

ORIGINAL

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NUCLEAR REGULATORY COMMISSION**

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1 UNITED STATES OF AMERICA  
2 NUCLEAR REGULATORY COMMISSION

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4 BRIEFING ON STATUS OF  
5 STATE, LOCAL AND INDIAN TRIBE PROGRAMS

6 \*\*\*

7 Nuclear Regulatory Commission  
8 Room 1130  
9 1717 H Street, Northwest  
10 Washington, D.C.

11  
12 Wednesday, February 3, 1988  
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15 The Commission met in open session, pursuant to  
16 notice, at 2:03 p.m., the Honorable LANDO W. ZECH, Chairman of  
17 the Commission, presiding.  
18

19 COMMISSIONERS PRESENT:

20 LANDO W. ZECH, JR., Chairman

21 THOMAS M. ROBERTS, Commissioner

22 FREDERICK M. BERNTHAL, Commissioner

23 KENNETH M. CARR, Commissioner

24 KENNETH C. ROGERS, Commissioner  
25

## 1 STAFF AND PRESENTERS SEATED AT COMMISSION TABLE:

2 SAMUEL J. CHILK, Secretary

3 WILLIAM C. PARLER, General Counsel

4 HAROLD R. DENTON

5 SHELDON SCHWARTZ

6 CARLTON KAMMERER

7 DONALD A. NUSSBAUMER

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

CHAIRMAN ZECH: Good afternoon, ladies and gentlemen.

The purpose of the meeting today is for the Commission to receive an information briefing on the status of NRC's Agreement States program and other State and Indian Tribe programs, and to hear about the initial combination of this office under the Government and Public Affairs Office.

As a separate matter, this office is preparing a draft policy statement for the Commission considering the subject of NRC's relationship to the States in areas that are not covered by agreements under Section 274 of the Atomic Energy Act.

As most of you know, in the last NRC reorganization the Office of State, Local, and Indian Tribes Programs was organized within the Office of Government and Public Affairs. One of the objectives behind the reorganization was to bring the focus of this program closer to the Commission.

Before we begin, let me just say that during my term as the Chairman I have had the opportunity to visit many of the fine representatives of the States and Indian Tribes. Last year I had the pleasure of participating in the State Liaison Officers' Meeting, and the All Agreement States Meeting.

The Commission has also had a chance to hear from Indian Tribes' representatives at some of our high-level waste briefings.

1 I appreciate the cooperation and the assistance  
2 extended by these State and Indian Tribe representatives in  
3 helping us to ensure the public health and safety. They  
4 perform an important service to our agency and to our country.

5 I understand that we have with us today some of our  
6 regional staff people, as well as our Headquarters people, who  
7 are involved in these programs and who follow and coordinate  
8 much of our State and Indian Tribes' activities.

9 I welcome all of you and thank you for your  
10 contribution to our Agency.

11 Do any of my fellow Commissioners have any opening  
12 remarks to make this afternoon before we begin?

13 COMMISSIONER BERNTHAL: Let me just make a comment.  
14 I am going to read you a quotation here. This is a quotation  
15 from my staff, and I generally ask and expect my staff to be  
16 critical and they leave the kudos to me when and if warranted,  
17 but let me just read you--this is about the meeting today:

18 "You will undoubtedly hear a great deal about the  
19 success of the Agreement State program and of increasing  
20 interest on the part of non-Agreement States. Much, if not  
21 all, is true. NRC's Agreement State Program is often cited as  
22 one of the finest examples of Federal-State cooperation  
23 operative today."

24 Well, I think that is a fair statement, and it is  
25 quite often true that the Commission does not have the time and

1 pay the attention to the Agreement State Program as it is, but  
2 I just wanted to read that because that is from the opinion of  
3 at least my staff that generally finds as much as possible to  
4 be critical about. So I would like to compliment you, Carl, on  
5 the job that you have done since taking over that program.

6 Obviously it hasn't all happened since you started,  
7 but the job generally that's been done in that program in the  
8 past. Now before you get too relaxed, there's a little more  
9 here that I am not going to read.

10 [Laughter.]

11 COMMISSIONER BERNTHAL: I thought you ought to know  
12 that. So I am very pleased to hear, though, that apparently  
13 this program is thought very highly of.

14 CHAIRMAN ZECH: Are there any other comments?

15 [No response.]

16 CHAIRMAN ZECH: All right. I will ask Mr. Denton,  
17 who is the Director of the NRC's Office of Governmental and  
18 Public Affairs to begin the meeting today.

19 Mr. Denton.

20 MR. DENTON: It is hard to surpass the opening we  
21 were just given, but I visited three Agreement States. I've  
22 been to Arkansas, Tennessee, and Illinois, and I am very  
23 pleased with the competence and dedication of those people out  
24 there, and I think the program is a success. I have attended  
25 the Conference on the Radiation Control Officers. Every state

1 has a radiation control officer, and Carl convenes a meeting of  
2 them.

3 All the States have a liaison officer, and that is  
4 the one you spoke at, Mr. Chairman. So I think it is an  
5 effective program, but I am sure there are ways we can do  
6 better. The purpose of today's meeting is to have Carl  
7 describe how he is implementing your goals and objectives, and  
8 if there are different ways and ideas that you have of things  
9 you would like for us to do, that is what we are here for  
10 today, to be sure we are on the right track.

11 Don Nussbaumer, I guess, gets a lot of the credit for  
12 Agreement State success. He has run this program. Carl will  
13 make the presentation, and Shelly Schwartz and I will back him  
14 up.

15 CHAIRMAN ZECH: All right. Thank you, very much.

16 Carl, you may begin.

17 MR. KAMMERER: Just by way of identification, a lot  
18 of the people out there are the folks that in fact do the work.  
19 We brought with us all of Headquarters staff, from the  
20 secretaries on through the rest of the organization. We do  
21 have the three Regional reps who are here both from the  
22 Agreement State side and the Liaison side. If they would just  
23 raise their hands so that they're seen.

24 CHAIRMAN ZECH: Thank you, and welcome.

25 MR. KAMMERER: There were perceptions before, my own



1 perceptions before the reorganization were, of this office,  
2 first that it was buried deep in the staff and the staff was  
3 content to be there, and so were upper management. It had  
4 little visibility, and we seemed to hear from them only when  
5 there were problems.

6 The Commission was concerned with that, and the  
7 reorganization brought us reporting through GPA here to the  
8 Commission. After a couple of months of my being there, I  
9 began to find out that there is a great deal of good stuff that  
10 is going on on behalf of the Commission while, at the same  
11 time, a reluctance to share that good news. In other words,  
12 the job is being done well, and that in itself seemed to be  
13 good enough.

14 I view it as somewhat like a long mathematical  
15 equation that you get to the end of it and it is an empirical  
16 answer, an irrefutable answer, and it stays the same. And if  
17 somebody disagrees with the answer, they don't understand the  
18 problem.

19 So we today are a lot more willing to take steps to  
20 let people know what the process is that leads to that answer.  
21 I am afraid in the past that if a person challenged our answer,  
22 it proved that they knew nothing of the subject and we simply  
23 dismissed them. I believe we cannot merely rely and be content  
24 to do the job right, but also must be seen to do the job right.

25 In fact, I think that all of NRC actually does better

1       than we get credit for.

2               I mentioned the April 13th reorganization.   Following  
3       that we had a meeting in Boise, Idaho, of the Conference of  
4       Radiation Control Program Directors, and I chose at that time  
5       to have an all-hands' meeting of all of our Headquarters  
6       people, and each of the representatives in the regions to come  
7       out to listen to Harold talk about the strategic objectives of  
8       the Commission, and for us after that then to take a half a day  
9       to focus on the objectives and how does it in fact affect our  
10      program.   So he spoke to us, and we began to work on those  
11      objectives.

12             Our group needed some focus, and we chose that time  
13      to discuss terms like the objectives, and the direction, and  
14      the goals, the importance of follow-through, the leadership,  
15      participatory management, responsibility and authority,  
16      efficiency and integrity as it applies to the process as well  
17      as the people, and our outreach effort to communicate more  
18      effectively with all of our constituent groups.

19             While we could have just declared from my office or  
20      from Harold's direction that here is the new direction, here  
21      are the new goals, and get out there and march to this  
22      particular tune, I felt it valuable to develop with the staff  
23      entirely, listening to everybody, as to what is the meaning of  
24      the outreach and the kinds of goals that we are to set for  
25      ourselves.   And once we walk away from that meeting, we have a

1 good, strong, solid team effort.

2 I wanted to mention some of the initiatives we've  
3 taken. We developed a computerized information program. In  
4 fact, we are using that program today on the Russian-Swedish  
5 incident where there is a computer-based information where we  
6 send it to all 50 States through the Conference of Radiation  
7 Control Program directors.

8 MR. DENTON: Really, a "non-incident."

9 MR. KAMMERER: The non-incident, but nonetheless they  
10 are up to speed as to what we know about what is going on out  
11 there.

12 We initiated a monthly report, information report to  
13 the Commission, and much of the credit goes to the staff that  
14 is out in the region who develops the information that we send  
15 on to you.

16 CHAIRMAN ZECH: Let me just say now I think that is a  
17 very valuable report, and is very helpful to the Commission,  
18 and I commend all of you for your participation and effort to  
19 bring forth that--it is helpful to the Commission to see it in  
20 that form. That is very valuable.

21 MR. KAMMERER: Thank you.

22 We also noticed that there is a lack of knowledge  
23 about the programs, both internally and externally, so we began  
24 to conduct Commissioner Assistant briefings, and we focused on  
25 the Agreement State Program, the National Congress of American

1 Indians, and the Conference of Radiation Control Program  
2 Directors, each of whom sent their top person to address what  
3 it is that they do and how do they go about doing what they are  
4 doing, and it adds a great deal of credibility to the program  
5 when the people who have the hands'-on responsibility are in  
6 fact down here talking to the Commissioners Assistants about  
7 what they are up to.

8 We initiated a three-day acknowledgement rule for  
9 incoming State mail, much like the Congressional mail, so that  
10 when a Governor writes he at least knows that the NRC has  
11 received it and is processing that information.

12 I represented the Nuclear Regulatory Commission at  
13 the National Governors Association meeting where they developed  
14 a balanced policy toward the NRC in state inspections. A copy  
15 of your letter, Mr. Chairman, is a part of the paper there.

16 We initiated a program of Agreement State  
17 accompaniment of NRC State Reviews. That is, before we have  
18 had--what we have tried to do is look for new ways of doing  
19 things, not just because it is brand-new but are there more  
20 effective ways that we can do the job that we were out here to  
21 do? And we have patterned this particular review much after  
22 the OSARTS review. Might there be a benefit of a neighboring  
23 state or some other state program director to come along with  
24 us as we are reviewing the Nebraska program, for example?

25 So we had our regional people and another state

1 individual come in to do that review, where they look at the  
2 files, and go along with the inspections, and do a number of  
3 particular things. And that person who accompanied that review  
4 from Arkansas indicated that she took back with her some  
5 insights into running her own program that she wasn't quite  
6 aware of until after having been with that particular other  
7 state.

8 As you mentioned, Mr. Chairman, we are developing an  
9 options paper for the Commission in cooperation with the  
10 states, and that will be up to you very soon.

11 Now I just have this little hand-out here that shows  
12 three slides. It is divided up into the statutory authority  
13 and policy direction for our programs. We have talked a little  
14 bit about the Agreement State program and the Liaison Program.  
15 And then we will finish with some current issues.

16 On slide two it shows how we are structured. Let me  
17 just take a quick look at that so that when we talk about the  
18 National Governors organizations and so on, all of those  
19 organizations with whom we have an effective liaison, you can  
20 see that.

21 Down at the very bottom there, the Agreement States  
22 are on the left. Of course those come from Section 274 of the  
23 Atomic Energy Act in cooperation with States as its title.

24 Conference on Radiation Control Program Directors,  
25 and State Liaison Officers. This is an individual that was

1 appointed by the Governor of each state to keep him abreast, or  
2 that governor abreast--there are lady governors--of the issues  
3 that the governor wants to be apprised of.

4 And the final slide is, that's what the Nation looks  
5 like, the Agreement States versus Non-Agreement States.

6 A couple of other statutes that we look to for some  
7 guidance is both the High and the Low-Level Radioactive Waste  
8 Policy Acts of '82, '87, and '85; and two amendments to our  
9 authorization bills; the timely notification to governors of  
10 waste shipments; and the Shalley amendments activity.

11 Now the NRC strategic goals are to ensure that the  
12 regulatory programs of the NRC in Agreement States are designed  
13 and implemented to achieve compatibility to protect the public  
14 health and safety. Also, we are to include actively  
15 encouraging states to become agreement states. In that  
16 process, we are to promote a coordinated and effective  
17 intergovernmental approach to nuclear safety.

18 It includes increased cooperation and communication  
19 between NRC and State and Local Governments to promote  
20 increased awareness of activities and initiatives relative to  
21 nuclear safety.

22 COMMISSIONER BERNTHAL: I must say, I was just  
23 looking at your map here, and I am surprised to see that the  
24 majority--well, maybe not, but certainly a large number of the  
25 remaining non-Agreement States are the populace Eastern States,

1 and in one or two cases states in other areas which I will not  
2 name that have presumed to display a great deal of expertise in  
3 other areas, and yet they have not become Agreement States.

4 Can you explain that?

5 MR. KAMMERER: I'm not so sure I can explain that.  
6 Maybe Don might help with a reflection or two on that.

7 MR. NUSSBAUMER: I think it goes back to some extent  
8 to the history of the program where many of the first states  
9 that came in were in the South and it was more of a States'  
10 Rights issue. And then it spread into other States as they saw  
11 the benefit of having a coordinated and comprehensive radiation  
12 control program that covered all materials and X-rays, as well  
13 as emergency planning for reactors.

14 We really don't have a good explanation as to why the  
15 Midwest States, in particular, and that seems to be the Region  
16 3 area, why they have not become Agreement States, although  
17 some have in the past worked on it sporadically but never seem  
18 to have the initiative to carry through all the way.

19 Of course we broke that deadlock recently with Iowa  
20 and Illinois in the Region 3 area. We have some interest now  
21 on the part of Pennsylvania and Massachusetts in the East,  
22 stimulated primarily by the Low-Level Waste Policy Amendments  
23 Act.

24 COMMISSIONER BERNTHAL: Michigan, as well.

25 MR. NUSSBAUMER: And Michigan recently has expressed

1 interest, since they will be the host state for the Midwest  
2 contact. As a matter of fact, we will meet with the Michigan  
3 people about the middle of this month to go over these  
4 proposals for Agreement State status.

5 MR. DENTON: I had asked myself the same question  
6 when I first saw the map. There is no given--there is no set  
7 answer for it that I could find.

8 But on this point that Don raised about the value of  
9 it, I found in Tennessee, for example there were like 40 people  
10 in the radiation program, since they worry about X-rays,  
11 natural radioactivity, environmental monitoring in the State,  
12 DOE cooperation in the State, and a third to a quarter of those  
13 people work on our program. So we do get the benefit of having  
14 a program which has widespread radiation responsibility, of  
15 which materials is an important part.

16 So it is not just a small group of people. Actually,  
17 it was much bigger than I had thought they might have down  
18 there.

19 COMMISSIONER BERNTHAL: Thanks.

20 MR. KAMMERER: We take note of other guidance that is  
21 given here. President Reagan has sent out three orders, or  
22 policy statements. They concern the full consultation with  
23 States and Local Governments, sent out in 1981. In 1983 he  
24 sent an Indian Policy Statement. And just recently, an  
25 Executive Order on Federalism.



1           The criteria for assuming Agreement State status was  
2       a policy that the Commission agreed to in 1981 and it was  
3       published. The evaluation of Agreement State programs was  
4       again a policy that was updated just recently in March of this  
5       past year. And when those--

6           [A telephone voice sounds over the intercome.]

7           MR. KAMMERER: Is this Big Brother?

8           [Laughter.]

9           The elements of the Agreement State program review:

10          First, you know that there are 28 Agreement States.  
11       There are 29 Agreement States which comprise 65 percent of the  
12       licenses throughout the Nation, which number about 15,000.  
13       These periodic reviews deal with exchange of information,  
14       training, and technical assistance.

15          We have already mentioned Maine, Massachusetts,  
16       Michigan, and Pennsylvania that are considering Agreement State  
17       status.

18          Now a periodic review of State programs is  
19       continuing. There are the on-site reviews, and Harold just  
20       mentioned coming back from one. The guides for that were that  
21       there are 29 indicators and 80 guides for acceptable practice.  
22       This too was published in June of 1987.

23          What we look at are the organization, administration,  
24       personnel, regulations, licensing--including file reviews,  
25       compliance--including file reviews again, and accompaniments of

1 State inspectors. This is usually ten days to two weeks where  
2 our people are on-site looking at all of these matters, and one  
3 of the great strengths of the program are that there seem to be  
4 no surprises at the end for here is the way it is being done.

5 I visited the California program in April of this  
6 year, and what the staff does is have an exit interview with  
7 the hands-on management and the hands-on people who are in fact  
8 doing these inspections. Then they go to middle management and  
9 talk about what the findings are there as well. And then  
10 finally with whoever is the secretary of the department, or the  
11 top individual, an exit interview at that point as well.

12 MR. DENTON: I was interested to find that several  
13 states are regionalized, and in a sense it is carrying sort of  
14 the resident inspector concept just further and further down  
15 within states. Tennessee had three regions, for example.

16 MR. KAMMERER: As an aside, while I was there I  
17 sought an interview with the Governor and received a chance to  
18 talk with him, and came back with a picture of he and I. The  
19 purpose for the meeting was to indicate that there was a change  
20 at the NRC. The program has been elevated to report to the  
21 Commission. I talked about the, if you'll pardon the  
22 individualization here, of the stand-up, take-charge, tell-it-  
23 like-it-is Chairman, a no-nonsense fellow who has the important  
24 work to do and he is going to get it done.

25 In the exchange of information that continues on here

1 in continuing the Agreement State area, the licensing  
2 statistics and other data collected in collaboration with the  
3 Conference of Radiation Control Program Directors is shared, as  
4 well as unusual events and abnormal occurrences.

5 We get copies of all the licenses issued by the  
6 Agreement States, and they are sent to the NRC. Of special  
7 interest of course is the sealed source and device evaluations.  
8 That information is exchange.

9 And each year we have an all-Agreement States  
10 meeting, and you had addressed that group, Mr. Chairman.

11 Now I will touch on some of the training. Some of  
12 our typical courses that we offer are health physics,  
13 inspections procedures, licensing orientation, radiation  
14 protection engineering, medical radiography, well logging, and  
15 there are others.

16 It is a program that is well received, and we get  
17 rave reviews about the quality of the product that we have and  
18 the information that they get serves them well in the jobs that  
19 they have to do.

20 Technical assistance is a part of that effort, as  
21 well. There are just a lot of routine things that are done  
22 there--case work, inspection practice, and we help them with  
23 interpretations and so on.

24 We work effectively with other elements of the  
25 Nuclear Regulatory Commission, principally NMSS, and some of

1       their people help us in that technical assistance. They do  
2       have some expertise which we do use a great deal.

