

UNITED STATES OF AMERICA NUCLEAR REGULATORY COMMISSION

Title: BRIEFING ON STATUS OF AGREEMENTS WITH OSHA, EPA, AND FEMA
CONCERNING JURISDICTION OVER NON-RADIOLOGICAL HAZARDS

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1625 I Street, N.W., Suite 921

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(202) 293-3950

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2 NUCLEAR REGULATORY COMMISSION

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4 BRIEFING ON STATUS OF AGREEMENTS WITH OSHA, EPA, AND FEMA
5 CONCERNING JURISDICTION OVER NON-RADIOLOGICAL HAZARDS

6 ***

7 PUBLIC MEETING

8 ***

9 Nuclear Regulatory Commission
10 One White Flint North
11 Rockville, Maryland

12
13 TUESDAY, AUGUST 9, 1988
14

15 The Commission met in open session, pursuant to
16 notice, at 10:00 a.m., the Honorable LANDO W. ZECH, Chairman of
17 the Commission, presiding.

18 COMMISSIONERS PRESENT:

19 LANDO W. ZECH, Chairman of the Commission
20 THOMAS M. ROBERTS, Member of the Commission
21 KENNETH CARR, Member of the Commission
22 KENNETH ROGERS, Member of the Commission
23
24
25

1 STAFF AND PRESENTERS SEATED AT THE COMMISSION TABLE:

2

3 S. Chilk

4 V. Stello

5 G. Sjoblom

6 J. Partlow

7 W. Parler

8 B. Bernero

9 B. Weiss

10

11 AUDIENCE SPEAKERS:

12

13 F. Chalmers

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1 CHAIRMAN ZECH: Good morning, ladies and gentlemen.
2 The purpose of today's meeting is for the NRC staff to brief
3 the Commission on the Nuclear Regulatory Commission's interface
4 with the Occupational Health and Safety Administration, OSHA,
5 the Environmental Protection Agency, EPA, and the Federal
6 Emergency Management Agency, FEMA, concerning jurisdiction over
7 non-radiological hazards.

8 The need for improved coordination with other
9 agencies in the regulation of chemical and other non-
10 radiological hazards at NRC licensed facilities was one of the
11 recommendations of the materials safety regulations review
12 study group. The study group was established to independently
13 review the activities related to safety within the licensing
14 and inspection program for fuel cycle in material facilities.

15 In its recommendation for improved coordination with
16 other agencies, the study group noted the existence of a
17 regulatory implementation gap between the responsibilities of
18 the NRC and those of other Federal and state agencies. The
19 Commission currently has before it a proposed memorandum of
20 understanding between the NRC and OSHA for review and approval.

21 This memorandum effectively implements the Commission
22 approved recommendation of the study group to improve NRC's
23 interface with other agencies which have regulatory
24 responsibilities at NRC licensed facilities regarding non-
25 radiological hazards.

1 I understand that copies of the slides are available
2 at the entrance to the meeting room. Do any of my fellow
3 Commissioners have any opening comments to make before we
4 begin?

5 [No response.]

6 CHAIRMAN ZECH: If not, Mr. Stello, you may proceed.

7 MR. STELLO: Thank you, Mr. Chairman. I'll turn in a
8 moment to Glen Sjoblom and Bernie Weiss who will do the
9 briefing this morning. I thought it would important though to
10 set the stage again. The issue I think that drove the
11 Commission to become interested in this was basically incidents
12 that occurred at the Sequoyah Fuels and the Surrey plant, and
13 the issue of Sequoyah Fuels was the potential for, and in fact
14 what turned out to be, the more significant hazard being a
15 chemical hazard rather than a radioactive hazard and, of
16 course, caused the Surrey incident. And industrial type of
17 hazard which caused deaths.

18 This raised the question of regulatory gap. I think
19 we are fairly clear in those areas for which we can in fact
20 regulate in any of the industry, in any of the chemical issues
21 related to the handling of radioactive materials. Of course,
22 in any of these facilities you will find a strictly chemical
23 portion of the plant that raises the question and we'll be
24 explaining in the briefing those portions which it is clear
25 where we have responsibility and can do or what we need to do

1 to fulfill our mandate and to identify those areas for which
2 there are questions.

3 I think the thought I would like to leave with the
4 Commission though is that we have made substantial progress in
5 working with other sister agencies of the Federal government in
6 doing a better job and cooperating with each other and helping
7 each other to do their respective jobs better. And I think we
8 will identify those areas where we have done that this morning.

9 And with that introduction, Glen, let me turn to you
10 and get the briefing started.

11 MR. SJOBLUM: If I could have the first slide.

12 [Slide.]

13 MR. SJOBLUM: As a background, some of the points
14 that Mr. Stello already mentioned, in January of 1986, the
15 accident at the Sequoyah Fuels facility, where one worker was
16 severely exposed to hydrofluoric acid that resulted from the
17 release into the atmosphere of uranium hexafluoride when a
18 cylinder ruptured, brought this issue to our forefront.

19 Similarly, there was the December '86 accident at
20 Surrey in which workers exposed to steam when a feedpipe
21 ruptured, brought it into focus for the entire agency.
22 Reactors as well as fuel and materials facilities.

23 Last August, there was a detailed briefing on the
24 results of a committee, a group of experts, to make
25 recommendations on how to improve the overall materials safety

1 program, and you heard indeed last week the status of
2 implementation of many of those.

3 One of the recommendations that they did, as the
4 Chairman pointed out, was to work on our interface with these
5 other agencies insofar as non-radiological matters are
6 concerned. And you'll recall we talked about the operational
7 safety team assessments insofar as trying to spread the lessons
8 learned from that accident. In those operational safety team
9 assessments, we involved not only experts from different
10 disciplines within NRC, but with experts from OSHA, from EPA,
11 and from the states as well in their particular areas of
12 expertise.

13 If I could have the next slide, then.

14 [Slide.]

15 MR. SJOBLOM: What I'd like to do in the briefing
16 with -- is to describe a little bit about the regulatory gap
17 issue, describe where we stand on our interface with the
18 Occupational Safety and Health Administration, and the
19 development of a formal document. Our interface with EPA on
20 similar matters, and then Bernie Weiss will describe our
21 relationship with FEMA in this regard and the National
22 Emergency Response.

