them  
5 all a broad brush rather than a specific area of training. Do  
6 you want to address that?

7 MR. BERNERO: In fact, there is a meeting this  
8 afternoon with AEOD on the training program. We have a matrix  
9 that describes our training needs, and the direction is towards  
10 core training. What we are doing with AEOD as they develop the  
11 capability with the new person just on board, we are  
12 negotiating the rate at which we can get this training. We  
13 haven't changed that direction.

14 COMMISSIONER CARR: Okay. Well, I would be  
15 interested in seeing whatever curriculum you lay out for those  
16 guys when you get it formulated.

17 On the Recommendations 13 and 16, I got a little  
18 confused. Recommendation 13 says merge fuel cycle licensing  
19 and inspection functions, and you say no further action is  
20 planned, but in 16 it says combine regional license reviewers  
21 with inspectors, and you say they are all within one branch in  
22 the region. Some have combined them and some haven't, I  
23 thought.

24 MR. CUNNINGHAM: In the region, all regions have  
25 inspectors and licensing people together in one branch. In some

1 regions, the licensing person also does inspections, so the  
2 same person would do both licensing and inspection.

3 COMMISSIONER CARR: It sounds reasonable to me.

4 MR. CUNNINGHAM: In some regions they have the  
5 licensing person specialize in licensing and another person  
6 specialize in inspection, but they are in close coordination  
7 with each other, being in the same unit.

8 MR. TAYLOR: I think that's a matter of workload,  
9 too, in the number of active licenses.

10 COMMISSIONER CARR: You might take a look at that and  
11 see which way it is working better if there is a possibility of  
12 saving some people there.

13 MR. TAYLOR: Several of the regions have very heavy -  
14 - let's see, I and III, I guess, are traditionally the biggest  
15 licensing regions who just happen to have the greatest numbers.  
16 So it's a resource question.

17 COMMISSIONER CARR: I guess I feel like they would  
18 make better inspectors as licensing guys and vice-versa.

19 MR. TAYLOR: I understand.

20 MR. BERNERO: Certainly in theory it would be ideal  
21 if a person who does the licensing review does the inspection  
22 and there is, of course, the greater familiarity and  
23 sensitivity to where problems might be, but I think it should  
24 be emphasized that we have great differences in our program in  
25 the different regions.

1           COMMISSIONER CARR: That bothers me rather than  
2 reassures me.

3           MR. BERNERO: Well, it shouldn't be interpreted that  
4 the program is a standard, simple procedure that can be  
5 implemented everywhere. For instance, I have discussed this  
6 very issue in Region IV, where the inspection burden for  
7 materials inspections is a great distance to travel between  
8 sites. They are just scattered out over so many states, and  
9 there can be real workload management problems if one tries to  
10 follow a theoretical ideal of the person who reviews does the  
11 inspection. Just scheduling and control. So I'm not sure that  
12 we would ever get to the point where we could have a standard  
13 that all licensers are the inspectors of what they license, or  
14 conversely. I think we may stay with some sort of tuning,  
15 varying with the region according to workload and --

16           MR. TAYLOR: I think your point, Commissioner, is a  
17 valid one, and that is the licensing action people should get  
18 out occasionally on inspections. I think that is something  
19 that, if it isn't going on, we will try to pursue at least part  
20 of the time. It is a valid issue, and we will take a look at  
21 that in spite of the load. If it isn't happening, they lose  
22 their touch with reality.

23           COMMISSIONER CARR: Okay.

24           On the OSHA/NRC MOU that was due out in July per your  
25 paper, how does that look?

1           MR. BERNERO: That will be discussed Tuesday, but it  
2 looks pretty good. We just got some fine-tuned word noodling  
3 from OSHA this past week, and we have incorporated that and I  
4 think we are very close to conclusion.

5           COMMISSIONER CARR: August looks good?

6           MR. BERNERO: I think it does.

7           COMMISSIONER CARR: In your general license data bank  
8 that you are going to build with your computer, who is going to  
9 provide you the data? How are you going to get the data bank  
10 on where all those general licensees have issued their  
11 products?

12                   We have enough trouble getting the data from IBM or  
13 3M, it was, I guess, where all the polonium was.

