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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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BRIEFING ON NMSS PROGRAMS,
PERFORMANCE, AND PLANS - MATERIALS SAFETY

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ROCKVILLE, MARYLAND

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MONDAY, MARCH 7, 2005

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The Commission met in open session at 10:00 a.m., at the Nuclear Regulatory Commission, One White Flint North, Rockville, Maryland, the Honorable Nils Diaz, Chairman of the Commission, presiding.

COMMISSIONERS PRESENT:

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|-----------------------|----------------------------|
| NILS J. DIAZ | Chairman of the Commission |
| EDWARD MCGAFFIGAN | Member of the Commission |
| JEFFREY S. MERRIFIELD | Member of the Commission |
| GREGORY JACZKO | Member of the Commission |
| PETER LYONS | Member of the Commission |

(This transcript was produced from electronic caption media and audio and video media provided by the Nuclear Regulatory Commission.)

1 STAFF AND PRESENTERS:

2 L. REYES, EDO.

3 JACK STROSNIDER, DIR., NMSS

4 MARTY VIRGILLIO, DEDMRS

5 MARGARET FEDERLINE, DD, NMSS.

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PROCEEDINGS

CHAIRMAN DIAZ: Good morning, everybody. I'm pleased to be here with the EDO and NMSS, which are going to brief us this morning on the nuclear material safety arena and also, all of the little issues that they have. You only have 18,000 little issues, right?

But we realize that this area that you have under your responsibilities has many multiple areas that you are developing at the same time. Some of them are a little bigger than others. We realize they pose a challenge to the staff.

We want to know what those challenges are. We want to make sure that the Commission is aware of the direction you are going, the resources that you need, your staffing issues.

We really need to become, as time goes on, very, very knowledgeable about the interfaces that you have in both the area of security and some of the external interfaces that are continuously taking time and resources from you.

The things that we will discuss today and their follow-up questions from the Commission will, of course, redirect or at least confirm that you are going in the right direction.

We also want to know what interactions with the other federal agencies also require your attention, would like to be aware of those and would like to make sure that things are on time.

If my fellow Commissioners have any comments?

If not, Mr. Reyes, please.

1 MR. REYES: Good morning, Chairman, Commissioners.
2 The staff is here to brief the Commission on our materials program. It's
3 been about a year since we last did this.

4 Today, we are going to highlight some of our program
5 accomplishments but we will do that briefly. We would like to spend the
6 bulk of the discussion talking about challenges, strategies for success
7 and some policy issues that are going to be in front of the Commission.
8 With me at the table this morning is Marty Virgillio, the Deputy
9 Executive Director for Materials, Research and State Programs, and
10 Jack Strosnider and Margaret Federline, who are the Office Director
11 and Deputy Office Director, respectively.

12 With that, let me pass over the mike to Jack.

13 MR. STROSNIDER: Chairman, Commissioners, good
14 morning. Thank you, Luis. I look forward and appreciate the
15 opportunity to meet with you today.

16 I will be speaking to you about our nuclear materials
17 safety program activities. I want to begin by acknowledging the
18 contributions of all the offices involved in the program. This includes
19 the Regions, Office of State and Tribal Programs, Office of General
20 Counsel, Office of Information Services, Research, Office of Nuclear
21 Security and Incident Response, Nuclear Reactor Regulation, Office of
22 Enforcement. I hope I didn't leave anybody out, and also the
23 Agreement States.

24 But I want to note in particular the role of the regions in

1 this area in performing not only inspection but also licensing activities.
2 And also the role of the Office of State and Tribal Programs in
3 managing the Agreement State program, working with the states and
4 providing oversight on implementation of their programs.

5 With us today to participate in our discussion are
6 managers from NMSS, George Pangburn from Region I, Bill Travers
7 from Region II, Trish Holahan, who is normally the Deputy Director of
8 the Division of Industrial and Medical Nuclear Safety in NMSS, but is
9 currently on rotation to Region IV in the Division of Nuclear Materials
10 Safety, is also here today. And we have representatives from other
11 offices.

12 If I could have the next slide.

13 A few weeks ago, we briefed you on the waste program. I
14 plan to follow a similar format for today's briefing. I will begin by
15 highlighting some of our program accomplishments, and then I will
16 discuss future challenges and our approach for addressing them.

17 Finally, I will outline areas where we expect to have
18 Commission interaction and policy issues that we expect to be bringing
19 to the Commission.

20 Once again, the underlying theme of this presentation is
21 our commitment to continuous improvement and increasing
22 organizational capacity.

23 Next slide.

24 The materials program involves a wide variety of

1 activities. These include production of reactor fuel starting with
2 extraction of uranium ore to the fabrication of fuel assemblies. It also
3 includes medical uses of radioactive materials by doctors at hospital,
4 industrial uses such as well logging and radiography and academic
5 uses.

6 I will also include in today's discussion our rulemaking
7 activities which cut across the materials and waste programs and also
8 provides support to the Office of Nuclear Security and Incident
9 Response. The variety, along with unique and often first of a kind
10 nature of the activities in the program, make it interesting. They also
11 make it challenging.

12 Challenging landscape and diverse stakeholder interest
13 pose additional challenges to the materials program.

14 In order to effectively manage the wide variety of diverse
15 activities, we continually challenge ourselves with regard to why we are
16 doing what we are doing and why we are doing it the way we are doing
17 it. This is part of our commitment to continuous improvement.

18 If I could have the next slide.

19 Regarding major program accomplishments. The big
20 picture, we achieved our 2004 strategic and performance goals, and we
21 are on track to achieve our 2005 goals.

22 In the area of safety, we took corrective actions to deal
23 with the December 2003 Honeywell event, and we responded to the
24 event at the Baxter Irradiator Facility. In the area of security, we

1 supported the implementation of additional security measures, and we
2 completed the interim materials database for control sources.

3 In the area of public confidence and openness, we
4 conducted numerous public meetings associated with fuel cycle facility
5 environmental assessments and licensing. On rulemaking and other
6 activities, we interacted with stakeholders and the licensee community
7 as well as the Organization of Agreement States, Conference of
8 Radiation Control Program Directors and our Advisory Committee on
9 the Medical Use of Isotopes.

10 As a result of these interactions, our outcomes were
11 better informed and more effective. The recent proposal on Part 35
12 training and experience requirements provisions is a good example.
13 Take from the opening of the meeting.

14 In the area of efficiency, effectiveness, timeliness and
15 realism, we have leveraged insights from operating experience and
16 applicable risk studies. For example, as a result of an in-depth look at
17 risk associated with medical applications, we have refocused our
18 inspection resources and achieved significant efficiencies and improved
19 focus on safety.

20 As integrated safety assessment summaries are being
21 completed, we plan to use the insight to further focus our inspections
22 activities and licensing review.

23 Now I want to highlight some of our specific
24 accomplishments in the three areas of fuel cycle facilities, medical,

1 industrial and academic applications and rulemaking.

2 Our oversight of fuel cycle facilities has enabled safe,
3 secure and environmentally responsible uranium recovery and
4 processing operations to support domestic fuel production.

5 With regard to existing facilities. Licensing actions taken
6 by the staff have supported licensee initiatives involving control of
7 hazardous materials, uranium recovery including a new in-situ leach
8 facility, down blending of uranium, decontamination and reclamation of
9 site areas and disposal of waste.