3               Turning then to the Liaison Program, it was  
4       established in 1976. This is a program that has each Governor  
5       indicating that here is a person that will be that information  
6       resource for us, and he updates that every year. We have a  
7       conference with those folks, as well, and we just recently had  
8       one in September where a great number of NRC's leaders and the  
9       staff made presentations. For the first time we decided that  
10      there was information out in the States that perhaps they could  
11      share with us. So we had a pretty much 50-50 split. Whatever  
12      the issue was, whether it was low-level waste, or anything  
13      else, we invited a group of State people to make their  
14      presentations and it went off very well, and we got rave  
15      reviews on that, as well.

16             We have mentioned the Conference on Radiation Control  
17      Program Directors, as well. And I, since Frank Young's  
18      retirement, have appointed myself as the Federal liaison to  
19      that group so that I can do two things: one, learn a lot more  
20      about what it is that they do; and share with them my own views  
21      about their five-year plan and what the future might hold.

22             Other groups that are major with whom we have  
23      relationships are the National Governors Association, the  
24      National Conference of State Legislatures, the National  
25      Association of Regulatory Utilities Commissioners, and of

1 course they are always after you, Mr. Chairman, to come to  
2 speak to them on occasion, and you are their representative in  
3 other organizations such as the National Organizations  
4 representing American Indians on a national level, and there  
5 are some others.

6 Now in the implementation of all of this, we have  
7 back to the second slide, you see the layout of the staff  
8 there. In each of the regions there are two individuals--one  
9 who is for the state liaison side, and the other for the  
10 Agreement side. Those are their hands-on, very knowledgeable  
11 people that, if you are going out into the regions for visits,  
12 you most likely will have them to shepherd you around and talk  
13 to you about the issues that are in their area of expertise and  
14 the states that they are involved in, and so on.

15 I know that Commissioner Carr has been to several of  
16 the regions and knows very well the quality of the people we  
17 have out there.

18 COMMISSIONER CARR: Why do we have six of one and  
19 five of the other?

20 MR. KAMMERER: That was before. We now have--Region  
21 3 had a little more activity in that regard, and there are no  
22 longer 6 and 5. They are 5 and 5.

23 Other ways of implementing the Liaison Program are  
24 through meetings and conferences, and working on memorandums of  
25 understanding and the accompaniments such as Commissioner

1 visits, and also we respond to requests for information from a  
2 wide variety of sources.

3 Some of the current stated issues are low-level  
4 waste, high-level waste, and that is changed most recently by  
5 an Act of Congress. There are transportation issues, emergency  
6 planning, nuclear power plant inspections, and economic  
7 performance incentives and prudence reviews.

8 So I think I should just stop right there and would  
9 be available for answering any questions you may have.

10 CHAIRMAN ZECH: All right. Thank you very much.

11 MR. DENTON: I guess I would just note, in closing,  
12 that there are over 200 inspectors and reviewers in the  
13 Agreement States that carry out functions that we have  
14 delegated to them, so it is a sizeable resource that is  
15 involved in doing the Commission's work through delegation.

16 CHAIRMAN ZECH: All right. Thank you, very much.

17 Question, my fellow Commissioners? Commissioner  
18 Roberts.

19 COMMISSIONER ROBERTS: Refresh my memory about New  
20 Mexico. Didn't they talk about not being an Agreement State?

21 MR. KAMMERER: Yes, they did. Don?

22 MR. NUSSBAUMER: Yes. New Mexico actually asked to  
23 have us take over the uranium milling program about two years  
24 ago because they were not able to, for various internal  
25 reasons, to update their regulations to be consistent with the

1 Federal regulations, and also they were experiencing severe  
2 budget problems in that program due to a downturn in the  
3 uranium industry. So they were collecting money from the  
4 amount of ore processed, and since none was being processed  
5 they were having budget problems.

6 So those two factors combined led them to essentially  
7 give up the program and ask us to take it back. But they  
8 retain, however, the materials' program for the regulation of  
9 hospitals, radiography, and so forth.

10 CHAIRMAN ZECH: They are still considered an  
11 Agreement State?

12 MR. NUSSBAUMER: They are an Agreement State, yes,  
13 sir.

14 MR. PARLER: The legislation, the Atomic Energy Act,  
15 was amended a couple of years ago to permit that splitout in  
16 view of problems such as that that were anticipated.

17 CHAIRMAN ZECH: Thank you.

18 Anything else, Commissioner Roberts?

19 COMMISSIONER ROBERTS: No.

20 CHAIRMAN ZECH: Commissioner Bernthal?

21 COMMISSIONER BERNTHAL: While we are on that subject,  
22 is that the first such case that has ever arisen? And whether  
23 or not it is, are we prepared to deal with a situation where  
24 perhaps an Agreement State might not have its programs in very  
25 good shape, for example, and suddenly decide to dump them on

1 the NRC, having decided that it doesn't want any more part of  
2 this?

3 There are two questions there, really. One, was the  
4 New Mexico case--and I am not suggesting that New Mexico's was  
5 in that kind of condition; in fact I think it wasn't--but was  
6 that the first such case that ever happened?

7 And secondly, have we really thought much about being  
8 prepared to deal with any eventuality in the circumstance like  
9 we had in New Mexico?

10 MR. NUSSBAUMER: The New Mexico mill program was the  
11 first program that a State ever turned back to the NRC or AEC,  
12 and that was just a partial program, just the uranium milling  
13 part of it.

14 COMMISSIONER BERNTHAL: Yes.

15 MR. NUSSBAUMER: As far as the general proposition of  
16 an Agreement State suddenly giving up because of program  
17 problems, we think we are able to spot forthcoming problems  
18 during our reviews and during our exchange of information with  
19 the States and get on these problems early so they can be  
20 corrected.

21 But in the case of some kind of budgetary problem, or  
22 simply a--

23 COMMISSIONER BERNTHAL: Which is more likely.

24 MR. NUSSBAUMER: --or simply a desire not to run a  
25 program, although I can't imagine why a State with a viable



1 program would want to give it up--there would be the  
2 possibility of asking the NRC to reassert its authority. If  
3 that were to occur, then there could be budgetary impacts.

4 The information we have indicates that that is  
5 unlikely, particularly for large states. It could happen in  
6 smaller states, but there the impact of course would be less.

7 COMMISSIONER BERNTHAL: There are indeed resource  
8 implications, though, for the Agency for that to come back.  
9 Our preliminary numbers show that the program itself as  
10 implemented saves the Agency about 135FTE. So if everybody  
11 were to give it up and send it back to the Federal Government,  
12 that is what that would mean.

13 MR. PARLER: Perhaps, Mr. Chairman, I should comment  
14 from the legal standpoint. Perhaps the impression might be  
15 left that the States, the Agreement States, are simply acting  
16 under delegations of authority, that they could revoke, more or  
17 less, at will when they wanted to.

18 That isn't exactly the way that the programs are set  
19 up. There are formal proceedings--procedures that have to be  
20 gone through. The Federal Government actually discontinues its  
21 authority, and the States have the responsibility. They simply  
22 can't, willy nilly on the spur of the moment, step out of the  
23 picture and throw it back to the Federal Government.

24 COMMISSIONER BERNTHAL: I see. Good point.

25 One other item I wanted to inquire about was the

1 request which, Harold, I believe you made last fall for  
2 increased funding for training for some of the programs that we  
3 have with the Agreement States to provide training in certain  
4 areas.

5 For reasons that have become far more obvious since  
6 then, I guess, the Commission was not prepared at that time,  
7 and probably less prepared today, to provide additional  
8 funding. There were alternatives that I gather were being  
9 sought, and ways in which the funds that we have could be  
10 expended or better spent, perhaps by shifting some of the  
11 burden for travel, lodging, and whatnot to the Agreement States  
12 themselves.

13 I thought that we were going to get a report on that.  
14 What is the status of that?

15 MR. DENTON: We do owe you a report back, and I have  
16 been trying to be sure that we have touched all bases. The  
17 States are so varied, you don't get a simple answer. But why  
18 don't I have Carl tell you where we stand on that issue.

19 MR. KAMMERER: We expect to give you a report in the  
20 summer. What we have asked for is to set up a group of the  
21 states, and to explore alternatives, mostly because there are  
22 great resource implications. And if there are some states that  
23 are healthier and might be able to do some sharing, there may  
24 well be other states that are not able to. And does that mean,  
25 then, that that would be the last straw, that they would say,

1       okay, the Federal Government, let's go through the process and  
2       turn the program back to the States.

3               So we are going to evaluate that fully. While on  
4       that, somewhere in our major paper there we show the agreement  
5       states have been increasing, and therefore so have the licenses  
6       along the same way. We have the responsibility for adequate  
7       training of the people who are responsible in the states for  
8       that, and the dollars for training have gone dramatically the  
9       other direction.

10              If you were to take just a regular inflation factor  
11       and pick any year and do an overlay of the chart that you have  
12       in the paper, I am sure that constant dollars from '82, for  
13       example, would be going like this, while the others show a  
14       decided very wide gap in I think the wrong direction. We do  
15       have a responsibility for adequate training of the right  
16       people.

17              MR. DENTON: It is of real concern to the States if  
18       we cut back. The States that are less wealthy really have to  
19       depend on us for--they just don't have that much travel money  
20       or training money in the State, and they tend to hire people  
21       fresh out of school, so it is kind of on-the-job training. The  
22       kind of training we offer best, I think, is training on how do  
23       you do inspection and reviews to be sure we get a consistent  
24       level of quality throughout the country, and not training per  
25       se in technical topics. They kind of come in from educational

1 systems well trained, but it takes a year or two to turn  
2 someone into a qualified reviewer/inspector.

3 I think what Don does is, as I understand it, is if a  
4 State is kind of performing poorly in an area and has people  
5 that need training, you give them special attention and put  
6 them into a training course, and if the training isn't  
7 available for some people you just try to prioritize the  
8 States' needs so that the States with the biggest need for  
9 training get the training.

10 MR. NUSSBAUMER: Yes. We have a training plan on  
11 each Agreement State which we developed as part of our on-site  
12 review identifying those people who need training in certain  
13 areas based on their background and experience, and also how  
14 they are performing. We do inspection accompaniments, and if  
15 we see deficiencies in how the inspector conducts an  
16 inspection, then we identify that individual for the inspection  
17 procedures' course, for example.

18 But I view the training program as the single  
19 greatest contributor to maintaining the adequacy and  
20 compatibility of these 29 Agreement States, just as we're  
21 trying to maintain the consistency among our regional offices  
22 and how they do licensing and inspections. We have 29 separate  
23 programs, and it is more teaching them how to do the regulatory  
24 business, how to perform the regulatory function like licensing  
25 reviews.

1                   We have a course on the anatomy of a licensing action  
2                   so that a reviewer isn't intimidated by a stack of files of  
3                   license application files to review, and also how to do  
4                   inspections, and when to identify cases for certain levels of  
5                   enforcement and things of this nature.

6                   So except for the two basic health physics courses,  
7                   it is more a how-to-do type of thing. And we bring into these  
8                   courses our own licensing guides and standard review plans so  
9                   that hopefully we are all operating in a fairly consistent  
10                  fashion.

11                  CHAIRMAN ZECH: It is my understanding, though, that  
12                  we provide the training itself free of charge. What we're  
13                  talking about is travel and per diem expenses. Isn't that  
14                  correct?

15                  MR. NUSSBAUMER: That is correct, Mr. Chairman.

16                  CHAIRMAN ZECH: So it seems to me that I hope when we  
17                  enter into agreement with states, we talk to them ahead of time  
18                  up front about the fact that although we provide the training  
19                  free of charge, we do expect them to be able to pay for travel  
20                  and per diem. Do we do that?

21                  MR. KAMMERER: Well, that is not the case at the  
22                  moment. The enabling legislation has language in there  
23                  describing our authority to fund the travel.

24                  COMMISSIONER CARR: It really just provides for  
25                  assistance to the State. That is the only word.

1           CHAIRMAN ZECH: That's right. And of course we do  
2           that, but I know in the past we have provided those funds--I  
3           believe that is the case--and certainly we would like to do  
4           that in the future. All I am saying is that in these days of  
5           budget cuts, it should be recognized and we should be up front  
6           with the fact that we would hope that the States would be able  
7           to provide some of their own travel and per diem expenses.

8           I am saying that I hope we are doing that.

9           MR. KAMMERER: We are not doing that at the moment,  
10          but that is what this group is to address.

11          COMMISSIONER CARR: I am about the propose that we do  
12          it.

13          [Laughter.]

14          CHAIRMAN ZECH: I am going to agree with you when you  
15          propose it.

16          MR. KAMMERER: It is just that any change you want to  
17          make after 25 years of operation should be thought through  
18          quite carefully.

19          CHAIRMAN ZECH: I agree with that. But what I am  
20          saying is that in this day and age I think it s appropriate  
21          that we do think about that. It is important that we do that,  
22          because we don't want to be misleading the States.

23          And even though we have picked up the tab in the past  
24          for these expenses, it seems to me that it is getting harder  
25          and harder for us to do that. And perhaps we would have to

1 tell a State that once they were an Agreement State we would  
2 like them to be an Agreement State, too; that if they can't pay  
3 some of the expenses for travel and per diem, perhaps they  
4 can't afford to be an Agreement State.

5 Other than that, we can pay the tab; that's fine.  
6 But somebody has got to pay the tab, and it is getting harder  
7 and harder for us to do it, is all I'm saying, and we should be  
8 up front in trying to make that known. That's all I'm saying.

9 COMMISSIONER BERNTHAL: I agree with what you're  
10 saying. I think threatening them with not being an Agreement  
11 State, though, probably is not cost effective because it  
12 probably costs us more to assume the duties than it will be to  
13 pay for their travel. But I agree with what you're saying. In  
14 fact, I think the Commission had earlier directed Staff to try  
15 and find our way out of some of these travel and per diem  
16 expenses.

17 CHAIRMAN ZECH: We have suggested this in a letter I  
18 am sure you're aware of.

19 COMMISSIONER BERNTHAL: Yes, that's right.

20 You're quite right. I am just not sure what kind of  
21 club we have to make the point.

22 CHAIRMAN ZECH: My only point is that I don't want to  
23 threaten anybody, but the point is we are cutting \$35 million  
24 from our budget this year, which we didn't expect to cut, and  
25 perhaps a sizeable amount of the '89 budget, too.

1           And as you know, or I am sure you aware aware, we are  
2   looking very hard at where we can take those cuts. Something  
3   is going to be cut, for sure, so we are asking you to look at  
4   these programs. We favor Agreement programs. We want more  
5   Agreement States, if possible. We think it is an excellent  
6   program. I am very impressed with it, and especially the  
7   talent we have in those Agreement States. There is a  
8   tremendous amount of talent that is serving our state as well  
9   as our country.

10           So it is an excellent program, and we don't want to  
11   water it down in any way. The point is I just want to be  
12   realistic. I want to be honest with the people so that they  
13   will know that we are having a real, tough budget climate and  
14   we may not be able to pay all the per diem that we have been  
15   able to pay in the past.

16           I just want to be up front with it. That is my  
17   point.

18           MR. DENTON: One issue that has arisen in that regard  
19   is the licensee fees for material licensees. I understand some  
20   states, Don, have a real difficulty raising that fee because of  
21   their own administrative procedures, and I think other states  
22   have much higher fees than we charge, and the issue has arisen  
23   as to how do we arrive at our own fee?

24           I guess licensees could put in the fee maybe, Don,  
25   you know some of the fees that the States charge. I understand



1 in Tennessee, for example, it is maybe \$1000 for a small  
2 license a year, and they charge an annual fee, regardless of  
3 how often a license gets processed or amended, up to maybe  
4 \$10,000 for a supercompactor fee.

5 So I think they are looking at their fees, and they  
6 are being squeezed, too, on the same full-costs' recovery.

7 MR. KAMMERER: Sure.

8 MR. DENTON: And I understand Illinois has proposed a  
9 large increase in fees, and I guess we have our own fees under  
10 review to see what a proper fee is. I would rather there be  
11 just one vehicle a state could raise money, but I understand  
12 Arkansas has real trouble raising its fees through just the  
13 normal government process down there in an attempt to hold  
14 these fees down. So they may not have money, whereas maybe  
15 California or some wealthier state might have no real problem  
16 with it.

17 MR. NUSSBAUMER: Well, the fee systems are variable,  
18 and so is the percent of cost recovery. And as Mr. Denton  
19 mentioned, Illinois is trying to achieve full-cost recovery and  
20 has materials fees which are considerably larger than the  
21 NRC's, and therefore that leads the licensee to question how  
22 come it costs so much more, since they've become an Agreement  
23 State.

24 COMMISSIONER BERNTHAL: They've got a big operation  
25 to fund.

1           MR. NUSSBAUMER: Other states have their fee systems  
2 linked to ours. For example, Alabama has a system that charges  
3 75 percent of NRC fees, which means that if we do anything to  
4 our fee system such as eliminating materials licensee fees,  
5 that wipes them out. So we have to try and be alert at the  
6 staff level as to any changes we make in our fee system as to  
7 what impact that might have on the Agreement State programs.

8           But on the training question, I think in talking to  
9 the non-Agreement State people, the perspective of Agreement  
10 States, one of the greatest apprehensions the program directors  
11 have is being able to maintain an adequate staff once they  
12 enter into the agreement, because competition is very severe  
13 for qualified health physicists, and they are not able to hire  
14 people with health physics in their academic background, so  
15 they must hire people with the proper science, like biologists  
16 or chemists, and then put them through some kind of a training  
17 program so they can do the job.

18           I think that if we weren't able to help them  
19 significantly with training, that it would be a disinterest to  
20 more Agreement States as far as new ones are concerned.

21           As far as the existing Agreement States are  
22 concerned, I think in some cases the lack of NRC-sponsored  
23 training--you know, I'm talking now travel and per diem--might  
24 lead them to reconsider the program, because they wouldn't be  
25 in a position to take advantage of the training if we offered

1 it free of charge and asked them to pay their own travel and  
2 per diem.

3 Other states of course, like Illinois, would be able  
4 to cover it. But then you would have an uneven distribution of  
5 training, which would be undesirable. So--

6 MR. KAMMERER: We will certainly have a full and  
7 comprehensive report for you come the summer. For me,  
8 personally, I am sort of a right-wing fiscal conservative lad  
9 and always looking for economies and efficiencies, and this is  
10 an area which will receive our attention, and you will get it.

11 COMMISSIONER BERNTHAL: Maybe you should introduce  
12 them to a wonderful device of questionable constitutionality,  
13 perhaps, that the Congress has discovered and discuss the joys  
14 of user fees with those states. That's just a thought.

15 CHAIRMAN ZECH: All right, Commissioner Bernthal,  
16 anything else?

17 COMMISSIONER BERNTHAL: No, that's all.

18 CHAIRMAN ZECH: Commissioner Carr?

19 COMMISSIONER CARR: Yes. I have got some questions.  
20 Are we going to mail that paper that you gave us, which is very  
21 good, to all the states and Indian Tribes? And if not, why  
22 not?