14           MR. CUNNINGHAM: We actually had the list from 3M.  
15 It was a very thick, large list. What we did not have in the  
16 case of 3M was, our computer geared to sending notifications  
17 out to each one of those licensees. We had to go back to 3M  
18 and have them do the mailing, because the computers for the  
19 address labeling is there.

20                   We have reporting requirements in our reports that  
21 say when a person sells a gauge to a general licensee -- this  
22 is the one that has a specific license to distribute the gauge  
23 -- they periodically report to us to whom they sell it. That's  
24 entered into the data bank. Where the problem exists is, that  
25 over the years, in years past, a number of those records were

1 lost for one reason or another.

2 What we have done, using mainly summer college  
3 students and coop students, is to go back through all the files  
4 we have, enter these data into the computer, go to  
5 manufactures, get all their files and enter the old data into  
6 the computers. The old database is not complete. It's as  
7 complete as we think we can get it .

8 For the future, we have the licensee reports, the  
9 general licensee reports that are entered into the computer.  
10 In addition to that, what we have now is a request for a rule  
11 making which will require general licensees to respond to a  
12 periodic notice, annually or semi-annually, that they indeed  
13 have the material and it will probably require them to answer  
14 certain kinds of questions like whether or not they've done the  
15 periodic maintenance in accordance with schedules; if they had  
16 disposed of it, how they have disposed of it; where they send  
17 it and so on and so forth. We have a check which serves two  
18 purposes.

19 COMMISSIONER CARR: Do you mean like an annual mail  
20 inventory review or something like that?

21 MR. CUNNINGHAM: Yes, sir that's exactly it.

22 COMMISSIONER CARR: So will the specific licensee  
23 issue them that documentation when he issues him the product?

24 MR. CUNNINGHAM: No, sir. The way we presently  
25 contemplate it is that the specific licensee will report to us

1 the transfer to the general licensee so we know who the general  
2 licensee is. Then we will send on a periodic basis to that  
3 general licensee, a notice saying answer these questions. We  
4 will record the answers to those in the computer.

5 COMMISSIONER CARR: Are they required to notify us  
6 when they transfer it between people, or do they have to turn  
7 it back to the specific guy and he reissues it? It seems to me  
8 that that's where we've lost some of them.

9 MR. CUNNINGHAM: Well, that's what happened in the  
10 past, where a general licensee forgets that he has a gauge on  
11 line because they work so well. Over 20 years, people change,  
12 but the gauge doesn't change and it just looks like another  
13 piece of equipment on the line. When the company closes down  
14 the line or goes out of business, that gauge gets scrapped with  
15 everything else. That has been a problem.

16 COMMISSIONER CARR: Is this computer system, you  
17 think, going to handle that?

18 MR. CUNNINGHAM: We hope it will.

19 COMMISSIONER CARR: Okay, on the Part 20 rule-making,  
20 as you said, there's going to have to be guides come out.  
21 What's the time line on the guides that's going to follow that?

22 MR. CUNNINGHAM: There is an implementation period.  
23 The rule will come out, hopefully this year. Then it will  
24 become effective; I believe the date is two years from the time  
25 of publication. This will give licensees time to become



1 familiar with the rule and know what they have to do.

2 In that two-year period, is the time we will be  
3 developing the guides.

4 COMMISSIONER CARR: Okay, I want to give you a "well-  
5 done," in your newsletter. I think it's a good accomplishment.  
6 It looks like it's doing great and I compliment you on that.  
7 Also, the fact that you're mailing it to the Medical Societies  
8 is good, I think.

9 I would encourage you to mail it also to those  
10 professional societies in the other licensing areas where they  
11 can also get it out, because they'll excerpt it. It looks like  
12 it's a great way to get the word out that we haven't been  
13 using. It's a good newsletter.

14 MR. CUNNINGHAM: Thank you.

15 COMMISSIONER CARR: I'm a little concerned about  
16 pushing agreement states -- pushing states into being agreement  
17 states. I talked to Vermont when I was up there. Vermont  
18 would love to be an agreement state. Vermont can't afford it.  
19 They see no reason why they should be an agreement state  
20 without us paying their bills because they're doing our work  
21 for us. We've got a problem there. They are doing a lot of  
22 our work for us, the agreement states are.