10 In the area of uranium recovery, we completed 16% more
11 licensing actions than planned and reduced the case backlog by 25%.

12 In fuel manufacturing area, we reduced the backlog by
13 30%. With regard to new facilities, we are currently reviewing license
14 applications for three major new fuel facilities, the proposed mixed
15 oxide fuel fabrication facility and two new gas centrifuge facilities. The
16 final environmental impact statement for the mixed oxide fuel facility
17 was issued in January. And the final safety evaluation report, which
18 evaluates the applicant's request for a construction permit, is scheduled
19 to be issued this month.

20 Reviews of the two gas centrifuge facilities are
21 progressing on schedule, consistent with Commission guidance.

22 Inspection and enforcement are an important part of the
23 fuel cycle facilities program. Inspection process has been
24 risk-informed. We perform risk-informed readiness inspections of the

1 program for blending low enriched uranium at Nuclear Fuel Services,
2 we have also developed a new suite of risk-informed inspection
3 procedures for the proposed mixed oxide fuel fabrication facility.

4 With regard to enforcement, we have taken necessary
5 actions in response to events such as the December 2003 event at
6 Honeywell and the potential for an inadvertent criticality at the
7 Westinghouse Columbia facility. Through these activities we are
8 working to ensure that the licensees understand the root cause of the
9 events and take appropriate corrective actions to prevent their
10 recurrence.

11 Could we have the next slide.

12 With regard to nuclear materials, we have performed a
13 large number of licensing actions to enable the safe beneficial use of
14 radioactive materials for medical, industrial and academic activities.
15 Regions and headquarters completed 2,700 new license applications,
16 nearly 600 license renewals and over 100 sealed source reviews with
17 an excellent on time performance.

18 We conducted nearly 1,300 materials program inspections
19 meeting the new risk-informed inspection schedule.

20 I want to note here we are particularly proud of the
21 success of our program in this area under the Office of Management
22 and Budget's program assistance rating tool, known as PART. This
23 independent assessment by OMB focuses on the performance-based
24 aspects of programs, including clear links between program activities

1 and achievement of strategic and performance goals.

2 We received a score of 93. That places us in the top 1%
3 of all federal programs reviewed under the PART methodology.

4 In addition to licensing activities, we have been very
5 effective in providing input to other federal and international agencies in
6 the development of national and international standards and guidance
7 on radiation protection.

8 Consistent with Commission guidance, we have
9 effectively engaged in the development and implementation of the
10 International Code of Conduct, which provides important guidance on
11 maintaining the safety and security of nuclear materials. As part of the
12 implementation of this guidance, we are implementing the phased
13 approach to the development of a national source tracking system.

14 First, we have established an interim database of
15 licensees possessing high and medium risk sources. Second, we are
16 creating a web-based licensing system. This system will allow
17 licensees' license applications and amendments to be processed on
18 line. This should provide great efficiencies for the NRC staff and
19 licensees.

20 It will also provide the foundation for the National Source
21 Tracking System. We have recently completed an effort to identify
22 functions needed by eight federal agencies in the control of sources.

23 Through this activity, we plan to minimize duplication of
24 effort and costly information technology systems. We plan to provide

1 the Commission the National Source Tracking System rulemaking
2 package later this spring. And we are on schedule for implementing
3 this important program.

4 In the area of inspection and enforcement, regional and
5 headquarters staff took effective action in response to the Baxter
6 Irradiator event to ensure that the licensee understood the root cause
7 and took appropriate corrective actions.

8 Could we have the next slide?

9 As I mentioned earlier, rulemaking activities cut across the
10 waste and materials area. And we also support the Office of Nuclear
11 Security and Incident Response in security-related rulemakings.

12 Significant rulemakings we have completed include
13 security requirements for portable gauges to further improve their safety
14 and security, approval of new cask designs in Part 72, and changes to
15 the regulations to allow vendors to make modifications to previously
16 certified casks. These actions were very important in enabling
17 licensees to safely and effectively manage spent fuel.

18 Modifications of Part 71 to reflect updated IAEA
19 transportation standards, modifications to Part 35 regarding training and
20 experience requirements for medical certifications.

21 We also close petitions involving releases to sanitary
22 sewage, electronic dosimetry and depleted uranium counter weights.

23 Openness is a key aspect of our rulemaking activities.
24 We solicit input from a wide variety of stakeholders, including members

1 of the public, industry, Agreement States, other federal agencies and
2 public interest groups. This input adds to the effectiveness of our rules
3 and we value it very highly.

4 Also, we continually look for ways to improve our
5 rulemaking process. In this regard, we are an active participant in the
6 agency rulemaking process improvement group that produces
7 cross-cutting recommendations to enhance rulemaking activities.

8 Next slide.

9 I would like to move on now to the area of challenges.

10 We have been successful in addressing a wide variety of
11 activities, but we recognize its changing environment will continue to
12 create new challenges.

13 The changing market for uranium is increasing demand
14 for uranium recovery. Changing technologies resulted in two new
15 enrichment facility reviews and continues to result in the introduction of
16 new medical modalities.

17 Changing security environment has resulted in the
18 sensitive information screening project, proposed mixed oxide facility
19 and the National Source Tracking System.

20 Fuel legislation could be enacted to expand the NRC's
21 regulatory purview, to include discreet sources of radon 226 and other
22 naturally occurring radioactive material, as well as discreet sources of
23 accelerator-produced materials. National and international initiatives in
24 the area of radiation protection drive the need for proactive involvement

1 to assure cost beneficial improvements to safety and environmental
2 protection. Of course, there is always resource constraints that drive
3 the need for increased efficiency and effectiveness.

4 It is also important to recognize that these activities are, in
5 many cases, very complex and unique. For example, the mixed oxide
6 review process is technically complex and NRC has not conducted
7 regulatory oversight of a plutonium facility in nearly 30 years. The gas
8 centrifuge facilities are first of a kind in the U.S.

9 Complex ground water issues and potential institutional
10 control issues exist for uranium recovery sites. Desire by the fuel cycle
11 facilities to move to smaller margins of subcriticality drive the need for
12 more realistic analyses. Continuously evolving medical program issues
13 involve modalities.

14 Also, many areas require coordination with multiple
15 stakeholders. Environmental Protection Agency, OSHA, Department of
16 Energy, International Atomic Energy Agency, International Council on
17 Radiation Protection, all have initiatives underway that could impact the
18 way we regulate radioactive materials.

19 Development of new and existing staff is a key to our
20 success. The NMSS percentages of entry-level hires was 48% in 2003
21 and 32% in 2004. This prepares us for the future but it also requires
22 continued support of developmental programs such as the nuclear
23 safety professional development program and training of existing staff.

24 Mid-level hires in key skill areas such as criticality are also

1 important to achieve the right skill and experience mix.

2 Related to this is the development of infrastructure. We
3 said during the waste briefing additional progress is needed in
4 developing and updating staff guidance. Specific to fuel cycle facilities,
5 we need to develop guidance for the implementation of the revised 10
6 CFR Part 70 and the required integrated safety analyses.