23 MR. KAMMERER: The answer to the question, sir, is  
24 yes.

25 COMMISSIONER CARR: Good.

1                   MR. DENTON: In fact, we plan to publish it as a  
2 NUREG document.

3                   COMMISSIONER CARR: Okay. It is a good piece of  
4 paper.

5                   Have you given any consideration on who is supposed  
6 to interact with a negotiator for the MRS whenever he is  
7 announced? I would suggest you might want to think about  
8 getting in touch with them and telling him before he makes any  
9 negotiations, he ought to at least run them by us, or  
10 something.

11                  MR. KAMMERER: All right.

12                  COMMISSIONER CARR: I don't know if the General  
13 Counsel--It is probably not our act, but I don't want him to  
14 sell us down a stream.

15                  MR. DENTON: I think there has been some meeting on  
16 that within the Congressional Affairs Group. We have not  
17 played a major role in that.

18                  COMMISSIONER CARR: I don't know whose role it ought  
19 to be, but I would want to make sure that that guy is educated  
20 before he goes out.

21                  MR. PARLER: Well, even if we were not involved, we  
22 couldn't sell the agency out on the street as long as the  
23 agency has a licensee MRS. You know, it is either do now what  
24 you have to do and pay the price later on.

25                  CHAIRMAN ZECH: I wouldn't ant him to mislead the

1 state he's negotiating with, I guess.

2 MR. PARLER: I think that the negotiator would  
3 probably have something to say to him, to touch base with the  
4 appropriate people in this agency. But whenever he or she  
5 starts negotiating with a state about something, I think that  
6 is something the agency should be alert to and to try to find  
7 out appropriate means, perhaps, to get involved--recognizing,  
8 however, that it shouldn't prejudice any position that we might  
9 have to take later on as an independent licensing agency.

10 MR. KAMMERER: Well, we will work closely with NMSS  
11 on that.

12 COMMISSIONER CARR: On the OTA recommendation on  
13 transportation training strategy, what is going on on that  
14 right now? Anything?

15 MR. KAMMERER: I don't have any answer for that.

16 MR. DENTON: I don't know.

17 COMMISSIONER CARR: You don't know. You mentioned in  
18 in there that we are supposed to be working with them, or  
19 somebody.

20 MR. DENTON: Someone knows.

21 CHAIRMAN ZECH: Could you step to the microphone and  
22 identify yourself for the recorder, please.

23 MR. SALOMON: Steve Salomon. We have been working  
24 with the NMSS in this area because not only the OTA is  
25 involved, but the Department of Transportation and the Federal

1 Emergency Management Agency has been studying the matter.

2 I believe last year NMSS came forward with some  
3 recommendations on training, as well. So it is a continual  
4 process that I can't give you a real bottom line at this point.

5 MR. KAMMERER: We will get you a better answer.

6 CHAIRMAN ZECH: All right. Thank you, very much.

7 COMMISSIONER CARR: On the training thing again, it  
8 looks to me like you said there we have trained 24 people out  
9 in the States. They must have a hell of a turnover rate.

10 MR. DENTON: They do.

11 MR. KAMMERER: Yes.

12 CHAIRMAN ZECH: Maybe that's part of our training  
13 costs.

14 COMMISSIONER CARR: I would imagine that if they were  
15 paying more to get their people trained, they would feel better  
16 about keeping them. I think it is our responsibility to  
17 provide the training, don't get me wrong. I just think we  
18 ought to have the courses, and they ought to be available for  
19 their people to get trained, but I would wager if we looked at  
20 what else they send those people in the State, they always  
21 manage to come up with enough money for that, whether it is one  
22 of those governors' meetings, or whatever the state  
23 legislature, but I suspect though the reason they haven't come  
24 up for the money is that we

25 MR. KAMMERER: I think that some of that is related

1 to the salary structure.

2 COMMISSIONER CARR: Okay. But we ought to--

3 MR. KAMMERER: I would say, they can find better jobs  
4 than working for the State.

5 COMMISSIONER CARR: Well, I just hate to keep  
6 training the world out there at our expense. But you can put  
7 that into your planning hopper anyway.

8 MR. NUSSBAUMER: Mr. Commissioner, I think at last  
9 count we had about 30 people on the NRC staff that have come  
10 from the State programs. So we benefit indirectly from our own  
11 training.

12 COMMISSIONER CARR: So you are out stealing their  
13 people, then?

14 [Laughter.]

15 MR. DENTON: In fact, several people in the audience  
16 here I think are from the State programs.

17 MR. NUSSBAUMER: So well, we hire them.

18 CHAIRMAN ZECH: No. We've got so much money they  
19 come over on this side.

20 COMMISSIONER CARR: We certainly don't pay per diem  
21 and travel for the military people who attend, do they, the Air  
22 Force, the Navy, the Army?

23 MR. NUSSBAUMER: They cover their own, yes, sir.

24 COMMISSIONER CARR: On the distribution of documents,  
25 if you send them to an Agreement State--and normally I

1 understand we send them to the state liaison officer--how do we  
2 make sure they get to the licensees? When you're trying to  
3 send a notice out, how do you know the licensee ever gets it?

4 MR. KAMMERER: Well, if it's something we want the  
5 state to distribute to its licensees, we ask them to do that,  
6 and then--usually the cooperation is pretty good--and then we  
7 check up on it during the reviews.

8 Most of the information we send them relates to how  
9 they run their program, but if there are certain bulletins that  
10 we want their licensees to receive, we ask them to in turn  
11 distribute them, or in some cases we made the actual distribute  
12 ourselves to the Agreement State licensees where they had  
13 computerized licensee lists available.

14 COMMISSIONER CARR: Do you think it would be valuable  
15 to ask them to let us know when they make the distribution of  
16 the apartments?

17 MR. KAMMERER: Yes, sir.

18 COMMISSIONER CARR: I don't know about my fellow  
19 Commissioners, but I'm not sure we should be out recruiting  
20 additional Agreement States. I would much rather have them  
21 come in on their own, and then we at least are even in the  
22 negotiating period with them as to how they do the work. But I  
23 just make that comment. I think we have got a good record of  
24 accommodating them when they do come in, and I am kind of  
25 against going out and giving them any hard sell.



1           MR. KAMMERER: Well, we are not in the business of  
2     hard sell. We want to let them know that the program is there,  
3     and the quality of the program, and the kind of training that  
4     is involved, and what they might have to go through in  
5     establishing their legislation and getting their state  
6     organizations. That's the kind of information flow we have.

7           COMMISSIONER CARR: I have no problem with that.

8           MR. KAMMERER: We are not after--

9           COMMISSIONER CARR: I notice we distributed a modal  
10    study on transportation to the States. Did we distribute it  
11    also to the Indian tribes?

12          MR. KAMMERER: Does anybody know the answer to that?

13          COMMISSIONER CARR: It didn't say that.

14          MR. KAMMERER: I would assume, yes, but I don't know  
15    that specifically.

16          COMMISSIONER CARR: If we didn't, we probably should.  
17    They are interested in transportation, I understand, from what  
18    they told me.

19                I notice in there also you've got a study at Indiana  
20    University on the results of our training. How about  
21    explaining to me a little bit what that study is really going  
22    to get? I couldn't pull it out as to why I thought it was a  
23    good study, and I am about to recover some money.

24          MR. KAMMERER: Sully?

25          MR. SCHWARTZ: Yes, Commissioner Carr. The study was

1 done by Indiana University a number of years ago to look at the  
2 transportation of radioactive materials with respect to the  
3 States' ability to respond to emergencies. That publications i  
4 now being updated, including Indian Tribes, and to look at the  
5 State, Indian Tribes', and locals' ability to respond to an  
6 event with respect to transportation of radioactive materials.

7 COMMISSIONER CARR: I guess I am really curious as to  
8 why we would fund the study. I just got through hearing how  
9 great the modal study was and how we don't really have a  
10 problem with transportation, and here we are going out worrying  
11 about whether the States can respond to it. That is not a  
12 State responsibility, anyway.

13 MR. SCHWARTZ: I would have to defer to NMSS on that,  
14 Commissioner Carr.

15 COMMISSIONER CARR: I will get them.

16 And I had one curious question about you've got an  
17 agreement with Louisiana on offshore, or the outer continental  
18 shelf zone. It looks like a unique agreement with the State of  
19 Louisiana. Why don't we have it with California, and any of  
20 the other offshore oil well drillers?

21 MR. NUSSBAUMER: I guess basically California and  
22 Texas preferred not to enter into such an agreement and perform  
23 those kinds of inspections for us. They felt they had all they  
24 can handle with in-shore well logging operations.

25 COMMISSIONER CARR: So did we perform them offshore

1 for the rests of the State?

2 MR. NUSSBAUMER: Well, the offshore waters are NRC  
3 jurisdiction beyond a certain limit.

4 COMMISSIONER CARR: I guess it says "out outer  
5 continental shelf," whatever that is.

6 MR. NUSSBAUMER: Right. And it is very difficult to  
7 make arrangements and get out to these well rigs and make those  
8 inspections.

9 Also, the licensees that do this work are often  
10 Agreement State licensees anyway. So we thought in the case of  
11 Louisiana that if the State would agree to perform some of  
12 those inspections for us, that they could be dealing with their  
13 own licensees. That is a very old agreement.

14 COMMISSIONER CARR: I noticed it was the oldest one  
15 on the list. But we have it with one Agreement State, and we  
16 don't have it with others.

17 MR. PARLER: Mr. Chairman, perhaps I could comment.  
18 The situation with Louisiana, if my recollection is correct, is  
19 because of litigation, legislation that was materially  
20 applicable to the outer oil fields off the shore of Louisiana,  
21 and Louisiana asked us to do certain things. So we had to take  
22 the initiative there and say that Louisiana is a unique  
23 situation which was not the case for Texas, or for California,  
24 or for any other State that would have oil fields off the  
25 coast.

1                   CHAIRMAN ZECH: All right. Thank you.

2                   COMMISSIONER CARR: And finally, I visited a few of  
3 these States, and three governors, and I get three questions  
4 every time I go, and I would like to know what we're doing  
5 about that. One is NARM, one is below-regulatory-concern, and  
6 the other one is mixed-waste. Every State seems to have that  
7 problem. So are we going to help them out?

8                   MR. KAMMERER: I think Nuclear Material Safety and  
9 Safeguards has a report coming to you very soon on the NARM  
10 question. What else, Don?

11                  MR. NUSSBAUMER: I think on the mixed waste, the NMSS  
12 staff has been working, as you probably know, with EPA and they  
13 have put out at least three guidance documents now on how to  
14 satisfy NRC regulations and the RCRA, the Resource Conservation  
15 Regulations, at the same time. I think the staff on low-level  
16 waste feel that these guidance documents should be able to be  
17 used to come up with a disposal facility that will handle mixed  
18 waste.

19                  COMMISSIONER CARR: You guys are telling me I ought  
20 to be happy, but the states aren't happy. They keep beating me  
21 on the head when I go see them.

22                  COMMISSIONER BERNTHAL: Well, the Commission has  
23 directed the staff to address two of those problems in  
24 particular, the NARM question and the below-regulatory-concern  
25 question, and we are about to get a briefing on at least one of

1       them in a month or so, I think. So it is being worked on.

2               The short answer is, the Commission has never done  
3       anything about it, and I think we are about to do something.  
4       That is essentially it.

5               CHAIRMAN ZECH: Mr. Bernero?

6               MR. BERNERO: Bob Bernero, Deputy Director of NMSS.  
7       There is a staff paper on NARM coming up to the Commission very  
8       shortly. There is also a staff paper from the Office of  
9       Research on the entire spectrum of below-regulatory-concern, or  
10      de minimis, and I believe you already have had a briefing of  
11      the status of that on your calendar right now.

12              And lastly on the mixed waste, there is a State,  
13      Washington, actively considering a mixed-waste disposal right  
14      now and our staff, EPA, and the State have been collaborating  
15      on that to implement that guidance if and when that applicant  
16      proceeds with that burial ground.

17              COMMISSIONER CARR: I guess my message is, then, if  
18      we have got all that good work going on, we ought to keep them  
19      informed, because they ask me and I don't have any answers for  
20      them.

21              MR. DENTON: Well, I got asked the same thing. They  
22      want us to take over NARM. I think in the past the Commission  
23      has declined to do so, or certainly has not done so, because  
24      that kind of opens the door to a wide class of natural  
25      radioactive substances. I guess that's the basis for us not

1 getting into NARM, like we're not in the Radon and other  
2 naturally occurring radioactive materials.

3 COMMISSIONER BERNTHAL: Let's see. I'm sorry? I  
4 don't understand the point. An Agreement State--or not "an"  
5 Agreement State, but Agreement States want us to take over  
6 NARM?

7 MR. DENTON: That's the way I feel.

8 COMMISSIONER CARR: They want somebody to, yes.

9 MR. DENTON: Let me have Don state their position  
10 maybe more clearly. We have a position from the Agreement  
11 States where they have taken an official position on this  
12 matter, and they want the Federal Government to assist in the  
13 regulation of it, as I understand.

14 COMMISSIONER BERNTHAL: But under no circumstances--  
15 and there is another class here, and that is accelerator-  
16 produced, as you well know--under no circumstance, I should  
17 think, would we go beyond what we do for Agreement States in  
18 the other areas, which we currently regulate.

19 MR. DENTON: Well, we don't want to confuse it.  
20 Maybe I should have one spokesman here.

21 MR. NUSSBAUMER: I think the reason the Agreement  
22 States would like to see the NRC take over NARM would be to  
23 achieve a uniformity and consistency among the non-Agreement  
24 States who are not regulating NARM in a similar fashion.

25 COMMISSIONER BERNTHAL: That I fully agree with.

1 That's okay. Okay, that's fine.

2 MR. PARLER: I have a comment on that, Mr. Chairman.

3 CHAIRMAN ZECH: Please do.

4 MR. PARLER: It would not then necessarily be taking  
5 over NARM exclusively for the Federal Government. Presumably  
6 this agency would acquire jurisdiction over NARM, which it does  
7 not now have, and then put out criteria for compatibility which  
8 in turn would be discontinued for the Agreement States without  
9 having a split for NARM, the Federal Government, but not to  
10 Agreement States. I would have trouble understanding that.

11 MR. DENTON: And on mixed-wastes, I don't see a  
12 solution coming in the near future on that. I think everyone  
13 seems to be concerned that the special hospital mixtures of  
14 biological hazards, chemical hazards, and radiation hazards,  
15 when all the materials are together it is very difficult to  
16 dispose of that waste without running afoul of one of the  
17 Federal agencies' rules in that regard, and there is a lot of  
18 that waste, I understand, being stored because of the inability  
19 to come to grips with what to do with the mixed-waste.

20 I don't know if Bob would like to add anything on  
21 that. It is presenting a very serious problem to many users.

22 COMMISSIONER CARR: That is the point I was trying to  
23 make.

24 The final thing is, how much interaction is there  
25 between you all and Public Affairs as we go around these States

1 and Indian Tribes?

2 MR. NUSSBAUMER: Well, there is a fair amount. They  
3 are always aware of what we are doing, and we ensure that they  
4 are by communicating with them. Several of their Public  
5 Affairs officers are on the same floor as our people are out in  
6 the regions.

7 COMMISSIONER CARR: Well, I think we ought to make  
8 sure we are getting all the benefit we can out of close  
9 liaison, because I think it can be done.

10 MR. KAMMERER: I try to foster a proposition that the  
11 whole GPA be on one floor in the new building, and that didn't  
12 quite work out. We are on the second floor. We are on the  
13 third floor. We are on the 16th floor, and the 17th floor.

14 COMMISSIONER CARR: And we're downtown.

15 [Laughter.]

16 COMMISSIONER CARR: That's all I've got.

17 CHAIRMAN ZECH: All right, thank you very much.

18 Commissioner Rogers?

19 COMMISSIONER ROGERS: Well, just to pursue that line  
20 a little bit further on the State liaison officers, are they a  
21 channel of communication with respect to concerns involving  
22 power reactors as well? This is not just exclusively for the  
23 materials' area, is it?

24 MR. DENTON: You're correct.

25 MR. KAMMERER: Yes, Commissioner Rogers.



1                   COMMISSIONER ROGERS: And are we really pursuing  
2                   that? It seems to me it is a wonderful channel of  
3                   communication that can develop on a more personal basis in some  
4                   ways, and at a particular State where there may be some  
5                   concerns, and where the other modes of communication have not  
6                   worked too well.

7                   I just would want to encourage that to be used to its  
8                   fullest extent, because it could be very effective, and I think  
9                   there is room for carrying the message about the NRC more  
10                  broadly. And that leads me back into your opening remarks, Mr.  
11                  Kammerer, which I think were excellent, to try to more  
12                  aggressively carry a message of the accomplishments and  
13                  activities of not only this part of NRC, but all of NRC.

14                 MR. KAMMERER: Yes, sir.

15                 In the audience we have three representatives, and if  
16                 I could just ask Marie Miller to address that issue that you  
17                 raised?

18                 MR. DENTON: Marie is in Region 1 and has had a fair  
19                 amount of involvement with those sorts of activities.

20                 MR. KAMMERER: She is on the front line.

21                 MS. MILLER: Yes. Predominantly most of my time is  
22                 spent dealing with the States on the nuclear power issues. As  
23                 you all are aware, at Peach Bottom and Pilgrim have given  
24                 reason for a lot of concerns by not only State officials in the  
25                 political arena, but the technical state officials, and down to

1 the local government officials. Most notably, Harper County in  
2 Maryland has attended the Commission briefings, they have  
3 attended ACRS meetings; so they are quite involved.

4 So not only am I dealing with State officials, but  
5 also with county officials on nuclear issues.

6 COMMISSIONER ROGERS: And the other point just comes  
7 back to this training issue which I guess we all clearly are  
8 very interested in and somewhat concerned about in ways to not  
9 diminish the effectiveness of that in spite of budgetary  
10 problems.

11 I just asked you to review that whole question of the  
12 basis of your estimates of 2.2 students per 100 licenses in the  
13 sense that it seems to me there ought to be some kind of  
14 economy of scale; that that shouldn't just be a fixed number,  
15 that if you have a thousand licensees to train people with,  
16 that it is not 2.2 per hundred, which is not the same number  
17 that is appropriate if you had only 100 licensees in the state.

18 So I would imagine there should be some economy of  
19 scale there for the larger states. I am not really sure how  
20 important that point is, and the only reason I raised it is I  
21 think it is important to think very, very carefully about the  
22 economics of this training and how to really make the funds go  
23 the furthest.

24 It is very important, the training itself. I suspect  
25 that some of your statements here that this really is the only

1 source of this kind of training in some areas means that we  
2 really ought to be paying attention to maintaining that and  
3 supplying the needs. I think that it needs a good, hard look  
4 from a budgetary management point of view, and the 2.2 per 100  
5 is a number that just popped out of here. I don't know where  
6 it came from, and I would like to hear what the thinking was  
7 that led to that number, and what the thinking might be to  
8 really try to maximize the use of resources.

9 I know it was just for estimation purposes here, but  
10 I would like to just hear a little bit more about that from you  
11 sometime, if it is possible, and I am sure some of the other  
12 Commissioners would, as well.

13 MR. DENTON: Commissioner, I think in this area that  
14 Carl is taking some innovative approaches--namely, moving the  
15 training to the state. If we can get the training within the  
16 State, then there is no problem.

