

**ORIGINAL**  
**UNITED STATES OF AMERICA**  
**NUCLEAR REGULATORY COMMISSION**

**Title:            BRIEFING ON STATUS OF NMSS PROGRAMS,  
                     PERFORMANCE AND PLANS  
                     PUBLIC MEETING**

**Location:        Rockville, Maryland**

**Date:            Friday, February 11, 2000**

**Pages:          1 - 74**

**ANN RILEY & ASSOCIATES, LTD.**  
1025 Connecticut Avenue, NW, Suite 1014  
Washington, D.C. 20036  
(202) 842-0034

DF03

#### DISCLAIMER

This is an unofficial transcript of a meeting of the United States Nuclear Regulatory Commission held on February 11, 2000, in the Commission's office at One White Flint North, Rockville, Maryland. The meeting was open to public attendance and observation. This transcript has not been reviewed, corrected or edited, and it may contain inaccuracies.

The transcript is intended solely for general informational purposes. As provided by 10 CFR 9.103, it is not part of the formal or informal record of decision of the matters discussed. Expressions of opinion in this transcript do not necessarily reflect final determination or beliefs. No pleading or other paper may be filed with the Commission in any proceeding as the result of, or addressed to, any statement or argument contained herein, except as the Commission may authorize.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
OFFICE OF THE SECRETARY

\*\*\*

BRIEFING ON STATUS OF NMSS PROGRAMS,  
PERFORMANCE AND PLANS

\*\*\*

PUBLIC MEETING

Nuclear Regulatory Commission  
One White Flint North  
Building 1, Room 1F-16  
11555 Rockville Pike  
Rockville, Maryland  
Friday, February 11, 2000

The Commission met in open session, pursuant to notice, at 9:35 a.m., the Honorable RICHARD A. MESERVE, Chairman of the Commission, presiding.

COMMISSIONERS PRESENT:

- RICHARD A. MESERVE, Chairman of the Commission
- GRETA J. DICUS, Member of the Commission
- NILS J. DIAZ, Member of the Commission
- EDWARD MCGAFFIGAN, JR., Member of the Commission
- JEFFREY S. MERRIFIELD, Member of the Commission

ANN RILEY & ASSOCIATES, LTD.  
Court Reporters  
1025 Connecticut Avenue, NW, Suite 1014  
Washington, D.C. 20036  
(202) 842-0034

1 STAFF AND PRESENTERS SEATED AT THE COMMISSION TABLE:

2 ANNETTE L. VIETTI-COOK, Secretary

3 STEPHEN B. BURNS, Deputy General Counsel

4 WILLIAM KANE, Director, NMSS

5 MARTIN VIRGILIO, Deputy Director, NMSS

6 CARL PAPERIELLO, Deputy EDO for Materials,  
7 Research, and State Programs

8 PAUL LOHAUS, Director of the Office of State  
9 Programs

10 MARGARET FEDERLINE, Deputy Director of the  
11 Office of Research

12 SAM COLLINS, Director of NRR

13 GARY JANOSKO, Deputy Director for Program  
14 Management and Policy Development

15 JOHN GREEVES, Director of the Division of Waste  
16 Management

17 JOSEPHINE PICCONE, Deputy Director of Industrial  
18 and Medical Nuclear Safety

19 MIKE WEBER, Director of Division of Fuel Cycle  
20 Safety and Safeguards

21 BILL BROCK, Director of the Spent Fuel Project  
22 Office

23  
24  
25  
  
ANN RILEY & ASSOCIATES, LTD.  
Court Reporters  
1025 Connecticut Avenue, NW, Suite 1014  
Washington, D.C. 20036  
(202) 842-0034

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

[9:35 a.m.]

1  
2  
3 CHAIRMAN MESERVE: Good morning. We are here this  
4 morning to have a briefing from the Office of Nuclear  
5 Materials Safety and Safeguards on the status of its  
6 program. This is, of course, a complementary briefing to  
7 the one we had on January 12th from the Office of Nuclear  
8 Regulatory -- Reactor Regulation on the status of its  
9 activities.

10 NMSS is, of course, really the central component  
11 of our activities and, in my view, in many respects, it  
12 confronts challenges that are very different from and in  
13 some ways much more difficult than NRR does. And that  
14 arises in part because of the wide diversity of the  
15 activities that are undertaken by NMSS, everything from  
16 tritium in watches to medical use of materials, to high  
17 level waste.

18 So we are very interested in hearing from you  
19 about the status of your programs and your performance, and  
20 we very much look forward to it.

21 Let me turn to my colleagues and see if any of  
22 them have an opening statement.

23 COMMISSIONER DIAZ: No. Thank you.

24 COMMISSIONER DICUS: No.

25 CHAIRMAN MESERVE: If not, you may proceed.

1 DR. PAPERIELLO: Thank you, Mr. Chairman and  
2 Commission. Good morning. I am pleased to be here with the  
3 NMSS staff to discuss the NMSS programs. You preempted me  
4 on my remarks on diversity. I put it from luminous watches  
5 to high level waste, probably a 10 to the 12th variation in  
6 activity levels.

7 With me I have Bill Kane, who is the Director of  
8 NMSS, and Marty Virgilio, who is Deputy Director.  
9 Supporting us, offices with whom we have intense  
10 interaction, is Paul Lohaus, Director of the Office of State  
11 Programs, where we share with the agreement states major  
12 responsibilities for material licensing and inspection. We  
13 both run the IMPEP program to evaluate the effectiveness of  
14 the materials program and we interact very heavily with the  
15 agreement states on regulatory activities such as rulemaking  
16 and Standard Review Plans in the materials area.

17 I also have Margaret Federline, Deputy Director of  
18 the Office of Research. You heard from Research a couple of  
19 days. We have very close coordination with research  
20 activities and, in fact, the NMSS operating plan tracks all  
21 of the research activities that are being done on the behalf  
22 of NMSS, and there is liaison at the staff level for every  
23 research project involving NMSS.

24 And Sam Collins, Director of NRR. We have very  
25 close relations with NRR in the area of decommissioning, dry

ANN RILEY & ASSOCIATES, LTD.  
Court Reporters  
1025 Connecticut Avenue, NW, Suite 1014  
Washington, D.C. 20036  
(202) 842-0034

1 cask storage and security and threat assessment.

2 With that, I will turn it over to Bill Kane.

3 MR. KANE: Thank you, Mr. Chairman, Commissioners.  
4 It is a great pleasure to be here today, and we hope we are  
5 able to convey to you the scope of our program and the fact  
6 that we are very proud of this program.

7 And I would like to go through some introductions  
8 before we start. Of course, Marty Virgilio on my right, who  
9 is the Deputy Director. I also acknowledge others who are  
10 here, Gary Janosko, who is the Deputy Director for Program  
11 Management and Policy Development in Analysis staff.

12 Directly behind us, John Greeves, the Director of  
13 the Division of Waste Management; Josephine Piccone, Deputy  
14 Director of Industrial and Medical Nuclear Safety; Mike  
15 Weber, Director of Division of Fuel Cycle Safety and  
16 Safeguards; and Bill Brock, who is the Director of the Spent  
17 Fuel Project Office.

18 Before I start my review, though, I want to --  
19 there are a lot of people who aren't here, and I would like  
20 to first acknowledge the staff. We are very happy to the  
21 Director of what I consider to be a very highly competent  
22 and dedicated staff and what we are going to talk to you  
23 about today in terms of accomplishments, obviously, none of  
24 this could have been accomplished without them.

25 Slide 2. This briefing will cover the NMSS

ANN RILEY & ASSOCIATES, LTD.  
Court Reporters  
1025 Connecticut Avenue, NW, Suite 1014  
Washington, D.C. 20036  
(202) 842-0034

1 programs, specifically the FY - Fiscal Year 1999  
2 accomplishments, major activities planned for Fiscal Years  
3 2000 and 2001, and our planning, budget and performance  
4 management implementation status. I will address three of  
5 these areas and Marty Virgilio will discuss our program  
6 accomplishments.

7 While we have not fully implemented PBPM, as we  
8 call it, we started somewhat behind NRR who piloted this  
9 approach. It has already resulted in a large influence in  
10 the way that we view our activities on a day-to-day basis.  
11 We are excited about completing this effort to reach full  
12 implementation and I will discuss the details of where we  
13 are in that process later.

14 NMSS work activities are under three arenas, the  
15 nuclear materials safety, nuclear waste safety and  
16 international nuclear safety support.

17 In doing work through the year, as Carl has  
18 already mentioned and I want to say again to reinforce it  
19 from my standpoint, the very strong support that we had from  
20 the regions and the other offices, without them we would  
21 have a very difficult time accomplishing what we are about  
22 to tell you.

23 Also, we have had extensive stakeholder  
24 involvement in our activities and that has been ongoing for  
25 a great period of time, and that has been across really all

ANN RILEY & ASSOCIATES, LTD.  
Court Reporters  
1025 Connecticut Avenue, NW, Suite 1014  
Washington, D.C. 20036  
(202) 842-0034



1 of the strategic arenas that we have.

2 The next slide, I want to show the resources by  
3 program, and this will show really the differences between  
4 Fiscal Year 1999 and Fiscal Year 2000. Just to give you a  
5 summary of 1999, we have a total of 458 FTE in this program  
6 and a total of \$70 million. The FTE are -- the total  
7 resources are really salaries and benefits, contract support  
8 and travel. For FY 2000, we will drop to 448 FTE, the total  
9 scope of our program, though, will increase to \$75 million,  
10 75.1.

11 The areas of increase, I will highlight some of  
12 the principal areas. The materials licensing and  
13 inspection, that is due to the general license registration  
14 program and risk-informing of our NMSS programs. The  
15 high-level waste due to the high-level waste repository  
16 pre-licensing issue resolution. Spent fuel storage and  
17 transportation due to an increasing spent fuel licensing  
18 review workload, much of which is associated with the  
19 transportation portion of the dual purpose fuel casks. And  
20 the number of amendments in decommissioning, which is a  
21 growing program due to increasing decommissioning workload.

22 Areas of decrease, principally, I will highlight  
23 the fuel facilities, that was due to a determination on the  
24 work on external regulation of DOE, and also the Atlas  
25 program.

1 Under, as I said, under international  
2 responsibilities, we deal with export licensing, U.S. IAEA  
3 safeguards agreement, MCNA and physical protection support  
4 to foreign governments, non-proliferation, interface with  
5 counterparts on international nuclear safety issues.

6 The next slide. I will go through now the NMSS  
7 programs by strategic arena. The two where obviously we  
8 spend most of our resources are the fuel facilities  
9 licensing and inspection under the nuclear materials safety  
10 area. The two areas, fuel facilities licensing and  
11 inspection and nuclear materials users licensing and  
12 inspection.

13 Under fuel cycle facilities licensing and  
14 inspection, our Fiscal Year 2000 resources, again including  
15 NMSS and region, 89 FTE and a total budget of \$13.4 million.  
16 That includes a number of components, I will highlight the  
17 three, the fuel cycle licensing and inspection program,  
18 which involves U.S. commercial fuel facilities involved in  
19 reprocessing, enriching, fabricating uranium in the reactor  
20 fuel.

21 The NRC regulated fuel facilities include seven  
22 uranium fuel fabrication plants, one uranium hexafluoride  
23 production plant, two gaseous diffusion uranium enrichment  
24 plants, and approximately 15 additional smaller facilities.

25 Another activity that will be coming to us, where

1 we have had interactions with Due and Cogen, Stone and  
2 Webster in preparation for the mixed oxide application.

3 The nuclear materials users licensing and  
4 inspection and safety program activities, again, 2000  
5 resources which includes the region's and headquarters', 156  
6 FTE and \$20.3, which encompasses a total dollar scope of  
7 \$20.3 million. That scope includes licensing inspection and  
8 programmatic direction for materials use in industrial,  
9 medical, and academic and commercial.

10 Also, within that area comes all of our rulemaking  
11 activities, or at least the programmatic conduct of our  
12 rulemaking activities, and there are many high profile  
13 efforts in that area which I will discuss, we will discuss  
14 later. Obviously, Part 70, Part 35, Part 71, Part 63 and  
15 also within that is our ongoing activities to look at how  
16 best to deal with control of solid materials.

17 Next slide. I will discuss the nuclear waste  
18 safety arena. First, the high level waste program  
19 activities. FY - Fiscal Year 2000 resources will include 47  
20 FTE with a total scope of \$17.9 million. Our activities are  
21 in accordance with the Nuclear Waste Policy Act and the  
22 Energy Policy Act to determine if the DOE license  
23 application for a repository at Yucca Mountain complies with  
24 regulatory standards.

25 We will eventually issue a licensing decision for

ANN RILEY & ASSOCIATES, LTD.  
Court Reporters  
1025 Connecticut Avenue, NW, Suite 1014  
Washington, D.C. 20036  
(202) 842-0034

1 the repository. There are many extensive pre-licensing  
2 activities that are going on at the moment.

3 Spent fuel storage and transportation program  
4 activities. The total scope of that program for Fiscal Year  
5 2000, 67 FTE for a total scope of \$10.3 million. That  
6 includes storage and transport, cask certification for spent  
7 fuel, cask certification for transportation of licensed  
8 radioactive materials, independent spent fuel installation  
9 licensing, inspection program development for storage and  
10 transportation, review of Department of Energy topical  
11 reports dealing with centralized interim storage and a dry  
12 transfer system for spent fuel.