7 Materials licensing and inspection guidance. The material
8 license and inspection guidance was updated in the later part of the
9 1990's. This resulted in updated NUREG -556 series and new
10 inspection procedures. It has paid dividends by allowing us to complete
11 materials case work and inspections more efficiently. Recently,
12 however, we have had to defer guidance resources and we need to
13 revisit this decision.

14 This also continues to develop effective guidance to
15 support rulemaking. Maintaining this infrastructure is vital to achieving
16 our goals of assuring safety and security in an effective and efficient
17 manner.

18 If I could have the next slide.

19 Regarding trend in activities. Overall we see the workload
20 in the materials area remaining fairly constant. I want to note that the
21 workload is driven by the number of licensing actions and also the
22 complexity of the reviews.

23 For fuel facilities, a number of actions may be reduced
24 through the use of risk-informed approaches. However, many of these

1 reviews are more complex.

2 The nuclear materials program is expected to stay fairly
3 stable in most areas. We do expect a decrease in the number of
4 license renewals due to a decrease in the number of licenses due to
5 expire in the years 2006 through 2009.

6 At the same time, there will be an increase in the cost for
7 the National Source Tracking System and conversion of old information
8 technology systems such as the licensing tracking system to a
9 web-based system.

10 Overall, we plan to keep a constant workload in the area
11 of rulemaking, although rulemaking is expected to increase in the
12 security area.

13 In addition, the need for us to influence and respond to
14 international radiation protection recommendations, standards and
15 guides of the ICRP, IAEA, Nuclear Energy Agency and European Union
16 will require continued activity in the international area.

17 If I could have the next slide.

18 With regard to strategies for success. As previously noted
19 the changing environment will continue to present new challenges. In
20 order to meet these challenges, we must strive for continuous
21 improvements in our programs and activities.

22 This slide lists areas that we will focus on in order to
23 increase our capacity to deal with these challenges.

24 We need to continually assess the contribution of work we

1 do to achieving our strategic and performance goals and eliminate
2 unnecessary work, focus on those areas that contribute to achieving
3 our goals the most.

4 A holistic view of an organization's capacity to do work
5 includes the skills and commitment of its people, and also elements of
6 the infrastructure that support them in doing their work. This includes
7 procedures, information technology, planning processes, measurement
8 systems and communications.

9 Building organizational capacity assures good
10 communications and connectivity in the organization, contributes to the
11 quality and timeliness of our work and provides accountability.

12 If I could have the next slide.

13 Our strategy for addressing future challenges includes
14 risk-informed approaches. By utilizing more risk-informed approaches,
15 we have been able to focus available resources on the most important
16 work, making our program more effective and efficient while
17 accommodating emerging work.

18 In the area of fuel cycle facilities, licensees and staff have
19 utilized a new Part 70 required integrated safety analysis to focus
20 amendment requests and reviews on those areas most important to
21 safety.

22 The materials program has already realized significant
23 resource savings over the past few years as a result of risk-informing
24 activities by the regions and headquarters. We are changing inspection

1 programs and procedures to focus materials inspections more closely
2 on risk-significant licensee programs and practices.

3 Also, we revised the inspection frequencies and
4 schedules. This saved about 6 full-time equivalent staff years each
5 year.

6 Materials licensing labor rates are also significantly lower
7 than they were a decade ago. We will continue to move forward with
8 implementation of new risk-informed guidelines consistent with
9 Commission guidance.

10 If I could have the next slide.

11 The purpose of this slide is to emphasize the team work in
12 NMSS. Although our programs are in some ways very diverse, their
13 are also common elements and interconnection between activities that
14 must be considered. As we noted during the waste briefing, within
15 NMSS we have established executive leadership and management
16 teams.

17 These teams meet weekly and work together to
18 coordinate management and technical activities. We transfer
19 knowledge and lessons learned across the divisions on regulatory and
20 technical issues, and we are cross-training staff to improve readiness
21 and fungibility.

22 External to the office, we coordinate closely with the
23 regions and the Office of State and Tribal Programs through conference
24 calls, division director counterpart meetings. We coordinate closely

1 with Nuclear Reactor Regulation, and Nuclear Safety and Incident
2 Response, and we have a good working relationship with Research on
3 areas such as environmental modeling, transportation and the robust
4 materials program.

5 Next slide.

6 This slide lists a number of specific topics that we expect
7 to interact on with the Commission. Staff has prepared a proposed rule
8 in controlling the disposition of solid materials as requested by the
9 Commission. The proposed rule and the supporting draft generic
10 environment impact statement are scheduled to be sent to the
11 Commission in late March.

12 Memoranda of Understanding are being developed
13 between the NRC, Nebraska and Wyoming to address issues related to
14 ground water protection programs. The staff is developing a
15 Commission paper on this activity.

16 Staff is preparing a proposed rule to amend regulations in
17 Part 30, 31 and 32 governing the use of byproduct material. Proposed
18 changes would revise reporting of transfers to exempt persons, remove
19 obsolete provisions, simplify some licensing and clarify existing
20 requirements.

21 Staff is reviewing use of institutional controls at the
22 UMTRCA Title II site, which I want to spell that out for you. That is the
23 Uranium Mill Tailings Radiation Control Act. The site we are talking
24 about is Western Nuclear Site at Split Rock in Wyoming. And a

1 Commission paper is being prepared on this subject.

2 Staff is preparing a rulemaking to conform the dose
3 standards in 10 CFR Part 63 to the expected revision to the EPA
4 standard. Consistent with Commission guidance, staff is planning a
5 number of rulemakings to support NSIR on security issues.

6 We are planning to make changes to the license
7 termination rule to decrease potential shortfalls in the decommissioning
8 funds and to prevent future legacy sites. And we will continue to work
9 with the Office of Research to get Commission guidance on
10 international standards for radiation protection.

11 The next slide.

12 This slide lists other areas where we anticipate policy
13 issues and continued interaction with the Commission.

14 We will continue to interact with the Commission on
15 security assessments. We will continue to keep the Commission
16 informed on the status of the national materials pilot projects, which is
17 are being implemented consistent with Commission direction. And we
18 want to interact with the Commission on any possible petitions from the
19 Organization of Agreement States for rulemaking.

20 We will continue to keep the Commission informed of
21 NRC and national level activities related to implementation of the Code
22 of Conduct.

23 We will also continue to keep the Commission informed
24 and seek Commission guidance relative to other federal agency

1 initiatives that could impact the way we regulate nuclear radioactive
2 materials.

3 As I noted previously, the NRC is coordinating with
4 numerous other federal agencies on the National Source Tracking
5 System which will replace the interim database. Because this is a new
6 initiative, the rule will establish new Commission policy and the staff will
7 be seeking approval on the initiative.

8 As part of rulemaking activities related to Part 40, staff is
9 evaluating if the regulation of source material possessed under general
10 licenses and exemptions is consistent with 10 CFR Part 20.

11 Staff is also evaluating approaches for more efficient and
12 effective regulation of low concentrations of uranium and thorium
13 across government agencies.

14 Next slide.

15 To summarize then, we recognize that there is a changing
16 environment. And although we believe we have been successful in the
17 past, we recognize that there will be new challenges.

18 In order to meet the challenges of the future successfully,
19 we are committed to looking for ways to increase our organizational
20 efficiency and effectiveness while continuing to assure public health
21 and safety, security, and protection of the environment.