17 COMMISSIONER ROGERS: If you train the trainers, then  
18 you've really got a multiplying factor.

19 MR. DENTON: Right. I think that was done in  
20 Florida. I think a program was put on in Florida within the  
21 State largely by State people with our assistance, and that way  
22 we didn't bear the cost, and the costs are when you have a  
23 centralized program and everybody comes to it. But even there,  
24 you've tried to put them on in the region and train oil field  
25 people in Texas, and that sort of thing, to minimize the travel

1 and per diem costs.

2 COMMISSIONER ROGERS: Yes. Right. Oh, excuse me.

3 MR. KAMMERER: I just wanted to follow up by saying  
4 the courses we give are not the only ways of training the  
5 States; that we do put on courses in the States by supplying  
6 lectures for their own programs, and particularly in the larger  
7 States like Florida that Mr. Denton mentioned, or California,  
8 or Texas.

9 We also provide one-on-one training to individuals  
10 that need to improve their skills in certain specific areas,  
11 and that is done primarily by our regional staff, and we have  
12 had good success with that.

13 COMMISSIONER ROGERS: The other comment really is a  
14 question. Do you have some kind of a priority system that you  
15 are applying when you bump people from a course to accommodate  
16 one of the military people? I see that you've got kind of a  
17 fixed number of courses and slots for students, and if some  
18 people are being trained from the other services that seems to  
19 bump out people from the State programs.

20 What kind of a priority system do you have? Is that  
21 automatic? Do we apply some kind of tight screening to those  
22 people from the services that we accept into those courses and  
23 compare that with needs that may have to be met at the State  
24 level? What is the thinking there? How do we do that?

25 MR. KAMMERER: There is a priority, and I will have

1 Don speak to how that is implemented, but there are NRC people  
2 that also come for that same kind of training and the  
3 priorities are listed in the applicant who sends in. The  
4 request for training has to demonstrate the need for that  
5 person to be trained. And then internally we have a process  
6 that is reviewed.

7 MR. NUSSBAUMER: Basically it involves planning  
8 ahead, knowing in advance so we can program the number of State  
9 versus other students in the courses. But as far as the State  
10 people go, sometimes you will get an application from a State  
11 person who is primarily an X-ray person, and a person with the  
12 training is only for backup, so we would give that individual a  
13 lower priority than one who was actually doing the State  
14 Agreements' work. So that is kind of how we adjust the  
15 priorities. There is a large measure of judgment involved.

16 COMMISSIONER ROGERS: Well, as long as you have a  
17 reasonable system for dealing with it.

18 Well, just to repeat the comment, the opening comment  
19 that Commissioner Bernthal made, I received from my own staff  
20 the same kind of praise for the work that is described in this  
21 report. I think it is excellent. I think that it is a very  
22 fine program, and I think you are really to be commended for  
23 its state of affairs.

24 MR. KAMMERER: Thank you, sir.

25 CHAIRMAN ZECH: Let me just mention again the

1 privilege it was for me to attend the Agreement States  
2 anniversary, I believe the 25th Anniversary, in Kentucky this  
3 past year, and to address that group. But more than anything,  
4 to be impressed by the talent that we have in the Agreement  
5 States program.

6 We have a tremendous amount of people around the  
7 country in that Agreement States program that are bringing  
8 competence, knowledge, dedication, and a tremendous amount of  
9 safety contribution to the States and to our country. They are  
10 of great assistance to us and to their own States, and it is a  
11 very competent group of people that I think we should all be  
12 aware of the great talent we have out there assisting us.

13 I would like to ask you just a question on medical  
14 maladministrations and misadministrations as far as the  
15 Agreement States are concerned. Have there been any problems  
16 out there? And are we informed about medical administrations  
17 with the Agreement States? Do we hear about them? Do we  
18 exchange information with the ones that we hear about the non-  
19 Agreement States, and is that information effectively  
20 distributed amongst the States?

21 MR. KAMMERER: Yes, sir, there are problems, and we  
22 do hear about them, and they are incorporated in the report  
23 that the AEOD does.

24 Is there anything more for that?

25 MR. NUSSBAUMER: Well, on misadministrations, in

1 particular, the Commission made that a matter of compatibility  
2 for the Agreement States I think about a year ago, and we  
3 informed all the States.

4 CHAIRMAN ZECH: Did they inform us, and did they  
5 inform each other when they have those kinds of problems?

6 MR. NUSSBAUMER: Yes. But it takes them awhile to  
7 incorporate into their body of regulations the same  
8 requirements that are comparable requirements to the ones we  
9 have, and that is the process they are in right now.

10 So the situation is that some States have the  
11 misadministration requirement. Others are in the process of  
12 incorporating it. But as they get the information reported to  
13 them, they in turn report it to us and, as Carl says, it goes  
14 into our AEOD system so we have a nationwide view of the  
15 misadministration situation.

16 CHAIRMAN ZECH: On training, we have talked about  
17 that enough, but I think we all recognize that that is an  
18 ongoing concern. We have obligations to make sure that we do  
19 provide the proper training. I would like to think that we  
20 could be as innovative and as imaginative as we could, if we  
21 can go to the area and to the state and give the training  
22 compatible with their schedules, and so forth, I think we  
23 should probably try to do that, or maybe more of that. I know  
24 we have done some.

25 If there are other ways that we can assist in that

1        regard to provide good training at a minimal expense, I think  
2        we should try to do that, too.

3                We talked just a little bit about low-level waste.  
4        In the liaison program, are the States satisfied, do you  
5        believe, with the assistance that the NRC is providing them in  
6        that regard?

7                MR. KAMMERER: I think the answer to that is, yes,  
8        but Roland Lickus here from Region 3.

9                MR. LICKUS: I guess the best example of that, Mr.  
10       Chairman, is today I was in Headquarters and I got a call, a  
11       message from the Chairman of the Midwest Compact, and he  
12       tracked me down here and asked me two specific questions on  
13       low-level waste issues, and I was able to answer them for him.

14               So I generally attend, as well as I can, all of the  
15       meetings of the Compacts in my region and try to provide a  
16       liaison with the Compacts and with the individual States on  
17       those issues.

18               CHAIRMAN ZECH: All right. Fine.

19               Thank you, very much.

20               COMMISSIONER CARR: I would say, based on my follow-  
21       up visits around and asking that question of the States, they  
22       are very happy, I think, in that particular area. They feel  
23       like they are getting all the help they need.

24               CHAIRMAN ZECH: Good.

25               Let me just mention, too, that when the Commission



1 decided to move the State program from the staff to the  
2 Commission, it was I think a very well thought out  
3 reorganization decision, and I too think that it was certainly  
4 shown so far in the short time that we have had this  
5 reorganization in effect that we are getting results from it.

6 I think, Harold, you are to be commended, as well as  
7 Carl, for your leadership role in forming the new GPA and the  
8 State-Indian Tribes' Liaison Program, Carl.

9 Any new organization does take a certain amount of  
10 time and adjustment. I would also like to commend your people,  
11 many of whom are here today, for their energy and their  
12 cheerfulness, and the way that, at least it's been my  
13 impression, that your organization has tried to recognize the  
14 fact that the Commission does indeed want to be more involved  
15 in these matters.

16 I think that the way you have attempted to interface  
17 with the States and in the organizations and the meetings that  
18 you've attended, you've alluded to just briefly here today, I  
19 hope does recognize the Commission's interest in that area of  
20 our responsibility.

21 And I commend the States, frankly, too, and the  
22 Indian Tribes for their willingness to participate, and their  
23 openness and candor in trying to help you, Carl, in your new  
24 role. I do think that we can anticipate a growing cooperation  
25 with the States and the Indian Tribes, and this area I think is

1       one of great importance as we move ahead in nuclear materials  
2       as well as nuclear power in our country.

3               So you have got a lot of talented people working here  
4       at your Headquarters; you've got a lot of talented people again  
5       in the Agreement States; and I think that our efforts and your  
6       efforts to bring a cooperative attitude and a role of "let's  
7       work together" to attack these joint problems that are of keen  
8       interest and concern to our fellow citizens of our country, I  
9       think that is the way to move out, and obviously that's what  
10      you've done. So I really do commend all of you involved in the  
11      programs for that.

12             I think that the country will benefit from that kind  
13      of an arrangement. I think the Commission will feel much more  
14      comfortable with the fact that we are taking a stronger hand in  
15      these programs, and so I would ask you to keep up the good  
16      work, and we look forward to hearing from you not only in the  
17      policy papers and the other matters that you've discussed here  
18      today that are forthcoming to the Commission, but in future  
19      meetings of this kind where you can give us a first-hand status  
20      report and bring us up to date on these programs.

21             This is why we've moved you to the Commission, so we  
22      could have this kind of an interface, and it certainly looks to  
23      me, and I think to my colleagues too, like it is proving very  
24      effective from many of the comments you've heard here today.

25             So we support you fully, and we appreciate the good

1 work, and I would just say let's make this new organization  
2 even better and stronger as we move ahead.

3 Are there any other comments?

4 [No response.]

5 CHAIRMAN ZECH: If not, we stand adjourned. Thank  
6 you very much.

7 [Whereupon, at 3:21 p.m., the Commission meeting was  
8 adjourned.]

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1  
2 REPORTER'S CERTIFICATE  
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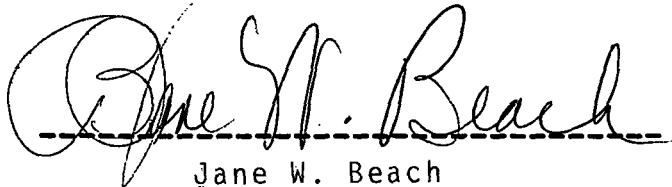
4 This is to certify that the attached events of a  
5 meeting of the U.S. Nuclear Regulatory Commission entitled:  
6

7 TITLE OF MEETING: Briefing on Status of State, Local and Indian  
Tribe Programs

8 PLACE OF MEETING: Washington, D.C.

9 DATE OF MEETING: Wednesday, February 3, 1988  
10

11 were held as herein appears, and that this is the original  
12 transcript thereof for the file of the Commission taken  
13 stenographically by me, thereafter reduced to typewriting by  
14 me or under the direction of the court reporting company, and  
15 that the transcript is a true and accurate record of the  
16 foregoing events.

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**BRIEFING ON**

**U.S. NUCLEAR REGULATORY COMMISSION**

**PROGRAM WITH STATE AND LOCAL GOVERNMENTS**

**AND INDIAN TRIBES**

**STATUTORY AUTHORITY AND POLICY DIRECTION**

**AGREEMENT STATE PROGRAM**

**LIAISON PROGRAM**

**CURRENT ISSUES**

**February 3, 1988**

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**OFFICE OF  
GOVERNMENTAL AND  
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**STATE, LOCAL AND  
INDIAN TRIBE PROGRAMS**

**REGIONAL AGREEMENT  
STATE REPRESENTATIVES**

**REGIONAL STATE  
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**AGREEMENT STATES**

**CONFERENCE OF  
RADIATION CONTROL  
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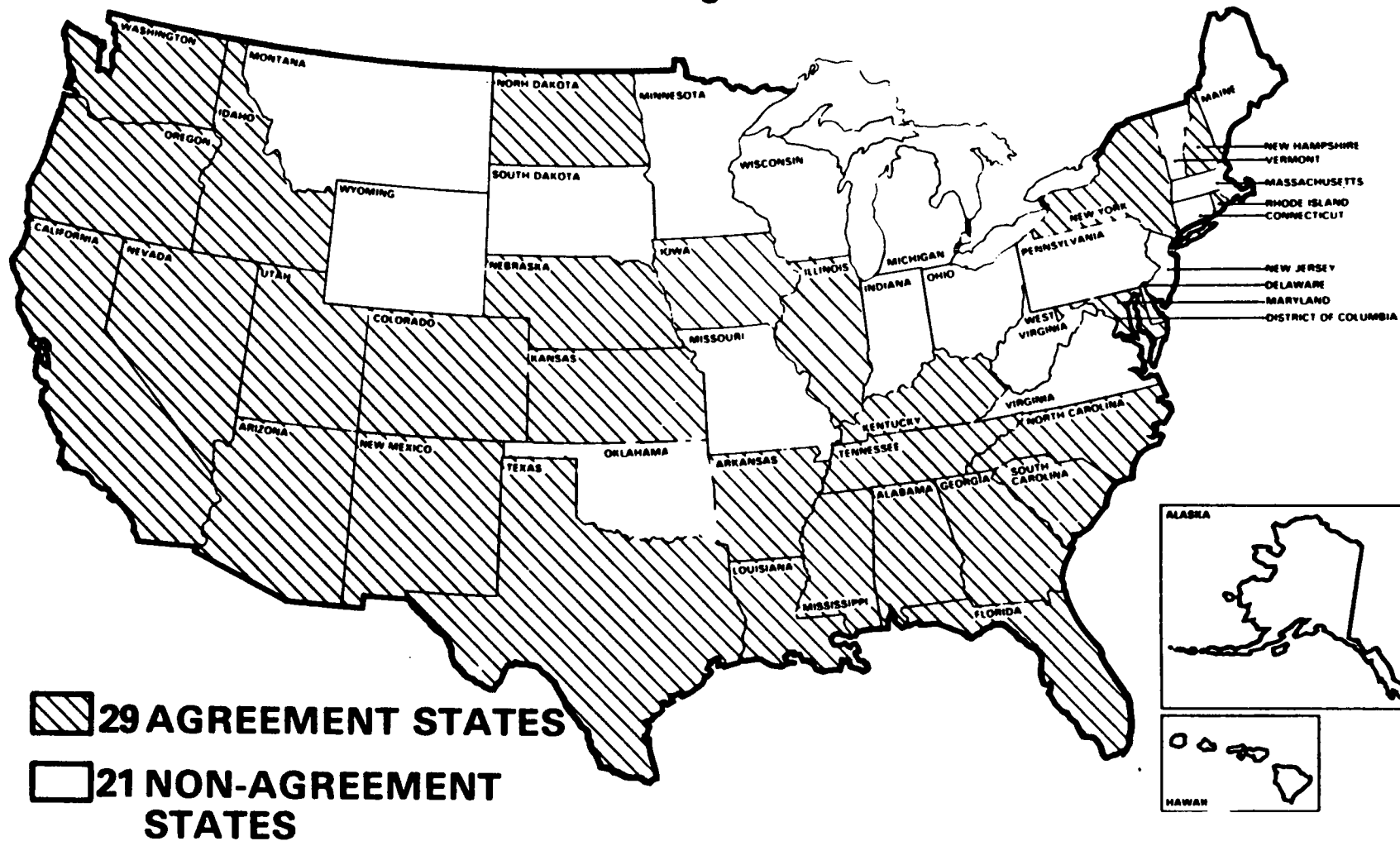
**STATE LIAISON OFFICERS**

**NATIONAL ORGANIZATIONS**

- National Governors' Association
- National Conference of State Legislatures
- National Association of Regulatory Utility Commissioners
- National Congress of American Indians
- Western Interstate Energy Board
- Southern States Energy Board

# AGREEMENT STATE PROGRAM

(As of August 1987)





January 12, 1988

## **POLICY ISSUE** **(Commission Meeting)**

SECY-88-5

For: The Commissioners

From: Harold R. Denton, Director  
Office of Governmental and Public Affairs

Subject: STATUS OF NRC PROGRAM WITH STATE AND LOCAL GOVERNMENTS AND  
INDIAN TRIBES

Purpose: To inform the Commission of existing and planned activities of State, Local and Indian Tribe Programs of the Office of Governmental and Public Affairs for enhancing NRC relationships with State and Local governments and Indian Tribes consistent with the goals and objectives of the NRC Strategic Plan.

Background: The April 12, 1987 reorganization of the Nuclear Regulatory Commission created State, Local and Indian Tribe Programs (SLITP) within the Office of Governmental and Public Affairs. The creation of SLITP and the goals and objectives stated in the NRC Strategic Plan concerning State initiatives provided us an opportunity to examine NRC's relations with States and Local governments and Indian Tribes, and to refocus them, as appropriate. The results of this review are attached for your information.

The NRC Strategic plan states in Section 10.2.1, "State Initiatives", that:

"It is assumed that State and local governments and agencies and Indian Tribes will become increasingly interested in the regulation and oversight of NRC-regulated activities (e.g., emergency planning, prudence reviews, and transportation). Recognizing that the NRC and these governments and agencies share a common interest in protecting the public health and safety, they should work together toward this end. Thus, the goal for the NRC in this regard is to:

Promote a coordinated and effective inter-governmental approach to nuclear safety.

By pursuing the following strategies, this goal can be achieved:

Contact  
Carlton Kammerer  
X-28170



- o Initiate a program to increase cooperation and communication between NRC and State and local governments and agencies, and Indian Tribes to promote increased awareness of activities and initiatives relative to nuclear safety.
- o Take timely action to implement NRC's regulatory authority when NRC judges that an initiative being exercised by a State or local government agency is counter to safety or preempts Federal authority."

Discussion:

We have reviewed the policies and programs of the former Office of State Programs in view of the NRC Strategic Plan. The objectives were to: arrive at a common understanding of what State activities are of interest to the NRC and vice-versa; analyze how NRC implements its programs with States; identify current and emerging issues; and define objectives, and draw conclusions regarding an effective State, Local and Indian Tribe Program.

The attached report, prepared by SLITP, is the result of that examination. The report discusses NRC's constituencies and the various roles those constituencies have in helping to assure safety; the NRC training program for the States; and communications between NRC and State and local governments, Indian Tribes and other Federal agencies. In summary, this report describes all activities now being performed by the staff in Headquarters and the Regions.

The major conclusions and initiatives drawn by SLITP staff from the report are as follows:

Conclusion

There are currently 29 Agreement States. This program is an excellent example of successful Federal-State partnership where there are technical, administrative and resource benefits.

Initiative

Encourage additional States to become Agreement States.

Conclusion

Training of State personnel fulfills basic needs for maintaining competent radiation control programs as authorized by Section 274 of the Atomic Energy Act of 1954, as amended.

Initiative

Training should be supported and improved to assure continuing program effectiveness as State regulated activities grow and personnel turnover occurs.

Conclusion

Various elements of the NRC regulatory program impact States. States have an interest in being involved in the development of NRC policies, regulations and technical positions.

Initiative

SLITP, in consultation with other NRC offices, will identify appropriate NRC initiatives where States could participate and make arrangements for State involvement. For Agreement States this may include a collaborative approach to developing regulations and regulatory guides pertaining to materials the States regulate pursuant to a Section 274b agreement.

Conclusion

The Agreement State program would benefit by having State personnel participate in NRC review of Agreement State radiation control programs. This initiative was discussed at the all Agreement State meeting and the Agreement States endorsed the concept.

Initiatives

Initiated a trial program during the review of the Nebraska program where the Arkansas Program Director participated.

Continue a trial program of having Agreement State personnel participate in a few Agreement State program reviews.

Conclusion

NRC has viable constituencies in the Conference of Radiation Control Program Directors and the Governor-appointed State Liaison Officers.

Initiative

Encourage greater participation in these activities to assure adequate communication on significant matters.

Conclusion

There are a number of national organizations representing State and local governments and Indian Tribes that have an interest in nuclear safety issues. The positions taken by these national organizations on nuclear safety matters influence Federal, State and local governments and Indian Tribes' policies and programs.

