UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555

OFFICE OF THE
SECRETARY

August 13, 1990

ACTION - Beckjord, RES/
Bernero, NMSS

Cys: Taylor
Sniezek
Thompson
Blaha
Jordan, AEOD
Scroggins, OC
SBaggett, NMSS
SMoore, NMSS

MEMORANDUM FOR: James M. Taylor
Executive Director for Operations

FROM: Samuel J. Chilk, Secretary

SUBJECT: SECY-90-175 - STAFF REQUIREMENTS - OCTOBER 3, 1989, FOLLOWING A BRIEFING ON STUDY OF ADEQUACY OF REGULATORY OVERSIGHT OF MATERIALS UNDER A GENERAL LICENSE

This is to advise you that the Commission (with all Commissioners agreeing) has concurred in the staff's recommendations. The staff should proceed with the rulemaking to modify the general license in 10 CFR 31.5 and to establish a registration and response system for general licensees through the proposed rulemaking. The periodic verification letters provided for in the rule should be accompanied by a copy of the regulations from time to time. These actions should promote better tracking, improved communications, and enhanced licensee understanding of the requirements and compliance with them. Staff should prepare and submit a proposed rule for Commission review.

~~(EDO)~~ (RES) (SECY Suspense: 9/1/90) 9000191

The staff should also proceed with a rulemaking to modify 10 CFR 32.51 to restrict the maximum air gap between the device and the product for generally licensed devices. A proposed rule should be prepared and submitted for Commission review.

~~(EDO)~~ (RES) (SECY Suspense: 3/29/91) 9000192

As a separate but related matter, staff should proceed with intentions to establish through rulemaking separate exemptions for certain devices. Staff should ensure that proposed exemptions of certain devices that are currently used under general and specific licenses are analyzed and exempted in accordance with the Below Regulatory Concern policy. The staff should integrate its proposal to consider exempting these devices into the BRC implementation program.

~~(EDO)~~ (RES) (SECY Suspense: 9/14/90) 8900198

SECY NOTE: THIS SRM, THE SUBJECT SECY PAPER, AND THE VOTE SHEETS OF COMMISSIONERS ROGERS, CURTISS, AND REMICK WILL BE MADE PUBLICLY AVAILABLE IN 10 WORKING DAYS FROM THE DATE OF THIS SRM.

ENCLOSURE 3

The staff should conduct reviews and analyses, as described below, and report findings to the Commission.

1. Given the staff's belief that losses of generally licensed devices are underreported, it is likely that some kinds of accidents and misuses might also be underreported. The staff's recommendation for periodic verification letters itself indicates a concern that some general licensees might not know what problems they are required to report, or even that they are required to report. The staff should present the information obtained through these periodic surveys to the Commission, with an evaluation of the need for further regulatory action. This evaluation should consider the need to require a specific license for additional types of devices or applications, to provide additional guidance to general licensees, for changes in the verification letters, and for other changes to Part 31, such as a requirement for additional training.

2. The April 1987 report by Oak Ridge Associated Universities entitled "Improper Transfer/Disposal Scenarios for Generally Licensed Devices" suggests a potential for significant doses from several types of devices. Although the staff has informally determined that this document is based on unrealistic assumptions that produce dose estimates that are too conservative, the staff currently has no documented analysis supporting its conclusions.

   The staff should explain why the doses estimated in the Oak Ridge report are unlikely to be experienced in practice or otherwise insufficient as a basis for rulemaking. To support its conclusions, the staff should obtain a peer review of the Oak Ridge report and analyze the potential doses associated with radioactive materials under a general license.

   Staff should use its analysis as a major part of the basis for making future improvements in regulatory oversight of general licenses and for making decisions on whether to recommend specific licensing for other generally-licensed devices. The staff's analysis could also provide a basis for gathering additional information on categories of general licensees where survey responses are sparse. This analysis should be independent of the proposed rule on the registration and response system, however, so that the rulemaking will not be delayed.

3. The staff should assess the design dose criteria established for generally licensed devices in 10 CFR Part 32 to ensure that members of the public are adequately protected. In the recent Commission deliberations on final revisions to 10 CFR Part 20, Commissioner Curtiss raised a concern about adoption of 10% of the occupational limit (i.e. 500 mrem/yr) as the design criterion for generally licensed devices in 10 CFR 32.51(a)(2)(ii) and 32.51(c). Rather than delay promulgation of the final revisions to 10 CFR Part 20 and the conforming changes, this issue should be resolved as part of an integrated program to improve regulatory oversight of generally licensed material and devices. Staff should carefully consider what the design criteria should be, given that the people receiving the exposures are members of the general public rather than radiation workers, and should provide recommendations for the Commission's consideration on whether revision of the design criteria should be initiated.

The staff should submit a plan with milestones for the accomplishment of these reviews and analyses.

~~(EDO)~~ (NMSS) (SECY Suspense: 2/1/91) ~~9000194~~ 8900184

cc: Chairman Carr
Commissioner Rogers
Commissioner Curtiss
Commissioner Remick
OGC
GPA