22 We appreciate the Commission's support in upcoming
23 policy issues and in our efforts to maintain a highly skilled diverse staff,
24 and regulatory guidance and infrastructure that will support achieving

1 our mission and meeting our organizational goals.

2 That completes the prepared part of the presentation.

3 And with that, we are interested in any questions.

4 MR. REYES: Thank you, Jack.

5 Chairman, Commissioners, that completes the staff
6 presentation. We finished in the green and we are open now for
7 questions.

8 [Laughter]

9 COMMISSIONER MC GAFFIGAN: One of these days
10 you are not going to be in the green.

11 CHAIRMAN DIAZ: I think one of these days we might say
12 there are no questions and you all will faint.

13 [Laughter]

14 MR. REYES: We would love it. That means through the
15 year, we succeeded in communicating with you day-to-day.

16 COMMISSIONER MERRIFIELD: I would not hold your
17 breathe, though.

18 MR. REYES: It's a goal, it's a goal.

19 CHAIRMAN DIAZ: I appreciated the briefing of the staff.
20 And I think Commissioner McGaffigan starts.

21 COMMISSIONER MC GAFFIGAN: Thanks, Mr.
22 Chairman.

23 I commend the staff for the wide variety of the areas of
24 success here. I think it is the interim database, which people can't see

1 appropriately, but was a real step forward.

2 We have done, I think, an extraordinary job in the security
3 area in this area and in the materials space and I commend the staff for
4 that.

5 I think that the ability to get a bunch of very complex
6 licensing actions handled promptly is, again, testament to the staff. And
7 the PART score from OMB, we are the only agency that somebody -- I
8 guess the CFO said in a meeting -- has had three programs evaluated
9 and all three have been in the top. And that puts us not just in the top
10 percentile, but probably at the top of the top percentile among agencies,
11 I suspect.

12 Larry Camper is here. I just want to follow-up on
13 something. We saw some slides this morning, this is not really on this,
14 but you are going to the Academy later today to talk about waste-
15 incident-to-reprocessing?

16 MR. CAMPER: Yes, I am.

17 COMMISSIONER MC GAFFIGAN: I would just urge you
18 to make clear whatever the SRM said about the desire for openness,
19 and you guys are going to give us a paper by the end of March but -- I
20 know I have talked with the senior staff and everybody -- I was
21 preaching at that last meeting to the converted, as was my colleague, in
22 that you guys do fully intend to have that process in the open.

23 I say that in part because there was an Academy report
24 last week on this subject. And what I regard as a gratuitous slap at this

1 agency in the report it talked about the pros and cons of NRC and EPA
2 being the regulator, so-called, or the checker on the DOE actions. And
3 they point out that one of our benefits as an independent regulatory
4 agency we could be perceived as better insulated from political
5 pressure than EPA. I think that is exactly accurate.

6 Whatever the panel said, "NRC also faced a significant
7 disadvantage in regard to public credibility because it was viewed by
8 many critics as a captured regulator serving the interest of the nuclear
9 industry and having an institutional bias for DOE."

10 I think that would be news to DOE.

11 COMMISSIONER MERRIFIELD: Surprise, surprise,
12 surprise.

13 COMMISSIONER MC GAFFIGAN: And I think it's -- I'm
14 really disappointed the Academy puts that in, because it is going to be
15 played back at us. But I think you need to assure them, we don't have
16 any institutional biases toward any licensee or potential licensee. We
17 are a damn tough regulator. We are insulated from politics, and I think
18 that is very good. I have never seen a Republican, Democratic or
19 whatever vote during my time here.

20 I respect my colleagues. I respect the staff. And this is
21 something I expect from the anti-nuclear groups but I don't expect from
22 the Academy of Sciences. But whatever.

23 So if it is this afternoon and none of my colleagues
24 disagrees, I hope you will make it absolutely clear that we are going to

1 run a open process with the states and with the Department of Energy.

2 And we are proud of our role as an independent regulator.

3 I will let me colleagues give you a signal later.

4 The interim database in the National Source Tracking
5 System, you mentioned that there are about eight agencies involved in
6 helping you set the requirements for that.

7 Has there been any discord in doing that? Are we all
8 lined up? And is there unanimity about the need for prompt information
9 in the database, which I know it is probably more important to people
10 like Customs and DHS than perhaps our own programs? But is there a
11 wide recognition that this has to be a prompt database because the
12 interim database is updated a quarter of it every quarter? We do it
13 annually.

14 What can you say about the degree of consensus that has
15 emerged in this eight-agency working group?

16 MR. STROSNIDER: I believe in general the degree of
17 consensus has been pretty good. We are moving forward in that area.
18 They are having some discussions with DOE on how frequently they
19 would update the database. Margaret, who is intimately involved in this
20 working group, I don't know if you have anything you want to add to
21 that.

22 MS. FEDERLINE: Yes. What Jack said is absolutely
23 correct. There has been very good cooperation in defining the
24 specifications. And DOE has been involved in that all along.

1 I think now we are reaching the time when the cost would
2 have to be considered of updating or uploading the data more
3 frequently. DOE has some concerns, but they have sent messages to
4 us that they are looking to work it out.

5 COMMISSIONER MC GAFFIGAN: I hope they can work
6 it out in our direction, because the database for everybody else is
7 providing realtime information or near realtime and DOE not, would not
8 be a viable thing.

9 Space. I had our recently an opportunity to visit the eighth
10 floor over in your building just to see how it compared with
11 congressional staff space. And I can tell my colleagues that they are
12 neck in neck, which is not a good thing.

13 What decision -- the last time we talked about space, you
14 all were saying that you might not be able to have very many interns
15 this summer. Having seen the space, I understand that.

16 But my colleague, Commissioner Lyons, said that it
17 sounded like it was not the greatest thing, given the generational
18 turnover that we are going to be having shortly.

19 What did you guys decide about the summer in terms in of
20 interns in NMSS? Or more broadly -- NRR does not have the problem,
21 I don't think, because I visited office space in this building --.

22 MR. REYES: We are moving forward with our plans but it
23 is very tight, as you noticed.

24 We just sent to the Commission our contractor report, and

1 we are going to have more dialogue on that. We are experiencing
2 difficulties -- to restructure an area, you have to move people some
3 place else to restructure the office space. We don't have some place
4 else to move them.

5 We are getting to point that the flexibilities are really
6 coming to an end. So after the Commission has a chance to look at the
7 contractor report, we want to engage the Commission to continue to
8 pursue that.

9 COMMISSIONER MC GAFFIGAN: Mr. Chairman, I have
10 used nine minutes. Is that what you are allocating this time --

11 CHAIRMAN DIAZ: You have used just over six. And
12 since you were first, you always are allowed a little bit more.

13 COMMISSIONER MC GAFFIGAN: I am egregiously over
14 and I apologize.

15 CHAIRMAN DIAZ: All right, Commissioner Merrifield.

16 COMMISSIONER MERRIFIELD: Thank you, Mr.
17 Chairman.

18 I would say that as it relates to our interaction on the staff
19 of the Academy, I don't know what the source of the comment about
20 this agency being somehow captured comes from. I would agree with
21 Commissioner McGaffigan that whoever has that view, that's not
22 accurate. And certainly, I think the notion that somehow we favor DOE,
23 I think I put that one to bed, too.