13 And the regulatory program, including rulemaking  
14 and studies on transportation and storage of licensed  
15 radioactive materials. Extensive interfaces with Department  
16 of Energy, Department of Transportation and the IAEA, and  
17 also extensive interfaces with the Office of Nuclear Reactor  
18 Regulation on independent spent fuel storage installations  
19 and with Research, who has supported us in the area of  
20 burnup credit and also in the area of probabilistic risk  
21 assessment for independent -- for dry cask storage. Those  
22 organizations have provided us with invaluable support in  
23 those areas.

24 Continuing, decommissioning, FY 2000 resource,  
25 again, a total of 54 FTE, again, within NMSS and the region,

1 a total scope of \$9.2 million. Our program responsibility  
2 for power reactors is in the transitioning of the program  
3 from the Office of Nuclear Reactor Regulation to NMSS.

4 Program responsibility also for material facility  
5 decommissioning, site decommissioning management plan, 26  
6 sites involved in that program.

7 Uranium recovery, in that area of the program,  
8 Fiscal Year 2000 resources, again, are 21 FTE, a total scope  
9 of \$2.4 million.

10 Low level waste, a smaller program. We have 7 FTE  
11 in that program for Fiscal Year 2000 and \$700,000 -- for a  
12 total scope of \$700,000.

13 At this point I would like to have Marty Virgilio  
14 discuss our Fiscal Year 1999 accomplishments.

15 MR. VIRGILIO: Thank you, Bill. Good morning.

16 Can I have Slide Number 7, please? In each of our  
17 program areas, what I will do is will walk through and talk  
18 about our accomplishments, our performance against the  
19 output measures that were included in our budget request to  
20 Congress, both in the materials and the waste safety  
21 strategic arenas.

22 I will also talk about our accomplishments in the  
23 context of the Commission tracking list, other significant  
24 accomplishments that are not covered by either of those two  
25 mechanisms. And, as Bill said, and it bears repeating, none

1 of the accomplishments that I will talk about today could  
2 have occurred without the support that we got from the  
3 regions, from Office of State Programs, from OGC, from  
4 Research and many other people.

5 As Bill mentioned earlier, we are implementing the  
6 PBPM process and that is going to enhance our focus on  
7 achieving outcomes. Primarily today during this briefing, I  
8 am going to talk about performance against output targets.  
9 But before I do, I would like to mention the fact that if we  
10 look at our outcomes and how we did against our outcomes, I  
11 think we have quite a record to be proud of.

12 There were no radiation related deaths resulting  
13 from the civilian use of nuclear materials. There were no  
14 occurrences or accidental occurrences of criticality. We  
15 had no offsite releases of radioactive materials that had  
16 the potential to cause significant adverse impacts to the  
17 environment. There were no significant accident releases of  
18 material from storage or transportation of nuclear  
19 materials, and there were no thefts or diversions of special  
20 nuclear materials during this period.

21 Now, I will speak about some of those output  
22 targets. First, I will start with the fuel cycle licensing  
23 and inspection activities, and I will particularly focus in  
24 this presentation on our 1999 accomplishments, but I will  
25 also, because we have a completed First Quarter of Year

1 2000, I will also bring those in where they are relevant.

2 We met all of our performance plan targets in the  
3 fuel cycle facility licensing and inspection program, and  
4 they had mostly to do with the timing of our fuel cycle  
5 facility safeguards and licensing inspections. We completed  
6 over 130 inspections in this area. We completed them on  
7 time and within budget.

8 We also, during this same period, had a number of  
9 high visibility activities, including Part 70, where we  
10 published our proposed rulemaking and our draft SRP in that  
11 area. We also developed and published a Standard Review  
12 Plan for mixed oxide fuel. And on Hanford tank waste  
13 remediation program, we completed and published our final  
14 SRP in that area.

15 During this period, in this area, we also did a  
16 number of significant licensing actions, including the NSF  
17 renewal. We also approved a new naval fuel cycle process at  
18 NFS Irwin, and we recertified both of the GDPs, Portsmouth  
19 and Paducah.

20 We completed two semi-annual assessments and  
21 briefings to the Commission on the threat environment as  
22 well.

23 If we go to the next slide, please. I will now  
24 talk about the nuclear materials users licensing and  
25 inspection program. Here we met two of our performance plan

1 targets associated with new material licensing and license  
2 amendment reviews. Here we completed over 3300 actions, and  
3 we completed our inspection program activities in accordance  
4 with the targets. And here we completed over 1700  
5 inspections.

6 We did not meet two of our performance plan  
7 targets, one having to do with the review of applications  
8 for license renewals and sealed source devices. We had a  
9 large volume of activity. We completed 200 total in the  
10 year, most of them were completed within our target for  
11 timeliness. However, we undertook a specific initiative to  
12 reduce the backlog of cases in this area, and so that every  
13 backlogged case that we completed, it did not meet the  
14 timeliness goal because of its age, of being in the backlog,  
15 and I will have a graphic to show you on this in just a few  
16 minutes. But I think it represents a success. Even though  
17 we didn't meet the timeliness goal, you will see in a minute  
18 how much we did reduce our backlog in this area.

19 We also did not meet our performance measure for  
20 inputting data into the materials event data or NMED  
21 program. While we did, in fact, handle about 2,000 specific  
22 data entries into the program that represent roughly a  
23 thousand different events, we did not meet the timeliness  
24 goal in all four of the quarters. In the third quarter, we  
25 had a little problem with some contract support and did not

ANN RILEY & ASSOCIATES, LTD.  
Court Reporters  
1025 Connecticut Avenue, NW, Suite 1014  
Washington, D.C. 20036  
(202) 842-0034



1 meet the timeliness goal of getting these 90 percent of the  
2 information in within two weeks. We were just short of  
3 that, but nonetheless we missed that goal. But I am proud  
4 to say that for the first quarter of next year 2000, we did  
5 meet the target, so we are back on track again.

6 During this period we completed 30 rulemaking  
7 actions and 12 guidance documents. As Bill mentioned  
8 earlier, some of the high profile issues, including Part 35,  
9 we had the medical use of byproduct materials, we prepared a  
10 draft final rule in this area to make our requirements more  
11 risk-informed and performance-based. Also, the general  
12 license registration program, we issued a proposed rule  
13 during this period on control of solid materials. We had  
14 our issues paper and had four stakeholder meetings during  
15 this period.

16 And in parallel with all that, we dealt with our  
17 events. Each day we reviewed one or more events that  
18 occurred out in the states and in NRC regulated space,  
19 looking for generic issues and new safety issues that could  
20 come from that. So there's roughly 400 events during that  
21 time period.

22 If you will turn to the next slide, I promised a  
23 graphic that shows where we were on our backlog. And you  
24 can see that in 1989, we had a significant increase in the  
25 backlog, peaking in 1991, and there were a couple of rule

1 changes that occurred during that time period with respect  
2 to financial decommissioning requirements and licensee fee  
3 recovery requirements that drove up the number of actions  
4 that we had as pending cases in the backlog.

5 And in 1994-1995 timeframe, we recognized we  
6 needed to reduce the backlog and we did set at that time  
7 some goals for pending cases, and we have now essentially  
8 met those targets. We have driven those numbers down to the  
9 point today where we have a backlog of cases in the  
10 inventory of roughly 500 cases, which represents two to  
11 three months of work, which was our target, and this is now  
12 the lowest number of pending cases that we have had since  
13 the mid '80s, and none of these cases -- one of them are  
14 greater than one year old. So we are real proud of that  
15 record.

16 If you go to the next slide, page 10, I will talk  
17 about the regulation of our high level waste program and our  
18 accomplishments there. Here we met all of our performance  
19 plan targets. Those targets included publishing our  
20 proposed rule for the repository, Part 63. This is  
21 performance-based regulation. And we resolved a number of  
22 the high level waste program subissues. These are technical  
23 issues that we have been working on in advance of receiving  
24 the application for the repository. And we developed our  
25 Yucca Mountain review plan format and contact guide. All of

ANN RILEY & ASSOCIATES, LTD.  
Court Reporters  
1025 Connecticut Avenue, NW, Suite 1014  
Washington, D.C. 20036  
(202) 842-0034

1 these were performance plan targets that we met.

2 In parallel with these activities, we reviewed and  
3 provided comments on DOE's viability assessment, and we also  
4 took an aggressive stance with DOE with regard to quality  
5 assurance program issues that we had with them. We formed a  
6 task force. We actively engaged DOE. We conducted  
7 increased inspection activities and we have been briefing  
8 the Commission on the results of that program.

9 If you would turn to the next slide, Slide 11, I  
10 will talk about our spent fuel storage and transportation  
11 licensing and inspection activities. In this area we met  
12 all of our performance plan targets. Here we reviewed and  
13 approved the design for over 120 transport containers, and  
14 over 40 storage containers. We met all of our Commission  
15 tasking memo targets. Here we had a number of dual purpose  
16 cask reviews that were being tracked by the Commission.  
17 And, also, we had a number of significant milestones on a  
18 private fuel storage facility application, one of which, the  
19 most significant being the issuance of our site-specific SER  
20 just this past December.

21 In parallel, we did a number of rulemaking and  
22 guidance development activities. Probably the most noted is  
23 the proposed Part 72.48 which provides a process that  
24 applicants and licensees can use -- or licensees can use to  
25 make changes, somewhat similar to what we have in the

1 reactors on 50.59.

2 We issued six new interim staff guidance documents  
3 to help our staff and the industry understand the targets or  
4 the approval of the cask designs.

5 On the next page I will talk about our  
6 accomplishments in the decommissioning activity. Here we  
7 met all of our performance plan targets, including removing  
8 three facilities from the SDMP list. We issued draft  
9 regulatory guidance on license termination. And with regard  
10 to West Valley, we published a proposed policy statement  
11 just in the beginning of FY 2000 on decommissioning criteria  
12 for West Valley.

13 On the next page, page 13, I will talk about our  
14 uranium recovery licensing and inspection activities, and  
15 this is the last set of accomplishments I will address. We  
16 met all of our NMSS Commission tasking memo targets, most  
17 notably completing Commission policy papers addressing  
18 issues that the stakeholders have raised on uranium mining,  
19 waste disposal and jurisdictional questions in this area.

20 We did not meet two performance plan targets, and  
21 this is sort of a demonstration of how tightly we schedule,  
22 plan and schedule, and what emergent work does to us on  
23 occasion. We completed 93 licensing actions. Our target  
24 was 94, but we found with Atlas and some of the issues that  
25 came up on Atlas, we wound up diverting some of our

1 resources, but we were very close, 93 versus 94 nonetheless.  
2 And we completed 22 of the 25 scheduled inspections that we  
3 had in this area. And for those that we didn't make, the  
4 justification was the licensees weren't ready to have us  
5 come out and conduct the inspections.

6 I also wanted to mention Atlas. I did briefly  
7 discuss the bankruptcy and site reclamation issues. We  
8 completed and issued our Environmental Impact Statement and  
9 addendum to our Technical Evaluation Report. We have spent  
10 a lot of time dealing with the bankruptcy issues and were  
11 able in this year to select a trustee and transfer the  
12 license and the assets to the trust.

13 We also completed all of our surface reclamation  
14 actions submitted to us by DOE.

15 And that completes a quick and brief summary of  
16 our accomplishments. We are very proud of these. And I now  
17 will turn this back over to Bill Kane, for looking forward  
18 to what we intend to do in 2000 and 2001.

19 MR. KANE: Okay. Next slide, please. First, I  
20 would like to talk about Part 35. We are in the process and  
21 expect that we will complete the issuance of the final rule  
22 in this year, hopefully, not too far along here.

23 Part 70, we also expect to issue the final rule  
24 this year, and we are proposing to brief the Commission this  
25 spring on the status of that program. Along with that will

1 come the issuance of Standard Review Plan.

2 General license, we expect to issue the final rule  
3 on requirements for registration of general license devices,  
4 and begin registration, implementation in the summer of  
5 2000.

6 COMMISSIONER MERRIFIELD: Mr. Chairman, just a  
7 clarification, when you say on Part 35 and Part 70, you said  
8 you expect to complete this year. Did you mean this fiscal  
9 year or this calendar year?

10 MR. KANE: This --

11 DR. PAPERIELLO: It is the final rule.

12 MR. KANE: The final rule.

13 COMMISSIONER MERRIFIELD: Right. In the fiscal  
14 year or in the calendar year?

15 DR. PAPERIELLO: Fiscal year.

16 MR. KANE: Fiscal.

17 COMMISSIONER MERRIFIELD: Fiscal. Thank you.

18 MR. KANE: The fuel facility -- I am sorry. The  
19 criteria for control of solid materials, which I mentioned  
20 earlier, we are expecting to send a paper to the Commission  
21 in the spring of 2000.

22 The fuel facility oversight program, we are  
23 revising that program to make it more risk-informed,  
24 performance-based. This is the inspection and oversight  
25 program. We are looking at the model that was developed for

1 the NLR program in taking the elements of that program and  
2 applying it to fuel facility oversight. The changes, that  
3 will include activities in 2000 as well as 2001.

4 For the mixed oxide fuel application, that  
5 application is expected in September of 2000, and that  
6 facility to be located at Savannah River.