Initiative

Enhance communication with national organizations of State and local governments and Indian Tribes to promote increased

awareness and understanding of activities and initiatives relative to nuclear safety.

The observations and conclusions set forth in this paper represent our views on the appropriate SLITP activities needed for effective relations with States, local governments and Indian Tribes. The preparation of this paper was coordinated with the Executive Director for Operations staff.

Scheduling: State, Local and Indian Tribe Programs will be briefing the Commission February 3, 1988 on the information contained in this paper.



Harold R. Denton, Director Office of  
Governmental and Public Affairs

Attachment:  
Report on NRC Program with State and  
Local Governments and Indian Tribes

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NRC PROGRAM WITH STATE AND LOCAL GOVERNMENTS  
AND INDIAN TRIBES

December 1987

## TABLE OF CONTENTS

	<u>Page</u>
I. BACKGROUND.....	1
II. PROGRAM.....	1
A. Definitions.....	1
B. Constituencies.....	2
C. The Roles of State and Local Governments and Indian Tribes.....	9
D. Training for States.....	16
E. Travel.....	21
1. Travel For States.....	21
2. Travel For NRC Staff.....	21
F. Communications.....	23
1. External.....	23
2. Internal.....	24
G. Other Federal Agencies.....	25
III. SUMMARY.....	27
IV. CONCLUSIONS AND INITIATIVES.....	27
APPENDIX A Conference of Radiation Control Program Directors..	29
APPENDIX B Commission Comments on National Governors' Association Recommendations.....	33
APPENDIX C Memoranda of Understanding.....	36
APPENDIX D Examples of SLITP Papers and Publications.....	37

## I. BACKGROUND

State, Local and Indian Tribe Programs was created by the April 12, 1987 Reorganization of the Nuclear Regulatory Commission with a mission to achieve a more proactive relationship with State and local governments and Indian Tribes. A comprehensive review was necessary to better define and implement this mission.

NRC is in partnership with the States in the protection of public health and safety and the environment from radiological hazards. Key components of this partnership are the State radiation control program directors. Their national organization, which NRC actively supports, is the Conference of Radiation Control Program Directors. (Its history, organization and NRC's interaction with it are described in Appendix A to this paper.)

The CRCPD held its annual meeting in Boise, Idaho from May 18 to 21, 1987 and it was timely for the staff to use this opportunity to hold a "counterpart" meeting. On Tuesday, May 19, the NRC's five Regional State Liaison Officers, six Regional State Agreements Representatives, Harold Denton, Director, Office of Governmental and Public Affairs, Carl Kammerer, Director of State, Local and Indian Tribe Programs, and the members of the SLITP staff (some present and others by telephone conference call) met to discuss the objectives of the new SLITP office. The meeting focused on how our current relationship with the States, local governments, and Indian Tribes might be enhanced to achieve a more proactive relationship with these constituents.

The principal objectives of this working session were to: review the policies and programs of the former Office of State Programs; discuss the goals in the draft NRC Strategic Plan and develop a working definition of the terms "Outreach" and "Proactive"; arrive at a common understanding of what State activities are of interest to the NRC and vice-versa; analyze how NRC implements its programs with States; identify current and emerging issues; and define objectives, draw conclusions regarding an effective State, Local and Indian Tribe Program that is responsive to the Commission's needs. The following describes the results of this meeting and discusses the conclusions and initiatives for achieving a more proactive relationship with States, Local Governments and Indian Tribes.

## II. PROGRAM

### A. Definitions

NRC's Strategic Plan calls for the Agency to assume a more proactive role, including outreach, to increase cooperation and communication between NRC and State and local governments and agencies and Indian Tribe representatives to promote increased awareness and understanding of activities and initiatives relative to nuclear safety.

In our discussions, we defined "proactive" as (1) the early internal identification of and sensitivity to major issues concerning State and

local governments and agencies and Indian Tribe representatives made possible through good information gathering and networking on the part of the staff and (2) the initiation of developing and seeking Commission approval of appropriate policy and programs to address relevant issues.

We defined "outreach" as the way we communicate NRC's policies and programs to our constituency. Outreach involves active participation--frequently in one-on-one discussions--with our constituencies to address concerns early, before they become significant issues.

We realized the importance of a proactive role, and adopted such a role by taking the initiative to inform those constituencies who are interested in, affected by, or involved with the regulation of radioactive materials and nuclear power. We also recognized the importance of our liaison role, in bringing together the Agency's technical experts and outside organizations so that relevant information is shared promptly, accurately, and completely. We intend to work even more closely with NRC's Program Offices and Regional Offices, State and local governments and agencies, Indian Tribe representatives, and other Federal agencies and organizations in an effort to fulfill the Agency's mission as stated in the Strategic Plan.

## B. Constituencies

Our constituencies are wide and varied. They offer ample opportunity for interaction on many issues. To ensure that our relationships with these constituencies are viable, mutual trust and professional respect must exist so that issues can be discussed openly. We view our constituencies as partners in protecting the public health and safety, the environment and the national security. The following is a discussion of the constituencies with whom we interact.

### o Agreement States

Section 274 of the Atomic Energy Act, enacted by the Congress in 1959, recognized the States' interest in atomic energy activities. It clarified the responsibilities of the States and NRC's predecessor, the Atomic Energy Commission and provided a mechanism by which the Atomic Energy Commission could relinquish, and the States could assume, a part of the Atomic Energy Commission's regulatory authority. Under Section 274, the Atomic Energy Commission was permitted to relinquish to the States, on a State-by-State basis, certain of its authority to regulate the use of reactor-produced isotopes, the source materials uranium and thorium, small quantities of special nuclear materials, uranium mill tailings, and low-level radioactive waste disposal. The States that have agreements with the NRC allowing them to regulate these activities are called Agreement States; the materials collectively are referred to as Agreement Materials. At present there are 29 Agreement States administering a total of approximately 15,000 licenses. Figure 1 is a map showing the present Agreement States.

Before the Commission is permitted to relinquish regulatory authority to a State, the Governor must certify that the State has a regulatory program that is adequate to protect the public health and safety. The Commission must find that the State's program is adequate from a health

# AGREEMENT STATE PROGRAM

## (As of August 1987)

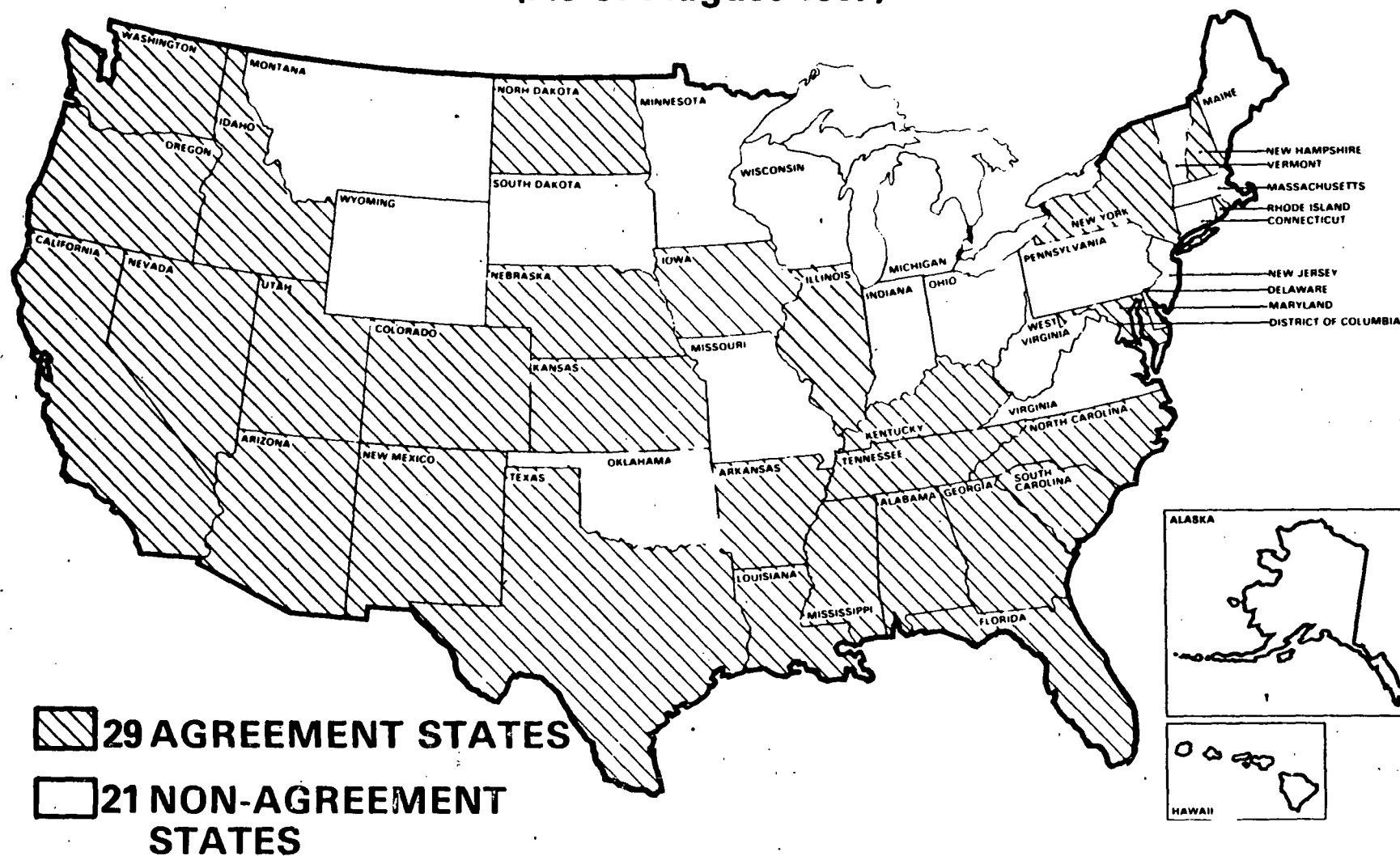


Figure 1



and safety standpoint and that is compatible with the Commission's program. SLITP works closely with each Agreement State to ensure that the State's program meets these requirements and that the State has enough technically qualified persons to effectively implement the program.

The NRC staff reviews Agreement State radiation control programs periodically (every 12 to 24 months); we are implementing a new initiative of having Agreement State personnel participate in these reviews. We believe this increased interaction will be beneficial to both the NRC and the Agreement States.

Communication with Agreement States is continuous, both at NRC headquarters and at regional levels, through telephone, meetings and correspondence. In addition, SLITP sponsors an annual all-Agreement State meeting with the program directors to address issues of mutual concern. SLITP also provides training and technical assistance to help maintain high quality programs pursuant to Section 274 of the Atomic Energy Act, as amended.

The NRC Agreement State Program has produced an excellent working relationship between NRC and the States. The program has often been cited as an outstanding example of Federal-State partnership in dealing with mutual interests. In 1983, the National Governors' Association published a report that represented the first comprehensive, independent examination of the Agreement State Program since its inception 25 years ago. The report was prepared by NGA staff, assisted by many persons knowledgeable in the field of radiation protection, including the radiation control program directors of all 50 states; NGA's Subcommittee on Nuclear Power, augmented by four State radiation protection officials; and two advisory committees composed of representatives of constituencies subject to or affected by State or NRC regulation. The conclusions of the report represented a broad consensus of the radiation protection community regarding such topics as funding, training, personnel, and regulatory jurisdiction within the Agreement State Program. The report stated: "The Agreement State Program is one of the most successful State/Federal partnerships yet established in terms of 1) the flexibility provided States in assuming regulatory responsibility, 2) successful State performance of regulatory duties and 3) consultation with States in the preparation of new regulations." The principles of cooperation and communication developed for the Agreement State Program serve as a model for the overall State and Local Government and Indian Tribe Program.

Interest in the Agreement State Program is continually growing. At the present time, several States are having discussions with the NRC on becoming Agreement States. The NRC should encourage States to join the program. This is an element of NRC's Strategic Plan. This recommendation was also made by the Materials Safety Regulation Review Study Group, whose report was published in the Federal Register on December 17, 1986 (51 FR 45122).

o State Liaison Officers' Program

The State Liaison Officers are Governor-appointed State officials, whose role is to provide a communication channel between the State and the NRC.

The SLO is intended to be the principal person in the State to keep the Governor informed of nuclear regulatory or emergency matters of interest to the Governor, to keep other State officials informed of such matters, and to respond to NRC inquiries.

The Commission established the SLO program in 1976 as a result of a suggestion made at NRC-sponsored Power Plant Siting Conferences held in April 1975 and June 1976. The suggestion was made by a number of State organizations such as the National Governors' Association and the Western and Southern Interstate Nuclear Boards. The suggestion came about as a result of a need to establish a working relationship in siting and environmental matters for which the NRC and the States share responsibilities. The scope of the program has since expanded to include such areas as low-level and high-level waste programs, transportation, emergency preparedness, and decommissioning.

The SLO Program is an important mechanism for responding to President Reagan's March 20, 1981 memorandum on full consultation with State and local governments. The memorandum provides that before a Federal agency considers any major policy, budget or reorganization proposal that has significant State or local impact, it must ensure that affected State and local officials are consulted and that their views are given proper weight and consideration. NRC is the only Federal agency that interfaces with specific Governor-appointed State Liaison Officers nationwide.

All Governors participate in the program. There are 51 SLOs, one from each of the 50 States and from the Commonwealth of Puerto Rico. These officials represent a wide spectrum of State government: including energy advisors to the Governor, members of State Public Utility Commissions, Radiation Control Program Directors, or State Emergency Management Directors.

SLO meetings in each of the five NRC Regions are held on a 3-year cycle with SLOs, the Regional Administrator and NRC Headquarters and Regional staff members participating. Once every 3 years, a national meeting of SLOs is held at NRC Headquarters, with the Chairman and senior NRC officials participating. The most recent national SLO meeting was held in September, 1987 in Bethesda, Maryland. The meeting featured presentations by invited State speakers and NRC officials, with panel discussions which encouraged an open exchange for all attendees. At each of these meetings, a broad range of issues is discussed. These allow both the NRC and the States to gain valuable perspectives into each other's programs, policies and needs. The SLOs are asked to provide assistance when NRC issues new policies and when rule changes are being considered. Commissioners and other senior NRC officials often meet with the SLOs when they are visiting States and/or Governors.

The effectiveness of the SLO program varies from State to State, depending on the SLOs relationship with the Governor and other State officials; the degree to which the SLO is included in sensitive State issues; the SLOs assertiveness; and the SLOs interest in working with the NRC. As a result,

the SLO program is stronger in some States than in others. Nevertheless, the SLOs are an important tie to the Executive Branch of State government. Collectively, they may not represent a unified voice; however, individually they are meaningful intermediaries in our outreach program. We intend to increase our communication with them.

o Conference of Radiation Control Program Directors

The Conference of Radiation Control Program Directors (1) promotes all aspects and phases of radiological health and (2) encourages and promotes cooperative enforcement programs with Federal agencies and between related enforcement agencies within each State. The Conference encourages the interchange of experience among radiation control programs and collects and makes accessible to its membership information to help them properly fulfill their duties. The Conference is instrumental in promoting and fostering uniformity of radiation control laws and regulations, and it exercises leadership with radiation control professionals and consumers in radiation control development and action.

Through its task forces, the Conference develops suggested regulations, technical positions and radiation standards. The NRC is an active participant in the Conference, and, along with the Environmental Protection Agency, the Food and Drug Administration, the Department of Energy, the National Bureau of Standards, and the Federal Emergency Management Agency, provides financial and technical support to the Conference. Appendix A to this report provides additional details on the Conference.

o Other Organizations

The National Governors' Association, founded in 1908 as the National Governors' Conference, is the instrument through which the Governors of the 50 States collectively influence the development and implementation of national policy and apply creative leadership to State problems. As mentioned above, the NGA conducted the first comprehensive, independent study of the Agreement State Program. We attend annual NGA meetings and keep informed of the activities of its committees formed to develop policy positions on nuclear issues.

At its February 1987 meeting in Washington, D.C., the NGA established a Nuclear Safety Task Force to examine the relationship among the States, the Federal Government, and industry in ensuring the safe design and operation of nuclear power units and off-site emergency response. The Task Force spent considerable time debating initial statements and finally settled on consensus policy recommendations for consideration at the NGA annual meeting on July 28, 1987 in Traverse City, Michigan. The NGA adopted the Task Force recommendations listed below and the Task Force was subsequently discharged of its duties.

Nuclear Power Plant Design and Operation Recommendations  
Adopted By The National Governors' Association

1. The Governors recognize the Nuclear Regulatory Commission as a single agency responsible for approving the design of nuclear power plants and issuing necessary construction and operating licenses;

2. The NRC should have the responsibility of providing information on nuclear power plant systems and operations upon request of the Governor, by responding in writing within 30 days of such a request;
3. In the future, emergency plans should be approved by the NRC before it issues the construction permit for any new nuclear power plant;
4. In consultation with states, the NRC should develop objective criteria for the review and approval of offsite emergency response plans;
5. NRC should establish a mechanism to provide for timely response (within 60 days or less) to a Governor's recommendations for changes in standards relative to the safe operation of nuclear power plants within his or her state.

On October 27, 1987, the Commission provided the NGA with its comments on the recommendations (see Appendix B).

The National Conference of State Legislatures represents State legislatures and their staffs on national issues. NRC is working with NCSL to communicate with State legislators. Some joint NRC/NCSL projects have included: (1) a seminar in Washington, D.C. at which State legislators discussed such issues as low-level waste compacts, plant aging/decommissioning and transportation; (2) a trip to the Barnwell LLW site where NRC presented information on low-level waste; (3) and an audio-conference that gave NCSL members an effective and inexpensive way of discussing low-level waste issues and options via telephone with the NRC staff. In addition, we regularly attend NCSL meetings and are kept informed through them of legislative actions that involve nuclear issues. This interaction has been a most valuable asset in opening a dialogue with State legislators.

The Southern States Energy Board was established as the Southern Interstate Nuclear Board by a compact between the States and consented to by Congress in 1962. Since its formation, the Board's role has shifted to that of principal advisor on energy matters to the 16 southeastern States and Puerto Rico. NRC involvement with SSEB is limited. However, SSEB has done work under contract to the NRC Office of Research. Its Presidentially appointed Federal Representative periodically contacts the Commissioners and staff.

The Western Interstate Energy Board, the administrative unit for the Western Interstate Nuclear Compact, is an agency of western State governments. The purpose of the Board is to foster cooperative efforts in the energy field among the member States and the Federal government. Our involvement with this Board is limited. WIEB has performed studies for the Department of Energy and NRC and has been active in high-level waste, low-level waste and transportation issues.

President Reagan encouraged Federal agencies to interact with Indian Tribes on a government-to-government basis as stated in his 1983 Indian Policy Statement. In this regard, NRC interacts primarily with two organizations: the National Congress of American Indians and the Council of Energy Resource Tribes. NCAI was founded in 1944 as the first national intertribal organization serving American Indians and Alaska native

governments and people. It develops and analyzes public policies through its elaborate committee system, disseminating information and representing its membership before Congress, administrative bodies and the general public. CERT was established in 1975 to provide needed expertise on the many energy projects impacting Indian lands. We regularly attend and participate in the meetings of NCAI's National Indian Nuclear Waste Policy Committee (which is funded by DOE), and we have had similar interactions with CERT, recently exchanging and providing information on NRC/DOE high level waste activities and organizations, and receiving information from them. Our involvement has increased with these organizations.