23 I worry about pushing them into doing our work for us  
24 without paying them and what concerns me is that if that  
25 becomes the thing to do for states to worry about that; the

1 ones we've got may fall off the line. It does cost them quite  
2 a bit of money.

3 MR. TAYLOR: We have to evaluate the capabilities  
4 too, as part of the process.

5 COMMISSIONER CARR: I would much rather they come to  
6 us and request to be an agreement state, I guess, and take some  
7 of the onus of us to fund their programs.

8 MR. TAYLOR: We had a recent example in the State of  
9 Georgia, where the staff moved in, which is in an agreement  
10 state, cesium chloride leaking sources at an outfit called RSI,  
11 in a radiator and we provided backup and cooperated and helped  
12 the state. It was a rather large problem, a difficult one and  
13 we worked right behind them. It was a good example.  
14 Headquarters got involved reasonable soon. It was a good  
15 example of standing behind the agreement states.

16 COMMISSIONER CARR: I'm all for agreement states.  
17 I'm just worried about us taking the initiative instead of them  
18 taking the initiative.

19 MR. PARLER: You're sure we have the authority to  
20 take the initiative, Commissioner. I think the best thing --  
21 one of the better things that I can think of to encourage or  
22 perhaps demonstrate the benefits of the program is the National  
23 Governor's Association study of a couple years ago -- am I  
24 correct -- which documented the benefits of the program; how it  
25 was a federal/state cooperation at its best, et cetera.

1           To get to my point, we have no authority to fund  
2 these programs. We do provide training opportunities, et  
3 cetera. The point that you have raised has been raised by  
4 interested states almost from the beginning of the program in  
5 1959. I'm not aware of any basis for any authority that we have  
6 to actually to push or urge people to come in and be an  
7 agreement state.

8           COMMISSIONER CARR: I'm not aware of any authority to  
9 do that too, but it seems that we're emphasizing that. We're  
10 trying to get them to become agreement states. That's what was  
11 bothering me. I recognize that we can't fund them.

12          MR. PARLER: I realize that what was bothering you  
13 and that's why I gave my comment, perhaps to add my point of  
14 view to your concern.

15          COMMISSIONER CARR: I think it's great that the  
16 Governor's Association can think it's a good idea. I'm really  
17 worried about those guys dropping off the line and we have to -  
18 -

19          MR. PARLER: I'm trying to say that as a good  
20 advertisement for the product, that they should have to make up  
21 their minds as to whether they want to do it or not. What the  
22 program is, is a discontinuance of the Federal Government's  
23 authority. Then it becomes the state's authority. It's their  
24 business; they fund it, et cetera. That's the only purpose of  
25 my comment.

1           COMMISSIONER CARR: As usual, you and I are in  
2 complete agreement.

3           MR. PARLER: I think we are.

4           MR. TAYLOR: Commissioner, Gus Nussbaumer is here  
5 from GPA and perhaps he has a few words on the subject of  
6 pushing or encouraging.

7           MR. NUSSBAUMER: We are glad to see your concern.  
8 Our approach is not to actively promote agreement state status  
9 by trying to sell the program. Our approach is to respond to a  
10 state interest in regulating in the nuclear materials area. We  
11 certainly don't want to enter into an agreement with a state  
12 that isn't prepared or capable to run an exemplary program and  
13 we emphasize to them that we are not authorized to provide  
14 operating funds for this program -- that they have to do that  
15 themselves. That's their obligation to undertake when they  
16 enter into the agreement.

17           Most of the agreement states fund various portions of  
18 their program through license and inspection fees and some of  
19 them are funded almost entirely through inspection fees and we  
20 encourage them to take that approach. They have to recognize  
21 that it may be necessary in some cases, to fund the programs  
22 out of general appropriations. Our approach, therefore, is not  
23 to try to encourage them to join the program, but to respond to  
24 a genuine interest on their part and help them develop a  
25 program that will satisfy our criteria.

1           COMMISSIONER CARR: I misread your point here. It  
2 says, actively encourage more agreement states, I guess.

3           MR. TAYLOR: That was the MSRRSG recommendation. We  
4 tempered that, I guess, is the right word. We tempered that  
5 recommendation.

