

August 23, 1999

FOR: The Commissioners
FROM: William D. Travers /s/
Executive Director for Operations
SUBJECT: OPTIONS FOR PROCEEDING WITH NRC'S EFFORTS REGARDING THE RELEASE OF SOLID MATERIALS

PURPOSE:

To inform the Commission of staff interactions with public interest, citizen, and environmental groups and request Commission approval of an alternative approach for proceeding with NRC's efforts for release of solid materials.

BACKGROUND:

In a memorandum dated July 23, 1999, the staff informed the Commission that the first of four facilitated public meetings scheduled to discuss an issues paper on the release of solid materials (clearance) would be postponed. The reason for this was that several key stakeholder groups indicated that the short interval between the publication of the Issues Paper in the Federal Register (64 FR 35090) on June 30, 1999, and the August workshop did not allow adequate preparation and participation. Postponing the first of the four workshops to a later date would allow all stakeholders to adequately prepare for a comprehensive discussion of the issues surrounding the potential release of solid material. Therefore, the enhanced participatory process is planned to begin with the meeting in San Francisco, California, scheduled for September 15-16, 1999.

As part of the ongoing convening process for the public meetings, the facilitation team identified a great deal of dissatisfaction and concern among the public interest, citizen, and environmental (hereafter referred to as citizen) organizations about whether the U.S. Nuclear Regulatory Commission (NRC) is open to hearing the full range of perspectives regarding release of low-level radioactive solid materials. In addition, these organizations expressed a strong desire for ensuring: (1) ongoing involvement throughout the decision-making process, and (2) NRC's response to all the issues raised by all stakeholders. As a result, the facilitation team invited the public interest groups to a consultation meeting in which Chairman Dicus and the NRC staff were invited to share NRC's intent, concerns, and opportunities for public interaction.

DISCUSSION:

The consultation meeting with the citizen groups was held on August 5, 1999. Although a number of the invitees did not participate [for rationale, see e-mail dated July 29, 1999 ([Attachment 1](#))], three did attend this meeting: (1) Dr. Judith Johnsrud of the Environmental Coalition of Nuclear Power, Sierra Club; (2) Mr. Ray Shadis of the Friends of the Coast Opposing Nuclear Pollution; and (3) Mr. Michael Veiluva of the Western States Legal Foundation (by phone). Mr. Shadis submitted a written statement ([Attachment 2](#)). The attendees raised a number of issues and concerns to the Chairman, the NRC staff, and the facilitation team -- which are summarized in [Attachment 3](#). They indicated that citizen organizations were still not going to participate in the facilitated public meetings.

As a result of this meeting, interactions with other stakeholders, and coordination with the facilitation team, a number of options for proceeding ([Attachment 4](#)) have been developed. Option 1 would continue the process described in the Issues Paper (i.e., conduct workshops currently scheduled for September to November 1999 using the Issues Paper as the basis for discussion). Option 2 would continue the currently scheduled workshops but would modify the approach and agenda to include a fuller discussion of the scope of the issue and alternatives. Option 3 would modify the process by not using the Issues Paper as the basis for the workshops. Direct interaction with stakeholders would be the basis for developing a stakeholder process and meeting agenda. Option 4 would discontinue Commission-directed activities at this time, cancel scheduled workshops, and re-focus on developing more technical information.

The staff believes that Option 3 would provide the best opportunity to get maximum input from all interests, while still continuing to address solid materials issues. In this option, NRC would alter the current structure, agenda, and schedule for the public meetings and interact with all stakeholders to obtain perspectives about the nature, extent, and implications of the solid materials issue. This would include clarifying that all options would be considered in the decision-making process and solicit input on other related issues.

RESOURCES:

Resources to proceed with any of the options are currently budgeted.

COORDINATION:

The Office of the General Counsel has no legal objection to the proposed recommendation. The Office of the Chief Financial Officer has reviewed the Commission paper for resource implications and has no objections.

RECOMMENDATIONS:

That the Commission:

1. Approve the recommended Option 3 as described above.

2. NOTE:

Note the dates for the San Francisco meeting are September 15-16, 1999. Because of the lead time necessary to provide appropriate public notice and conduct logistical arrangements for such meetings, either under Options 1 or 2 or possibly 3, the staff requests receiving the earliest possible notice from the Commission regarding any direction for schedule or conduct of the meetings.