23 If I could turn to the next slide then.

24 [Slide.]

25 MR. SJOBLOM: There basically are three types of

1 hazards associated with NRC licensed facilities that are under
2 our direct regulatory authority. And these are obviously the
3 radiation risks from the radioactive material. We also
4 regulate the chemical risks from radioactive materials. Let me
5 say that in the case of uranium, in fact, the airborne limits,
6 the concentration limits for airborne uranium are, in fact,
7 derived based on their chemical toxicity because that
8 overpowers the radioactive toxicity somewhat.

9 So that is a matter that we have been doing. In
10 other words, the chemical risks from the radioactive materials
11 themselves are part of our responsibility. And then we also
12 have to be concerned with non-radiological risks insofar as
13 they effect the radiation risk itself, like the corrosion of
14 piping that causes a release of a radioactive material and
15 those kinds of things. A fire which might do the same, or
16 disable a safety system.

17 The area which is under the jurisdiction of other
18 agencies are the non-radiological risks which don't effect
19 licensed material and the safety thereof. Such as chronic
20 chemical exposure to organic chemicals that might be used in
21 the process. The other agencies have the expertise in those
22 areas and have the authority in those areas.

23 And similarly, as Vic Stello pointed out, although
24 they might exist on the same sites with the radioactive
25 material facilities, chemical storage tanks would not be

1 regulated by NRC directly. And in these areas, other agencies,
2 including OSHA and EPA primarily, have the jurisdiction.

3 Now, what we have, therefore, is, insofar as NRC is
4 concerned, an implementation gap. We do not have a gap in
5 legislative authority and this had been confirmed last year.
6 We have what is really an implementation gap. So what we have
7 been trying then to do is fill that gap by coordination with
8 the other agencies. In those facilities where we believe these
9 other hazards are more significant, and that is the primary,
10 the larger facilities.

11 In the case of the reactors, of course, we know what
12 those are. In the case of the materials facilities, it comes
13 down to about 20 fairly large fuels and materials facilities.
14 We're talking about a dozen that manufacture nuclear fuel and
15 we're talking about another ten roughly that process
16 radioactive materials, primarily radio-pharmaceutical type
17 facilities, like Monsanto and Squibb and those type of
18 facilities.

19 So it's in those facilities then that we are trying
20 to improve our coordination. If I could have the next slide.

21 [Slide.]

22 MR. SJOBLUM: To do that, we began with a couple of
23 letters to OSHA and Response, inviting a joint participation in
24 drafting a memorandum of understanding. That was prepared. It
25 has been reviewed by the NRC regions and the staff. It has

1 been submitted to the Commission. And OSHA similarly has been
2 reviewing it.

3 I would like to point out that with us here today are
4 people from OSHA, from the Office of Policy, Mr. Frank
5 Chalmers, Mr. Mike Turner, and Renee Lettow, who have been
6 active in the development of this MOU.

7 CHAIRMAN ZECH: Thank you very much and we appreciate
8 the officials from OSHA being with us today. Perhaps at the
9 end of our staff presentation, Mr. Chalmers, you'd be good
10 enough to come to the microphone and we'll give you the
11 opportunity to make any comments you'd like to make. Thank
12 you. Proceed, please.

13 MR. SJOBLOM: If I could have the next slide.

14 [Slide.]

15 MR. SJOBLOM: This describes the contents of the
16 memorandum of understanding we have developed. First off, it
17 describes the division of responsibilities. The three I
18 mentioned under NRC. The one under OSHA, area. It provides
19 for some basic training of NRC people so that as they do
20 nuclear and radiological safety inspections, they can recognize
21 some of the more significant industrial safety problems and
22 will then be able to refer them to the licensee for his action.
23 And the memorandum also provides that if our licensee does not
24 go forward, then we are to we refer that matter to OSHA and
25 they will take it up as a matter under their normal process.

1 Any time a referral of a safety matter is made to
2 OSHA, they would take it up as a compliance matter, as they
3 normally would do. So we are looking for some basic training,
4 beginning next year. OSHA has coordinated with us. Our people
5 have been out to their training institute in Illinois, and
6 there are several courses. We're in the process of trying to
7 choose which ones are appropriate and they have agreed to make
8 some slots available to train our region based people.

9 In addition, in the reactor area, what we felt that
10 may be some basic indoctrination of the residents might be in
11 order, and that's being worked on as well to try to develop
12 some rather short term, but very pithy, very useful,
13 indoctrination of them so that as they walk around the sites,
14 they would be able to recognize some basic problems.

15 We do not intend to, at this point, develop any
16 industrial safety inspection modules as such, but we felt a
17 better approach would be, in concert with conserving our
18 resources, to simply give an indoctrination in a training
19 effort there to make our guys better able to recognize the
20 significant problems that might occur.

21 CHAIRMAN ZECH: Are you saying that if, for example,
22 at one of our licensed facilities some violation of an OSHA
23 regulation would come to our attention, that we would turn that
24 over to OSHA for --

25 MR. SJOBLUM: We would -- really it's kind of a two

1 step process. We would certainly turn it over to OSHA, but we
2 would also mention it to our licensee and to the licensee
3 management for their action and if it was obvious they were
4 going to fix it immediately, we would probably not refer it to
5 OSHA. But if it was a big issue, we would probably immediately
6 refer it to OSHA. If it was a moderate issue, we might refer
7 it to the licensee and see what he did with it first, and then
8 refer to it OSHA if we concluded they weren't doing anything
9 about it.

10 This will require some judgment, but generally, yes,
11 we would want to get OSHA involved anytime we recognized that
12 there might be a safety problem under their purview.

13 CHAIRMAN ZECH: All right. Thank you.

14 COMMISSIONER ROGERS: I wonder if, you don't have to
15 do it now, but it might be convenient now to just give us some
16 idea of numbers of people that will be in this training at
17 different levels, orientation?

18 MR. SJOBLUM: In the fuels and materials area, our
19 current judgment is next year that we would involve perhaps a
20 total of 45, up to that many. And then the orientation for the
21 residents would involve most of the residents.