6           COMMISSIONER CARR: All right. You mentioned that  
7 you were going to take advantage of the inspections and when  
8 you went back to renew their license, that you were to  
9 emphasize that -- take advantage of that in their license  
10 renewal. On the November 13th letter you sent us, on page 2  
11 you say that the budget doesn't allow for that review prior to  
12 renewing their license applications and you don't have the FTE  
13 to support it.

14          MR. CUNNINGHAM: The situation has changed since  
15 then.

16          COMMISSIONER CARR: I'm glad to hear that. You do  
17 have the FTE then to make that?

18          MR. CUNNINGHAM: We have the FTEs to do team  
19 assessments. Limited of course, but we do have FTEs to do what  
20 we planned to do and that is to do the team assessments for the  
21 fuel cycle facilities and for some of these larger licensees.

22          COMMISSIONER CARR: And the followup before their  
23 renewal then?

24          MR. CUNNINGHAM: Yes, that would be part of the  
25 licensing process.

1           COMMISSIONER CARR: The other thing that we asked you  
2 to do was to do a special analysis on the five-year plan to  
3 break out the program. Looking over that special analysis, it  
4 looks to me like there's a general drop in resources over the  
5 next five years in this particular area that don't seem to  
6 match the words that we're saying how we're emphasizing it.

7           This is dated 6/17/88 in the budget and it shows  
8 resources dropping in the implement lessons learned from  
9 enhanced safety assessments. I mean dropping over last year's  
10 projections. Cuts, I'd call them.

11          MR. CUNNINGHAM: I don't know the specifics. Some of  
12 that is because in each time, you do get a significant benefit.  
13 These things have been very effective in assessing these  
14 facilities and we've improved their operations. I think that  
15 there may be a reduction.

16          COMMISSIONER CARR: It says conduct the enhanced  
17 safety inspections or safety assessments. We've got a \$1.5  
18 million cut in '91, '92 and '93 and a half a million dollar cut  
19 in '89 and '90.

20          MR. BERNERO: I'd like to look into that analysis.  
21 I'm not fresh on it right now. I don't recall it. Other than  
22 there is and should be expected, a major peak in the initial.  
23 You know, we went out and had to do '87 and '88.

24          COMMISSIONER CARR: I'm only comparing what was in  
25 last year's five-year plan to this year's five-year plan. I

1 don't get the impression that you're emphasizing this area. I  
2 get the impression that it's in line for cuts. You might take  
3 a look at it. That's all I've got.

4 CHAIRMAN ZECH: All right.

5 Commissioner Rogers.

6 COMMISSIONER ROGERS: Yes. Just a little bit on the  
7 general area of tracking licensees, some of the smaller  
8 licensees. I was looking at the Region IV initiatives list  
9 that was discussed someplace, I guess in connection with  
10 looking at the budget. One of those was better awareness of  
11 applicant and licensee personnel, and some of the suggestions  
12 there were, for example, to use contractors to locate missing  
13 licensees in different regions, which sounds like a very good  
14 idea because some of these smaller outfits suddenly disappear  
15 and spring up under a different name and a different state and  
16 so on.

17 COMMISSIONER CARR: How is that going? Did we let  
18 the contract?

19 MR. TAYLOR: I will have to check that, sir. Do you  
20 know, Dick, whether that went?

21 MR. CUNNINGHAM: I know Region IV is in the process  
22 of negotiating.

23 COMMISSIONER CARR: They are putting the bill  
24 collectors on them?

25 MR. CUNNINGHAM: Yes. Region IV has a particular

1 problem for these kinds of people because they have a lot of  
2 well logging people that are small outfits that have gone out  
3 of business.

4 COMMISSIONER ROGERS: Just in that general area of  
5 following personnel that are involved in this, I didn't really  
6 hear anything about that in your presentation explicitly. Maybe  
7 I missed it. Is there anything that you could say on that? I  
8 know it's a very difficult problem with a large number of  
9 licensees, but where does that fit? It wasn't a specific  
10 recommendation of the list of 22, but it does seem an area that  
11 --

12 MR. TAYLOR: Maybe we can give you an update on that.  
13 It was mentioned. Because of the effects in the petroleum  
14 business, as an example, this was particularly noted in Region  
15 IV with well loggers, a tendency to lose their business and  
16 therefore close up shop, move on, and it sort of peaked with a  
17 good half-dozen or more lost well logger outfits. That is when  
18 we decided, because of the investigative resources, we would  
19 try to contract. Now, we will try to give you an update on  
20 exactly where that stands, sir, but I think we were seeing a  
21 peak.