William D. Travers
Executive Director for Operations

CONTACT: Patricia K. Holahan, NMSS/IMNS
(301) 415-8125

Attachments: 1. E-mail dtd July 29, 1999
2. Written Statement from RShadis
3. Summary of Consultation Meeting August 5, 1999
4. Facilitation Team Report

ATTACHMENT 1

From: "Barbara Stinson"

To: "Patricia Holahan" , "Donald Cool"

Date: Tue, Aug 3, 1999 4:13 PM

Subject: FW: Aug. 5 Consultation Meeting

-----Original Message-----

From: Diane D'Arrigo [mailto:dianed@igc.org]

Sent: Friday, July 30, 1999 5:24 PM

To: bstinson@merid.org; mlesnick@merid.org; Chip Cameron

Cc: dadelman@nrdc.org; wslf@earthlink.net; dianed@nirs.org;

johnsrud@csrlink.net; can@shaynet.com; neis@forward.net;

dlochbaum@ucsusa.org; pmorman@elpc.org; whauter@citizen.org;

veiluvawslf@earthlink.net

Subject: Re: Aug. 5 Consultation Meeting

July 29, 1999

Dear Ms. Stinson, Mr. Lesnick, Mr. Cameron:

We cannot participate in the August 5 meeting or any meeting that supports the free release and recycling of radioactive materials and waste. We will not participate in any meeting for which there is no clear, acceptable goal and agenda in advance (at which point three weeks notice must given to the parties).

The Nuclear Regulatory Commission should be regulating and isolating radioactive materials and wastes from the environment and the public, not legalizing radioactive releases into the marketplace, consumer products, and the environment.

Our response to the proposed rule on radioactive releases is NO, do not release radioactive waste from regulation; isolate it from the marketplace and the environment.

If you want public involvement, it must be on regulating and isolating

radioactive wastes and recapturing those which have already been

released.

The societal goal is to prevent releases of radioactivity and

unnecessary exposures, not to facilitate them.

Sincerely,

Citizens Awareness Network- Debby Katz

Env'tal Coalition on Nuclear Power, Sierra Club- Dr. Judith Johnsrud

Environmental Law and Policy Center- Peter Morman

Georgians Against Nuclear Energy- Glenn Carroll

Natural Resources Defense Council- David Adelman

Nuclear Energy Information Service- David Kraft

Nuclear Information and Resource Service- Diane D'Arrigo

Physicians for Social Responsibility- Dr. Robert Gould

Public Citizen- Wenonah Hauter

Union of Concerned Scientists- David Lochbaum

Western States Legal Foundation- Mike Veiluva, Jackie Cabbasso

cc: NRC Commission Chair Greta Dicus

Tutti Tischler wrote:

>

> I sent this out via fax last week and wanted to make sure everyone got it.

> As a reminder, responses are due by Wednesday, July 28, 1999.

>

> MEMORANDUM

>

> To: Invitees to NRC Consultation Meeting

>

> From: Barbara Stinson and Mike Lesnick

>

> Subject: August 5th Consulting Meeting

>

> Date: July 23, 1999

>

> As discussed this week and last, we are rescheduling the NRC consultation

> meeting. NRC would like to invite public interest, citizen and

> environmental organizations who are interested in discussing relevant

issues

> to a face-to-face meeting with the NRC staff responsible for the Solid

> Material Release Rulemaking on Thursday, August 5, 1999, from 9:00 a.m. -

> Noon. The meeting will follow the guidelines mentioned in Meridian's last

> fax of July 16 postponing the first consultation meeting. Please complete

> the attached response form as to whether or not you will attend, and if

you

> need travel support. Travel support is available on an as needed basis;

> travel support guidelines are available from Tutti Tischler by calling

> 970-513-8340 x252. Travel arrangements can be made through Meridian's

> travel agent upon receipt of Response Forms. Please fax back your

> information, if you require hotel accommodations.