7 And we will continue to make NMSS programs more  
8 risk-informed and performance-based, implementing activities  
9 such as the Part 70 ISAs, the criteria -- defining the  
10 criteria and identifying new areas for risk-informing NMSS,  
11 refinement of risk assessment tools and staff training.

12 The next slide covers the nuclear waste safety  
13 arena. Principally there will be the completion of Part 63,  
14 the final rule, which is scheduled for summer of this year,  
15 July. More specifically, the staff review of the DOE Draft  
16 Environmental Impact Statement for Yucca Mountain, that took  
17 place this year, and we are expecting to issue our comments  
18 shortly on that, within the next -- within this month.

19 The NRC comments on the DOE high level waste site  
20 recommendation, we are expected to -- required to provide  
21 comments on that, and that will occur in Fiscal Year 2001.

22 Decommissioning, we have completed a Standard  
23 Review Plan on license termination and placed that on the  
24 external web site. That is scheduled for July of 2000.

25 Under spent fuel storage, we will continue to

1 complete the dual purpose cask reviews. We will complete  
2 the many activities on the private fuel storage, independent  
3 spent fuel storage installation. Our draft of the  
4 environment statement is expected to be issued in the spring  
5 of this year. A final safety evaluation report in September  
6 of this year. A final Environment Impact Statement,  
7 February of 2001. A licensing decision currently scheduled  
8 for December of 2001.

9 MR. BURNS: Of course, I would remind the  
10 Commission, during that we have several phases of hearings  
11 and a private storage proceeding ongoing. I think beginning  
12 in this spring, I think a safeguards phase, and there is an  
13 environmental phase and a safety phase.

14 MR. KANE: Right. The safety hearings are  
15 scheduled to start in June and the environmental hearing,  
16 there is a separate hearing on environmental which will  
17 occur in 2001.

18 We have a major activity with the naval reactor  
19 independent spent fuel storage installation at Idaho. This  
20 will be work completed under reimbursable agreement. The  
21 application is expected in February of -- well, the  
22 application is received and a decision in November of this  
23 year.

24 Diablo Canyon and Humboldt Bay, independent spent  
25 fuel storage installation and applications expected. Those



1 are significant, I point out because they deal with high  
2 seismic issues, and they will be the lead plants there.

3 Spent fuel transportation, we will conduct  
4 rulemaking, Part 71. This is a rule that we make compatible  
5 with IAEA standards, and we expect to issue -- that work  
6 will be ongoing. That is scheduled for issuance in the  
7 summer of 2002.

8 Other studies that we have going on, a  
9 reexamination of NUREG-0170, which was the Generic  
10 Environmental Impact Statement for transportation, which was  
11 issued in the 1970s. We expect to publish results in March  
12 of this year on that.

13 I would also like to point out some significant  
14 work that takes place with the Department of Energy which  
15 will be ongoing, one of which is the West Valley spent fuel  
16 shipments. That will be -- that fuel will be shipped in a  
17 cask that will be certified by the NRC. And the return of  
18 foreign reactor research fuel program, that has been ongoing  
19 for some period of time and I believe stretches out for a  
20 number of years here, through 2003. That work will  
21 continue, which will be a combination of either us  
22 certifying domestic casks for shipment of the fuel or  
23 working in support of the Department of Transportation to  
24 validate certifications received from other countries.

25 The next slide, I mentioned I would touch on our

1 status on planning, budgeting and performance management. I  
2 put this together to show some of the elements of the  
3 program. You will note that the shaded areas will indicate  
4 those areas where we have completed our activities, and the  
5 unshaded areas are those where work remains to be done.

6 The purpose of this effort will be to focus on  
7 outcomes and determine what is needed to achieve those  
8 outcomes. We have developed a strategic plan for both the  
9 nuclear materials safety and the nuclear waste safety  
10 arenas, and we have shared those with the Commission.

11 We will use the strategic plan to guide our Fiscal  
12 Year 2002 budget development activities this spring and  
13 align activities such that they advance the goals,  
14 strategies and outcomes.

15 For the materials and waste arenas, there are  
16 multiple funding sources, the nuclear waste fund, separate  
17 funds for Hanford and reimbursable agreements that we get  
18 our money in a variety of ways. And we, as mentioned  
19 earlier, we have multiple and diverse stakeholders.

20 Just going back to the figures specifically, we  
21 are really at the stage now where we are holding internal  
22 meetings to engage in the prioritization/add/shed activities  
23 areas. So we are looking at both, again, the materials and  
24 the waste safety areas, and we are engaged in that step.  
25 So, as you can see, this is a feedback process which

1 continues on. But we benefitted greatly from the work that  
2 preceded us at NRR and Research in their activities and we  
3 are very proud of this program, and very optimistic about  
4 where it is going to take us.

5 In summary, next slide, please. Although not  
6 specifically discussed earlier in my presentation, I would  
7 like to note some other accomplishments that we have made.  
8 Specifically, the achievement of the 1 to 8 supervisor to  
9 employee ratio, which was successfully accomplished.

10 In the area of equal employment opportunity, we  
11 have continued a variety of recruitment, accommodation,  
12 training and review efforts by establishment recruitment  
13 programs with universities, national societies. We have got  
14 an element -- elements of a co-op program, and we will  
15 continue to use that.

16 We have accommodated employees with special needs  
17 through work at home plans, special equipment. We have  
18 conducted a new management training course on cultural  
19 diversity. I will continue, as well Carl did preceding me,  
20 to review all EG-13 and above selections to make sure that  
21 EEO has been properly considered in that process. And those  
22 selections below that level will all be reviewed by the PMDA  
23 director with the same goals in mind. We also review all of  
24 our awards for fairness.

25 And in financial performance, the last area I

ANN RILEY & ASSOCIATES, LTD.  
Court Reporters  
1025 Connecticut Avenue, NW, Suite 1014  
Washington, D.C. 20036  
(202) 842-0034

1 would like to touch on before I go to the summary, we met  
2 our obligation goal, but did not meet our forward funding  
3 goal for the year. We have a continuing high level of  
4 management reviews. This is something that -- an activity  
5 that Marty periodically meets with the directors to make  
6 sure, we are very sensitive to making sure that we spend the  
7 money that we have, and that we have the proper amount of  
8 carryover, and that we reallocate funds along the way. So  
9 this is a very important operation, and we manage it very  
10 carefully.

11 In summary, I want to stress that we will continue  
12 to implement and improve our programs. We are very much  
13 aligned to continuous improvement. We can't ever assume  
14 that we can be comfortable with where we are. We also need  
15 to continue to improve our operation, and that is the  
16 foundation of our path forward.

17 We think focusing our activities on outcomes is  
18 going to be very important to us, and Marty has talked about  
19 that a little bit. And that is a product of successful  
20 implementation of a PBPM program.

21 We will continue to risk-informed,  
22 performance-based regulation, consistent with the  
23 Commission. I mean we obviously before that that is  
24 extremely important to do. We have a wide variety of  
25 programs to accomplish this. It is going to be a major

1 activity for a long period of time, but it is very important  
2 to do, and we are going to put our energies on that program.

3 And then finally I would talk about enhancing  
4 communication with internal and external stakeholders. Much  
5 of what we have talked about is communication with external  
6 stakeholders. One of the things that I know Marty and I are  
7 very sensitive to, and all of the division directors are  
8 making sure that internal -- our internal stakeholders are  
9 aware of what we are doing, and we are going to establish,  
10 as part of our communications plan, what we think is a need  
11 to enhance our activities in those areas.

12 As I said at the outset, and I will repeat again,  
13 I want to thank our regional partners and all the other  
14 offices that help us successfully complete our programs and  
15 that is on an ongoing basis, and it is not just at an annual  
16 review. We get strong support day-in and day-out.

17 And, again, my final message, again, will be I  
18 would like to again acknowledge the support and the  
19 dedication and the competence of the NMSS staff. Again, we  
20 wouldn't be up here talking about any of this without a very  
21 strong and dedicated, and competent staff. Again, I thank  
22 them for their support in all of this.

23 And we would be pleased to answer any questions  
24 you may have at this point.

25 CHAIRMAN MESERVE: Thank you very much. That was

ANN RILEY & ASSOCIATES, LTD.  
Court Reporters  
1025 Connecticut Avenue, NW, Suite 1014  
Washington, D.C. 20036  
(202) 842-0034

1 a very helpful briefing. It is obvious you have an enormous  
2 range of activities and I would like to congratulate for  
3 your very significant accomplishments this year. It is  
4 really a very impressive performance.

5 I have questions really in two areas. One, you  
6 have a slide, I think it is Slide 16, that refers to the  
7 PBPM process. As you know, I am new to the agency and I am  
8 learning about this process as it is going along, sort of on  
9 the fly here. And I am curious, I mean the element that you  
10 have yet reached is this prioritize/add/shed activities and  
11 it seems to me that, given the disparate nature of the  
12 things that you have to do, that using this process to do  
13 tradeoffs is going to be extraordinarily difficult and very  
14 complicated. And I wonder if you would comment on how this  
15 process works in the context of your operations, which are  
16 really quite different from NRR, and whether this is really  
17 -- is going to work.

18 MR. KANE: Yes. Let me kind of say a few things  
19 first to put into context what I am going to say. First of  
20 all, with our performance goals, NRR went through a process  
21 of defining the performance goals. We went through a  
22 similar process, but we did it with two arenas. We did it  
23 with materials and we did it with waste. And we came up  
24 with -- or came up with the same ones, or revalidated the  
25 ones that they came up with. Obviously, maintain safety is

1 Number 1. Improve effectiveness and efficiency, improve  
2 public confidence and reduce unnecessary regulatory burden  
3 were equally applicable to our areas.

4 We determined where we were in each of these areas  
5 and we felt that overall, for both program areas, we were in  
6 a position where we should be maintaining safety. For the  
7 other areas, the other three areas, we felt that they needed  
8 to be improved.

9 So having said that, in terms of how we go about  
10 prioritizing areas across arena, we look at those four goals  
11 and we look at our activities, and we look at the relative  
12 importance of those four goals with respect to each of our  
13 activities. And we have, as I said earlier, we have  
14 accomplished that for the area of materials, but that is in  
15 isolation. Now, we have to move to the area of waste. And  
16 we have an offsite scheduled for next Friday to go through  
17 that process.

18 Once we put together what are the areas that are  
19 candidates for shedding, or reducing, or pushing out the  
20 schedule, we will have to prioritize that collective set of  
21 activities across those two program areas to come up with  
22 what we would -- what would be the lowest priority issues on  
23 the list.

24 And, again, we would be using those four goals to  
25 test all of our activities, and that is how we would go

1 about that process.

2 CHAIRMAN MESERVE: But implicitly you are having  
3 to trade off issues that are widely different in nature.

4 MR. KANE: Yes.

5 CHAIRMAN MESERVE: And just it seems to me that --  
6 I mean at a high level, I can appreciate what you are doing,  
7 but in a concrete sense, it seems to me it must be an  
8 extraordinarily difficult task. I mean how to trade off an  
9 incremental activity having to do with high level waste as  
10 against something that has to do with some materials issue  
11 that -- and it is a different set of licensees, different --  
12 entirely different context.

13 I mean does this end up being -- I mean obviously  
14 it has to be a judgment call, but is this something you do  
15 by trying to develop consensus, or how do you go about  
16 making those kinds of tradeoffs?

17 MR. KANE: In large part it will be consensus.  
18 But I think it is -- we talk about the issues. The first  
19 priority, obviously, is maintaining safety, and that is  
20 going to be an important driver. So one part of it is we  
21 see something that is coming out and measuring very low from  
22 a safety standpoint, that is going to be a candidate area.  
23 Where it doesn't have an important role in maintaining  
24 safety, that is going to be a candidate area. But we can't  
25 make the decision on that alone, we have to look at these



1 other three areas in terms of burden reduction, in terms of  
2 effectiveness and efficiency, and understanding and  
3 improving public confidence and understanding where those  
4 three measures out in terms of making overall decisions  
5 relative to what we would shed or drop in priority.

6 We haven't been all the way through the process,  
7 so I appreciate your remarks, and I am, you know, going into  
8 it with both optimism, but with some trepidation of how  
9 difficult it is going to be to make these tradeoffs. I will  
10 probably be able to tell you a lot better after we are  
11 through this.

12 DR. PAPERIELLO: I would like to make a remark.  
13 Of course, I come from having run NMSS for four years before  
14 my current position. There are problems, but you have to do  
15 it. It is just a question, if you are going to do it either  
16 by default or do it rationally, and I would do it  
17 rationally.

18 There are problems within NMSS of fungibility of  
19 staff and procedures across all the programs. It is not an  
20 impossible task, it can be done. But you have got to  
21 recognize you can people and certain skills which are not  
22 fungible to other skills.

23 I think there is also an enormous diversity in our  
24 stakeholders and degrees of sophistication of our  
25 stakeholders. It is not just a matter of going to NEI and

1 talking about reactors. Yes, they represent some of our  
2 stakeholders, but not all of them. And so you have a very  
3 diverse regulated community and a very diverse community  
4 which is interested in a regulated community and that is --

5 CHAIRMAN MESERVE: Let me ask something that you  
6 touched on really on the very beginning and not -- didn't  
7 deal with otherwise. Is that one of the complexities, that  
8 I think Carl mentioned at the beginning, is the fact that  
9 there are I guess now 31 agreement states and may soon be  
10 35, which has growing implications for our areas that get  
11 transferred to states. Obviously, there is a financial  
12 implication in terms of the licensees that remain to carry  
13 the burden of our activities.