The National Association of Towns and Townships represents some 13,000 predominately small communities across the country (primarily through State town associations to which the small communities belong). The National Association of Counties represents county government concerns, while the U.S. Conference of Mayors is an organization of city governments. The National League of Cities is concerned with improving the quality of life for the people who populate our cities. NRC's involvement with these organizations has principally focused on the transportation of radioactive materials.

The National Association of Attorneys General provides technical and research assistance to the States' Offices of Attorneys General. The Council of State Governments is a non-profit, State-supported and directed service organization of all 50 States and the U.S. Territories and jurisdictions. Our involvement with these organizations has been limited to attending their meetings and having their representative attend transportation workshops.

The National Association of Regulatory Utility Commissioners is a non-profit organization whose chief objective is to serve the consumer interest by seeking to improve the quality and effectiveness of economic regulation of public utilities in the United States. NARUC attempts to have each Federal regulatory agency designate a member. NRC's current member is Chairman Zech, who also serves on NARUC's Executive Committee.

#### o Summary

The NRC has been and can continue to be in an excellent position to know and understand the pertinent concerns of the States, local governments, and the Indian Tribes because of our interactions with our various constituencies. However, with finite resources, we cannot have active relationships with all possible organizations. Thus, we have focused our efforts on the Agreement State Program, the Conference of Radiation Control Program Directors, and the State Liaison Officers Program. We consider these to be our viable constituencies.

To better fulfill our responsibilities we are assessing the issues being addressed by both national and regional organizations and are setting our priorities for addressing these issues. We are also examining all our constituencies to assess ways we can increase our effectiveness. Our proactive and outreach programs must be focused on those constituencies where we can be the most effective.

C. The Roles of States, Local Governments and Indian Tribes

The States, local governments, and Indian Tribes are playing increasingly important roles in a growing number of nuclear matters. Major roles that are based on Federal statutory authority are the Agreement States Program, low-level waste programs and compacts, high-level waste programs, and some aspects of transportation. Other roles include those in off-site emergency preparedness and response and in security. In addition, some States are becoming involved in nuclear power plant inspections, economic performance incentives, and land use planning. The Agreement State Program is discussed in Section II.B above, the other State and local government and Indian Tribe roles are discussed in the following paragraphs.

o Low-Level Waste and Compacts

The Low-Level Radioactive Waste Policy Amendments Act of 1985 is an important step toward the development of new disposal capacity for low-level radioactive waste. The Act includes three major provisions. The first makes it more likely that the three operating disposal facilities in South Carolina, Washington, and Nevada will remain in operation until the end of 1992. The second establishes a system of incentives and penalties to promote steady progress by the States and compacts toward development of new disposal capacity. The third assigns responsibilities for LLW disposal to the States and the Federal government.

The Act also directs NRC to provide additional guidance to the States to ensure that they have enough regulatory information so they can meet the milestones established in the Act. Some of the information States need includes guidance on waste disposal methods that can be used as an alternative to shallow land burial, on licensing, and on determining what waste is below regulatory concern. In addition, NRC is working with the Environmental Protection Agency to provide guidance to the States for the disposal of mixed waste (LLW mixed with chemically hazardous waste). (This is an issue of concern to both NRC and the States that was not resolved by the Act.) In addition, the NRC assists the States in the review of compacts and of enabling legislation, in training and in other technical areas.

The Act requires both NRC and the States to carry out their respective responsibilities under a very restricted schedule that puts pressure on NRC to provide timely assistance.

SLITP provides a central point of contact for the States and compacts on issues involving the management and disposal of LLW. Other NRC offices provide additional technical assistance, as required. The RSLO's monitor State and compact actions in developing new disposal capacity and provide information and assistance as appropriate. We also provide assistance to Agreement States or States seeking Agreement State status on staffing capabilities, program organization, analytical methods for predicting disposal site performance, environmental monitoring, and review and comment on license applications and environmental reports.

The Low-Level Radioactive Waste Forum is an important State organization on low-level waste. It is an association of representatives of States and compacts established to facilitate State and compact implementation of the Act and to promote the objectives of the LLW regional compacts. The Forum, which is funded by DOE, gives States and regions the opportunity to share information with one another and to exchange views with Federal officials. The NRC staff provides the Forum and its participants with information on NRC LLW regulatory activities. The staff also participates in quarterly Forum meetings by providing presentations on various NRC activities and discussing items of interest with Forum participants.

o High-Level Waste

The States and Indian Tribes have an important role under the Nuclear Waste Policy Act of 1982 for the siting of high-level radioactive waste repositories and a monitored retrievable storage facility. A prospective host State or affected Indian Tribe has a right to extensive consultation, funding for independent investigations, and a final right to object to the establishment of a site within its boundaries. This objection can only be overridden by a majority vote of both houses of Congress. The Office of Nuclear Material Safety and Safeguards has been designated the lead NRC Office for NWPA implementation. SLITP has reached an agreement with NMSS to carry out a greater role for liaison with affected States and Indian Tribes on high-level waste and related matters.

An essential ingredient to success of both NRC's regulatory role and the DOE's development mission is the free and open exchange of information. It was in this spirit that NRC arranged for States and Tribes to participate in NRC's internal "readiness review" before NRC formally submitted comments on DOE's draft HLW Environmental Assessments. Also in this spirit, NMSS staff met with potentially affected States and Tribes to ensure that NRC's review schedule includes time for consultation with them on each decision that NRC must make in the Project Decision Schedule under the NWPA.

The former Office of State Programs participated in the process of amending the NRC regulations (10 CFR Part 60) applicable to the disposal of HLW. This process included attending a number of meetings on development of the rule changes, reviewing and commenting on various drafts of the proposed rule and reviewing and analyzing State and Indian Tribe comments on the proposed rule. These amendments, which were effective on August 29, 1986, deal with procedural aspects of site characterization and the participation of States and Indian Tribes. For the most part, the amendments were made to reflect provisions of the NWPA. These amendments ensure that the Commission will be fully aware of State, Tribal, and public views before, during, and after the site characterization plan review. The States and affected Indian Tribes will be routinely informed of all material made available to the NRC and NRC's comments on this material. The States and Tribes will be invited to participate in NRC/DOE technical meetings. The NRC staff will continue to have discussions with State and affected Indian Tribal representatives and will respond to their written and oral requests. The NRC will also follow closely the NWPA-mandated opportunities for State, Tribal, and public interaction with DOE.

The former Office of State Programs also reviewed and provided comments to the staff proposed rule changes to 10 CFR 72 concerning the monitored retrievable storage facility. The comments focused on the need to provide affected States and Indian Tribes with the same participation and consultation rights for an MRS as is provided for a high-level waste repository, as mandated by the NWPA. This proposed rule sets forth the procedures for meeting requirements for independent storage of spent nuclear fuel and high-level radioactive waste if Congress approves of construction of these facilities pursuant to NWPA. It also sets forth procedures for meeting the NWPA requirement that the Commission provide timely and complete information to affected State governments and Indian Tribes regarding determinations or plans made with respect to siting, development, design, licensing, construction, operation, regulation, or decommissioning of an MRS.

o Transportation

State, local and Indian Tribe interest in the safe transportation of radioactive materials, particularly spent fuel, is keen. Pursuant to Public Law 96-295, NRC requires licensees to notify a Governor's designee when spent fuel and certain wastes are to be shipped through that Governor's State. The States are concerned with the overall system for transportation of hazardous materials. The States (and local authorities) have the primary responsibility for responding to accidents involving radioactive materials and in taking actions necessary to protect public health and safety. NRC's role, as described in a Commission policy statement (49 FR 12335), is basically to ensure that the State is notified of spent fuel shipments or accidents and to offer technical assistance to the State. SLITP annually publishes an updated list of State contacts to be notified by licensees as required by 10 CFR Parts 71 and 73.

The Indians have certain authority and responsibilities regarding transportation of radioactive material on their lands; however, the interface between the Tribes and the States in this regard could be clarified. The States and Tribes, under certain conditions, are permitted to specify alternative routes to those generally prescribed by the Department of Transportation, under the DOT routing rules. Some Indian Tribes have expressed an interest in receiving advanced notification of spent fuel and high-level radioactive waste shipments through their lands.

The Congressional Office of Technology Assessment has conducted a comprehensive study on the transportation of hazardous materials including spent fuel. Among its conclusions, OTA stated that NRC performance standards yield cask design specifications that provide a level of public protection higher than that provided for any other hazardous materials shipping activity. OTA suggested that overall safety could be improved by improved quality assurance in cask manufacture, maintenance activities, driver training, and inspection. OTA recommended that Federal, State, and local governments develop a national strategy to improve training and funding for hazardous materials transportation enforcement and emergency response.



State, Indian, and local government representatives have a number of concerns regarding spent fuel transportation, both today and in the future, when a HLW repository and possibly an MRS facility are in place. These concerns include the following:

#### Packaging

These concerns relate to cask integrity under postulated accident conditions; performance testing versus actual testing; and DOE's use of casks that are not certified by NRC.

#### Inspections

Some States believe that there are not enough transportation inspections, especially for waste and spent fuel shipments.

#### Routing

Some States believe that they need the best source of information from the public and private sectors and Federal certification of the State or Tribal alternative route that is chosen. Some States believe that there should be a rail shipments routing rule, similar to the DOT highway routing rule, that would allow States to designate alternates.

#### Notifications

States and Indian Tribes are concerned that DOE is not required to provide prior notification of its spent nuclear fuel shipments.

#### Emergency Response Plans and Preparedness

Some States, Tribes and local governments believe both availability of training and funding for emergency response planning and preparedness are insufficient.

The NRC has a number of initiatives underway which address many of the concerns raised by States and Indian Tribes in the transportation area. For example, a study recently conducted by Lawrence Livermore National Laboratory for the NRC concluded that for certain broad classes of transportation accidents, spent fuel casks provide essentially complete protection against radiological hazards. The results of the study were presented to the National SLO meeting in September and a summary of the study has been provided to the SLOs and other State officials.

The NRC has recently contracted a study with Indiana University to provide a description of State and certain Indian Tribe emergency response training programs, response capabilities, and response plans as they apply to transportation accidents involving radioactive materials. The study is also to determine the nature and degree of change that has occurred as a result of attention focused on and funding in State radiological emergency response capabilities, training programs, and response plans since a previous Commission study conducted in 1978. One objective of this study is to determine what, if any, additional actions Federal

agencies could take to assist States and Indian Tribes in ensuring adequate protection of the health and safety of the public with regard to transportation accidents involving radioactive materials.

The NRC staff is also initiating a review to update NUREG-0170 "Final Environmental Statement on the Transportation of Radioactive Material by Air and other Modes," (December, 1977).

Regarding advance notification, the Department of Energy recently committed to provide States a 7-day prenotification of unclassified shipments of spent fuel and high level waste. The procedure adopted by DOE is virtually identical to the NRC requirement for advance notification.

Some States are taking a more active role in the transportation area. For example, the State of Illinois has instituted an inspection and escort program for spent nuclear fuel. Each spent fuel shipment traveling in Illinois is inspected by the State's Department of Nuclear Safety to assure that all applicable Federal and State radiation protection requirements are met. The Illinois State Police inspect and escort trucks carrying these shipments. The Illinois Commerce Commission inspects rail shipments.

o Emergency Preparedness and Response for Fixed Facilities

State and local governments play an important role in emergency planning and preparedness in support of commercial nuclear power stations. Appendix E of 10 CFR Part 50 establishes minimum requirements for both the 10-mile and 50-mile Emergency Preparedness Zones for the plume exposure and ingestion pathways, respectively. Furthermore, each plan is to include provisions for emergency preparedness exercises, which call for participation by appropriate State and local government agencies. The NRC staff interacts intensively with the States in connection with exercise of the reactor emergency plans. Additionally, twenty-seven large NRC materials and fuel cycle licensees have been required by Order to develop contingency plans (46 FR 12566). Licensees have made arrangements with local agencies (police, fire, ambulance, hospitals) to provide services in radiological emergencies and to participate in training drills.

o Security

State and local law enforcement agencies provide security resources for emergencies at licensed sites; they participate in security drills and in some cases provide training facilities for site guards.

o Nuclear Power Plant Inspections

Some State officials feel a strong need to better understand risks to public health and safety from incidents at nuclear power reactors and to assure that all reasonable steps are being taken to prevent an incident or otherwise reduce such risks. These feelings have grown since the accident at Three Mile Island, and they are often reinforced locally when problems at nuclear power plants are highly publicized. The accident at Chernobyl has and will continue to heighten these feelings. Moreover,

some State governments do not want to depend solely on NRC for information on reactor status. Thus, Governors and other State officials are seeking ways in which they can routinely be apprised of the current status of specific NRC-licensed facilities that have a potential for affecting the health and safety of their citizens.

A number of States have taken the initiative to more closely monitor, and in some cases become directly involved in, a number of nuclear issues. For example, the State of Oregon has had a State Resident Inspector authorized by State law at the Trojan Nuclear facility since 1980. Maine has recently adopted legislation to establish a Resident Inspector at Maine Yankee patterned after the program in Oregon. The Illinois legislature has authorized a Resident Inspector pilot program for fiscal year 1988 at one nuclear power plant site in the State. Other States have added nuclear engineers to their staffs with responsibilities for monitoring specific power plants. Illinois and Pennsylvania recently became the first States to execute a Memorandum of Understanding with the NRC to perform periodic inspections of the areas of low-level waste packaging and transport activities at NRC-licensed facilities, including reactors, operating within the State. A list of current MOUs with States is provided in Appendix C. Similar MOUs are being negotiated with several other States. Some States have indicated a desire to be present at NRC inspections, inspection exit meetings, and enforcement conferences and to participate in other regulatory activities involving reactors. Region I has concluded agreements in this regard with the States of Vermont and New Jersey through exchanges of correspondence.

The majority of States have boiler and pressure vessel laws that cover both the nuclear and non-nuclear components at a nuclear power plant. The States recognize NRC's regulatory authority over the nuclear portions of the plant, and therefore generally focus their attention on the non-nuclear components. The NRC mandates the use of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code for construction and inservice inspection of these components.

Recently, NRC has been negotiating a subagreement with the Illinois Department of Nuclear Safety seeking to ensure that (1) it implements an Illinois statute in accordance with the ASME Code requirements as adopted by NRC and (2) that its rules do not disrupt and are not inconsistent with the Federal scheme of regulation.

Under the Occupational Safety and Health Act of 1970, the States can have responsibility for inspections related to worker safety. At a nuclear power generating station, this responsibility covers the "balance of plant" where NRC regulatory authority is not explicit. In that portion of the station where NRC has regulatory authority, State responsibility is limited to the non-radiological aspects of worker safety. This issue came to a head in 1986 at the Surry plant in Virginia when a feedwater line ruptured, killing 4 and injuring 8 workers. To what degree States will exercise inspection authority is uncertain at this time.

o Economic Performance Incentives

An NRC staff survey indicates that economic performance incentives established by State public utility commissions are applicable to the operation or construction of about 41 nuclear power reactors owned by 27 investor-owned utilities in 16 States. Several additional States are considering nuclear plant economic incentives. Municipal utilities, State agencies, and other government-owned utilities are not generally regulated by the PUCs and, therefore, are not directly affected by these economic performance incentives.

Economic performance incentives (or "performance incentive plans") are mechanisms used by PUCs to measure a utility's efficiency level in operating or constructing generating plants and to financially reward or penalize the utility for performance above or below established levels. The objective of incentive plans is to encourage sustained improved performance. A number of different economic performance-based criteria are used to measure plant performance. These include capacity factor, availability factor, fuel costs, and construction costs. Some plans reward good economic performances, others penalize poor performance, while still others do both. The incentives are sometimes large, potentially involving many millions of dollars.

The purpose of performance incentives, of course, is to encourage reliable improved performance, but there is concern over the possible effects on safety of such incentives. The concern is that, in the interest of short-term economics, pressures may cause utilities to take short cuts, delay shutting down a reactor, or take some similar action in order to meet a deadline or to avoid a cost limitation or other penalty. Because of this concern, NRR has begun monitoring performance incentives applicable to nuclear plants.

Recently, New York proposed the use of the NRC Systematic Assessment of Licensee Performance index or NRC enforcement history as the basis for an incentive program. The Commission has concluded that it does not support such methods to arrive at financial awards and penalties.

o Land Use Planning

Localities and to a lesser extent States have a role in land use planning, including that around a fixed nuclear facility, such as a nuclear power generating station. Increases in the population density beyond those projected in a plant's Final Safety Analysis Report at the time the nuclear plant is licensed may be significant.

The State, in most instances, must be the landlord for a low-level radioactive waste disposal facility according to 10 CFR Part 61; therefore the States exercise power to determine where such a facility will be sited. Such exercising of State power may occur in 10 to 15 places around the country by 1993, which is the Congressional milestone date for the operation of disposal facilities pursuant to the Low-Level Radioactive Waste Policy Amendments Act of 1985.

Finally, States exercise a great deal of influence pursuant to the Federal Coastal Zone Management Program of the Department of Commerce in the coastal zone where fixed nuclear facilities may be sited.

o Conclusions

The States, local governments and Indian Tribes are taking on an ever increasing role in more and more aspects of nuclear-related issues. Many of the most important ones have been legislated by Congress and others have resulted from rulemaking. In other domains, such as power plant inspections and economic incentives, the States are becoming more active. In all of the subjects discussed above, there should be interaction with the States, local governments and Indian Tribes to better explain NRC's regulatory program and to enhance the level of communication and upgrade the flow of timely information.

D. Training for States

Section 274i. of the Atomic Energy Act authorizes the Commission, among other things, to provide training to the States "as the Commission deems appropriate." The legislative analysis of the bill which amended the Atomic Energy Act by adding Section 274 made clear the intent of this authority was to "assist the States to prepare for, and carry out, independent State radiation protection programs."\* The Senate Report to S.2568 also commented on the authorization in Section 274i. to provide training to States. The report noted that cash grants are not provided by the Commission to pay for State regulatory programs and that Commission assistance to States, such as training, "take into account the additional expenses incurred by the State as the consequence of the State entering into an Agreement."\*\* The State Agreements Program has provided training to State personnel through various programs for 25 years. Currently the State Agreements Program conducts comprehensive training programs for State personnel. This training consists of short-term courses in health physics, the safety aspects of radioactive materials usage, and the principles of regulation. From FY 1975 through FY 1986, more than 2,400 State and local radiation control program students have attended SLITP\*\*\* sponsored training courses. Training courses encompass both technical and management subjects and range in duration from 1½ days to 5 weeks.

A list of typical courses given each year is described in Table 1. Most of the courses integrate "hands-on" lab and field exercises, casework review and conventional classroom instructional techniques. Tests and homework assignments are also normally required. The courses utilize contractors as well as NRC and State experts to present the material. The courses are provided without charge to the States. The State governments pay the salaries of their employees who attend, and SLITP pays the travel and per diem of attendees. The training is provided to both Agreement and non-Agreement States. Because of the continuing budget constraints, priority is now given to applicants from Agreement States and those

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\* Congressional Record, 86th Congress, 1st. session, May 19, 1959, p. 7525.