22 MR. PARTLOW: For reactor inspectors, we envision
23 doing this indoctrination in association with the periodic
24 resident inspector meetings. Resident inspectors come together
25 some three or four times a year for about three days, and so we

1 would take part of that time, probably a day, over a year or
2 two to indoctrinate resident inspectors and some members of the
3 regional inspection staff.

4 COMMISSIONER ROGERS: So you expect to more or less
5 have that done then within a year, that everybody would be
6 exposed to that kind --

7 MR. PARTLOW: I would think so. We need to work with
8 OSHA to see if they can support providing people to do that
9 training, but we should be able to do it within a year.

10 MR. SJOBLUM: And then another significant aspect of
11 the memorandum provides for continued involvement in these
12 operational safety team assessments at the major fuels and
13 materials facilities by OSHA and by the OSHA state people. And
14 I might point out that since we did the assessments at the
15 major fuel facilities, we've continued that practice and this
16 summer there are seven ongoing operational safety team
17 assessments, and in almost all of these there is some
18 involvement by both OSHA and EPA as well. So we have been able
19 to continue that practice.

20 CHAIRMAN ZECH: It's important, in my view, that as
21 you pointed out, that this procedure of notifying OSHA,
22 notifying the licensee, be clearly understood by our own
23 residents and own inspectors that might go to these sites. I
24 think it's very important that we recognize that if they get a
25 non-radiological concern, that OSHA be informed. In other

1 words, it's a matter of our implementing that policy and
2 emphasizing the importance of informing OSHA as well as the
3 licensee. I think that's important that we follow through on
4 that.

5 MR. SJOBLUM: Along that line, it is our intent, as
6 we pointed out in the --

7 CHAIRMAN ZECH: Excuse me. Because we're talking
8 about closing the gap and this is the way to close the gap, but
9 it's important that our people understand what we're trying to
10 do.

11 MR. SJOBLUM: We do intend to revise Manual Chapter
12 1007 in this regard to incorporate the memorandum and amplify
13 that kind of -- those kinds of policies.

14 CHAIRMAN ZECH: Good. Very good.

15 MR. SJOBLUM: And we probably would put out some sort
16 of an information notice to our licensees as well, to make them
17 aware that we're doing this.

18 CHAIRMAN ZECH: I think that would be excellent also.

19 COMMISSIONER ROGERS: I'm just a little bit
20 uncomfortable about the discretionary aspect of this with
21 respect to notification of OSHA, whether that's going to pose a
22 problem, a decision making problem with somebody who doesn't
23 know whether they ought to proceed or just mention it to the
24 licensee. It seems to me that that should be quite clear and
25 not pose an additional burden on the residents in trying to

1 make that decision or not as to whether it's a big enough or
2 serious enough or not to notify OSHA. It would seem to me that
3 we ought to have a simple and straightforward procedure as
4 possible there for our people so that they don't get caught in
5 a gap that they made a decision not to notify somebody and then
6 it turned out that the licensee didn't act on it and it was
7 important.

8 MR. SJOBLUM: And we can perhaps cover that in this
9 indoctrination as well so that everybody does understand the
10 proper way to handle it.

11 COMMISSIONER ROBERTS: I share Commissioner Rogers'
12 concern. I think maybe what we ought to look at is to assure
13 ourselves that anytime we saw something we thought that we
14 ought to all to the licensee's attention, we better find a very
15 short way to inform OSHA that we have done so. Let them make
16 the decision if there's a need to followup, but I think I see
17 the concern you have and I share that concern. I think --

18 COMMISSIONER ROGERS: Well, on the other hand, a
19 competent entity, if something was brought to their attention,
20 should know whether it was an OSHA violation or not.

21 MR. STELLO: You mean the licensee.

22 COMMISSIONER ROGERS: Yes.

23 MR. STELLO: But then our responsibility to the
24 sister agency is to let them know we did that and if it was a
25 nothing, OSHA could make that judgment rather than us and I

1 think I share your concern and we'll look at it.

2 MR. PARLER: Mr. Chairman, I would hope that there
3 would just be an expression of concern on the part of our
4 folks, and our folks not expressing a judgment as to whether or
5 not it was a violation of some other agency or department's
6 regulations. I would strongly counsel against that.

7 MR. STELLO: It's our intention to do exactly as the
8 general counsel said through the training, which we'll get to
9 in the next slide, to be aware and sensitive and just indicate
10 that we have made that observation, informed the licensee, it's
11 their judgment that will decide whether and what action is
12 necessary. But I think Commissioner Rogers has made a very
13 good point. There's a certain responsibility to be sure that
14 OSHA was, in fact, was aware that we've raised the issue.

15 CHAIRMAN ZECH: I agree, and I also agree with the
16 general counsel in that -- and his suggestion, I think, should
17 be part of your training program so that our people are well
18 versed at not making OSHA decisions, that that properly should
19 be referred to OSHA. But I think it's important in your
20 training program and your information bulletins, whatever you
21 put out, that you emphasize this point. I thank you.

22 [Slide.]

23 MR. SJOBLUM: On the next slide, then, and I have
24 covered some of this already, we do have an arrangement where
25 people from the RTTC in Chattanooga have gone and visited the

1 counterpart facility in Illinois, the training institute there
2 and have identified courses. We are also looking at a tailored
3 course for NRC in order to best use/transmit the information to
4 our people. That we hope to begin to put into place in FY '89.

5 In three different courses that OSHA now has, they
6 look particularly promising and then as we indicated, some
7 indoctrination for the residents so as to not have to send them
8 to a longer course and conserve their time.

9 COMMISSIONER ROBERTS: This is minutia but doesn't
10 OSHA have a similar arrangement to our agreement-state
11 arrangement? Don't they turn those duties over to states if
12 they want to assume them?

13 MR. SJOBLUM: Yes, there are, like 21 I believe it
14 is, OSHA planned states similar to agreement states --

15 COMMISSIONER ROBERTS: I understand.

16 MR. SJOBLUM: -- and the MOU provides for
17 coordination where OSHA would try to help, for example,
18 convince the OSHA planned states to participate in our team
19 assessments, and indeed that has been working as well.