14 But I think ultimately it may well have  
15 implications that we are not having -- seeing the range of  
16 problems that maybe some of the agreement states are seeing,  
17 and perhaps raises some questions as to whether the  
18 agreement states should be more central in developing  
19 strategies.

20 I sort of wondered whether you could talk a minute  
21 about how you see that evolving over time and what  
22 implications of the program you already see, given the  
23 number of agreement states and the sort of diminishing  
24 number of licensees that we have.

25 MR. KANE: Well, I think really how we oversee the

1 program is, you know, one, expanding the agreement state  
2 program means there is more to oversee. Of course, Office  
3 of State Programs manages that, but we are -- you know, we  
4 provide resources to the assessments that are conducted, the  
5 IMPEPs. And so our resources will be going up in that area.  
6 But I think the question that you are -- the point that you  
7 are getting to is that as we collapse our program, we have  
8 to look at, in terms of licensing and inspection, how do we  
9 do that nationally?

10 At some point you expect you lose critical mass,  
11 so to speak, in the regions, and that is something we are  
12 mindful of. And we have looked at, you know, what are the  
13 potential options down the road? But that is -- if that is  
14 the point of your --

15 CHAIRMAN MESERVE: Do you see that as being sort  
16 of the more distant future issue for us, that we are not  
17 close to that point yet?

18 MR. KANE: Well, it is not to that point yet, but  
19 I think the planning and the plans need to be developed and  
20 put in place over the next several years for, you know, how  
21 that is all going to look when we have completed -- when we  
22 get to that point, so we made -- done the necessary  
23 preparation. Because it is bigger than NMSS, it is state  
24 programs and it is the regions, and it has to be done.

25 And, in fact, -- and, in fact, it has to be I

1 expect integrated with what is going on in the reactor area  
2 and elsewhere.

3 CHAIRMAN MESERVE: Good. Commissioner Dicus.

4 COMMISSIONER DICUS: Okay. Thank you. I am going  
5 to make kind of a rare philosophical statement perhaps,  
6 because I don't usually do that. But I always appreciate  
7 Commissioner Diaz's statements that he makes, but -- and I  
8 am on record with this, so it is no surprise. But  
9 recognizing that NMSS is one of the smaller programs  
10 FTE-wise and budget-wise, and yet you look at the very broad  
11 range of activities that you have, which the Chairman has in  
12 fact mentioned, and which you have discussed today, it is  
13 clearly a very important part of the Nuclear Regulatory  
14 Commission's activities.

15 And more so because, as I have mentioned in a  
16 couple of my speeches that are a matter of public record,  
17 you have the regulations the only place that we  
18 intentionally irradiate human beings. And it is the only  
19 arena where have unintentionally irradiated human beings,  
20 including children beyond our regulatory limits. So what  
21 you do is extraordinarily important to one of our statutory  
22 requirements, which is protection of the public health and  
23 safety. And I just want to again put that on the record.

24 I don't discount the importance of our nuclear  
25 reactor regulatory program. Certainly, even though it is a

1 very low potential, it is potentially high impact if we did  
2 have an incident, certainly, politically if not otherwise.  
3 But I just wanted to make that statement, the importance  
4 that I give to your programs. And I think you are aware of  
5 the fact that I watch them rather closely.

6 Now, I have got a couple of questions, given that.  
7 You mentioned in a couple of arenas you did not meet your  
8 performance targets. And you gave some explanations for  
9 that, the Atlas inspections and otherwise. But the question  
10 that I really have is -- are your targets appropriate, and  
11 are you reevaluating them? Did you anticipate this might  
12 happen, and what are you looking at in the coming year?

13 MR. KANE: Well, that is a very good question, and  
14 I think you are right on point. As I look at -- and I am  
15 searching for the one that had to do with the review of --  
16 with the inspections example.

17 COMMISSIONER DICUS: Right.

18 MR. KANE: What we need to look at, in my view, is  
19 to develop those kinds of targets such that the outcome is  
20 within our control, as opposed to someone else's control.  
21 So, for example, conducting X number --

22 COMMISSIONER DICUS: Well, Atlas was not in your  
23 control.

24 MR. KANE: But I am talking about the metric which  
25 was to conduct a certain amount of inspections in a year.

1 COMMISSIONER DICUS: Okay. Right.

2 MR. KANE: That was not accomplished because of  
3 the fact that the licensees weren't ready for the  
4 inspections. And, so, for those kinds of metrics, I think  
5 we need to look at them to see, you know, that the goal is  
6 that we complete all of the inspections for which the  
7 licensee is ready for the inspection. I mean we have to go  
8 back and look at how they are worded, because, clearly,  
9 missing that metric was based on someone else's performance  
10 and not the performance of the office. I think that is one  
11 example.

12 But I think in the other, to address the other two  
13 areas, again, I think I would like to focus there first, to  
14 see if the metric is one that is within our control. The  
15 one that had to do with working off the old -- the backlog,  
16 I think was clearly a decision that we made mid-stream. I  
17 know Carl was involved with that. But that was where we  
18 changed direction of what we were trying to do. I think it  
19 was doing the right thing. And, so, I think we would look  
20 at whether we needed to change the metric along the way, as  
21 opposed to just missing it and explaining.

22 COMMISSIONER DICUS: Because you didn't miss it  
23 much, but just --

24 MR. KANE: But it did, and I think that is  
25 something we have to correct along the way, as opposed to

1 getting to the end and think, well, we missed it, but here  
2 is the reason. So, I think it is a combination of those two  
3 things.

4 COMMISSIONER DICUS: Okay.

5 MR. VIRGILIO: Bill, I would just like to add,  
6 there is a couple of different schools of thought as to how  
7 you would plan for work activities. We do not plan out a  
8 wedge for emergent work. We tend to plan and schedule our  
9 activities and then balance and adjust as new issues emerge,  
10 and that is just the way we do it. And it works fairly  
11 successfully. You have to realize that there are goals that  
12 we strive to achieve and that when new work emerges, we  
13 might not miss -- we not make those targets, but we know why  
14 we didn't make them, and it is a managed activity, and that  
15 is the way we do it.

16 The other way we could do it is just we know  
17 historically we are going to have emergent issues. We could  
18 lay out a wedge of hours of FTE or dollars, but we choose  
19 not to do it that way.

20 COMMISSIONER DICUS: Well, I think that plays on  
21 what the Chairman had mentioned in his comments and in his  
22 questions to you, because you do have such a range of  
23 activities. And the point that I made, that you have to  
24 balance these things, and you can't always do it. But I  
25 just wanted to kind of get into that arena a bit with you on

1 it.

2 The second thing, question -- if I could, Mr.  
3 Chairman? Can I go on?

4 CHAIRMAN MESERVE: Please.

5 COMMISSIONER DICUS: Has to do with revamping the  
6 fuel cycle facility oversight program, and we have had a  
7 couple of conversations as to whether or not there was some  
8 concerns as to whether the fuel cycle inspection program was  
9 broken. And I think we have come to the conclusion it is  
10 not broken, but you are doing some revamping with it to make  
11 it more risk-based. But how are you currently conducting  
12 your existing conversion enrichment and fuel fabrication  
13 inspections? And, of course, particularly, there is some  
14 sensitivity because of the incident in Japan, and are we in  
15 good shape here?

16 MR. KANE: Well, if I understand your question  
17 correctly, with respect to the incident in Japan, what we  
18 did was step back from that, although we didn't have any  
19 information from that event which would suggest that we had  
20 a problem out there. We nevertheless thought it would be  
21 prudent to step back and take another hard look. And what  
22 we did was we looked at it, and this work was done by the  
23 region, but we had the resident inspectors at each of those  
24 facilities, as well as the two other high enrichment  
25 facilities, to focus on their next month of inspection, to



1 focus specifically on criticality, issues involving  
2 criticality.

3 If I am recalling all the details correctly --  
4 Mike will correct me if I haven't, but we stepped back and  
5 said, okay, are there any outstanding issues relative to  
6 criticality concerns? And to follow up on those to make  
7 sure they were being handled in a timely fashion, or if  
8 there was anything in there that would require reexamination  
9 in terms of the schedule in which they were being closed  
10 out.

11 And then to go in, and the second part of that was  
12 to go in and have the residents focus on basically whether  
13 they were following procedures, whether training was being  
14 conducted. All -- any aspect associated with assuring  
15 criticality controls, to take a very intense look over that  
16 period of time, to make sure that we were comfortable. But  
17 that is how we responded to that.

18 Is that responsive to your question?

19 COMMISSIONER DICUS: Yes. Yes, just I think one  
20 of the other issues that come up as to whether or not our  
21 inspection program for fuel cycle facilities was broken, and  
22 I don't think it is. But I think you are taking a look at  
23 it to go risk-based.

24 MR. KANE: Well, I could address that, and I think  
25 that -- I have attended a number of workshops, and I have

1 talked to licensees. And I don't think there is the same  
2 kind of so-called burning platform issue there that there  
3 was in the reactor area.

4 COMMISSIONER DICUS: Okay.

5 MR. KANE: But at the same time, I think there is  
6 general agreement of the industry and the staff that we  
7 could step back and put a program in place that has a  
8 foundation that is consistent with -- well, not consistent,  
9 but is similar to the one that is in place at the reactors.  
10 And we thought that would be a good opportunity to step back  
11 and look at the program and try to take the best. But I  
12 agree with your point.

13 COMMISSIONER DICUS: Okay. Yes.

14 MR. KANE: There wasn't anything that was  
15 suggesting it was broken.

16 COMMISSIONER DICUS: Okay. Good.

17 MR. KANE: That we were getting in terms of  
18 detail.

19 COMMISSIONER DICUS: Because I think that was the  
20 point. I think the industry agrees with that.

21 One quick final question. On Slide 15, the spent  
22 fuel transportation, the IAEA standards or -- I can't  
23 remember what the term is. There was an issue and you need  
24 to help me on this. But I think in Germany or someplace  
25 where the contamination levels on the outside of the

1 shipment cask were higher or there was a new standard and it  
2 might create a problem. Can you -- I am fuzzy on this. If  
3 you can --

4 MR. KANE: Right. Right. I recall the issue.

5 COMMISSIONER DICUS: Right.

6 MR. KANE: I think I am going to have to ask for  
7 help on this from Bill. Bill, do you have it?

8 COMMISSIONER DICUS: And kind of where we stand on  
9 that, because it did become something of an issue possibly  
10 with transportation of casks here in the U.S., and  
11 transportation is one of the issues we are dealing with.

12 MR. BROCK: I am Bill Brock from the Spent Fuel  
13 Project Office. The issue you are making reference to, if I  
14 am correct, is concerning surface contamination on spent  
15 fuel casks.

16 COMMISSIONER DICUS: Exactly. Yes.

17 MR. BROCK: In New York.

18 COMMISSIONER DICUS: Right.

19 MR. BROCK: The issue there is that it is based on  
20 shipments between a number of the countries in Europe,  
21 determined that some of the surface contamination as on  
22 casks as received at various facilities was not in  
23 conformance with the existing standards. As a result of  
24 that, a number of actions were taken in Europe with regard  
25 to stopping transfer.

1           COMMISSIONER DICUS: Right.

2           MR. BROCK: Until the standard was reviewed, as  
3 well as the facilities' practices, both the shipper and  
4 receiver's practices were reviewed as well. In some cases  
5 in Europe, those shipments have now been reinitiated again.

6           My understanding of the issue in Europe is they  
7 have determined that the standards were not being met. The  
8 actions taken by the shippers and the receivers now are  
9 assuring that the standards for surface contamination are  
10 being met.

11           There were other additional efforts as well by the  
12 international community to take a look at the standards for  
13 surface contamination. It is my understanding that right  
14 now the international consensus, if you will, or position is  
15 that those standards are staying as they were, that it was  
16 more of an issue of compliance and assuring that the casks  
17 were appropriately decontaminated and measured, and assure  
18 that they were meeting the standards.

19           COMMISSIONER DICUS: Okay. Now, the IAEA  
20 standards, are they similar to ours? Are they different?  
21 Because this transportation issue, if we do ever ship spent  
22 fuel to someplace, I am not going to say where, but  
23 someplace, are we going to be out of sync with IAEA  
24 standards?

25           MR. BROCK: Well, there are two aspects. Let me

ANN RILEY & ASSOCIATES, LTD.  
Court Reporters  
1025 Connecticut Avenue, NW, Suite 1014  
Washington, D.C. 20036  
(202) 842-0034

1 -- I have to look to my staff to help me out with regard to  
2 actual numbers in standards. The International Atomic  
3 Energy Agency issues the standards with regard to governing  
4 international transportation. The U.S., as well as other  
5 member countries of the IAEA, have a responsibility to  
6 implement those standards domestically within their own  
7 regulations.

8 COMMISSIONER DICUS: Right.

9 MR. BROCK: We have done so as well. Bill had  
10 mentioned a rulemaking that is currently under development  
11 to incorporate the most recent standard issued by the IAEA.  
12 With regard to particular surface contamination numbers, let  
13 me --

14 COMMISSIONER DICUS: We don't necessarily need the  
15 details on that. But the point, the policy point is that we  
16 know that even though it has a low health and safety  
17 impact, --

18 MR. BROCK: Right.

19 COMMISSIONER DICUS: -- a political impact of the  
20 transportation is going to be very significant. And if we  
21 wind up with some sort of external cask standard that  
22 departs from some international standard, we are going to  
23 have to deal with that.