24 Like Commissioner McGaffigan I also want to compliment

1 the staff for the PART scores. I think that is noteworthy, and certainly
2 want to reflect on a good job done there.

3 We talked about very briefly the issues associated with
4 the irradiation or the Baxter Facility down in Puerto Rico. I understand
5 we have been working quite closely with the licensee to understand
6 what happened and to make sure that there was the appropriate
7 corrective action to make sure that it didn't happen there again.

8 But I would like to know the extent to which we were
9 taking the lessons from that facility and making sure that our licensees
10 as a whole are aware of them in order to avoid what seemed like a fairly
11 straightforward mistake on the part of Baxter.

12 MR. STROSNIDER: I would ask George Pangburn from
13 Region I to address that.

14 MR. PANGBURN: What we are working on,
15 Commissioner, is a lessons learned and temporary instruction that
16 would inform our inspection at irradiators around the country.

17 We don't know at this point whether the issues at Baxter
18 were unique to that facility or whether it is an issue that may warrant
19 inspection at other facilities.

20 We are in the final stages of the Region's preparation of
21 lessons learned as they apply to licensing as well as to the inspection
22 program. And we will be working with Charlie Miller to look at the
23 temporary instruction, how we might structure going forward with that.

24 We were in the field last week at Baxter at the

1 management level and the inspector level to verify their corrective
2 actions. And we came away with good feeling about how Baxter has
3 responded to that event and the potential seriousness, as you are
4 aware of.

5 COMMISSIONER MERRIFIELD: Well, it would strike
6 me -- you know, I think there are a lot of areas where benchmarking
7 and best practices have become common place in many of the areas
8 that we focus on as a regulator within this industry. It is not entirely
9 clear to me to the extent to which some of these irradiators get together
10 and share some of those benchmarking practices to make sure they
11 are enhancing and improving their level of operations.

12 That's not a regulatory requirement, but certainly one that
13 they may wish to consider.

14 MR. PANGBURN: Thank you.

15 COMMISSIONER MERRIFIELD: I'm noting that -- and
16 certainly the slides in the presentation indicate this, that there is an
17 increasing number of security reviews that may require reprogramming
18 resources to support the security assessments. I think it is important
19 for the staff to keep the Commission informed in a timely manner of
20 significant issues that may be delayed because of higher priority being
21 assigned to security areas or any other area.

22 And I just wanted as a take away from this to make sure
23 that the staff keeps the Commission fully informed when THESE issues
24 in security may cause it not to be able to meet other established

1 priorities. And certainly delays in these other programs should be
2 planned and not subject to unintended consequences.

3 For the fuel cycle facilities, we are having all site wide
4 integrated safety assessment summaries submitted by October 24,
5 2004, as was required by Part 70 of our regulations. And I want to get
6 some sense of how the on-site reviews of the summaries are
7 progressing? When do we anticipate completing this activity?

8 MR. STROSNIDER: We are progressing. I think we are
9 a little behind schedule from where we would like to be on those
10 reviews, partly due to some of our shift in resources, priority driven.

11 Having said that, though, I believe people are still taking
12 advantage of them to the extent they can in some of the ongoing
13 licensing reviews.

14 And as I indicated, we just had a workshop within the last
15 few weeks with the industry on the integrated safety assessments. I
16 think that was a very good workshop. We had put out some guidance
17 in this area but we are learning more as we go through the process and
18 we recognize that we need, as I said in the presentation, we will have to
19 develop some additional guidance.

20 And there may be some issues that come up that we may
21 want to bring to the Commission.

22 I don't know if Bob Pierson wants to add anything to that?

23 COMMISSIONER MC GAFFIGAN: Could I ask a
24 clarifying question while Bob is going to the microphone?

1 Was DOE at this workshop?

2 MR. STROSNIDER: I'm not certain.

3 MR. PIERSON: To talk a little bit about the ISAs, we are,
4 in fact, somewhat behind schedule. And in some measure, that is
5 driven because of the resource allocation to accommodate the gas
6 centrifuge reviews.

7 We are attempting to try to recapture the schedule and we
8 do the best we can in terms of that.

9 As far as DOE, there were members of DOE at that
10 workshop. I am not sure whether they were particular to the
11 organization within DOE that you are referring to.

12 COMMISSIONER MC GAFFIGAN: The organization
13 that's supporting the building of all these facilities.

14 MR. PIERSON: There were representatives from most of
15 the facilities that we have.

16 All the existing facilities were not represented. But NEI
17 was represented very well. DOE was there. And there were
18 representatives from virtually all the facilities that we regulate.

19 COMMISSIONER MERRIFIELD: Just a couple of
20 comments. I note as part of this whole effort, the Center for Nuclear
21 Waste Regulatory Analysis has been participating more increasing in
22 these reviews. I just would note that I think this is a good use of what I
23 think is a very important resource for this agency and would applaud
24 the staff for their engagement with the Center.

1 The other one I would note, we talk about all the
2 successes, but I think we had a major transition of our fuel cycle
3 inspection program and centered that all in Region II. From my
4 standpoint, having met with a number of folks, I think this has been a
5 very good transition. And I certainly want to compliment the staff
6 involved in that and the folks down in Region II for making that happen.

7 Mr. Chairman, I have another question but I am willing to
8 put that aside and perhaps we may come back.

9 CHAIRMAN DIAZ: Sure. Commissioner Jaczko?

10 COMMISSIONER JACZKO: Good morning. The first
11 question I want to ask and it goes back to the human capital reflective,
12 ask questions about this.

13 You talked about, I think, doing a good job getting new
14 people in, and then you talked a little bit about mid-level hires. Do you
15 have challenges right now?

16 I think in many ways our focus is, from what I seen, has
17 tended to be on getting new hires in at more than entry level. But is
18 there enough going on right now you think to be able to get and attract
19 the mid-level people that you need in the event that things come up
20 where we have not yet built the infrastructure or the knowledge base
21 within our newer staff?

22 MR. STROSNIDER: I think the answer -- first of all, I just
23 say in terms of overall trend, we have had an initiative in the last
24 several years to bring in more entry-level people, just frankly looking at

1 demographics of the agency. So we have done that. And I think we
2 have done that with some success, as I indicated.

3 The important thing to recognize there is that we need to
4 make sure now that we have brought those people in, that we provide
5 the appropriate developmental opportunities. At the same time, we
6 recognize that we need to have a good mix and experience level and
7 expertise across the organization.

8 So we are bringing people in not just at entry level but at
9 better levels. And for existing staff, we also need to provide them the
10 opportunities to grow and learn to pick up other areas and maintain
11 their expertise.

12 These developmental programs are extremely important.
13 And the resources, obviously, are one of the things that makes the
14 office and the agency as good as it is, I believe, as the staff that we
15 have. So, I think there is an appropriate commitment there.

16 It cuts across a number of areas, for example, gets into
17 the travel budget. Do we have -- are we budgeting properly to support
18 rotational assignments and even travel to specific training classes
19 where we have been trying to do things like bring those classes here so
20 that we can save on the travel funds.

21 So we are trying to be efficient in that. But we need to be
22 cognizant of it and make sure that continue to support it, because even
23 mid-level people or higher-level people, when you bring them in, they
24 have to become familiar with the regulatory process as how we interact

1 with licensees and those areas.