20 If there are no further questions on the --

21 COMMISSIONER ROGERS: Not to belabor this point, but
22 I am concerned about what happens at the resident level and I
23 think General Counsel's comments were very important and it
24 raises another concern and that is that in putting our people
25 through an OSHA program that they don't begin to see themselves

1 as trying to carry out OSHA functions. I mean it's really just
2 so that they understand a little bit more about the technology
3 that they are looking at and to be looking out of the corner of
4 their eye, not to really be the OSHA inspector.

5 MR. SJOBLUM: Precisely. There is no way in half a
6 day or a day of indoctrination that they could in any way
7 become the experts. Our intent here is for them as they are
8 walking around the facility to be able to recognize the more
9 significant types of problems, not the minor technicality types
10 of things that would not necessarily be a significant safety
11 problem.

12 We are trying to do what we can with the resources we
13 have to promote occupational safety in the broadest sense, not
14 to take over the OSHA legal mandate whatsoever. We will ensure
15 that that is carried out.

16 MR. STELLO: Let me stress the thrust of what we are
17 doing is in response to what the Commission has asked us to do,
18 is to find a way to try to help them close this gap that we've
19 referred to. The purpose of the training is not to make our
20 people in any way, shape or form perform the function for which
21 that responsibility resides with OSHA but rather to allow our
22 people to at least know when a question ought to be raised and
23 passed on, because we're there, we see it. We think that that
24 is one way to fulfill what the Commission asked us to do and
25 that is the intent. If there's any suggestion that we are

1 going to do this, it will disturb me greatly because it will
2 clearly detract from our safety mission, which we do not want
3 to do.

4 CHAIRMAN ZECH: Let's proceed, please.

5 MR. SJOBLOM: If there are no further questions
6 relative to the OSHA interface, then I would like to turn to
7 the EPA interface for perhaps a shorter discussion.

8 CHAIRMAN ZECH: Let's proceed.

9 [Slide.]

10 MR. SJOBLOM: On the next slide then, you'll recall
11 that there were earlier briefings on our interfaces with the
12 Environmental Protection Agency and you of course recognize
13 that they are quite broad in nature.

14 We have an interface council in which we discuss
15 interface issues with the EPA staff and we meet periodically
16 throughout the year. This was described in a recent earlier
17 briefing.

18 One of the issues that we have worked in that fora
19 indeed is the coordination on the team assessments that we have
20 been doing and there have been discussions several times about
21 just that.

22 We have also exchanged letters with EPA on these,
23 both from headquarters as well as in the regions where the
24 coordination of the team assessments is conducted, so that is
25 an ongoing process with EPA that is part of a greater whole,

1 since EPA has a number of things.

2 I would point out that EPA tends to be involved with
3 the larger licensees a little bit more because they have
4 permitting programs under the various environmental statutes
5 such as the Clean Air Act permits or Solid Waste Disposal
6 permits, permits for discharging into waterways and the like,
7 so that that has been an ongoing process for many years where
8 they are involved with our licensees.

9 The effort year is less new of late, less new things
10 in that area and that is working also.

11 At this point what I would like to do if there is no
12 questions on this part is turn to Bernie Weiss, who would
13 complete the briefing. This would relate to the fourth bullet
14 on page 2, basically.

15 MR. WEISS: Mr. Chairman, I'd like to discuss some
16 other Federal activities that are concerned primarily with non-
17 radiological matters but because of our emergency and response
18 responsibilities we have an interest.

19 [Slide.]

20 MR. WEISS: On the first slide is the national
21 response team. The national response team was established by
22 executive order back in about 1981. Currently there are about
23 14 Federal agencies who are members of the national response
24 team. The group is chaired by EPA, who has major
25 responsibilities and the Coast Guard is a vice-chair to the

1 national response team.

2 They are primarily concerned with national planning
3 and coordination for responses to discharges of oil and
4 hazardous materials. The hazardous materials under the
5 Superfund Act also includes radioactive materials. However,
6 the national contingency plan, which is the implementation
7 procedures for the Superfund, refers to the Federal response
8 plan and the relationships that have been established for
9 several years for radiological releases and we do not spend a
10 lot of time concentrating on that.

11 Their basic concerns have to do with policy and
12 program direction to regional response teams who are out there
13 to help whenever there is an oil spill or other hazardous spill
14 that involves -- the Federal agencies get involved in that.

15 We have been members of the national response team
16 since about 1986. That membership has been worthwhile. It is
17 useful in knowing what other agencies are doing, what new
18 initiatives are coming along and we can learn from what other
19 agencies are thinking about and also I think it has been useful
20 for them to have some of the experience that we've had
21 particularly with our emergency and response programs, letting
22 them know how we deal with that.

23 At the time we became members of the national
24 response team we indicated that we were not sure about our
25 regions becoming active members of the regional response teams,

1 primarily because we did not understand what resource
2 requirements would be placed on the regions. Our regions have
3 been looking into that membership. They believe it would be
4 useful to understand what is going on at the regional level as
5 we do at the national level. However, right now there is a bit
6 of a concern again about resources commitments due to the fact
7 that there is a large amount of local emergency response plans
8 which are being developed by local agencies under the Community
9 Right to Know Act and those are now being required to be
10 submitted to EPA. There is in the law a responsibility that
11 the regional response teams may review these and at the present
12 time we don't know how many there are any how much time this
13 will be and we don't want to get our regional officers directly
14 involved in a whole bunch of reviews, so they are peripheral
15 members so-to-speak of the regional response teams.

16 COMMISSIONER ROBERTS: If it's possible, can you
17 briefly tell me what the Community Right to Know Act of 1986
18 is?

19 MR. WEISS: These were amendments to the Superfund --
20 I think there's a back-up slide on that.

21 [Slide.]

22 MR. WEISS: If you look at the back, this was a --
23 Slide No. 13 -- this was an amendment to the Superfund Act.
24 Essentially they were amendments that resulted I think really
25 from the Bhopal tragedy in which they now require the states to

1 have what's called SERC's -- State Emergency Response
2 Committee's which oversee local emergency response communities
3 and the communities have the right to go in and get information
4 from the local industries about what they have on site so that
5 they can develop plans and do analysis. Then the communities
6 will develop plans which they submit to the states and the
7 states can then ask the Federal Government to do a review.