24 MR. BROCK: That is correct.

25 COMMISSIONER DICUS: If it is higher particularly.

1 MR. BROCK: Well, again, my understanding is that  
2 our standards are the same. The answer is yes.

3 COMMISSIONER DICUS: Are they? Okay. Good.

4 MR. BROCK: And that the efforts taking  
5 internationally, which were to assure that the entities  
6 involved, the shippers, receivers, are assuring their  
7 compliance, conformance with the standards.

8 COMMISSIONER DICUS: Okay. Thank you.

9 I have taken up more than my fair share of time.  
10 Thank you, Mr. Chairman, for your indulgence.

11 CHAIRMAN MESERVE: Thank you.

12 Commissioner Diaz.

13 COMMISSIONER DIAZ: Thank you, Mr. Chairman.

14 Now that Commissioner Dicus has so effectively  
15 taken care of the philosophy, I can focus on the bottom line  
16 of the issues. However, --

17 COMMISSIONER DICUS: He cannot back off from the  
18 philosophy.

19 COMMISSIONER DIAZ: I would just like to just  
20 bring out an issue that is beginning to get some hairs  
21 standing out on the back of my head, and that is the issue  
22 of outcomes. And, you know, obviously, the entire agency is  
23 managing two outcomes, which seems to be a very reasonable  
24 thing to do. I, however, caution that, you know, it is not  
25 that you achieve the outcome, but that you achieve the right

1 outcome, what makes the issue correct. And, you know, we  
2 need to make sure that the outcome is in the right place  
3 because, you know, sometimes when you manage so many  
4 outcomes, you might have a tendency of meeting the outcome,  
5 rather than meeting the right -- just something that,  
6 obviously, is happening. And I could not resist to make a  
7 comment on it.

8           Having said that, and now that, you know, that is  
9 out of the way, I have heard a presentation and a lot of  
10 statements that appears to indicate that are really no  
11 significant problems on NMSS, that they are, you know,  
12 meeting your performance standards. And from my experience  
13 in management, that requires three things when you can  
14 achieve that performance excellence, and that is you have to  
15 have a competent staff that can deal with the issues. You  
16 have to have it well managed, and you have to be well  
17 funded. And those are the three necessary conditions. And  
18 I am just obviously pleased that you have achieved all three  
19 of those things, and I am very, very gratified in that  
20 respect.

21           Now, since I don't hear any responses on that  
22 issue, I will continue. I guess you are accepting that  
23 fact, right?

24           MR. KANE: Well, --

25           COMMISSIONER DICUS: They probably won't accept

1 the fact they are well-funded.

2 COMMISSIONER DIAZ: Oh. Oh, that is it. Okay.

3 MR. KANE: Well, I would only respond that we are  
4 not without challenges. While we presented here today the  
5 status of our program and the results are the results, I do  
6 believe that we have significant challenges in the area of  
7 recruiting and development of staff that will continue for  
8 as far as the eye can see. And in many ways, I consider  
9 that the biggest challenge that I have -- that we have.

10 That is something that we talk about a great deal,  
11 every day. We have staff that are highly trained, highly  
12 motivated, but at the same time we have departures, due to  
13 retirement, other kinds of things, but mostly due to  
14 retirement, advancement of people. But the real challenge  
15 to our organization is bringing people in at the entry  
16 level, improving our diversity in the process, and  
17 developing these staff such that they can replace the people  
18 that, you know, will be leaving, and move up in the system.

19 Now that challenge going to increase. We are  
20 talking about an economy that is running full steam ahead  
21 and unemployment very low. So that is what -- and we have  
22 to -- and part of the problem is that we may have to devote  
23 much more energy to this area than we ever have before.

24 COMMISSIONER DIAZ: Okay. So, of those three  
25 necessary conditions that I outlined for having a very

ANN RILEY & ASSOCIATES, LTD.  
Court Reporters  
1025 Connecticut Avenue, NW, Suite 1014  
Washington, D.C. 20036  
(202) 842-0034



1 successful program, you think that maintaining the  
2 competency of the staff across the multiple issues is a big  
3 issue.

4 MR. KANE: Yes.

5 COMMISSIONER DIAZ: And I kind of agree with that.  
6 Which kind of matches with my second point that I had in  
7 here. It is obvious that, you know, NMSS deals with what I  
8 would call relatively simple equipment systems, but very  
9 complicated human point of delivery interfaces that are, you  
10 know, multi-disciplinary, and that requires the very active  
11 management of information flow, that all the equipment  
12 systems might be the same and Part 20 might be the same, the  
13 application of it is different, and that is why it requires  
14 intensive staff efforts to manage these multiple interfaces.

15 And the point is that on certain occasions we have  
16 seen, you know, a little bit of a problem, although,  
17 obviously, you have not raised it to the level of this  
18 meeting, but there have been areas in which the lack of  
19 staff expertise in an area hampers the development of the  
20 area because they are being used in another area.

21 And you just raised an issue of training, or  
22 training new people. But I just got the impression that the  
23 issue is deeper than that, that cross-training to allow, you  
24 know, a fertile development of the expertise in these  
25 multiple issues. The equipment is not an issue, you know,

1 they are simple. You know, the bottom line, you know,  
2 radiological protection is there, but the interface changes.  
3 There are -- you know, the way you interact and manage with  
4 them changes. And, therefore, there might be a need to  
5 cross-train your people so that when there is a new need  
6 like Marty was saying, you know, if you don't have the  
7 continuous, you reallocate, that the reallocation of  
8 personal resources does not impinge on the timeliness and  
9 quality of your expected outcome. Is that --

10 MR. KANE: Yes, I would like to address that,  
11 because it is a very important point. And one of the things  
12 we just completed here within the last several months has  
13 been a rearrangement of -- and we do this every year, where  
14 we have a different mission, not in the large sense, but in  
15 terms of how our resources are divided up. And we have to  
16 look at -- and that creates for us overages in some areas,  
17 some specialties, and deficits in other areas. And, so, for  
18 an efficient use of resources, we can't continue to take and  
19 spend resources in an area where we don't have the work to  
20 do. So, necessarily, we have to take people from those  
21 areas, staff from those areas, try to match as best as we  
22 can skills to be able to even move across divisions and  
23 perform in another job.

24 We match skills as best we can, but on top of  
25 that, there has to be a certain amount of development to

1 bring the individuals up to speed with where we are. We  
2 just completed such an activity which involved movement of  
3 staff really across NMSS, not on a large scale, but on a  
4 smaller scale.

5 The other kinds of things that we have to do, and  
6 we do accomplish occasionally, and it is sometimes under  
7 duress, where we may have to make a tradeoff between  
8 licensing and inspection and may have to divert some of the  
9 inspectors within NMSS to assist in the licensing area.

10 And in spent fuel project office, several years  
11 back, we had to make that very decision. We had some  
12 significant events that occurred, that we had to respond to.  
13 We had to take some of our licensing people to assist who  
14 were trained, prior inspectors were able to help out to  
15 relieve that problem. Then eventually when we got those  
16 problems resolved, then we had to look at licensing and so  
17 we have had to make some shifts across those lines. And  
18 that has accomplished a bit of this cross-training and  
19 cross-fertilization.

20 But I agree with you, we probably have to take a  
21 broader look than that, and just dealing with these kinds of  
22 two examples that I brought up. But, broadly, how would we  
23 -- how should we approach it? If I got the sense of your  
24 comment.

25 COMMISSIONER DIAZ: I have some questions if we

1 have time.

2 CHAIRMAN MESERVE: Go ahead.

3 COMMISSIONER DIAZ: No, no. Commission Merrifield  
4 -- I mean, I'm sorry, Commissioner McGaffigan.

5 CHAIRMAN MESERVE: Commissioner McGaffigan.

6 COMMISSIONER MCGAFFIGAN: Are we going to go a  
7 second round? That will sort of effect -- if we can, I  
8 think it would be useful, because I am not sure --

9 CHAIRMAN MESERVE: Well, why don't you try to ask  
10 questions about the same length and we will see where we  
11 stand.

12 COMMISSIONER MCGAFFIGAN: Okay. On the  
13 conversation you were having with Commissioner Dicus, i.e.,  
14 on performance measures and whether you could interpret that  
15 Bill Kane said to say we are going to manipulate the  
16 measures so we can meet them, and I don't think that is what  
17 we want to do. I think what Mr. Virgilio said is the right  
18 way to go about it.

19 I think, you know, NRR talks about stretch  
20 measures, and I would just as soon as you have stretch  
21 measures, as long as you understand why you don't achieve  
22 them, that's fine. The U.S. economy has been able to grow  
23 as fast as Dr. Kane has been talking about without inflation  
24 because the productivity of the economy has been going up 4  
25 or 5 percent a year, extraordinarily rapid compared to any

1 time since the 1950s. And, you know, we are expecting, you  
2 know, some percent improvement in productivity and all that,  
3 and then we don't achieve it, we don't achieve it.

4 There is a danger. I mean I know that -- and this  
5 is sort of a preview of coming attractions, when we get to  
6 the SFPO policy meeting in a couple of weeks, the way we met  
7 the dual purpose canister timelines and got them across the  
8 finish line was to not deal with any hard issues. I mean I  
9 know Westinghouse was told we won't deal with failed fuel,  
10 we won't deal with MOX fuel, we won't deal with this. We  
11 will deal with the ones that we can deal with. We won't  
12 deal with high burnup fuel.

13 Now, we are going to have to go back and do  
14 additional licensing actions to get those done. That was  
15 what we could do. To get it done in two years, this was the  
16 deal that had to be done.

17 But there is more -- and that is a management  
18 tool. It was agreed with the licensees. But -- and so  
19 indicated. You know, licensing actions were completed  
20 within two years. If the original application, or if the  
21 application they would have liked to have submitted, had  
22 been submitted, maybe they wouldn't have been. But we might  
23 have been better off in the long run if we could have gotten  
24 failed fuel and MOX fuel, and high burnup fuel and all that  
25 across the finish line. I don't know. It is a fair -- but

1 manipulating, I worry about manipulating the program to  
2 achieve indicators, and I just put that caution out.

3 MR. KANE: Could I respond to that?

4 COMMISSIONER McGAFFIGAN: Yes.

5 MR. KANE: I did not -- if you read my comment  
6 that way, that was not the way I intended it. I only  
7 intended it to mean that the indicators should be things  
8 that we should meet, but that if -- but they should be  
9 within what we control, and not what someone else controls.  
10 If I can't meet an indicator because the licensee did not  
11 get its work done so that it could stand for an inspection,  
12 that was what I --

13 COMMISSIONER McGAFFIGAN: That might be the case.

14 MR. KANE: But I don't -- I am not for  
15 manipulating indicators.

16 COMMISSIONER McGAFFIGAN: But the outcome goals,  
17 thought, that Marty touted at the start, and I agree they  
18 are good -- I mean I am not sure they are good ones. If we  
19 don't achieve them, we are in big trouble. You know, zero,  
20 zero, zero, zero for a whole bunch of things, they had  
21 better darn well be zero or else we all be testifying before  
22 a Congressional committee as to why they weren't. You don't  
23 have control of those either. I mean that -- you know, it  
24 is really, it is our regulatory scheme which we hope results  
25 in all those zeroes, but if somebody messes up somewhere,

1 despite our regulatory scheme, despite being closely  
2 monitored by us, and we get a non-zero in one of those  
3 categories, it had better darn well be zero, you know.

4 So we don't have control. NRR doesn't have  
5 control in its licensing actions. If somebody comes in late  
6 with a response to an REI, as long as they can tell us  
7 somebody came in late with the response to an REI, and,  
8 therefore, we are now into the second year of this licensing  
9 action, I think that is -- it is fine. You never have total  
10 control.

11 Let me go on to the issue -- actually,  
12 Commissioner Dicus was reading my own mind on this issue of  
13 the 4 becquerel per square centimeter. And, again, we might  
14 be able to talk about it in a couple of weeks. The 4  
15 becquerel per square centimeter standard for the cleanliness  
16 of transportation casks.

17 There is an article in "Nucleonics Week" this week  
18 where Phillipe Saint Raymond, who is a Deputy Director at  
19 DSIN, is quoted as saying, "It is a cleanliness standard  
20 that isn't connected with health effects, but to change the  
21 standard because some people can't manage to comply with it  
22 would not be a good thing."

23 EDF has been saying, you know, they get real dose,  
24 in order to go around these casks which have spent fuel in  
25 them and to check for the 4 becquerel per square centimeter,

1 their workers get real dose, you know, 50 millirems a year.  
2 It ain't much, but, you know, multiple people getting 50  
3 millirems a year. In return for -- during this big fiasco  
4 in Europe, I think the calculations were that people were  
5 getting pico and micro millirems per year. I mean it was,  
6 you know, there was large numbers -- there was large minus  
7 signs after the 10 to the minus something. And I, for one,  
8 you know, our mandate is public health and safety. I mean  
9 that is what the Atomic Energy Act says. It doesn't say  
10 public health, safety and cleanliness.