2 MR. REYES: Our biggest challenge, I think, in the
3 mid-level area has to do more with the critical skills that we are looking
4 for, criticality of safety is probably the best example.

5 COMMISSIONER JACZKO: Are you finding that the
6 people are not out there to bring in really?

7 MR. REYES: Correct. So what we do is then we grow
8 our own. And then gets into what Jack is talking about.

9 We are bring in an engineer, perhaps an nuclear
10 engineer, and then we have to send him to New Mexico for classes, et
11 cetera, et cetera. And then you get into travel and training and all that.

12 So, it becomes more an issue of critical skills that we
13 need that are hard to find for everybody.

14 COMMISSIONER JACZKO: Thank you.

15 I just want to follow up a little bit on what Commissioner
16 McGaffigan said about the waste-incident-reprocessing. That
17 certainly was an issue that I was also very interested in. I'm glad to see
18 that we are definitely moving in a direction of making those interactions
19 public and that to the maximum extent that's possible.

20 I want to switch gears from that just a little bit, though, and
21 talk about the National Source Tracking System.

22 I think, Margaret, you mentioned the cost is a driving
23 factor for DOE to provide close to realtime data. What kind of costs are
24 we looking at for that? What kind of costs are they saying is

1 problematic?

2 MS. FEDERLINE: It is one of the factors. And I think it
3 was a connectivity issue. I think we were able to explain to them that
4 we were looking for transaction reporting as opposed to inventory
5 reporting.

6 And once they realized that, it is a much smaller burden,
7 because there are fewer transactions than inventory. So I don't have
8 estimates of cost. But it was, I think, a breakthrough when we
9 communicated as to what we were expecting.

10 COMMISSIONER JACZKO: So at this point, you think
11 we're closer to getting them to be on more of a realtime?

12 MS. FEDERLINE: That's my impression. We are going
13 to continue to follow it. If it does not work out, we will, of course,
14 escalate it. It is very important to us.

15 COMMISSIONER JACZKO: Absolutely.

16 Just a little bit, then, about schedule. What would be the
17 schedule?

18 Right now we have the interim database operating. We
19 are looking at a new system to track licensees which would then feed
20 into the Source Tracking System.

21 What is the schedule to getting all of these things together
22 and completed?

23 MS. FEDERLINE: Well, we are a planning in '06 to begin
24 the first phase. And we will complete it in '07.

1 Let me ask Charlie if he wants to say more specifically?

2 MR. MILLER: Charlie Miller, NMSS.

3 As Margaret pointed out, we plan on completing Phase 1,
4 which is the web-based licensing, which will interact with the National
5 Source Tracking System and roll that out by this fall, fall of '05.

6 We are in the process now of putting together the request
7 for proposal for Phase 2, which will be the National Source Tracking
8 System. We do plan on having that such that we initiate the first
9 phases of rollout of that in '06 and in completion of '07. And we are still
10 on schedule as far as we know.

11 Attached to that, of course, is the very important
12 rulemaking that will go along with that. The rulemaking, the draft rule
13 will come to the Commission later this spring for your attention. And
14 then from there, we will proceed pending Commission action with
15 proceeding towards developing the final rule.

16 COMMISSIONER JACZKO: Thanks.

17 I just want to close with a couple of comments, knowing in
18 the beginning you talked about one of your successes or important
19 elements is working on that balance between openness and security. I
20 think that is a very important thing. And perhaps one of the next
21 briefings you can talk a little bit more -- I won't ask it now because I
22 know my time is running short -- but about some specific examples of,
23 one, where you are seeing those challenges; and two, what you are
24 doing to make sure that that balance is being achieved appropriately.

1 Again, that is something at the Commission level, we
2 obviously have to provide a lot of guidance on that, and it is really an
3 important aspect. I think this agency has historically been viewed as
4 very open and very accessible and that is important. It is important that
5 we maintain that perspective, again recognizing that there are new
6 challenges right now, particularly the security arena.

7 So that message has to be communicated well about why
8 we are making the choices perhaps not to be as open as we used to be
9 and effectively communicated.

10 Thank you.

11 CHAIRMAN DIAZ: Thank you, Commissioner Jaczko.
12 Commissioner Lyons.

13 COMMISSIONER LYONS: Thank you, Mr. Chairman.

14 I would like to support the comment made by several of
15 my colleagues expressing concern over the statement that the National
16 Academy of Science has made. I guess, personally, I'm very surprised
17 that that type of a comment would survive their usually rigorous review
18 process. But apparently, it did.

19 I want to very much compliment the staff on a number of
20 the achievements that you described. Certainly the productivity and the
21 timeliness of the likes of many, many licensing actions; PART score.

22 I think your work with DOE and others on recovery of
23 orphaned or unwanted sources is truly critical for the country. I am
24 very, very pleased to see you working and making progress on that.

1 My first question following Commissioner Jaczko was
2 going to be on the National Source Tracking System. And I guess there
3 I would just perhaps add to what you already said, Commissioner, that I
4 regard that as a very important step. If it's possible to advance
5 schedules at all, I hope we are looking at any opportunities to do that.
6 But based on the comment that was just made, I kind of gather we are
7 going about as fast as we can.

8 One question remaining of the issues I wanted to raise,
9 though, was does the web-based licensing system, is it actually being
10 set up to communicate with the National Source Tracking System so
11 that you will have a clean interface of data flow back and forth?

12 MR. STROSNIDER: I'm not the best expert on this. But
13 the answer is, yes, they interface. And we have looked very closely at
14 that interface to assure that we are not getting into custom made
15 software that is hard to maintain. And I think Mel Leach can probably
16 express that better than I.

17 MR. LEACH: Good morning, Mel Leach, NMSS staff.

18 The web-based licensing system is a COTS system,
19 commercial off the shelf system, that we are adapting to meet the NRC
20 needs. That system will be able to communicate with the eventual
21 National Source Tracking System. And the two will share information.

22 We are keeping them somewhat separate so that if one of
23 the systems has a problem, it will not impact the other system so that
24 we can maintain the functionality of the National Source Tracking

1 System.

2 If you need more technical details, Commissioner, we can
3 get my staff with you on how the IT is set up.

4 COMMISSIONER LYONS: I would be interested in that
5 sometime. Thank you.

6 I had an opportunity last week while traveling also with
7 Commissioner Jaczko to have my first interactions with an Agreement
8 State representative and there also have been several letters that have
9 come in from Agreement State representatives in the last few weeks.

10 That interaction last week and those letters certainly
11 brought home to me the importance of the partnership that I think we
12 need to maintain with the Agreement States.

13 And I'm a little concerned on the frustrations that I'm
14 sensing in some of these interactions concerned with the frustration on
15 the GL provisions which I gather have caused considerable
16 consternation. I understand that there is a petition coming in from the
17 OAS to the Commission on the GL issue.

18 I just wondered if any of you knew the status of that
19 petition or any details about it?

20 MR. STROSNIDER: I turn to Paul Lohaus.

21 MR. LOHAUS: Paul Lohaus, State and Tribal Programs.

22 The current status is the OAS board is meeting this week.
23 One of the items that they plan to take up is a survey that the board
24 conducted of all the Agreement States relative to their views and

1 position on the GL rule. Based on this that, they plan to prepare a
2 petition for rulemaking, and their expected time frame is the early
3 summer of 2005 to submit that to the Commission for consideration.