>

> We would appreciate speaking with each of you over the next week to

> establish an agenda that will make best use of everyone's time. Mike and

> Barbara can be reached according to the following schedule:

>

> 7 Monday-Tuesday: Barbara in the Colorado office at 970-513-8340 x203.

> Mike is on travel.

> 7 Wednesday: Mike and Barbara are on travel, but messages can be left at

> their respective offices.

> 7 Thursday: Mike can be reached at his office at 615-353-0854. Barbara

is

> on travel.

> 7 Friday: Mike and Barbara in their respective offices.

>

> We look forward to talking with you further.

>

> Meridian Institute Response Form

> NRC Consultation Meeting - August 5, 1999 in Rockville, MD

>

> Please fill out the following response form and return it to Tutti

Tischler

> via facsimile 970-513-8348 or via email by

Wednesday,

> July 28, 1999.

>

> Meeting Date: Thursday, August 5, 1999

>

> Name: _____

>

> ____ Yes, I will be attending the August 5th Meeting.

>

> ____ No, I will be unable to attend the August 5th Meeting.

>

> ____ Yes, I will need support for my travel.

ATTACHMENT 3

Brief Summary of Feedback from Consultation Meeting on NRC's Effort for Release of Solid Materials

The following provides a brief summary of a consultation meeting held with the citizens, public interest, and environmental (public interest) organizations. This meeting was one of a number of meetings and communications with many stakeholder groups that have been conducted by the facilitation team in the last two months.

Background

- At the consultation meeting held 8/5/99, several public interest groups expressed their concerns about release issues and the ongoing enhanced participatory process:
 - Commission should allow no releases of material from nuclear power facilities.
 - In addition, Commission should be considering recapture of (look for, find, and recover regulatory control of) previously released or abandoned material.
 - With the NRC mission of adequately protecting human health and the environment, NRC should be attempting to regain control of material and reduce the risk of additional exposures, not look for ways to further introduce contaminated materials into commerce.
 - Issues Paper (published in FR 6/30/99) appears to reflect a momentum towards allowing further releases into the environment. It should be set aside and a revised paper should be pursued.
 - Commission should consider the apparent shift of the international community towards greater protection (non-fatal and non-cancer low dose health effects; consideration of entire biosystem; additive impacts of radiation and other environmental contaminants). In particular, it was suggested that a number of papers presented at the Second International Symposium on Ionizing Radiation in Ottawa, Canada (May 10-14, 1999) provided some new perspectives regarding environmental protection approaches for nuclear facilities.
 - Citizen groups do not have sufficient resources for or access to medical, biological, and genetic expertise on health effects and other components of the ecosystem to allow them to participate in discussions on these issues.
 - NRC's provision of information and access to web-based information is inadequate and not user-friendly.
 - Participation in a previous series of workshops for the NRC's license termination (decommissioning) rule was not beneficial to the citizen groups because the final Decommissioning Criteria rulemaking did not at all address their concerns.
 - Timeline for meetings and workshop activities have provided inadequate notice for citizen group's to prepare for participation in this series of workshops.
- Recommendations of public interest groups:
 - NRC should clarify that its primary concern on this issue is with protecting public health, safety and the environment.
 - NRC should clearly demonstrate interest in citizen group's concerns and: 1) step back from the current Workshop purpose, 2) allow parties to participate in clearly defining the solid materials problem, and 3) solicit potential solutions without the presumption of a rulemaking.

- NRC should step back from the current schedule of workshops to allow for development of an appropriate process and full participation in addressing these issues.
- NRC should withdraw the Issues Paper and alter the Commission's June 30, 1998, direction to the staff so that it is clear there are no presumptions about managing the solid materials issues. NRC should expand the Issues Paper to include alternatives on recapture and, in addition, should reevaluate the air and liquid release limits in Part 20.
- Reg Guide 1.86 is considered to be 'antiquated' as a basis for adequately protecting human health, safety and the environment. NRC needs to review the basic assumptions of radiation protection and establish a new baseline.
- NRC should conduct meetings with the public interest community to design the best approaches to providing public access to information on site-specific and other activities.
- NRC should form an Office of Public Advocacy to serve the public's needs.