11 And so I know there are people on the staff who  
12 have concerns. I know people at the Department of  
13 Transportation have concerns about these IAEA standards. I  
14 think that there is an effort underway which as the IAEA  
15 representative cited here wasn't willing to say whether they  
16 are considering changing the 4 becquerel per square  
17 centimeter standard. But I have grave concerns about it, I  
18 mean because there is -- it has nothing, and even the French  
19 advocate said it has nothing to do with health or safety.

20 And so I just -- again, we may want to discuss  
21 this. This isn't the purpose of today's briefing. It may  
22 be something we could discuss in a couple of weeks.

23 COMMISSIONER DICUS: Yes. And that is point that  
24 I brought up. I am sorry, Mr. Chairman, the point that I am  
25 bringing up.



1 DR. PAPERIELLO: We will look into it.

2 COMMISSIONER DICUS: We don't need to get at  
3 crossroads, and we need to be sure what we are dealing with  
4 here.

5 COMMISSIONER MCGAFFIGAN: Right. And there is  
6 another issue, again, probably for a couple of weeks now,  
7 there is a "Nuclear Fuels" this week has an article about a  
8 potential problem with an IAEA standard, ST-1, put out in  
9 '96, that could affect UF-6 transport cylinders. And there  
10 is IPSN solution that was mentioned in the article, putting  
11 protective caps on the cylinder extremities that would help.

12 There is -- the new standard has a fire standard  
13 associated with it, that the old cylinders that are -- you  
14 know, we have tens of thousands of them in this country, may  
15 not -- may or may not meet. The article says European  
16 regulators have begun discussing a common approach to this  
17 problem, but U.S. authorities aren't yet in that discussion.  
18 And, again, if you could -- I suspect I am catching a coal.  
19 If in the next couple of weeks before the SFPO meeting, you  
20 can help us understand what, if any, regulatory action  
21 required in our staff's view, I think it would be useful.

22 Do you all have enough time to be proactive on  
23 these issues? I mean, you know, it strikes me that you are  
24 working a very broad set of things, and don't get my remarks  
25 wrong, you are accomplishing a great deal, Part 35, Part 70,

1 generically, license devices, et cetera, et cetera. And you  
2 have more, as the Chairman said, more diverse stakeholders  
3 coming at you from more different directions than the people  
4 in NRR ever do, and there are other federal agencies, there  
5 are international agencies, et cetera, and are we -- I get a  
6 sense that we are reactive rather than proactive. You know,  
7 that we, because of limited resources, because of whatever,  
8 we don't really get ahead of some of the issues. The  
9 Commission can get you ahead, I mean we will give you  
10 direction to work on X, Y or Z, but we are being reactive  
11 oftentimes when we are telling you let's work on clearance  
12 or let's work on something else.

13 My sense is we don't -- we are not thinking far  
14 enough ahead on some of these things.

15 MR. KANE: I think that is one of the -- in fact,  
16 I know it is one of the issues that we are considering right  
17 now. I discussed the shed part of the question, but I  
18 didn't discuss the add part of the question. And without  
19 going too much into what we are going to come up with,  
20 because we are not there yet, it is clear that we have to do  
21 more in the area of engaging stakeholders on a systematic  
22 basis to do just what you are talking about.

23 Now, that will mean, if it prevails, that will  
24 mean that we will have to, you know, get that -- get those  
25 resources from some other part of our programs. But it was

1 already identified as an issue, where we have to do a better  
2 job of doing that. And as Carl said earlier, you know, it  
3 is not one stakeholder that we are dealing with. We can't  
4 engage -- although NEI is one of the stakeholders that we  
5 would talk to, but it is only one of --

6 COMMISSIONER MCGAFFIGAN: Many.

7 MR. KANE: Of many. And, so, the size of the task  
8 for getting inputs from all of these stakeholders is likely  
9 to be larger. But we have to engage that. We have to come  
10 up with how it is going to be staffed, what would be the  
11 scope of what we would be doing, and then what would we --  
12 where would we get the resources.

13 COMMISSIONER MCGAFFIGAN: Two more quick  
14 questions, maybe quick questions. Your metrics, in metrics  
15 for success, in SDMP you mentioned three plants -- three  
16 sites getting off the SDMP list. My question would be, is  
17 that the right metric, or whatever number, 30-odd SD -- I  
18 think in the high thirties, perhaps, still list DMP sites,  
19 that we made some discrete progress. I mean this goes to a  
20 question that Commissioner Merrifield asked when we had the  
21 SDMP briefing, where we didn't have a very good sense, as he  
22 used to have when he watched Superfund sites, as to whether  
23 progress had been made across the board.

24 Because there is a tendency -- I used to do it  
25 when I worked in the government, worked for Senator

1 Bingamam, you know, you work on the easy ones and get them  
2 across the finish line, then you have these things you keep  
3 stuffing in the drawer, hoping they will go away or  
4 something. And it would be more interesting perhaps, a  
5 better metric, to look for, you know, sort of across the  
6 front progress towards getting rid of these sites, getting  
7 them decommissioned into a clean standard.

8 So, what -- have you had any public comment yet on  
9 these performance measure metrics?

10 MR. VIRGILIO: No, we have not yet. None of this  
11 has been put forward into the public domain. We have had  
12 some interactions with the states. I don't believe they  
13 commented specifically on this measure or metric.

14 You are right, we have in fact worked off the  
15 easier sites, and we are coming down to the more difficult  
16 sites, but I think we are still making progress. Using the  
17 number of sites removed from the list is still  
18 representative of progress that we are making broadly on the  
19 programmatic area. But it is going to be more challenging  
20 as we get down to the more difficult sites to continue to  
21 hit that three target that we have set for ourselves for  
22 year 2000.

23 COMMISSIONER MCGAFFIGAN: Okay.

24 MR. VIRGILIO: And if we look out 2001, 2002 and  
25 beyond, it is going to take even more resources, if you

1 think about FTEs and dollars, to get another facility off  
2 the list. It is going to be more challenging.

3 COMMISSIONER MCGAFFIGAN: I don't know. I think I  
4 may have hit on some interesting --

5 COMMISSIONER DICUS: I am going to write my fellow  
6 Commissioner a question.

7 COMMISSIONER MCGAFFIGAN: An interesting. And  
8 then the final one is on the one you highlighted, license  
9 amendments and how many you have the licensees that are  
10 being renewed. The 500 goal that you have, get them down to  
11 500, presumably that takes less resources, or I mean it is  
12 -- you have fewer states today. You have 10 year licensing  
13 rather than five year licensing. So you could have perhaps  
14 chosen an even lower target than 500. You know, the last  
15 couple of years, the number of incoming applications  
16 presumably has gone down because the number of agreement  
17 states has gone up, and you have this 10 year licensing as  
18 opposed to five year licensing for many materials licensees.

19 So, how did you get to 500 as a good place to be?

20 DR. PAPERIELLO: A comment, you are really getting  
21 down to friction. And I am going to make a remark on  
22 metrics, I love metrics as a first step. You got to have --  
23 you always have to have quality, quantity and timeliness.  
24 If I don't give somebody a license out there who has asked  
25 for one, and we wait long enough, we are going to get a call

1 from the Hill. So there are some facts in there.

2 The practical matter is you probably can't ensure  
3 that all or most of your licensing is going to get done  
4 faster than 60 to 90 days, particularly in materials, where  
5 you are going to wind up getting some applications from  
6 relatively unsophisticated people. And so that is part of  
7 it.

8 But we also track what I called stinkers, to make  
9 sure that you didn't -- you know, so.

10 COMMISSIONER MCGAFFIGAN: Friction, I mean that is  
11 a good answer. They got down to what they felt was a  
12 frictional amount, there is no sense driving it any lower.  
13 That is what I am interpreting.

14 DR. PAPERIELLO: That is by and large, you are  
15 talking about friction when you get down to there.

16 MR. KANE: Okay. I was just going to comment.  
17 You know, you can't have zero backlog.

18 DR. PAPERIELLO: Right.

19 MR. KANE: And this is down to what we consider to  
20 be the working inventory.

21 COMMISSIONER MCGAFFIGAN: Okay.

22 DR. PAPERIELLO: You get an application in, you  
23 process it, you send a letter back out. Probably if you had  
24 an all electronic system, and, unfortunately, we have a lot  
25 of licensees who aren't yet even in the electronic thing,

1 you could maybe get it shorter, but you just can't a reply.

2 COMMISSIONER McGAFFIGAN: Okay. Thank you.

3 CHAIRMAN MESERVE: Commissioner Merrifield.

4 COMMISSIONER MERRIFIELD: Thank you, Mr. Chairman.

5 First, I would like to join the Chairman in complimenting  
6 the NMSS staff for I think it was a very good level of  
7 accomplishment over the last year. All the things you have  
8 had on your plate, I think the staff should really  
9 congratulate itself. I think they have done an outstanding  
10 job.

11 I would like to make a comment, an additional  
12 comment and then I have got a couple of questions.

13 Yesterday I asked the CFO about the balance, where we have  
14 an increasing number of agreement states, a greater burden  
15 that is being passed on those remaining licensees to pay for  
16 some of our material programs, and I inquired as to how he  
17 would with you to see if there was some way of eliminating  
18 some of the unfairness of that, and I think that is an  
19 important priority.

20 The Chairman I know followed up today with  
21 questions along the same lines in exploring the future of  
22 where we are going to go with that program. I have seen a  
23 number of comments in the papers recently by various  
24 stakeholders about how states are more efficient and how  
25 they will have lower fees than we are for a variety of

1 reasons.

2 And those comments somewhat stick in my craw. And  
3 they stick in my craw because although the states are doing  
4 I think a very, very good job, the agreement states are  
5 doing a very good job, much of their programs are focused on  
6 inspection and enforcement, and not as high a percentage of  
7 their programs are based on setting the standards, as ours  
8 are.

9 It is my personal opinion that irrespective of how  
10 many agreement states we have in the future, that we were  
11 going to have to have a nucleus of a materials program to  
12 establish the appropriate regulations nationwide for these  
13 material matters.

14 The fact of the matter is, I would also argue that  
15 there is no agency, state, federal or international, that  
16 has the breadth and level of expertise that we have here in  
17 the NRC, and it would indeed be a national tragedy to tear  
18 that apart and distribute it in one form or another. And so  
19 I believe that we will have -- my personal before, that we  
20 will have a continuing role, an important role in that area.

21 I think it is important for us, nonetheless, to  
22 look towards the future, as the Chairman has indicated, to  
23 make sure that we are planning appropriately for that  
24 outcome, if indeed we are confronted with the situation  
25 where we have very few, if no states which have not chosen



1 to become agreement states.

2 Okay. My question, given the issue of fees that  
3 we have right now for material users, and there has been,  
4 you know, we have been grappling at the Commission with fee  
5 issues over the course of the last couple of years. There  
6 has been some wide variation of fees for individual users,  
7 and, generally, that falls within the materials side of the  
8 house. There are some who have had significant increases  
9 over a relatively short period of time.

10 Some of that obviously is directed at the fact  
11 that we have fewer licensees, and so the burden has to be  
12 levied on those who remain. But some of it also has to do  
13 with process improvements and of controlling our costs, and  
14 having a greater degree of predictability, so that from a  
15 year-to-year basis, you can smooth out some of those swings.

16 And I am wondering if you could explain to me some  
17 of the things that you are trying to do right now to prevent  
18 those dramatic shifts, to the extent you have that within  
19 your control.

20 MR. KANE: Well, it is an area we have to look at.  
21 I am not sure I can, without some help, be responsive to a  
22 specific list of things that we are doing. I know, again, I  
23 can go back to the process that we are engaged in right now,  
24 in terms of adding and shedding work based on -- and one of  
25 the principal components of that is reducing unnecessary

1 regulatory burden. It is a process that we are engaged in  
2 and we have to go through.

3 I don't know at this point that I can lay out a  
4 specific set of actions that we are taking, but it high on  
5 our radar screen as we go through this process that I  
6 described earlier.

7 Marty, do you have anything?

8 MR. VIRGILIO: Well, a couple of things that you  
9 are well aware of is the National Materials Program, where  
10 we have gotten direction from the Commission to proceed with  
11 working with Office of State Programs to go out and form a  
12 working group. Because I agree with you, Commission  
13 Merrifield, this is this base -- baseline, standard setting  
14 function that needs to be accomplished by some organization,  
15 be it us and the agreement states, or be it some agreement  
16 state group, that will need to carry forward. And that is,  
17 in fact, part of why our costs are what they are, because we  
18 are doing that work that benefits the nation, and those  
19 charges are being borne by a set of our licensees.

20 And so we are looking at that through the SRM and  
21 the direction that we have gotten there. Also, I think the  
22 CFO has just recently provided a paper to the Commission on  
23 looking at the fee structure for the materials arena more  
24 broadly.

25 One of the things that has happened over the years

1 is more and more of the support service costs have been  
2 spread more equally across the agency. Where at one time I  
3 think the reactor arena was bearing more of those costs,  
4 now, today, you see them spread more broadly across. And so  
5 that has driven some of what you are seeing in both the  
6 waste and materials arena costs upward somewhat. So we have  
7 got that study underway as well.