8 We understand there is several thousand of these
9 things. We don't know the extent of them.

10 COMMISSIONER ROBERTS: I understand. Thank you.

11 MR. PARLER: I believe also this provision that Mr.
12 Weiss is talking about only became effective as of the first of
13 July this year, so the full measure of the burden and the
14 problem is just beginning to appear.

15 MR. WEISS: It's significant.

16 [Slide.]

17 MR. WEISS: Okay, the next slide deals with the
18 National Response Center. This is a center that is operated
19 out of Buzzard's Point by the Coast Guard. It has been in
20 existence since 1974. Both the National Contingency Plan and
21 the Superfund legislation requires the reporting of all spills
22 and releases to the National Response Center that exceed
23 certain minimal quantities. The national response team people,
24 who are Coast Guard non-commissioned officers, take the
25 reports, provide them to pre-designated on-scene commanders,

1 either Coast Guard or EPA people to get immediate action and
2 then they will provide support to those on-scene commanders.

3 The NRC operations center informs the National
4 Response Center of any transport-related incidents that we hear
5 about involving radioactive materials and they inform us of any
6 reported incidents they hear about involving radioactive
7 materials. They don't generally take any action on radioactive
8 materials except notifying us and DOE. There is a good
9 partnership there with regard to radioactive materials at the
10 National Response Center, the Department of Energy's operations
11 center and our operations center are always talking to each
12 other. We all know what is going on with regard to radioactive
13 materials. This is also if we hear of any incidents involving
14 chemical hazards it can be reported through this mechanism. It
15 doesn't happen very often but it is a good mechanism to use
16 because although it is operated by the Department of
17 Transportation, they can be in contact with the Environmental
18 Protection Agency.

19 [Slide.]

20 MR. WEISS: The next slide deals with the Federal
21 plan for a response to catastrophic earthquakes. This is an
22 activity that's been ongoing for the last several years, which
23 is coordinated by FEMA. It comes out of a concern, that we
24 hear about all the time, about the possibility of a major
25 earthquake in California in the central part of the United

1 States, and the need to get the Federal agencies and their
2 support mechanisms organized.

3 Right now there are 25 agencies that are signators to
4 this plan. The plan is organized somewhat differently than
5 other plans in the sense that the responsibilities are
6 organized by functions, so that agencies with major
7 responsibilities will -- excuse me. The different way that the
8 Federal government will respond, such as health, all the health
9 related agencies will respond under one functional group and
10 HHS, in this case, will coordinate all of that response.

11 Department of Transportation, all of the
12 transportation related aspects will be coordinated by the
13 Department of Transportation. So that you don't have many,
14 many agencies reporting to the individual that's heading up the
15 Federal response efforts and limits the number of people that
16 have to report to him.

17 With regard to radioactive materials, this is being
18 combined in one functional group with all hazardous materials.
19 We don't think that it's necessary at this time to have a
20 separate functional group that only deals with radioactive
21 materials. We think that one hazardous materials group is
22 fine. If a major incident occurred, we would still have --
23 you, Mr. Chairman, would not have to go through someone else.
24 You could report directly to the Federal coordinating officer
25 or the Governor and provide your recommendations.

1 So although -- we've worked through a hazardous
2 materials function, which is headed up by EPA under a condition
3 where we would get involved or you would have the authority to
4 report directly and just keep that person informed.

5 [Slide.]

6 MR. WEISS: And the last item to bring to your
7 attention is called the National System for Emergency
8 Coordination. This is a recently approved policy, developed by
9 the Domestic Policy Council. Actually it was approved by the
10 President.

11 COMMISSIONER ROBERTS: Is it an executive order?

12 MR. WEISS: It has not been turned into an executive
13 order yet. The Domestic Policy Council had it approved by the
14 President and has sent it out to the agencies for
15 implementation. We have not seen the executive order yet. It
16 provides for a uniform approach to the Federal government to
17 respond to any major emergency. That means even national
18 security emergencies, domestic emergencies.

19 NRC has been given the responsibility for planning
20 and response to nuclear power plant accidents. We're a little
21 unsure because of some inconsistencies between this policy and
22 previous executive orders. We don't believe that it's going to
23 effect the basic mechanism for responding to radiological
24 events, but it might change a little bit in the way the Federal
25 plan and the way we coordinate it. But overall, we don't think

1 it will have an overall effect.

2 COMMISSIONER ROGERS: How does that connect into our
3 organization right now? What's our organization structure for
4 it?

5 MR. WEISS: We have the responsibility, under this
6 plan, for nuclear power plant planning.

7 COMMISSIONER ROGERS: How do we discharge that
8 responsibility?

9 MR. WEISS: We discharge that responsibility with our
10 incident response plan and our relationships in the Federal
11 Radiological Emergency Response Plan, which is the Federal
12 response plan. The Federal response plan may have to change a
13 little bit so our relationship with FEMA changes a little bit.
14 It may give us a little more responsibility during an emergency
15 that involved a nuclear power plant, so that we are in charge
16 and we would direct FEMA, rather than FEMA being the equal
17 partner they are now. That is under discussion right now, but
18 I don't really think it's going to change the way our recent
19 response procedure works. I think that will remain the same.

20 MR. STELLO: Mr. Chairman, that concludes the staff
21 briefing, and this might be a good time to have Mr. Chalmers,
22 the Director of Policy Promotion, make any comment he might
23 wish to make. While he does that, I would suggest that it
24 might be appropriate for him to give you his judgment about the
25 memorandum of understanding that's before the Commission and

1 his sense of the readiness of that memorandum to be signed.

2 CHAIRMAN ZECH: Fine. Thank you very much. Mr.
3 Chalmers, would you please step to the microphone and identify
4 yourself for the Reporter, please?

5 MR. CHALMERS: Yes, Mr. Chairman. My name is Frank
6 Chalmers. I'm the Director of Policy for the Occupational
7 Safety and Health Administration. It's a pleasure to be here
8 with you this morning.