\*\* U.S. Congress, Senate Report No. 870 (S.2568), 86th Congress, 1st Session, 1959.

\*\*\*SLITP administers the training program for States. This function was performed by the Office of State Programs prior to the April 12, 1987 NRC reorganization.

Table 1

TYPICAL GPA/SLITP TRAINING COURSES  
FOR STATE PERSONNEL

<u>Subject</u>	<u>No Students</u>	<u>Frequency</u>	<u>Cutbacks</u>
Inspection Procedures	25	2/year	<u>2/</u> , <u>4/</u> , <u>5/</u>
Licensing Orientation	20-25	1/year	
Health Physics	20	2/year	
Well Logging	20	1/year	
Radiological Engineering	20	1/year	
Transportation	20	1/year	
Special Topics	20	1/year	
Industrial Radiography	16	2/year	Reduced to 1/Year
Medical	20	2/year	Reduced to 1/year <u>3/4/</u>
Radiochemistry	20	1/year	Deleted
Teletherapy Calibration	12	2/year	Deleted
Management	20	1/year	Deleted
Harvard Biological Effects of Radiation	5	1/year	Deleted
	<u>331</u>	<u>18/year</u>	<u>9/year = 125 slots</u>

- 1/ Excluding Mill Tailings and LLW.
- 2/ Some reduction in slots available to States have occurred to accommodate Navy, Air Force, and Army "super-broad" license representatives. These have ranged from two to four slots. In addition, in FY 1987 five NRC inspectors attended the course, leaving for FY 1987 only 18 slots for State students.
- 3/ The Navy has requested slots for the FY 1988 Medical course.
- 4/ There is no compensation for slots provided to the Armed Forces or NRC staff.
- 5/ The second presentation of this course is usually at a State site to train personnel from the host State and nearby States, thus conserving travel funds.

non-Agreement States actively seeking Agreement State status. It is therefore not surprising that there have been complaints from State program directors about applicants who could not be accepted for training. The training program had increased in both numbers of courses and students from FY 1975 to FY 1982. Twenty-one courses were presented to 286 students in FY 1982. In FY 1986, the training budget decreased by 22%\*, and in FY 1987 the numbers of courses and students has decreased to 10 courses and an estimated 187 students (Table 2).

State personnel must be trained so State staffs can develop and maintain the expertise they need to perform State radiation control program functions. Personnel in States seeking Agreement status need training, and in Agreement States, both replacement personnel and persons hired to respond to program growth (increased numbers of licenses and more complex licenses) must be trained. New State employees typically have bachelors' degrees in engineering or science but little or no training nor experience in health physics. The NRC Policy Statement for review of Agreement State programs (52 FR 21132, June 4, 1987) contains guidelines for training that reference NRC-sponsored courses and recommend a training program "to maintain (an) appropriate level of staff technical competence in areas of changing technology." Although other training is available, as a practical matter, the NRC program is the sole source of this type of training for the States.

State training needs are a direct function of the number of Agreement State program inspections, license reviews, and staffing level. This, in turn, is a direct function of the number of Agreement State licenses. Since FY 1975, the number of Agreement State licenses has increased 45% (Figure 2). One way to measure the effectiveness of the training function is to consider the number of State students receiving training in proportion to the number of Agreement State licenses. This figure (per 100 Agreement State licenses) grew steadily from 1.2 in FY 1975 to peaks of 2.2 in FY 1982 and FY 1985, but dropped 45% to 1.2 in FY 1987, the same value as in FY 1975.

Another measure of the effectiveness of training is the scope of subjects covered by the training (Table 1). However, as Table 1 also shows, we are currently providing nine fewer courses per year, which represents 125 fewer training slots each year. Presently, for every 10 persons accepted for our courses, another 6 cannot be accepted because of a lack of space and money. (In some courses, the number of slots available to the States has been reduced to accommodate urgent needs of NRC, U.S. Navy, and U.S. Air Force personnel.)

NRC and the public benefit from the NRC-sponsored training. It enables the States to maintain the qualified staffs necessary to run adequate and compatible programs and assists non-Agreement States in preparing for Agreement State status. SLITP oversees the Agreement States' regulation of approximately 15,000 specific licenses with a direct NRC technical effort of 14.3 FTE, or about 0.1 FTE per 100 licenses. (This includes assistance from other NRC Offices.) As a comparison, our guidelines call for a technical staffing level for Agreement State programs of 1.0 to 1.5 FTEs per 100 licenses. NRC regulates approximately 8,100 materials

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\* The training budget covers travel and per diem costs for students and the costs of contract instructors.

Table 2  
GPA/SLITP State Training Data  
FY 1975-1988

<u>FY</u>	<u>Training Budget</u>	<u>No. of Courses</u>	<u>No. of Students</u>	<u>No. of \$/Student</u>	<u>A/S<sup>1</sup>'s</u>	<u>No. of A/S Licenses</u>	<u>No. Students Per 100 Licenses</u>
75	<u>3/</u>	7	131	<u>3/</u>	25	10,500	1.2
76	<u>3/</u>	6	134	<u>3/</u>	25	10,700	1.3
77	<u>3/</u>	3	213	<u>3/</u>	25	11,000 <sup>4</sup>	1.9
78	<u>3/</u>	8	117	<u>3/</u>	25	11,500	1.0
79	<u>3/</u>	8 <sup>5</sup>	138 <sup>5</sup>	<u>3/</u>	25	11,800	1.2
80	<u>3/</u>	11	185	<u>3/</u>	26	12,000	1.5
81	345,000	12	195	1,770	26	12,500	1.6
82	540,000	21	286	1,890	26	13,000	2.2
83	390,000	16	226	1,730	26	13,200	1.7
84	530,000	17	257	2,060	27	13,100	2.0
85	600,000	18	304	1,970	27	13,800	2.2
86	471,000 <sup>6</sup>	12	244	2,100	28	14,000 <sup>4</sup>	1.6
87	522,000	10	187 <sup>4</sup>	2,790	29	15,000 <sup>4</sup>	1.2
88	565,000 <sup>7</sup>	13	256 <sup>4</sup>	(2,210) <sup>4</sup>	(30) <sup>4</sup>	(15,400) <sup>4</sup>	(1.7) <sup>4</sup>

NOTES:

- 1/ Information sources: AEC/NRC Annual Reports, 1975-1985 and SLITP Budget Data
- 2/ A/S=Agreement State
- 3/ No data available
- 4/ Estimated
- 5/ One course was cancelled due to TMI
- 6/ Represents a 22% reduction
- 7/ Contract costs represent 53%; remainder is travel cost



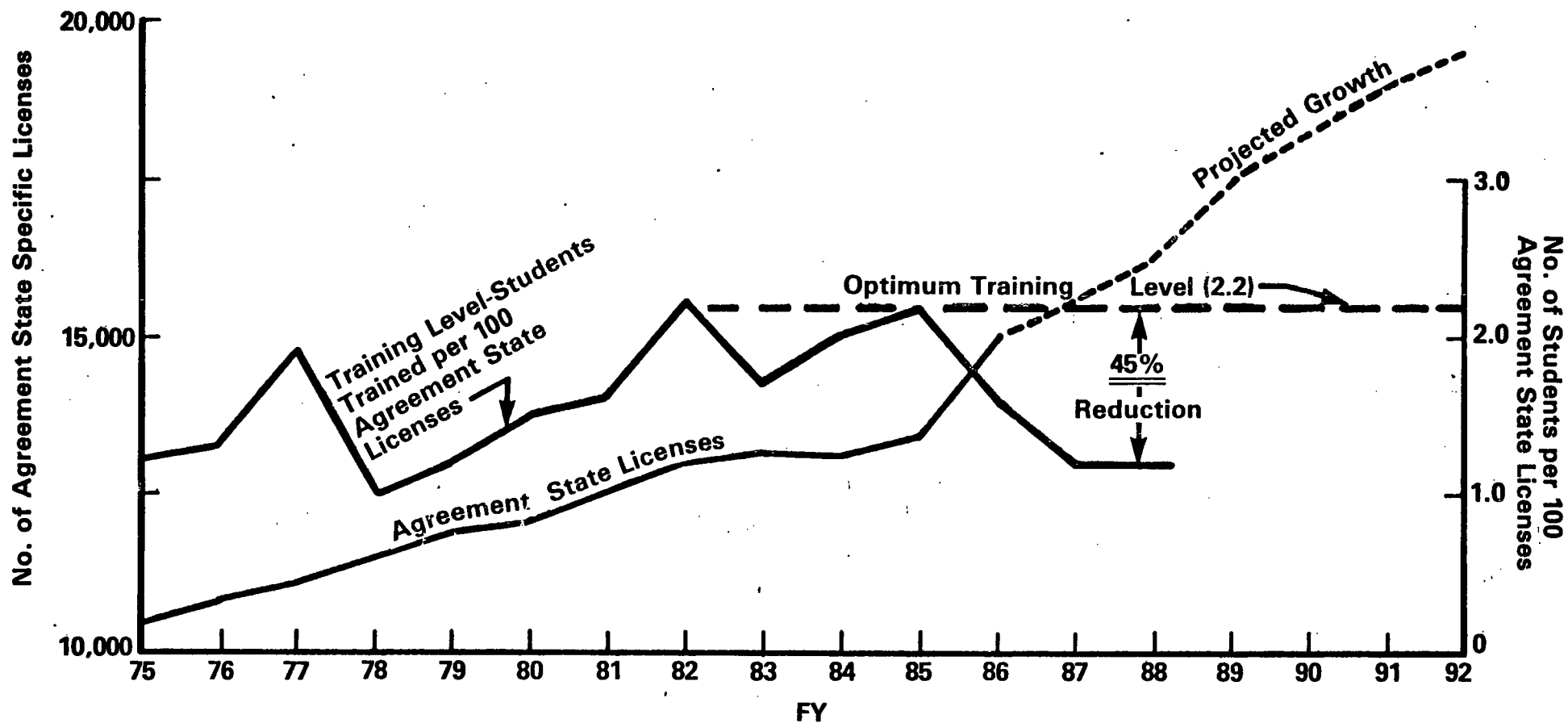


Figure 2 Agreement State License Growth & NRC Training Program

licenses and NRC's direct regional materials effort (licensing, inspection, and supervision) totals 104 FTE or 1.3 FTEs per 100 licenses. Additional Headquarters effort is also utilized, but it is difficult to quantify because some of it is indirect (e.g., OGC, AEOD, RES.)\* It is, nonetheless, apparent from these data that the Agreement State program is, from NRC's perspective, an efficient one. The FTE-per-100-licenses ratio for Agreement State program oversight versus that for direct NRC regulation is about 1:10. Put another way, if the Agreement State program did not exist, NRC would have to expend approximately 150 FTEs to license and inspect the licenses in the Agreement States  $[(1.0/100) \times 15,000]$ , compared to the 14.3 FTEs presently needed to oversee the program, a net savings of 135 FTEs.

Looking ahead for the next 5 years, we expect the present Agreement State license population will continue to grow at a pace equivalent to that of the last 10 years, and we project that Maine, Massachusetts and a third State (perhaps another New England State such as Vermont or Connecticut) will become Agreement States. By FY 1992, there could be about 19,000 Agreement State licenses. Using 2.2 students per 100 licenses as a desirable level of training, we should plan to provide training to 420 students in FY 1992. Making no allowances for inflation, this indicates a training budget of \$1,040,000 in FY 1992.

#### E. Travel

##### 1. Travel for States

SLITP has funded invitational travel for State officials as part of the program of assisting States and addressing issues of mutual concern.

Examples of meetings and workshops where SLITP has funded travel for States over the past several years are shown in Table 3.

Funds are also provided for State personnel to attend NRC meetings whenever individual input is needed on new rulemaking issues or policy development. In addition, we have begun to have State personnel participate with SLITP reviewers in our review of Agreement State programs. This travel is funded by SLITP. State participation in our workshops and seminars enhances our ability to communicate issues and receive feedback, thereby enabling us to maintain a proactive posture.

##### 2. Travel for NRC Staff

An annual staff travel budget of \$60,000 has been adequate to meet our needs over the past several years. Our outreach program goals include personal visits with Governors and State legislators, among others, to

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\*The Regional FTE includes effort directed at U.S. Government licensees and certain fuel cycle licensees that are not transferable to States under Section 274b Agreements. This segment of the Regional FTE should not be included in comparison with the Agreement State effort but is not easily quantified. This segment could probably be considered roughly offset by the headquarters FTE. However, to be conservative, an effort of 1.0 FTE per 100 licenses was deemed a reasonable approximation of the NRC materials program effort.

Table 3  
SLITP-FUNDED TRAVEL

Activity	Year	Events per Year	People Funded*	Constituencies Attending	Approx Total Cost to SLITP
Emergency Preparedness Workshops, Dose Assessment Seminars	83-87	1-2	25-30 (each)	State, local utilities, Federal agencies	\$30K
Decommissioning Workshops	80	3	60-70 (each)	States	\$100K
Seminars on LLW Alternative Disposal Concepts to Shallow Land Burial	84	1	30	States, public info groups, locals, Federal agencies	\$20K
NRC/DOT Spent Nuclear Fuel Transportation Seminar	86	1	70	States, Indian Tribes	\$35K
NRC/NCSL Seminar on Nuclear Issues	86	1	25	States	\$18K
Meeting on LLRWPA	86	1	25	States, Federal agencies private industry	\$20K
Regional State Liaison Officers Meetings	80-87	2	20 (each)	States	\$80K
National State Liaison Officers Meetings	1980, 1983, 1987	1	50	States	\$90K

\*In most cases, SLITP sponsors only State attendees. This number represents only those individuals whose travel was paid for by NRC, not the number of total people in attendance.

ensure and enhance good working relationships. These interactions help to accomplish our mission of exchanging information with State and local governments and Indian Tribes.

## F. Communications

### 1. External Communications

To develop outreach programs with our constituencies and receive information from them, intensive networking must be established and maintained. Some network methods are:

- One-on-one networking. RSLs often attend and/or participate in local meetings when local issues under NRC purview are involved. Additionally, RSLs may address legislative groups, testify before State committees, or meet privately with State or local officials to address concerns or answer questions. RSLs and Headquarters staff are being encouraged to initiate relationships with constituent groups by creating opportunities to meet with appropriate officials whenever possible.
- LLW Compacts. RSLs and the Headquarters staff attend LLW Compact meetings. They provide the status of compact efforts to NRC offices and all interested States as needed. In addition, they give compact participants an NRC perspective and supply information about the Agency's role in the LLW process. All documents regarding NRC's responsibilities under the LLRWPA are sent to State representatives.
- CRCPD. Headquarters and Regional staff continue to represent NRC in CRCPD through meetings and correspondence to help ensure that State and Commission programs for protection against radiation hazards are coordinated and compatible.
- Document promulgation. On an ongoing basis, SLITP sends our constituencies such documents as proposed rulemaking or policy announcements, NUREGs or other publications, compact status updates, and NRC branch technical positions.
- SLOs. Regional meetings are held with SLOs twice a year, with a national meeting once every 3 to 4 years. (This year, the national meeting was held on September 9-10, 1987 in Bethesda, Maryland.) Regular contact is maintained with the SLOs in person, by mail, and by telephone.
- Other contacts. Our other primary contacts include Governors and their staffs, Public Utility Commissioners, emergency management officials, Department of Health officials, and radiation control program directors.
- Issue workshops. We sponsor issue workshops which are intended to clarify NRC policies and procedures and to receive information on issues of State interest.
- Agreement State reviews. We meet with the State Health Officer at the end of each Agreement State review, follow with a letter, and later send the State a copy of the full report of the review.

- Contact lists. We maintain a list of "No Significant Hazards" contacts in the States, as well as the list of "Governors' Designees Receiving Advance Notification of Nuclear Waste Shipments." These lists are updated at various times during the year; the first is provided to NRR and the latter is published in the Federal Register.
- State organizations. We spend a great deal of effort communicating with and participating in meetings of State organizations. In 1986, with the National Conference of State Legislatures, we coordinated a seminar for legislators. NCSL also recently arranged for an audio-conference for approximately eight States and NRC on LLW issues. We attend the annual meetings of such organizations as NCSL, National Governors' Association, the National Congress of American Indians and the National Association of Regulatory Utility Commissioners.
- Preliminary Notifications. After being written by the Regions, PNs go through a standard internal distribution process. Copies also go to the NRC Public Document Room, where they may be read by the public. States may also receive copies of PNs from the Regions, in individually agreed-upon cases.
- Publications. We publish a number of technical papers and other documents. They reach a wide audience in the States. Some examples are listed in Appendix D.

In conclusion, our external communications represent a major, ongoing effort.

## 2. Internal Communications

Awareness of State and Local government and Indian Tribe interests and functions in nuclear matters is the proactive element of the Strategic Plan to enhance Commission relationships with these government entities. Internal communication of these interests and functions must ensure that the Commission and cognizant NRC management and staff are kept fully informed in a timely manner. Specific ways that we intend to accomplish this include the following:

Periodic issue papers prepared for the Commission

Monthly Report to the Commission and EDO Staff

Briefings of Commissioners' assistants

Periodic meetings with the NRC staff to exchange information and solve problems including:

- NMSS Division of Low-Level Waste Management and Decommissioning management and staff
- NMSS Division of High-Level Waste Management
- Division of Fuel Cycle, Medical, Academic and Commercial Use Safety
- Office of the Analysis and Evaluation of Operational Data

- Interoffice working group chaired by NMSS

Counterpart meetings with Regional staff including:

- Periodic conference calls with regional staffs
- Periodic appraisals of Regional SLITP functions

Distribution to the Commission of copies of letters to Agreement States following program reviews

Distribution of reports of Agreement State program reviews to the NMSS staff

Routine distribution of summaries of incidents in Agreement States to AEOD for the Abnormal Occurrence Reports

Monthly trip and meeting reports by the Regional State Liaison Officers of State, Local and Indian Tribe activities in their regions

Issuances of Preliminary Notices of Occurrences of events in Agreement States

Issuances of periodic status reports of each State in providing disposal of LLW under the LLW Policy Amendments Act

Communication to NRR of State licensing activities for LLW disposal by utilities

Briefings of NRC staff on the Agreement State program

Participation and consultation with the Office of Research on rulemakings and petitions

Review of State legislation dealing with radiological issues

Meetings and consultation with NRC Headquarters and Regional staffs also take place in response to specific needs either informally or through the establishment of a task force or working groups, as appropriate. NMSS and SLITP have established an improved level of communication which enables SLITP to be informed of actions that may impact States. The channels of communication must be open so that information is exchanged promptly and completely, in both directions.

#### G. Interaction with Other Federal Agencies

Assisting the States, local governments, and Indian Tribes in carrying out their responsibilities in the nuclear program (see Section II.C) requires the cooperative effort of several Federal agencies. Table 4 lists the individual issues and the Federal agencies involved in each.