8 The third thing I will mention is -- and looking  
9 at the fees, we looked at where some of the increases were,  
10 and just our gut feeling about where there were some  
11 disparities. And it was one of the reasons why we initiated  
12 what we are doing today in the fuel cycle area, relooking at  
13 the entire inspection, assessment and enforcement program,  
14 because, to us, those fees didn't quite seem in line with  
15 what we were doing with reactors today.

16 If you look at the fees associated with the GDPs,  
17 for example, and look at the fees associated with reactors,  
18 it didn't quite fit when we think about the risk associated  
19 with the operation of those facilities to the health and  
20 safety of the public.

21 And so we stepped back and started the initiative  
22 to say, well, what should our programs be? And we fell  
23 back, as Bill said earlier, to -- well, let's look at the  
24 model that NRR had for establishing the cornerstones,  
25 performance indicators, and a baseline inspection program

1 that would cover our needs. And doing that, we are hoping  
2 that that will be one area where, in fact, we will bring  
3 resources more in line. There are other areas as well.

4 COMMISSIONER MERRIFIELD: Okay. That is a fair  
5 answer. I just want to make a comment along the lines, a  
6 follow-on to something that both Commissioner Dicus and  
7 Commissioner McGaffigan said about targets. There was, you  
8 know, one slide, I think it was -- I think Slide 9, where  
9 you showed materials licensing pending cases, where you are  
10 down at sort of that, you know, what may be the right level,  
11 sort of a feel good level. I would weigh in with my  
12 opinion, I think I would rather that, from my own personal  
13 perspective, that you set pretty good targets and  
14 occasionally you miss one once in a while for good reasons,  
15 rather than setting the targets so high you are  
16 undershooting them always.

17 And I think we need to push ourselves, and maybe  
18 that is one we need to reevaluate. That may be as far as  
19 you can go, maybe not. But, certainly, I think continuing  
20 to be aggressive and pick up, as Commissioner McGaffigan  
21 said, the improvements in productivity is something I think  
22 we should always try to shoot for.

23 I am going to hold for now. I know others may  
24 have additional questions, and so I am going to --

25 CHAIRMAN MESERVE: Well, let me turn to my

1 colleagues and see if they do have any additional questions.

2 COMMISSIONER DICUS: I don't have an additional  
3 question. I do want to just make a comment to follow-up on  
4 something that Commissioner Merrifield said about the  
5 difference in cost of running state programs as opposed to  
6 federal programs. And it is an area we are going to  
7 eventually -- we will have to get into, because we are going  
8 to have many more states become agreement states.

9 But one of the issues, there is, in the criteria  
10 that you mentioned on why where is such a difference in  
11 standard setting and the infrastructure and so forth is one  
12 of them, another one of them is the fact there is a  
13 tremendous difference between state salaries and federal  
14 salaries, by orders of magnitude in some cases.

15 CHAIRMAN MESERVE: The state salaries are higher?

16 [Laughter.]

17 COMMISSIONER DICUS: No, believe me, they are much  
18 lower.

19 COMMISSIONER MCGAFFIGAN: Well, as they say, you  
20 have got to pay good prices to get the best.

21 COMMISSIONER DICUS: However, you get to live in  
22 really nice states, I mean, you know, there are -- Maryland  
23 is nice, though, I don't want anyone to get --

24 [Laughter.]

25 CHAIRMAN MESERVE: But it is not Arkansas.

1                   COMMISSIONER DICUS: It is not Arkansas, that's  
2 right.

3                   CHAIRMAN MESERVE: This Commission is getting very  
4 political, about qualities of various states.

5                   COMMISSIONER DIAZ: Yes, I do have one question,  
6 and maybe an item for discussion.

7                   The issue of communications training, as we have  
8 heard throughout this morning, always, you are dealing with  
9 the area that has more contact I think with the public in so  
10 many multiple, you know, interfaces. And communications of  
11 what our intent, what our inspections, what our results, you  
12 know, how do we deal with them? It is a very important  
13 issue. It is not restricted only to rulemaking, it is  
14 really across the area.

15                   And so I value for the people of this country the  
16 fact that the regulators need to be able to communicate  
17 precisely, clearly and with good skills, you know, what are  
18 the outcomes of our inspections, here is the outcome again.  
19 What, you know, what our intentions, how are we proposing to  
20 address issues. Fix, if there is something to be fixed, be  
21 proactive.

22                   Can you give me an idea of how proactive are your  
23 programs in ensuring the staff is competent in the  
24 communications arena?

25                   MR. KANE: Well, I can tell you that after we

1 completed our offsite review here recently, we decided that  
2 we need to approach that whole area in a different way, and  
3 that was to develop really an integrated communication plan.  
4 I was very pleased that you mentioned communications  
5 training, because it is part of an overall program that we  
6 have to develop.

7 We need to establish who our best communicators  
8 are, that is one aspect of it. We need to make sure that we  
9 have a very clear prescription of what we are trying to  
10 communicate. And we have to make sure that that is  
11 consistent across, whether it be a project manager going out  
12 or an inspector, or a senior official of NMSS.

13 I think that whole program needs to be put  
14 together, and a substantial part of that is going to involve  
15 training. So, I agree with your point, and I would say that  
16 there is a lot more to do in that area. And I am talking  
17 about the future, and a plan. I realize, you know, as Carl  
18 often says, I have never heard a bad plan. But, you know,  
19 we clearly need to do something like that, and it is going  
20 to be part of corporate strategy, if you will, to engage  
21 stakeholders in the future by having that kind of an  
22 integrated plan in place.

23 COMMISSIONER DIAZ: Well, I consider that we are a  
24 service agency, and that service does not include only  
25 resolving the technical issue, but to communicate it well to

1 the people of this country, and I have and will continue to  
2 support that we develop those communication skills.

3 MR. KANE: I agree with you completely.

4 COMMISSIONER DIAZ: And the last thing is maybe a  
5 little broader than the issue of the cask, but, you know,  
6 throughout many, many years, we continue to have this gap  
7 between IAEA standards and our standards. And I wonder  
8 whether it would not be appropriate, not as something that  
9 will detract from your other things, but to eventually,  
10 maybe in a few months, whatever you guys can, to provide the  
11 Commission an updated review of where are we with regard to  
12 IAEA standards, which ones are we compatible, which ones we  
13 are not. Why are we not compatible? Why are we compatible?  
14 And, you know, recommendations.

15 I know that there are multiple players on this,  
16 and so it is not a simple issue that we should, we should  
17 not. But there are issues that have changed, and I think it  
18 would be a service to the Commission to have an updated  
19 review of where we stand.

20 MR. KANE: We would be pleased to do that.

21 COMMISSIONER DIAZ: Thank you. Mr. Chairman.

22 CHAIRMAN MESERVE: Commissioner --

23 COMMISSIONER DICUS: Do you want to go ahead and  
24 do that?

25 COMMISSIONER McGAFFIGAN: Greta, Commissioner



1 Dicus just mentioned to me, I think the gaps are necessarily  
2 with IAEA standards as they are with ICRP. Because I think  
3 the --

4 COMMISSIONER DIAZ: Whatever.

5 COMMISSIONER MCGAFFIGAN: Whatever. With  
6 international standards.

7 COMMISSIONER DICUS: Right.

8 COMMISSIONER MCGAFFIGAN: The first comment I was  
9 going to make, I agree with the comments of other  
10 Commissioners, particularly Commissioner Merrifield, about  
11 the importance -- however many agreement states there are,  
12 even if there are 50 and the District of Columbia, we are  
13 going to have to have a group of people that can do  
14 something that I think only this body can do. But the  
15 thought that I had, hearing the conversation about salaries,  
16 earlier in response to Commissioner Diaz, you mentioned the  
17 challenge of continuing to attract in an economy that is  
18 growing 5 percent a year, with salaries in the private  
19 sector growing rapidly because of the productivity  
20 increases, attracting people we need to do our job.

21 In looking at the states, if their salary  
22 structure is indeed a lot lower, do they face an even  
23 greater challenge in manning their radiation protection  
24 programs? And is that something you look at in IMPEP each  
25 time?

1 MR. KANE: Yes, I am sure they do. Of course, we  
2 look, at IMPEP we look at results, performance. But I am  
3 sure that is a big consideration with this Commission.

4 COMMISSIONER DICUS: When I was a program director  
5 in a state, I lost a lot of talented people to the NRC.

6 COMMISSIONER MCGAFFIGAN: So we are using them as  
7 a farm system.

8 COMMISSIONER MERRIFIELD: I am sure the Governor  
9 said that about you, too.

10 COMMISSIONER DICUS: No, he was already up here.

11 COMMISSIONER MCGAFFIGAN: I think it is a profound  
12 issue. I mean this came up last week in another one of our  
13 briefings. I think that the overall issue of replacing this  
14 body 20 years from now and looking down at bench strength,  
15 and not just here, it is in every technical agency of  
16 government, with the possible exception of NIH, whose budget  
17 grows a billion dollars a year, that, you know, we have  
18 aging work forces and we have FERS rather than the old civil  
19 service system with its golden handcuffs, and it gets to be  
20 harder and harder to recruit and retain. And we may need  
21 special pay provisions for technical agencies. We may need  
22 to do some things that go beyond the federal pay structure  
23 at some point. But I think it would have to be a  
24 government-wide initiative.

25 My final question, a quick one. On Part 70 at the

1 moment, there is a little bit of controversy with regard to  
2 the fact that the Standard Review Plan has not been shared  
3 with the public. We have shared apparently a document that  
4 goes on for pages of how we intend to resolve comments, but  
5 without sharing the SRP itself.

6 I personally think the Commission has been crystal  
7 clear in its SRMs on Part 70 that you can and should share  
8 these documents with the public. So I am just wondering  
9 where that stands at the moment.

10 MR. KANE: There are a few things to do, but it  
11 will be is the short answer.

12 COMMISSIONER MCGAFFIGAN: Okay. Thank you.

13 CHAIRMAN MESERVE: Commissioner Merrifield.

14 COMMISSIONER MERRIFIELD: I would just, you know,  
15 two quick comments. One is I would like to weigh in with my  
16 concurrence with the views of Commissioner Diaz as it  
17 relates to communications. I know when we had our material  
18 stakeholder meeting, one of the issues that was raised at  
19 that point was a concern that while we are sending people  
20 out, that the feedback from the public isn't always as good  
21 as it could be. And I think we need to continue to work on  
22 making sure that we have got the best people out there  
23 communicating and interacting with our stakeholders.

24 The other comment I would make is along the lines  
25 of Commissioner McGaffigan. I know you talked about

1 recruitment and the issues of bringing, you know, good  
2 people in here to fulfill our needs. If there are  
3 suggestions, you know, if there are ways in which the  
4 Commission can get involved and can be more proactive,  
5 certainly, I hope you all go back and think about that and  
6 come back to us if need be, because we -- certainly, for my  
7 part, I think we need to make sure we have the highest  
8 quality work force. And if we need to put more attention to  
9 it as a Commission, I think we should.

10 Thank you, Mr. Chairman.

11 MR. KANE: Thank you.

12 CHAIRMAN MESERVE: Good. If there are no further  
13 questions, I would like to express my appreciation on behalf  
14 of all of us for a very helpful presentation this morning.  
15 You should be very proud of your accomplishments. They do  
16 you great credit. So, thank you very much.

17 And with that, we are adjourned.

18 MR. KANE: Thank you.

19 [Whereupon, at 11:26 a.m., the briefing was  
20 concluded.]

CERTIFICATE

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

TITLE OF MEETING: BRIEFING ON STATUS OF NMSS PROGRAMS,  
PERFORMANCE AND PLANS  
PUBLIC MEETING

PLACE OF MEETING: Rockville, Maryland

DATE OF MEETING: Friday, February 11, 2000

was held as herein appears, is a true and accurate record of the meeting, and that this is the original transcript thereof taken stenographically by me, thereafter reduced to typewriting by me or under the direction of the court reporting company