9 CHAIRMAN ZECH: Thank you very much.

10 MR. CHALMERS: With regard to the memorandum of
11 understanding that is proposed, this fits in well with OSHA's
12 objective which is mandated by Congress to, insofar as
13 possible, make every workplace for all workers in this country
14 as safe and healthy as possible.

15 We are, as you are, concerned with the commitment of
16 resources. We do see this agreement as it is now structured as
17 a good device for employing our resources to best achieve that
18 overall objective, insofar as it is possible. On the training,
19 it has been OSHA's policy to attain as great a
20 conscientiousness on the part of the employers as possible.

21 It's obvious from the congressional intent in the
22 Occupational Safety and Health Act of 1970 that the employers
23 are the ones who are ultimately accountable and ultimately must
24 take the action to make workplaces safe and more healthful. In
25 that regard, OSHA has a train the trainer type program where we

1 can multiply our training effect. We see this type of an
2 approach as being inherent in the proposed memorandum of
3 understanding, where we would show your inspectors those things
4 which we feel might be important so that they would have a
5 higher consciousness of those than if they in turn could notify
6 your licensees that they have observed things that in their
7 opinion appear to need some correction.

8 And if they simultaneously notified us that the
9 licensee had been so notified and also request the licensee,
10 when they made their corrections, to put in writing what those
11 corrections were and send us a copy as well as notifying you.
12 This then I think would set the motion, set the wheels in
13 motion with regard to our own internal procedures that if there
14 was something that was recognized as being a serious violation,
15 in the first communication from your people to the licensee,
16 and if that was not properly responded to in due time, then
17 this could be an automatic signal to us for a referral type
18 inspection. And I believe that this might be a device that
19 would work well.

20 I'm very, very pleased to be working with you and
21 look forward to an association for the benefit of all
22 concerned.

23 CHAIRMAN ZECH: Thank you. Are you satisfied that we
24 have made progress in this effort to close the gap in this area
25 of responsibility?

1 MR. CHALMERS: Mr. Chairman, I do believe that the
2 Commission has made a concerted effort and that OSHA has made
3 an internal effort and that we are indeed closing the gap.
4 Yes.

5 CHAIRMAN ZECH: Thank you very much.

6 COMMISSIONER ROGERS: Excuse me. I wonder, what
7 checks will we have on it? In other words, how do we know that
8 -- this is how it looks right now. The question is do we think
9 we've done it, this will do it. What is the proposal to check
10 to see how it's working? There is still no -- three years from
11 now there's a gap, maybe a smaller one, but how do we check
12 that? Is this the end of the process, in other words?

13 MR. STELLO: No. I think I'd tell you right now that
14 this will make a lot of progress, but I don't think it will do
15 it all. I think we'll need to look at how well we have done,
16 but there are going to be some clear areas where you could
17 raise some questions. Who goes in and looks at the adequacy of
18 the design of the chemical portion of the plant and analyzes it
19 in the context of which the NRC would analyze a radiological
20 release. I think you'll find that those kinds of issues are
21 not raised and analyzed and OSHA is not going to do that. That
22 is workplace safety.

23 FEMA has a law that will require the facilities to
24 notify the local communities of what particular hazards are
25 there. But in terms of actually going in and doing the kinds

1 of inspections that we do for the chemical portions of plants,
2 we are not going to fill that portion of it. I think we'll
3 make a lot of progress with respect to worker safety on-site,
4 but we're going to still have some areas that we'll need to
5 look at further.

6 COMMISSIONER ROGERS: So what about a mechanism for
7 triggering such a look?

8 MR. STELLO: Well, we are looking at it now. We're
9 continuing to. I don't have anything more to suggest to the
10 Commission. Those are areas which are clearly outside of our
11 responsibilities. I know the National Academy of Science, for
12 example, has raised this issue a number of times, looking
13 further at the chemical hazard. I think it will turn out to be
14 a major policy issue for the Administration, leadership of the
15 country, to look at, but I think it's something we are watching
16 and I don't see anymore that I'm aware of that we can do right
17 now.

18 MR. SJOBLUM: I would point out again, the intent
19 with regard to the team assessments is to conduct these
20 periodically, associated with the renewal of their five year
21 licenses. And the intent thereby is to do those in advance of
22 the renewal so that any issues found could be addressed by the
23 licensee in concert with the renewal process. So this would be
24 kind of an ongoing thing, at least insofar as those major,
25 about 20 facilities are concerned in the fuels and materials

1 area.

2 CHAIRMAN ZECH: Mr. Chalmers, did you have any
3 further comments to make?

4 MR. CHALMERS: I believe simply that the dialogue has
5 started and certainly it must continue in order to achieve
6 these objectives.

7 CHAIRMAN ZECH: Thank you very much. Appreciate your
8 being with us today, and your colleagues also. That concludes,
9 Mr. Stello?

10 MR. STELLO: We are through, Mr. Chairman.

11 CHAIRMAN ZECH: All right. Thank you very much.
12 Questions from my fellow Commissioners? Commissioner Roberts?

13 [No response.]

14 CHAIRMAN ZECH: Commissioner Carr?

15 COMMISSIONER CARR: I assume our personnel resident
16 inspectors and our inspectors are going to be knowledgeable
17 observers and reporters, vice inspectors for OSHA. Is that
18 correct?

19 MR. PARTLOW: Yes, sir.

20 COMMISSIONER CARR: Okay. We're trying to make them
21 as knowledgeable as we can so they can see the obvious and make
22 their reports.

23 MR. PARTLOW: Yes, sir. The regional officers and
24 the residents have guardedly accepted this program. They want
25 to know whether they're responsible or not.

1 COMMISSIONER CARR: Well, they've got no -- it won't
2 be any more responsibility than any other citizen to see an
3 OSHA violation would have to report it, I would assume.

4 MR. PARTLOW: Yes.

5 CHAIRMAN ZECH: Thank you very much. Commissioner
6 Rogers?

7 COMMISSIONER ROGERS: Well, just really -- I'm just a
8 little uncomfortable with seeing how we're going to follow
9 through down the road, a couple of years, to see how things are
10 working on each one of these interface areas, with OSHA, with
11 EPA, with FEMA, brought up here. Maybe it will take care of
12 itself. It just isn't apparent to me what the device will be
13 for triggering another meeting of this sort, a presentation of
14 this sort to the Commission, say two years from now, to see how
15 these steps have all worked and whether there's anything yet to
16 be done.