Table 4

	AGENCIES							
	DOE	DOT	FEMA	DOI BIA	HHS FDA CDRH	EPA	DOL OSHA	USDA
<hr/>								
Issues								
Agreement State	X	X	X	X	X	X	X	
LLW	X	X				X	X	
HLW	X	X	X	X		X		
Transportation	X	X	X	X				
Emergency Preparedness	X	X	X		X	X		X

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DOE - Department of Energy  
 DOT - Department of Transportation  
 FEMA - Federal Emergency Management Agency  
 DOI - Department of the Interior  
 BIA - Bureau of Indian Affairs  
 HHS - Department of Health and Human Services  
 FDA - Food and Drug Administration  
 CDRH - Center for Devices and Radiological Health  
 EPA - Environmental Protection Agency  
 DOL - Department of Labor  
 OSHA - Occupational Safety and Health Administration  
 USDA - Department of Agriculture

### III. SUMMARY

SLITP is launching a more active program in working with State and local governments and Indian Tribes on matters of mutual interest.

Much of what we are planning to accomplish builds on the excellent reputation and professionalism of the former Office of State Programs at Headquarters and the Regions. Original projections of a modest staffing increase, which is now included in our staffing plan, will provide the talents necessary to more effectively accomplish our mission.

New State initiatives could have significant impact on States' programs and their relationship with NRC. We must ensure that these initiatives have a positive benefit for the public health and safety, by minimizing confrontation and negativism and by offering alternatives that would benefit the States, NRC and the public alike. This particular effort will require much personal interaction.

Development of a Commission-approved policy on cooperation with the States is critical. It is critical not only to accomplish our mission and the strategic planning goals, but also in providing a visible indication of the Commission's policy both internally and externally on interacting with State and local governments and Indian Tribes. We also must keep the Commission fully informed of events, actions, issues, and initiatives by States, local governments and Indian Tribes that relate to NRC programs.

Our program also will include such items as timely information exchange and improved liaison with States and constituent groups. Our goal is to improve the quality and substance of these interactions and develop a mutual degree of confidence and trust. A highly motivated, well-qualified professional staff in Headquarters and the Regions can make it happen. The FTE level in the most recent staffing plan will provide the basic core of quality personnel we need.

### IV. CONCLUSIONS AND INITIATIVES

#### o Conclusion

There are currently 29 Agreement States. This program is an excellent example of successful Federal-State partnership where there are technical, administrative and resource benefits.

#### Initiative

Encourage additional States to become Agreement States through the outreach effort.

#### o Conclusion

Training of State personnel fulfills basic needs for maintaining competent radiation control programs as authorized by Section 274 of the Atomic Energy Act of 1954, as amended.

#### Initiative

Training program should be continued and increased to meet National needs.



o Conclusion

Various elements of the NRC regulatory program impact States. States have an interest in being involved in the development of NRC policies, regulations and technical positions.

Initiative

SLITP, in consultation with other NRC offices, will identify appropriate NRC initiatives where States could participate and make arrangements for State involvement. For Agreement States this may include a collaborative approach to developing regulations and regulatory guides pertaining to materials the States regulate pursuant to a Section 274b agreement.

o Conclusion

The Agreement State program would benefit by having State personnel participate in NRC review of Agreement State radiation control programs. This initiative was discussed at the all Agreement State meeting and the Agreement States endorsed the concept. A trial program was initiated during the review of the Nebraska program where the Arkansas Program Director participated.

Initiatives

Continue a trial program of having Agreement State personnel participate in a few Agreement State program reviews.

Develop a policy and implement guidance on State accompaniments.

o Conclusion

NRC has viable constituencies in the Conference of Radiation Control Program Directors and the Governor-appointed State Liaison Officers.

Initiative

Encourage greater participation as part of the new proactive and outreach program.

o Conclusion

There are a number of national organizations representing State and local governments and Indian Tribes that have an interest in nuclear safety issues. The positions taken by these national organizations on nuclear safety matters influence Federal, State and local governments and Indian Tribes' policies and programs.

Initiative

Enhance communication with national organizations of State and local governments and Indian Tribes to promote increased awareness and understanding of activities and initiatives relative to nuclear safety.

## APPENDIX A

### CONFERENCE OF RADIATION CONTROL PROGRAM DIRECTORS

The need for protecting individuals from radiation exposure can be traced back to the turn of the century, soon after the discovery of the x-ray and radioactivity. Radiation protection activities from the beginning of the century until World War II were mostly performed through voluntary actions of the radiation user. After the war, in the late 1940s, some State and local governments developed regulations to control certain radiation sources.

Before the enactment of Atomic Energy Act of 1954, nuclear energy activities in the United States were largely confined to the Federal government. The Act made it possible for private commercial firms to enter the field for the first time. Because of the hazards associated with nuclear materials, Congress determined that these activities should be regulated under a Federal licensing system to protect the health and safety of workers in the nuclear industry and the public. NRC is the Federal agency now charged with this responsibility.

Although protection of the public's health and safety has traditionally been a State responsibility, the Atomic Energy Act of 1954 did not specify such a role for the States in nuclear matters. This policy was changed in 1959 when Congress enacted Section 274 of the Act. Section 274 defines a State role and provides a statutory basis under which the Federal government can relinquish to the States portions of its regulatory authority. The 1959 amendment made it possible for the States to license and regulate byproduct material, source material, and small quantities of special nuclear material. States desiring authority to regulate were required to demonstrate that they had an adequate program, including comprehensive regulations, to protect the public health and safety.

Several States exercised this authority granted by Congress, and became "Agreement States," indicating that they had entered into an agreement with the NRC (or its predecessor agency, the Atomic Energy Commission, AEC).

By the early 1960s, many States had comprehensive radiation control programs. These programs included regulatory activities relating to diagnostic and therapeutic x-ray, radioactive materials, and other related activities.

As a result of the many and varied activities in radiation protection at the Federal, State and local levels of government, it was soon recognized that there was a need for a common forum where all these entities could address their concerns, developments, and recommendations. Thus, in 1968, the Conference of Radiation Control Program Directors, Inc. (CRCPD) was formed, with the major purpose to serve as this common forum.

As stated in the Constitution of the Conference, the objectives and purposes of the organization are to:

1. promote radiological health in all aspects and phases
2. encourage and promote cooperative enforcement programs with Federal agencies and between related enforcement agencies within each State

3. encourage the interchange of experience among radiation control programs
4. collect and make accessible to the membership of the Conference such information and data as might be of assistance to them in the proper fulfillment of their duties
5. promote and foster uniformity of radiation control laws and regulations
6. encourage and support programs which will contribute to radiation control for all
7. assist the membership in their technical work and development
8. exercise leadership with radiation control professionals and consumers in radiation control development and action

The Conference is managed by an Executive Board. This seven-member Board is composed of State or local program directors from different States. Also, on the Board, although not as voting members, are individuals from Federal agencies that have primary radiation protection functions. These individuals serve as liaisons between the Conference and their respective agencies. The administrative activities of the Conference are conducted by the Executive Secretary.

There are five classes of membership within the Conference. They are:

- o Members
- o Associate Members
- o Emeritus Members
- o Foreign Members
- o Special Members

Members are those specific program directors who have primary responsibilities for the control of radiation within each of the 50 States and certain metropolitan areas.

Associate Members are staff persons employed in the radiation control programs of the States or metropolitan areas.

Emeritus Members are former members of the Conference.

Foreign Members are persons employed in a radiation control program outside the United States or a U.S. Territory.

Special Members are persons employed in a radiation control program within a U.S. Territory or under the authority of a U.S. Indian Tribe.

The major work of the Conference is accomplished through various committees and task forces. The Conference at any given time may have 40 or more groups working on specific projects. As one example, the Conference has several groups working on suggested State regulations for radiation control. These "Suggested State Regulations" are recommended by the Conference for adoption to

the various States. Adoption of these "Suggested State Regulations" promotes uniformity in radiation control among the States.

It is through support of these CRCPD committees and task forces-- especially, but not only, those developing Suggested State Regulations--that NRC fulfills the authorization and direction contained in Section 274g of the Atomic Energy Act:

The Commission is authorized and directed to cooperate with the States in the formulation of standards for protection against hazards of radiation to assure that State and Commission programs for protection against hazards of radiation will be coordinated and compatible.

Additional working committees and task forces address a variety of topics relating to radiation protection. These topics include x-ray issues such as survey data collection and analysis, activities to promote the safe and effective use of medical and dental x-ray, issuing credentials for allied health operators, and quality assurance in diagnostic x-ray.

In the nuclear area, the topics include the development of a guide for sources not under the Atomic Energy Act, such as radium, radioactive waste, emergency response planning, and recommendations on the control of radioactive material including that not covered by the Atomic Energy Act.

Other working groups address the proper measurement of both ionizing and non-ionizing radiation, and specifically the measurement of radon, and the proper measurement of exposure from personnel dosimetry devices.

There are also special groups working on proper criteria for adequate State and local programs, training and communications, ionizing radiation and radiation therapy.

The CRCPD is supported primarily, but not exclusively, by a cooperative Agreement administered by FDA but funded (for FY 1987) by FDA (\$120,000), EPA (\$140,000), and NRC (\$110,000). Over half of these funds pay for expenses associated with travel and other support of committees and task forces and for the annual meeting and regional training conferences for State Radiation Control personnel. NRC and other Federal agencies get the benefit of the product without paying for State salaries--only travel.

A major activity of the Conference is its annual meeting. Major current radiation protection issues are addressed by the participants, who include the staff from each state and local radiation protection program, individuals from Federal agencies responsible for radiation protection, representatives from various professional associations and from industry, and individuals from the general public.

The 19th Annual CRCPD Meeting brought Harold Denton, Director, NRC Office of Governmental and Public Affairs; all five NRC Regional State Liaison Officers; all six Regional State Agreement Representatives; and a number of senior staff members from State, Local and Indian Tribe Programs (SLITP) to Boise, Idaho on May 18 through 21, 1987.

Mr. Denton addressed the 250 conference attendees on two occasions, first concerning NRC's reorganization and 1986-87 activities, and then concerning his trip to Chernobyl. He distributed copies of the March draft of NRC's Strategic Plan and invited State and conference comment.

Major topics of this 19th annual meeting were:

- o Chernobyl nuclear generating station accident including global health and environmental impacts (discussed by Dr. Marvin Goldman) and lessons learned from State response to the overwhelming number of inquiries
- o Perception of Risk - Discussed by Paul Slovic, noted researcher on perceived risks of nuclear power, radioactive waste, and other activities.
- o Radon in homes
- o Radiation-producing machines
- o State Assumption of Radionuclide Emission Regulation under Clean Air Act
- o Radionuclide Provisions of Safe Drinking Water Act
- o Low-Level Radioactive Waste including Mixed Waste
- o Naturally occurring and Accelerator produced Radioactive Material (NARM)

EPA, FDA and NRC used the occasion of the annual meeting to hold "counterpart" meetings of their respective regional representatives.



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

October 27, 1987

The Honorable Cecil D. Andrus  
Governor of Idaho  
State Capitol  
Boise, Idaho 83720

Dear Governor Andrus:

The Commission very much appreciates the work of the National Governors' Association, its Task Force on Nuclear Safety, and the Committee on Energy and the Environment in addressing important nuclear safety policy questions. We believe that the five recommendations of the Task Force, as adopted by the National Governors' Association at its 79th annual meeting on July 26-28, 1987, reflect a thoughtful and reasonable approach to the issues. Detailed comments on each recommendation are enclosed.

We look forward to continued, constructive exchanges of views with the National Governors' Conference and with individual state governments on issues of importance to nuclear safety.

Sincerely,

*Lando W. Zech, Jr.*  
Lando W. Zech, Jr.

Enclosure:  
As Stated

ENCLOSURE

Recommendation 1: The Governors recognize the NRC as the single responsible agency for approving the design of nuclear power plants and issuing necessary construction and operating licenses.

We are pleased that the Association recognizes the Nuclear Regulatory Commission as the single focal point for safety regulation of the construction and operation of nuclear power plants. We believe that a single system of uniform national requirements is essential for the safe construction and operation of nuclear power plants.

Recommendation 2: The NRC should have the responsibility of providing information on nuclear power plant systems and operations upon request of the Governor by responding in writing within 30 days of such request.

The Commission strongly favors a close and cooperative working relationship with state governments. We will make every effort to respond as fully as possible to all requests from Governors for information on nuclear power plant safety issues within 30 days.

Recommendation 3: In the future, emergency plans should be approved by the NRC before it issues the construction permit for any new nuclear power plant.

The Commission's regulations do not now require that emergency plans be completely prepared and reviewed by the Commission before issuance of a construction permit. Instead, each applicant for a construction permit is required to include in the Preliminary Safety Analysis Report sufficient information to ensure the compatibility of proposed onsite and offsite emergency plans with facility design features, site layout, and site location with respect to such considerations as access routes, surrounding population distributions, land use, and local jurisdictional boundaries, as well as the means by which the NRC standards will be met. Although we do not now have any plans to initiate rulemaking on the subject of your recommendation, we have been giving preliminary consideration to various licensing reform concepts for future applications, including the concept of approving a final plant design prior to issuance of a construction permit. Approval of some

-2-

preliminary emergency plans prior to construction might be compatible with this licensing reform concept. We will be pleased to offer your recommendation for public comment in any future licensing reform rulemaking that we may initiate.

Recommendation 4: In consultation with the States, NRC should develop objective criteria for the review and approval of offsite emergency response plans.

In developing the current regulations and criteria for review and approval of offsite emergency response plans, FEMA, as the lead Federal Agency in offsite emergency planning, and NRC had extensive consultation with states in regional workshops and written communications. These interactions significantly influenced the development of the emergency planning standards and guidelines. We will continue to consult with FEMA on how our regulations and guides might be improved along the lines of your recommendations. States will be offered an opportunity to comment on any modification made in this regard.

Recommendation 5: NRC should establish a mechanism to provide for timely response (within 60 days or less) to a Governor's recommendation for changes in standards relative to the safe operation of nuclear power plants within his or her State.

Consistent with our comment on Recommendation 1 that the Nuclear Regulatory Commission is the single focal point for safety regulation of the construction and operation of nuclear power plants, we would welcome a Governor's recommendation for changes in standards relative to the safe operation of nuclear reactors. The NRC would work to achieve a timely response to the Governor.



APPENDIX C

MEMORANDA OF UNDERSTANDING

Type MOU

State	Umbrella	Specific/Limited MOU or Subagreement
Illinois	Umbrella 49 FR 20586 5/15/84	LLW Inspection 49 FR 27861 7/6/84
Indiana	Umbrella 43 FR 61053 12/29/78	Water Quality 43 FR 61053 12/29/78
Louisiana		Inspections in Outer Continental Shelf 32 FR 6807 5/3/67
Maryland		Joint Hearings 4/76
Nebraska		Water Quality 44 FR 49529 8/23/79 In Situ Mining 47 FR 55444 12/9/82
New York	Umbrella 43 FR 19485 5/5/78	Environmental Cooperation April 1979 Joint Hearings 41 FR 24008 6/14/76
Oregon	Umbrella 45 FR 8393 2/2/80	Proprietary Information 45 FR 8393 2/2/80 Resident Inspectors 45 FR 8393 2/2/80
Pennsylvania	Umbrella 51 FR 43487 12/2/86	LLW Inspection 8/87 52 FR 43695 11/13/87
South Carolina		Water Quality 43 FR 19485 5/5/78 Transportation Regulation at Waste Site 47 FR 23836 6/1/82
Virginia		Water Quality 43 FR 19485 5/5/78
Washington	Umbrella 43 FR 43774 9/27/78	Transportation Regulation at Waste Site 47 FR 17893 4/26/82 Public Information 48 FR 38358 8/23/83 Exchange of Information 50 FR 14782 4/15/85

## APPENDIX D

### EXAMPLES OF PAPERS AND PUBLICATIONS

"Beyond Defense-in-Depth: Cost and Funding of State and Local Government Radiological Emergency Response Plans and Preparedness in Support of Commercial Nuclear Power Stations," U.S. Nuclear Regulatory Commission, NUREG-0553 (October 1979).

"Compact Versus Regulatory Responsibility of States in Low-Level Waste Management," presented at Spectrum '86, sponsored by the American Nuclear Society, Niagara Falls, NY, September 14, 1986.

"Dynamic Evacuation Analyses: Independent Assessments of Evacuation Times from the Plume Exposure Pathway Emergency Planning Zones of Twelve Nuclear Power Stations," Radiological Emergency Preparedness Division, Population Preparedness Office, Federal Emergency Management Agency, FEMA-REP-3 (February 1981) (Office of State Programs staff on Presidential detail).

"Final Task Force Report on the Agreement States Program," U.S. Nuclear Regulatory Commission, NUREG-0388 (1977).

"Hazardous Scrap-Beware," U.S. Nuclear Regulatory Commission, NUREG/BR-0108 (August, 1986).

"Impacts of NRC Programs on State and Local Governments," U.S. Nuclear Regulatory Commission, NUREG-1041 (Co-editor) (1983).

"Implementation of 10 CFR 61: A Status Report on Agreement State Activities," presented at the 6th Symposium on Uranium Mill Tailings, Low-Level Waste and Hazardous Waste, Fort Collins, CO, February 1, 1984.

"Improving Regulatory Effectiveness in Federal/State Siting Actions," U.S. Nuclear Regulatory Commission, NUREG-0195 (May 1977).

"Incidents Involving NORM Contaminated Materials," presented at the 19th Annual Meeting of the Conference of Radiation Control Program Directors, Boise, ID, May 21, 1987.

"Meeting with States on the Low-Level Radioactive Waste Policy Amendments Act (LLRWPA) of 1985," U.S. Nuclear Regulatory Commission, NUREG/CP-0085 (February 1987).

"NRC Responses to the NGA Study of the Agreement State Program," in Proceedings of the 15th Annual Conference on Radiation Control, May 16-19, 1983.

Proceedings of the State Workshop on Shallow Land Burial and Alternative Disposal Concepts, held at Bethesda, Maryland, May 2-3, 1984, U.S. Nuclear Regulatory Commission, NUREG/CP-0055 (October 1984).

"Radioactive Contamination of Manufactured Products," in Health Physics, 51:409-425 (October, 1986).

"Radioactive Contamination of Manufactured Products," presented at the 31st Annual Health Physics Society Meeting, July 2, 1986.

"Regulation of Naturally Occurring and Accelerator-Produced Radioactive Materials," U.S. Nuclear Regulatory Commission, NUREG-0301 (1977).

"Regulation of Naturally Occurring and Accelerator-Produced Radioactive Materials - An Update," U.S. Nuclear Regulatory Commission, NUREG-0976 (1984).

"State Determinations of the Need for Power," in Public Utilities Fortnightly, August 3, 1978.

"State Surveillance of Radioactive Material Transportation, Final Report," U.S. Nuclear Regulatory Commission, NUREG-1015 (February 1984).

"State Surveillance of Radioactive Material Transportation," presented at the 16th Annual National Conference of Radiation Control, Radiation Decision Making, Des Moines, Iowa, May 21-24, 1984, in Conf. Publication 384-3, pp. 549-559, (December 1984).

"The Role of the State in the Regulation of Low-Level Radioactive Waste," U.S. Nuclear Regulatory Commission, NUREG-0962 (March 1983).

"Workshop on Large Irradiator Radiation Safety," U.S. Nuclear Regulatory Commission, NUREG/CP-0073 (1985).