22 COMMISSIONER ROGERS: Did it seem to be largely  
23 confined to the well logging business in terms of being a  
24 serious problem?

25 MR. CUNNINGHAM: Yes. The general licensees, which



1 we have discussed, and the well loggers, but for example,  
2 hospital nuclear medicine laboratories, you don't lose them and  
3 some of these others, but there is a concern. But the biggest  
4 concern is with people like the well loggers.

5 COMMISSIONER ROGERS: Thank you.

6 CHAIRMAN ZECH: A number of my comments have been  
7 covered by other commissioners, but let me just say, on  
8 agreement states, are we keeping the agreement states up to  
9 date on these initiatives that we are doing with our own  
10 material licensees, newsletters and other information,  
11 bulletins, notices, other methods of communications? Are we  
12 focusing on the agreement states as well as we should?

13 MR. NUSSBAUMER: We have an extensive program of  
14 keeping the agreement states informed on all of our activities:  
15 fuel cycle directives, guides, draft regulations. They get  
16 those for comment before they come to the Commission. For  
17 example, these performance evaluation indicators. We have  
18 already asked the agreement states to take a look at those and  
19 try those out on a trial basis as our regional offices are  
20 doing so that we can have that input coming in for  
21 consideration on a nationwide basis.

22 So the answer is yes, as these initiatives develop,  
23 we do coordinate them with the agreement states and discuss  
24 them with the states.

25 CHAIRMAN ZECH: Thank you.

1           On performance evaluation, this issue, I agree with  
2 Commissioner Carr. I think it would have been of interest to  
3 the Commission to receive some information on that pilot  
4 program in Region III perhaps before you have gone out to  
5 everyone. I don't think we would have had any problem with  
6 that at all, but I think it would be helpful if you had sent a  
7 paper to the Commission, a brief paper on the pilot program.

8           MR. TAYLOR: We will do that, sir. It is a trial  
9 going to all of them. It worked well there.

10          CHAIRMAN ZECH: In fact, if you have sent it out,  
11 just send us something of what you have done.

12          MR. TAYLOR: You will have one shortly, as soon as we  
13 can put it together.

14          CHAIRMAN ZECH: And then at the end of -- it is a  
15 one-year program, as I understand it, you have got going on in  
16 all the regions now. Perhaps make yourself a note to at the  
17 end of that time give the Commission a status report.

18          MR. TAYLOR: An update.

19          CHAIRMAN ZECH: On the general license issue, the  
20 EDO, looking at the five-year plan and so forth as I recall  
21 recently has proposed a \$300,000.00 cut in the NMSS budget for  
22 this mail survey. I guess my question is what impact will that  
23 have on the general license policy if the survey is not  
24 performed in fiscal year 1989?

25          MR. CUNNINGHAM: As I recall the budget, Mr.

1 Chairman, we have money to do the mail survey for general  
2 licensees. We were going to do a little bit more on other  
3 kinds of licensees, but since there was some money cut, we  
4 decided to focus this on general licensees. What the mail  
5 survey will do to general licensees is it is a precursor to the  
6 type of thing we would want to implement by rulemaking. We can  
7 get some good information and feedback of just how to develop  
8 the rule. But the survey is going forward. There is money in  
9 the budget, to my understanding, right now.

10 CHAIRMAN ZECH: Well, it is my understanding that  
11 perhaps that would be impacted by the cut, so please check that  
12 out.

13 MR. TAYLOR: We will take a check on what that means.

14 CHAIRMAN ZECH: Also, on this whole subject of  
15 general licenses and accountability and accounting and keeping  
16 track of nuclear materials that we have disbursed around our  
17 country, I can't help but recall the serious problem in Brazil  
18 recently, and as has been discussed here earlier by the staff,  
19 your concern for keeping track of this nuclear material that we  
20 have licensed to be used in various parts of our country. It  
21 really is important that we have a system of accounting for  
22 that. I know you are working on that, and I hope we can get it  
23 in the computer system and get a more sophisticated way to keep  
24 track of it because that is a very big responsibility. I think  
25 it is something that really does demand our attention, and that

1 is why I was a little concerned when I saw the proposed cut in  
2 the survey because at least it is one step in the right  
3 direction, in my view.