17 MR. STELLO: There is no doubt in my mind and I feel
18 a responsibility of this memorandum of understanding is, in
19 fact, executed, in some reasonable period of time, a year or
20 two, to come back and tell the Commission here's how it's
21 going. And perhaps even at that point, we both might want to
22 make some changes to it. I suspect it will need to have some
23 sort of periodicity of examination and review and probably
24 modification.

25 MR. BERNERO: If I could add, we have a scheduled

1 frequency of report to you on the implementation of the MSRRG
2 recommendations and we just had the one last Friday. And their
3 number one recommendation was this very point. We're doing
4 team inspections now. One was just completed this past Friday.
5 We have a natural vehicle for the next couple of years to talk
6 to you and in the fuel cycle and materials facilities, what
7 with the number of inspections being done and the potential for
8 reinspection of a unit a second time, we have I think a natural
9 vehicle to give you some report of effectiveness.

10 MR. STELLO: Let me just say flat out, if this
11 memorandum is signed, 18 months later we'll be back telling you
12 how it went. I think you need to know and I think we're
13 obligated to report.

14 COMMISSIONER ROGERS: Well, it all sounds very
15 encouraging and very good and because it does, one worries
16 about whether it is now put to rest forever. And it's just
17 that general concern.

18 MR. STELLO: We'll be back 18 months after the
19 memorandum is signed. We'll make that commitment. We'll put
20 it into the system and be sure we do it.

21 CHAIRMAN ZECH: Or before if you think it's
22 appropriate.

23 MR. STELLO: Yes. If there is a problem, we will be
24 back obviously before then.

25 CHAIRMAN ZECH: Fine. What is the Department of

1 Energy's role in the event of a nuclear power emergency at one
2 of our commercial plants? We've talked about OSHA and EPA,
3 FEMA. How about the Department of Energy?

4 MR. WEISS: The Department of Energy has a mandate to
5 respond. In fact, one of the things I didn't mention is that I
6 think the Department of Energy has just taken a great step
7 forward themselves in providing an internal notice, which is
8 their way of issuing orders to their people, and they have
9 tasked the Nevada Operations Office to be the single office
10 within the Department of Energy to organize their manner of
11 responding to any major radiological response, whether it be a
12 nuclear power plant accident or a nuclear weapons accident.
13 But they have a mandate to respond to any kind of radiological
14 accident, by request of either another Federal agency, the
15 state, industry, even a citizen.

16 We have always depended on them and they've always
17 been there for us.

18 MR. STELLO: They have never failed when we request,
19 and to the best of my knowledge, they have responded every time
20 a licensee has asked.

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

22 MR. WEISS: I would ask inside this country and other
23 countries.

24 CHAIRMAN ZECH: Thank you very much. Well, let me
25 just say it is encouraging to see the progress we have made to

1 close this regulatory gap. I do feel, as some of my colleagues
2 have expressed and as the staff has also expressed, although
3 we've moved towards closing the gap and I think we've taken and
4 are taking very responsible action, we will continue to monitor
5 to see whether there are other measures, including training and
6 education and so forth, that can be taken in order to make sure
7 that this gap is closed to the maximum extent possible.

8 I certainly thank the OSHA individuals for being with
9 us here today and for their participation in this effort to
10 close this regulatory gap. Just one comment. It seems to me
11 that the staff should also be looking ahead to pave the way for
12 NRC interface with other agencies that will have involvement in
13 high level waste repository activities.

14 For example, such as the Bureau of Mines. So I think
15 that although we've talked about non-radiological accidents
16 here this morning and focused on FEMA and OSHA and EPA, I
17 think we should continue to recognize there are other agencies
18 as well as DOE, Bureau of Mines, and perhaps others that may,
19 in our responsibilities, require our thought towards closing
20 any regulatory gaps we might see. Even though they don't
21 necessarily involve our direct statutory responsibilities, I
22 think we do have some responsibility to inform the other
23 agencies if we see areas that need their attention.

24 I would say that it's important that we recognize
25 that we haven't necessarily completed the job in all finality,

1 but we have certainly taken a giant step forward. And as we
2 have done this, and as we have made this effort to coordinate
3 with other agencies, I think we probably will learn how to do
4 it even better. So I commend the staff and the other agencies
5 you worked with for the efforts you have taken and encourage
6 you to continue those efforts in order to attempt as best we
7 can to close this gap and to not stand on bureaucratic
8 niceties, recognizing that if something should be done, why
9 let's help to bring it about.

10 At the same time, mindful that we are not the experts
11 outside of our areas responsibility, but again, we have a
12 responsibility to call the attention to those agencies that
13 does have those responsibilities.

14 We do have before us, I would remind my colleagues,
15 the memorandum of understanding between NRC and OSHA that has
16 been proposed, and I would suggest that now that we've been
17 briefed by NRC and OSHA here today, that perhaps we can act on
18 that memorandum of understanding here fairly soon.

19 Are there any other comments of my fellow
20 Commissioners?

21 [No response.]

22 CHAIRMAN ZECH: If not, thank you very much for an
23 excellent presentation. We stand adjourned.

24 [Whereupon, at 11:00 a.m., the briefing was
25 concluded.]

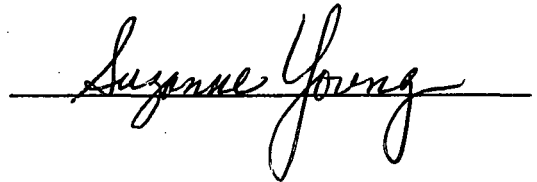
CERTIFICATE OF TRANSCRIBER

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

TITLE OF MEETING: BRIEFING ON STATUS OF AGREEMENTS WITH OSHA,
EPA, AND FEMA CONCERNING NON_RADIOLOGICAL
HAZARDS
PLACE OF MEETING: Washington, D.C.

DATE OF MEETING: TUESDAY, AUGUST 9, 1988

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

A handwritten signature in cursive script, reading "Suzanne Young", is written over a horizontal line.