4 COMMISSIONER LYONS: Thank you. Another question
5 perhaps related to that. With relatively few states signing the 274-I
6 agreements, what does that do to our security inspection program? Or
7 how does that impact our security inspection program?

8 MR. VIRGILLIO: Commissioner, given the path that we
9 are on today, that puts a significant burden on the regions who would
10 be conducting those inspections.

11 We are looking at options right now and will be coming
12 back to the Commission with different proposed approaches.

13 MR. REYES: We are doing the inspections, but the staff
14 is doing them in lieu of delegating them to the states, so there is a
15 resource impact.

16 COMMISSIONER LYONS: I assume there is a
17 substantial resource impact.

18 Thank you, Mr. Chairman.

19 CHAIRMAN DIAZ: Thank you Commissioner Lyons.

20 Let me go and talk a little bit about what all of my
21 colleagues have brought out about by some words that I guess have
22 appeared regarding the way we do things.

23 You know, I think everybody in the NRC recognizes the
24 fact that we are very good at doing things, whether you look at what

1 every one of these areas is, whether it is waste incidental or anything
2 else, especially in the area of security, the dedication and the
3 involvement of the staff and Commission has been tremendous through
4 all of these years. And we have done the right things. And we have
5 done them in the right sequence and we continue to do that.

6 We have never really been very good at advertising what
7 we do. We are getting better. We are getting better. And we will
8 continue to do better.

9 And fundamentally, I think there has to be a realization
10 that in many occasions it is important that the public and stakeholders
11 realize how much effort and how many improvements we have made in
12 many of these areas, including the fact that we are wrestling, and
13 wresting with vigor and with dedication, to this new area in which
14 openness and security have a tug of war. And we keep trying to be
15 open and at times just to be able to protect the information that we
16 believe could be used by a terrorist, we need to be closed or we need
17 to be restrictive. Things that we are not used to, but the circumstances
18 demand that we do that.

19 I appreciate the staff continuously looking at this issue
20 because it is a very important issue, not only to the Commission in itself
21 but to the country. We need to eventually reduce it to a series of good
22 processes which occasionally we are going to make a mistake here and
23 there, but those mistakes should be small or at the margin. They
24 should not be large mistakes.

1 With that, let me go on to what I thought was everybody's
2 interest to look at. Let me look at issue of staffing and the fact that you
3 have a serious or very big issues coming in, especially in the area of
4 licensing while all the other things, you know, are still having to be
5 discharged.

6 And some of these issues start and stop, Yucca Mountain
7 being one of them. And that puts a tremendous burden on you, and to
8 be able to -- if something relatively large slows down, to be able to
9 reallocate resources inside.

10 You used the word fungibility, I think, is a good word.
11 How fungible are we? Are we capable if there is a delay in a major
12 project, to then take the people on because they have the right critical
13 skills and allocate them to get other areas that maybe were slow
14 because of the larger issues and get them ahead?

15 MR. STROSNIDER: I think we are reasonably fungible. I
16 mean, obviously we would like be as fungible as we can.

17 I think a good example of this, when we had a challenge
18 with high level waste and staying within the expenditures on that in the
19 last year, that we were able to have people from that group work on
20 other actions within the organization. Some of the same critical skills
21 carried over and they were able to do that.

22 I think probably the most important part of that is that the
23 management teams within NMSS, when I mention the leadership and
24 the management team, recognized that and were able to make that

1 happen.

2 So, it requires management to make sure that you take
3 advantage of where the fungibility does exist.

4 And I think that was a good example of where we were
5 successful.

6 MR. REYES: I continue to be impressed by the staff and
7 the managers being able to react to these changes. But there is a
8 reality that we all need to admit. And when those events happen, there
9 is inherent inefficiency. I will give you an example.

10 It is very hard to take a volcanologist or a hydrologist and
11 move them to do medical licensing.

12 CHAIRMAN DIAZ: It is not a bad idea.

13 [Laughter].

14 MR. REYES: The medical community is a little bit picky
15 about this particular issue.

16 But my point being in that as much as the management
17 and the staff teams' attitude to our being fungible and changing
18 priorities is there, and I continue to be impressed every day with their
19 commitment, the reality is that we have some inefficiencies.

20 Whenever these major projects either change their
21 schedules significantly or priorities get changed, and the more
22 specialized you are, the harder it is to be able to be fungible. In the
23 Office of Nuclear Materials Safety and Safeguards, because they have
24 a lot of variety in their activities, it is a real challenge for the

1 management team. It is a real challenge.

2 CHAIRMAN DIAZ: I understand.

3 MR. STROSNIDER: But I would like to follow-up with one
4 comment or two in terms of balance.

5 It is also extremely important to maintain some of those
6 critical expertise and skills. Our work has to withstand a lot of scrutiny
7 and we need to have that expertise.

8 So, there will always be some of that. So it is just finding
9 the right balance.

10 CHAIRMAN DIAZ: I understand. And what I am hearing
11 is that you have been able, at least this year, to accommodate the turns
12 and changes in staffing of different areas.

13 All right. In the issue we are coming closer to in budget
14 time, you have to, "fund NSIR's activities in the materials area".

15 How much of the actual expenditures that NSIR does in
16 the materials area are for fuel cycle facilities? Do you have any idea?

17 MR. STROSNIDER: How much of the NSIR resources?

18 CHAIRMAN DIAZ: Yes. The NSIR resources that are
19 assigned to NMSS's budget. How much are fuel cycle related?

20 MR. VIRGILLIO: 10-20 FTE?

21 CHAIRMAN DIAZ: 10-20?

22 MR. VIRGILLIO: Mr. Chairman, I would have to go back
23 and look at the --

24 COMMISSIONER MC GAFFIGAN: It's national source

1 tracking and rulemaking on DBTs and things like that. Rulemakings on
2 national source tracking. All of that is pretty high priority.

3 MR. VIRGILLIO: Right now one of the highest priority
4 issues we have right now is the completion of the plant specific
5 assessments that we are doing. Looking at the individual scenarios
6 and determining the adequacies --

7 CHAIRMAN DIAZ: Well, I think those are some of the
8 numbers that we really need to know because I know they become
9 resource intensive and they are high priority.

10 MR. STROSNIDER: And we can get you the exact
11 numbers. But I think the important thing to recognize here, and we try
12 to work very closely with NSIR on this subject, is that of emerging
13 work.

14 And emerging work on NSIR impacts work within NMSS
15 and other offices. And that's something we have to be very cautious
16 about, because, for example, with upcoming rulemakings, we will be
17 looking for technical input from them.

18 We do the procedural in putting those together. But
19 depending on what appears on their plate, that can have an impact.

20 So, we do -- I discussed that with Roy. We try to work
21 that closely, because we need to understand that connectivity.

22 CHAIRMAN DIAZ: Okay. I think we still have a little bit of
23 time.

24 Commissioner McGaffigan, want to take a second round?

1

2 COMMISSIONER MC GAFFIGAN: Okay. I going to try
3 to be quick.

4 On the National Source Tracking System rulemaking, if
5 eight agencies were involved in planning it, and I assume we are going
6 to need a paperwork collection, since there is going to be paperwork
7 requirements, do we get that at the proposed rule stage or at the final
8 rule stage, when we go to the Office of Information and regulatory
9 Affairs at OMB, or both?