4 I do think that NMSS should stand up and make a lot  
5 of noise if you feel that that particular program is not being  
6 supported as well as it should be. I hope you did reclama that  
7 \$300,000.00 cut, and those are the kind of things that I do  
8 believe that the Commission has a great interest in because  
9 they are areas that can bring harm to the public. If we have  
10 instruments or devices that are not being properly accounted  
11 for, it is a serious situation. We recognize how many  
12 licensees we have, how many agreement states we have that are  
13 also trying to keep track of these licenses and this equipment,  
14 but it is a very real responsibility. I think the incident in  
15 Brazil should remind us all how important it is, and I hope we  
16 can perhaps raise this to a little bit higher priority in the  
17 NMSS program across the board.

18 MR. TAYLOR: Yes, sir.

19 CHAIRMAN ZECH: Are there any other comments from my  
20 fellow commissioners?

21 [No response.]

22 CHAIRMAN ZECH: I thank you very much for a very  
23 informative and very useful briefing, and I just would commend  
24 you to continue in NMSS your recognition of the fact that this  
25 Commission has indeed placed a higher priority on some of your

1 activities. We want to support you. If you feel you are not  
2 being supported, be sure the Commission does get the word. We  
3 are very interested in the materials licensing part of our job  
4 even though we focus so much on the reactor side of it. That,  
5 of course, is important.

6 Public health and safety is this Commission's  
7 responsibility according to the statutes, and materials  
8 licensing, although not as attention getting, perhaps, at  
9 times, is also something that we do focus on, and we have tried  
10 to put that emphasis in the five-year plan and in other areas  
11 of policy from the Commission level. So please know that you  
12 do have the Commission's support, and we are very interested in  
13 a continuing increase in emphasis on this area.

14 With that, thank you very much. We stand adjourned.

15 [Whereupon, at 10:53 a.m. the meeting of the  
16 Commission adjourned.]

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CERTIFICATE OF TRANSCRIBER

This is to certify that the attached events of a meeting of the U.S. Nuclear Regulatory Commission entitled:

TITLE OF MEETING: BRIEFING ON STATUS OF EFFORTS TO ENHANCE SAFETY OF USERS OF BY-PRODUCT MATERIALS

PLACE OF MEETING: Washington, D.C.

DATE OF MEETING: FRIDAY, AUGUST 5, 1988

were transcribed by me. I further certify that said transcription is accurate and complete, to the best of my ability, and that the transcript is a true and accurate record of the foregoing events.

Marilyn Nations

Ann Riley & Associates, Ltd.

NMSS VUGRAPHS FOR COMMISSION  
BRIEFING ON STATUS OF EFFORTS TO  
ENHANCE SAFETY OF USERS OF BYPRODUCT MATERIALS

AUGUST 5, 1988

1

IMPLEMENTATION OF RECOMMENDATIONS OF  
MATERIALS SAFETY REGULATION REVIEW  
STUDY GROUP (MSRRSG)

- PROVIDE FIRST OF A SERIES OF SEMIANNUAL UPDATES OF STAFF ACTIONS TO IMPROVE SAFETY OF MATERIALS LICENSEES.



BACKGROUND

- MSRRSG REPORT                      OCTOBER 1986
- PUBLISHED REPORT                    DECEMBER 1986  
  IN FEDERAL REGISTER
- STAFF ANALYSIS                      JULY 1987  
  COMPLETED (SECY 87-189)
- 1ST COMMISSION BRIEFING            AUGUST 1987
- IMPLEMENTATION PLAN                NOVEMBER 1987

1. EMERGENCY PREPAREDNESS

o FINAL RULE SUBMITTED TO COMMISSION  
JULY 15, 1961

## 2. GENERAL LICENSE POLICY

- A. NMSS REQUESTING A RULEMAKING TO IMPROVE DEVICE ACCOUNTABILITY
- B. ON-LINE COMPUTER SYSTEM TRACKS PRODUCTS AND THOSE WHO POSSESS THEM. SYSTEM UPGRADES CONTINUE.
- C. QUALITY ASSURANCE, PRODUCT TESTING AND PRODUCT IDENTIFICATION BEING EXAMINED TO ASSESS NEED FOR FURTHER RULEMAKING AND/OR OTHER ACTIONS