Ann Riley & Associates, Ltd.

BRIEFING ON
STATUS OF AGREEMENTS WITH
OSHA, EPA AND FEMA
CONCERNING
NON-RADIOLOGICAL HAZARDS

AUGUST 9, 1988

BACKGROUND

- O JANUARY 1986 - SEQUOYAH FUELS
UF6 ACCIDENT
- O DECEMBER 1986 - SURRY
STEAM/WATER ACCIDENT
- O AUGUST 5, 1987 - COMMISSION
BRIEFING COVERED RESULTS
OF TEAM OPERATIONAL ASSESSMENTS
AT FUEL FACILITIES AND OSHA/EPA
INVOLVMENT IN NON-RADIOLOGICAL
SAFETY MATTERS

TOPICS FOR BRIEFING

- O "REGULATORY GAP" ISSUE
- O INTERFACE WITH OSHA
 - MOU
- O INTERFACE WITH EPA
 - INTERFACE COUNCIL
- O INTERFACE WITH FEMA
 - NATIONAL EMERGENCY RESPONSE

"REGULATORY GAP" ISSUE

- O HAZARDS REGULATED BY NRC IN
COORDINATION WITH OSHA/EPA/FEMA
 - RADIATION RISK FROM RADIOACTIVE
MATERIALS
 - CHEMICAL RISK FROM RADIOACTIVE
MATERIALS
 - NON-RADIOLOGICAL RISKS WHICH MAY
AFFECT THE SAFETY OF LICENSED
RADIOACTIVE MATERIALS; E.G.,
RISKS OF FIRE OR EXPLOSION

"REGULATORY GAP" ISSUE (CONTINUED)

- O HAZARDS NOT REGULATED BY NRC
 - NON-RADIOLOGICAL RISKS WHICH DO NOT AFFECT LICENSED RADIOACTIVE MATERIAL; E.G., CHRONIC EXPOSURE TO CHEMICAL CARCINOGENS AND ISOLATED CHEMICAL STORAGE TANKS
- O OSHA/EPA HAVE JURISDICTION
 - IMPLEMENTATION GAP

INTERFACE WITH OSHA

- O LETTERS/MEETINGS BETWEEN STAFFS
- O DRAFT MOU PREPARED
 - REVIEWED BY NRC REGIONS
 - SUBMITTED TO COMMISSION
- O PROJECTED IMPLEMENTATION
LATE 1988

NRC/OSHA MOU

- O DIVISION OF RESPONSIBILITIES:
 - NRC - RADIOLOGICAL SAFETY
 - OSHA - INDUSTRIAL SAFETY
- O SOME BASIC INDUSTRIAL SAFETY TRAINING OF NRC REGIONAL INSPECTORS
- O ACTIONS BY NRC IF OSHA SAFETY PROBLEMS FOUND:
 - TAKE UP WITH LICENSEE
 - REFER TO OSHA REGION FOR ACTION
- O CONTINUED OSHA/STATE OSHA INVOLVEMENT IN OPERATIONAL SAFETY TEAM ASSESSMENTS AT MAJOR FUELS AND MATERIALS FACILITIES - ABOUT 5-10 PER YEAR

INDUSTRIAL SAFETY TRAINING

- O NRC TECHNICAL TRAINING CENTER WORKING
WITH OSHA TRAINING INSTITUTE
- O TRAINING SLOTS IN THREE OSHA COURSES
FOR REGION FUELS/MATERIALS INSPECTORS
- O BASIC OSHA INDOCTRINATION FOR
REACTOR RESIDENTS

ARRANGEMENTS WITH EPA

- O EPA/NRC INTERFACE IS BROAD AND WAS
SUBJECT OF SEPARATE BRIEFING
- O COORDINATION OF TEAM ASSESSMENTS
THROUGH INTERFACE COUNCIL WITH
EXCHANGE OF LETTERS
- O ONGOING PARTICIPATION

NATIONAL RESPONSE TEAM (NRT)

- O CHAIRED BY EPA AND COAST GUARD
- O PRIMARILY CONCERNED WITH NATIONAL PLANNING AND COORDINATION FOR RESPONDING TO DISCHARGES OF OIL AND RELEASES OF HAZARDOUS MATERIALS
- O NRC BECAME A MEMBER OF NRT IN 1986
- O NRC REGIONS ARE NOT ACTIVE MEMBERS OF REGIONAL RESPONSE TEAMS
- O CONCERN ABOUT REGIONAL RESOURCE COMMITMENT DUE TO POTENTIAL REVIEW OF A LARGE NUMBER OF LOCAL EMERGENCY PLANS REQUIRED UNDER EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT OF 1986

NATIONAL RESPONSE CENTER

- O DOT - OPERATED BY COAST GUARD
- O ALL OIL AND HAZARDOUS MATERIALS SPILLS TO BE REPORTED (INCLUDING EPA REGULATED)
- O NRC OPERATIONS CENTER INFORMS DOT OF ANY TRANSPORT RELATED INCIDENT INVOLVING RADIOACTIVE MATERIALS
- O INFORMS NRC OF ANY REPORTED INCIDENTS INVOLVING RADIOACTIVE MATERIALS
- O NRC LICENSEE INCIDENTS INVOLVING CHEMICAL HAZARDS CAN BE REPORTED THROUGH THIS MECHANISM

FEDERAL PLAN FOR RESPONSE TO
CATASTROPHIC EARTHQUAKES

- O COORDINATED BY FEMA
- O RESPONSE BY FUNCTIONAL GROUPS
(NATIONAL AND REGIONAL)
- O RESPONSE TO RADIOACTIVE
MATERIALS RELEASES BEING
COMBINED WITH OTHER HAZARDOUS
MATERIALS

NATIONAL SYSTEM FOR EMERGENCY
COORDINATION (NSEC)

- O NATIONAL POLICY APPROVED BY
DOMESTIC POLICY COUNCIL
- O UNIFORM APPROACH FOR FEDERAL
GOVERNMENT TO RESPOND TO
ANY MAJOR EMERGENCY
- O NRC RESPONSIBLE FOR PLANNING
AND RESPONSE TO NUCLEAR POWER
PLANT ACCIDENTS