Transcriber: Martha Brazil

Reporter: Mark Mahoney

# **NMSS PROGRAM REVIEW**

---

**Presented to the Commission February 11, 2000**

**William F. Kane, Director**  
**Martin J. Virgilio, Deputy Director**

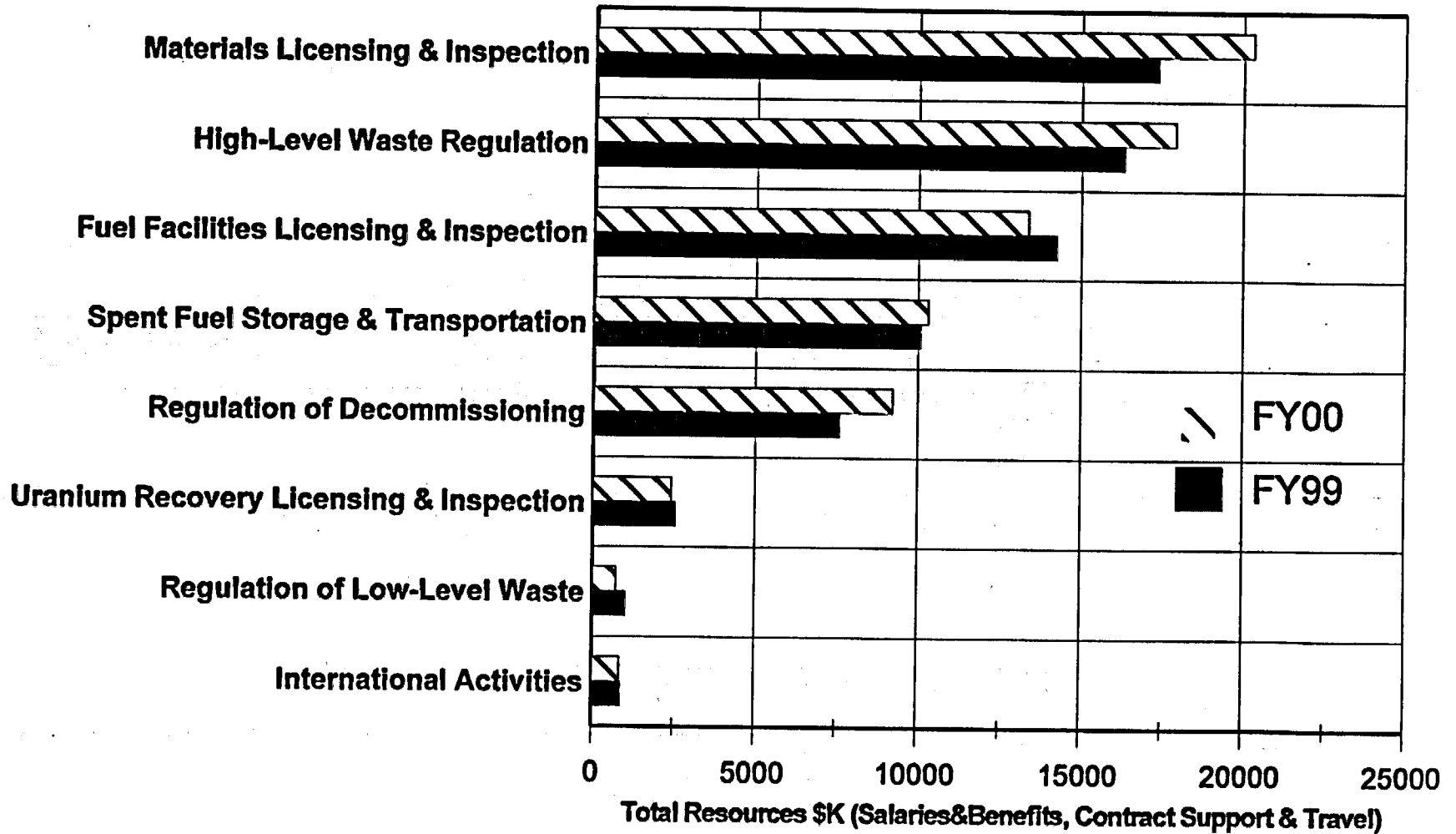
# Overview

---

- **NMSS programs by strategic arena**
- **Program accomplishments - FY 1999**
- **Major activities - FY 2000-2001**
- **Planning, Budgeting & Performance Management (PBPM) implementation**

# Resource Trend Overview

## NMSS and Regions





# NMSS Programs by Strategic Arena

---

## Nuclear Materials Safety Arena

- Fuel Facilities Licensing and Inspection
- Nuclear Materials Users Licensing & Inspection

# **NMSS Programs by Strategic Arena (continued)**

---

## **Nuclear Waste Safety Arena**

- ▶ **Regulation of High Level Waste**
- ▶ **Spent Fuel Storage & Transportation Licensing & Inspection**

# **NMSS Programs by Strategic Arena (continued)**

---

## **Nuclear Waste Safety Arena (continued)**

- ▶ **Regulation of Decommissioning**
- ▶ **Uranium Recovery Licensing & Inspection**
- ▶ **Regulation of Low-Level Waste**

# **Nuclear Materials Safety Arena**

---

**Program: Fuel Facilities Licensing and Inspection**

- **Accomplishments: FY99**
  - ▶ **Met all performance plan targets**
  - ▶ **Rulemaking and guidance**
  - ▶ **Licensing**
  - ▶ **Inspection and assessment**
  - ▶ **Threat assessment**

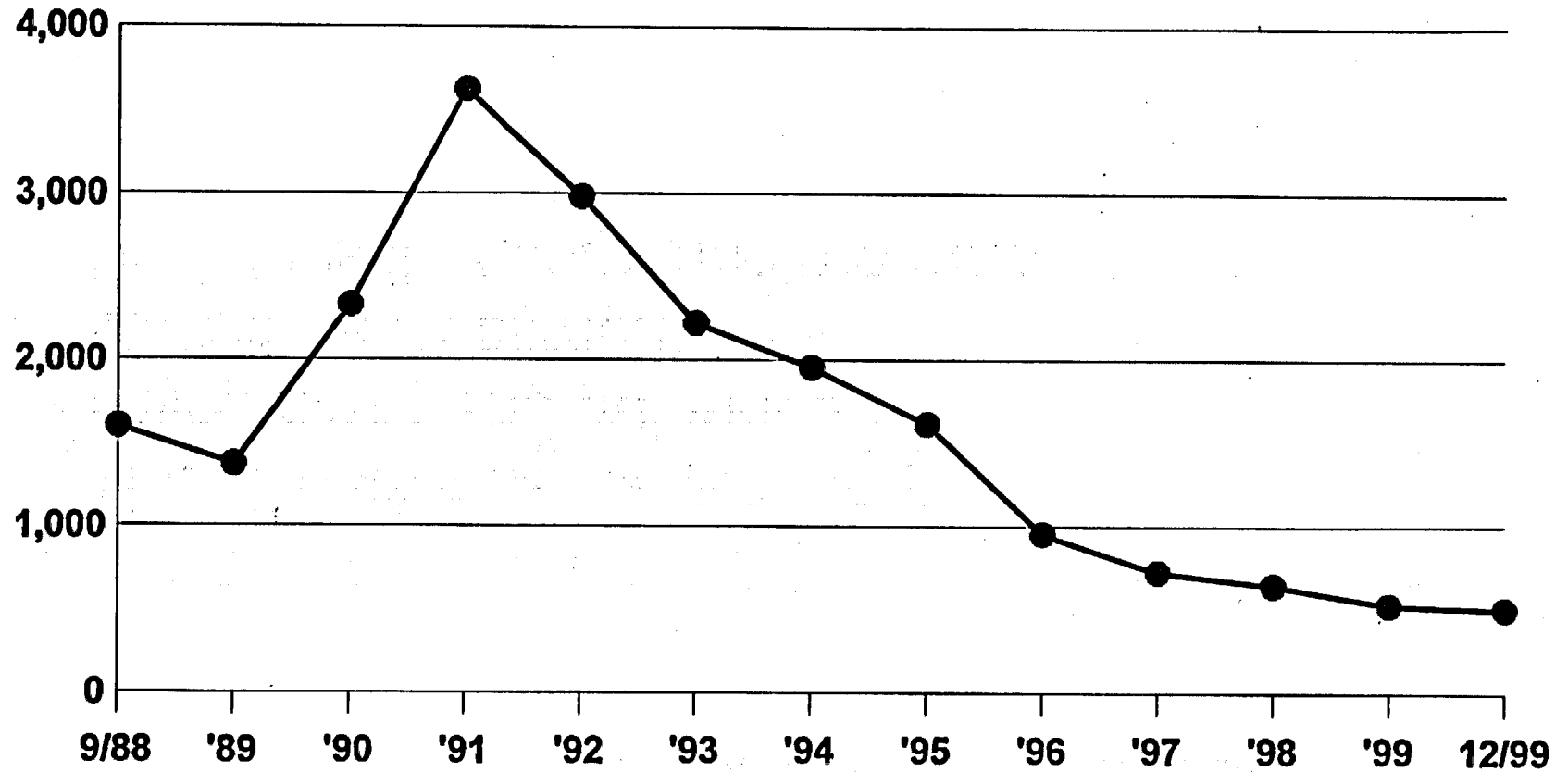
# **Nuclear Material Safety Arena (continued)**

---

**Program: Nuclear Materials Users Licensing & Inspection**

- **Accomplishments: FY99**
  - ▶ **Met two performance plan targets**
  - ▶ **Did not meet two performance plan targets**
  - ▶ **Rulemaking and guidance**
  - ▶ **Event response**

# Materials Licensing Pending Cases



# **Nuclear Waste Safety Arena**

---

**Program: Regulation of High Level Waste**

- **Accomplishments: FY99**
  - ▶ **Met all performance plan targets**
  - ▶ **Rulemaking and guidance**
  - ▶ **Viability Assessment**
  - ▶ **DOE Quality Assurance program**

# **Nuclear Waste Safety Arena (continued)**

---

**Program: Spent Fuel Storage & Transportation Licensing & Inspection**

- **Accomplishments: FY99**
  - ▶ **Met all performance plan targets**
  - ▶ **Met all tasking memorandum targets**
  - ▶ **Rulemaking and guidance**



# **Nuclear Waste Safety Arena (continued)**

---

**Program: Regulation of Decommissioning**

- **Accomplishments: FY99**
  - ▶ **Met all performance plan targets**
  - ▶ **Regulatory guidance**
  - ▶ **West Valley**

# **Nuclear Waste Safety Arena (continued)**

---

**Program: Uranium Recovery Licensing & Inspection**

- **Accomplishments: FY99**
  - ▶ **Met NMSS tasking memorandum targets**
  - ▶ **Did not meet performance plan targets**
  - ▶ **Atlas**
  - ▶ **Inactive/abandoned mill tailings sites-surface reclamation**

# **Nuclear Material Safety Arena**

---

## **Major FY 2000-2001 activities**

- **Part 35**
- **Part 70**
- **General license rule implementation**
- **Fuel facility oversight program revisions**
- **MOX application**
- **Making NMSS programs more risk informed and performance based**

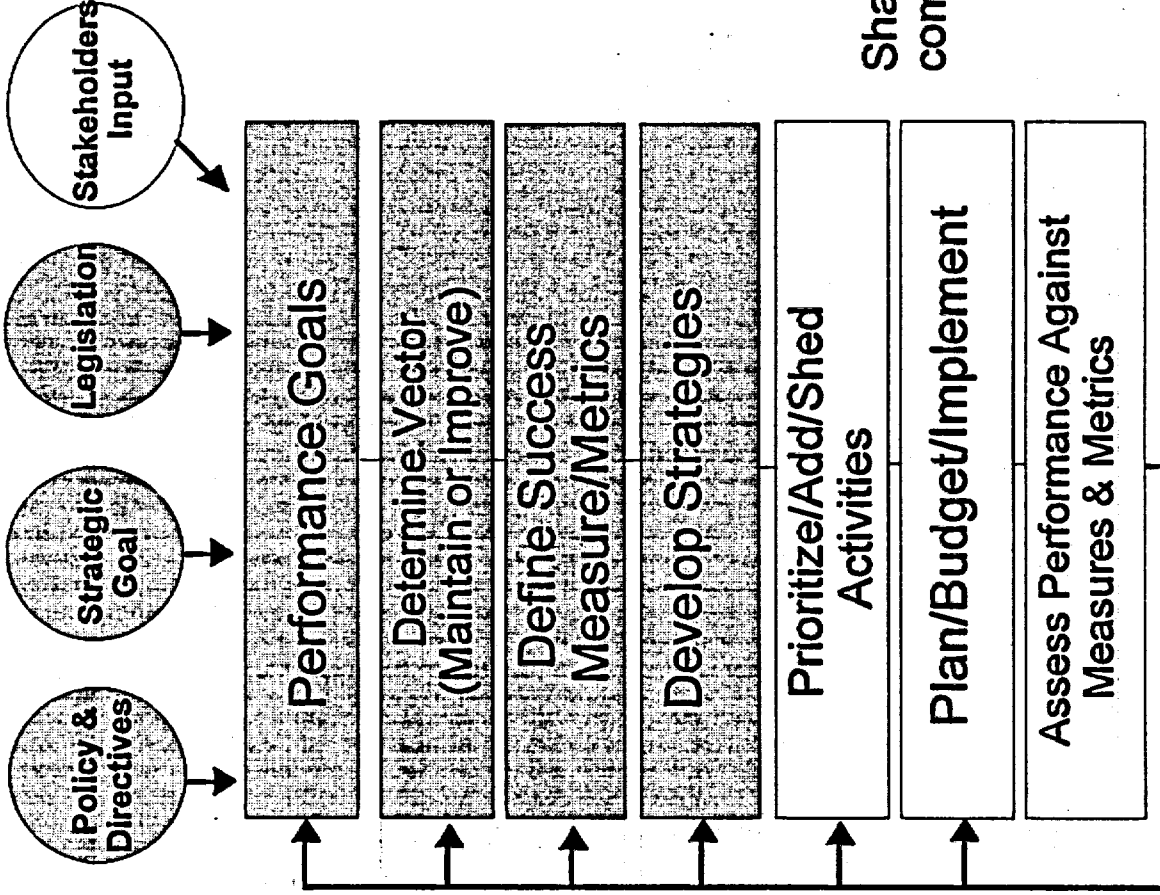
# **Nuclear Waste Safety Arena**

---

## **Major FY 2000-2001 activities**

- **Part 63**
- **Transition HLW program to licensing program**
- **Decommissioning guidance**
- **Spent fuel storage**
- **Spent fuel transportation**

# PBPM Status



Shaded items are completed

# Summary

---

- Continue to implement and improve our programs
- Focus activities on outcomes
- Continue to move to risk-informed performance-based regulation
- Enhance communication with internal and external stakeholders