### 3. RADIOGRAPHY SAFETY

- o ASNT TASK GROUP PRESENTING  
CERTIFICATION PROGRAM IN FALL  
(NRC PARTICIPATING ON TASK GROUP)
- o PROPOSED RULE ON EQUIPMENT AND  
ALARMING DOSIMETERS
- o SEPARATE COMMISSION PAPER ON  
RADIOGRAPHY SAFETY DUE IN SEPTEMBER

4. OPERATIONAL SAFETY TEAM ASSESSMENTS

- o COMPLETED 12 TEAM ASSESSMENTS OF FUEL FACILITIES AND 3 AT MATERIALS LICENSEES IN FY-86 AND FY-87
- o 7 OTHERS COMPLETED OR SCHEDULED FOR FY88 (6 MATERIALS LICENSEES AND 1 URANIUM MILL)
- o OSHA/EPA/MSHA PARTICIPATING

5. PERFORMANCE EVALUATION FACTORS

- O REGION III PILOT PROGRAM IN 1987
- O TEMPORARY INSTRUCTION 2800/15  
ISSUED IN JULY 1988 EXPANDS PILOT  
PROGRAM TO EACH REGION
- O BASED ON INSPECTOR OBSERVATIONS  
OF FACTORS SUCH AS: MANAGEMENT  
OVERSIGHT, FINANCIAL SECURITY,  
TRAINING, ALLEGATIONS, REPORTED  
EVENTS, AND VIOLATIONS

## 6. STAFF TECHNICAL TRAINING

- o TECHNICAL TRAINING CENTER'S (TTC)  
LONG RANGE, 6 PHASE PROCESS
- o TTC HAS SELECTED A MATERIALS  
SAFETY HEALTH PHYSICIST (TRAINING  
COORDINATOR/INSTRUCTOR)
- o 3 NON-RADIOLOGICAL COURSES FROM OSHA
- o GPA SPONSORED TRAINING AVAILABLE TO  
NMSS AND REGIONS

7. PART 20 RULEMAKING

o FINAL RULE TO COMMISSION IN SEPTEMBER

o SCHEDULE REVISED TO:

- RESOLVE ACRS AND CRGR COMMENTS  
RELATED TO COST-BENEFIT, TECHNICAL  
ISSUES, AND ADMINISTRATION  
PROCEDURES



## 8. COMMUNICATIONS

- O NMSS NEWSLETTER INITIATED
- O WORKSHOPS FOR BROAD LICENSEES,  
RADIOGRAPHERS, WELL LOGGERS  
AND IRRADIATORS
- O PRESENTATIONS AT PROFESSIONAL  
SOCIETY MEETINGS
- O MONTHLY CONFERENCE CALLS (HQ/REGIONS)
- O DAILY COMMUNICATIONS WITH REGIONS  
ON CASE SPECIFIC ISSUES
- O INSPECTION ACCOMPANIMENTS
- O NATIONAL PROGRAM REVIEW PROCESS

OTHER NSRRSG RECOMMENDATIONS

- O MORE AGREEMENT STATES
- O NON-RADIOLOGICAL TECHNICAL POSITIONS
- O PERFORMANCE VS. PRESCRIPTIVE REGULATIONS
- O MORE BROAD LICENSES
- O REGULATORY GUIDES AND STANDARD  
REVIEW PLANS
- O COORDINATE MAJOR LICENSING ACTIONS  
WITH LICENSEES, REGIONS
- O REGULATORY INTERPRETATIONS FILE

SUMMARY

- 0 COORDINATED IMPLEMENTATION UNDERWAY  
AMONG NRC HEADQUARTERS AND REGIONAL  
OFFICES
- 0 MOST INITIATIVES ARE LONG-TERM,  
CONTINUING EFFORTS
- 0 STATUS REPORTS WILL BE PROVIDED  
SEMIANNUALLY

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Meeting Title: Brief on Status of Efforts to Enhance  
Safety of Users of By-Product Materials

Meeting Date: 8/5/88 Open X Closed \_\_\_\_\_

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