10 MS. FEDERLINE: It is my understanding that it is both.
11 And it will cover the information collection for our agency.

12 COMMISSIONER MC GAFFIGAN: And you are going
13 to -- and will not cover the information collection for others if there are
14 others involved like DOE internally? That's done by orders?

15 MS. FEDERLINE: We explored that and we talked
16 among the agencies. And they felt it was such a difficult process to do,
17 combined rulemaking by multiple agencies, that they preferred each to
18 do their own. DOE would do it by order.

19 COMMISSIONER MC GAFFIGAN: Okay. You are not
20 going to get all this done before you give it to us in June, or are you
21 going to get it all done before you give us the proposed rule in June?
22 Are you going to parallel going to OMB or simultaneously?

23 MS. FEDERLINE: Yes, that's part of the rulemaking -- let
24 me just ask Charlie if he wants to add anything. But that is part of the

1 normal rulemaking process.

2 COMMISSIONER MC GAFFIGAN: Before you come to
3 us or after you come to us?

4 MS. FEDERLINE: It is my understand it is part of the
5 proposed rule.

6 COMMISSIONER MC GAFFIGAN: I sort of question that
7 I will see it by June because the OMB process sometimes is slow. And
8 they also put things out for 20-day comment periods and stuff like that.

9 MR. REYES: We are trying to do as many parallel things
10 as we can --

11 MS. FEDERLINE: Yes, we are.

12 MR. REYES: -- in this process. The staff is trying to
13 maximize --

14 COMMISSIONER MC GAFFIGAN: I appreciate you
15 doing that. I really do. But for my new colleagues understanding just
16 how many checks -- especially when it is a multi-agency thing, the
17 number of checks on you is extraordinary. I mean, I think the
18 Commission is going to have to watch this very carefully.

19 The other thing I'm going to say is more a statement. I
20 heard Commissioner Lyons talking about his interaction, perhaps, in
21 Alabama or somebody last week -- we should have had some
22 discussion of IMPEP today, and Paul, I think, probably should have
23 been at the table. It should have been in this discussion.

24 I, obviously, am the one who started a bit of a fire storm

1 with these folks a few week ago. But I am frustrated, genuinely, that
2 every time we make a Category B determination with regard to
3 compatibility of these rules, we seem to have problems. And it's not
4 just in the general license tracking system, although that's the cause of
5 the moment. In the two-man rule on radiography, we are having
6 problems.

7 The T&E rule we affirmed today which is compatibility B. I
8 would predict for those who are on the Commission for a long period of
9 time in the future that that will be raised.

10 And yet, in each one of those circumstances we had good
11 reason for what we did. And it should not take -- there is a letter from
12 Florida, I think, that came in a week ago where it took three and a half
13 years between the time we decided Category B -- it was a SECY-00-
14 something that we voted in the early 2001. And in October of 2004, this
15 senior official discovers that we made a compatibility B and it causes
16 problems.

17 Now, the Commission did it. And I think it was unanimous
18 Commission. I don't remember there being differences. And I think it
19 was the unanimous Commission on T&E. And I think we have had sort
20 of annual discussions with the Agreement State people when they
21 come in, typically in the summer, and told them why we decided what
22 we decided.

23 So it is a statement. But I think IMPEP incompatibility and
24 whether compatibility B decisions, how they are made and -- I'm proud

1 of the decisions. I think they are all unanimous. But we need to not
2 wait three and half or four years before we get a rulemaking petition
3 asking us to change something.

4 CHAIRMAN DIAZ: All right. Commissioner Merrifield.

5 COMMISSIONER MERRIFIELD: Mr. Chairman, yes. I
6 think in terms of Commissioner McGaffigan's previous comment, I think
7 the one thing I would want to state is I think there is a suggestion -- I
8 don't know if we do it differently, honestly, I forget -- but I think having
9 an opportunity to get some assessment of the IMPEP reviews would be
10 something that would be worthwhile in that regard.

11 MR. VIRGILLIO: Commissioner, we will have our annual
12 Commission meeting on the Agreement State program coming up in the
13 July, August time frame. I don't know that it has been scheduled.

14 COMMISSIONER MERRIFIELD: That's fine. We will
15 touch on it then. Thank you for reminding me. I will look forward to that
16 meeting.

17 For Title I uranium recovery facilities, for which we have
18 some oversight, the staff is working with the DOE Grand Junction office
19 to address priorities technical policy issues. I wanted to get a sense of
20 how that interrelationship is going and what we sense are some of the
21 major DOE actions in the course over the next year, given the fact that
22 that will obviously have an impact on our resource planning here at the
23 agency.

24 MR. STROSNIDER: So, if some of the actual work

1 activity such as WIR that we have talked about, we are working with
2 them, we have to develop -- we have to staff up and develop the
3 infrastructure to support that.

4 Other areas where we are dealing on the Code of
5 Conduct, which takes time in terms of looking at its implementation,
6 what isotopes to include, those are a couple of the major issues we
7 have there.

8 We have been meeting with them, you know, periodic
9 meetings to talk about some of the list of common issues and
10 developed strategies for addressing those. And we are working those
11 through.

12 COMMISSIONER MERRIFIELD: I was talking particularly
13 about the Title I uranium recovery.

14 MS. FEDERLINE: We are primarily in a stage right now
15 with the Title I where we are doing the review of their ground water
16 correction programs.

17 Let me ask Bob if he has details he wants to add?

18 MR. PIERSON: Bob Pierson, NMSS staff.

19 What is the nature of your question, sir?

20 COMMISSIONER MERRIFIELD: Do you interact with
21 DOE the Title I facilities?

22 MR. PIERSON: Yes, we do.

23 COMMISSIONER MERRIFIELD: What is the current
24 nature of their plans for the coming year and how is that going to

1 impact? Because I'm trying to get some sense of how that may impact
2 our planning?

3 MR. PIERSON: We have worked -- probably the most
4 significant work would be, as Margaret mentioned, ground water
5 restoration. We work with the Atlas Moab site and a number of few
6 other sites through the Colorado field office in trying to determine what
7 the resource implications are. And right now this is not a significant
8 resource implication for uranium recovery. But it does involve some
9 resources, though.

10 COMMISSIONER MERRIFIELD: It does. But it's not a
11 big issue?

12 MR. PIERSON: You are talking about a few FTE at most,
13 that's correct.

14 COMMISSIONER MERRIFIELD: Great. On the MOU
15 that we -- well, we have a MOU that we are working on right now in
16 source recovery with DOE. I'm trying to get some sense of what the
17 status is of the MOU and how that is going. Anything we need to be
18 aware of?

19 Mr. STROSNIDER: This is on the -- go ahead, Charlie.

20 MR. MILLER: Commissioner, my staff has worked with
21 Department of Energy staff. We have crafted an MOU. We sent it over
22 to them a number of months ago.

23 We have got some informal comments back from DOE
24 staff but they have not been cleared by the Department of Energy

1 general counsel yet.

2 So that's kind of where the status is. We are trying to
3 work with DOE to break that loose through their general counsel so that
4 we can see where the exact differences are and try to reconcile those
5 differences.

6 COMMISSIONER MERRIFIELD: The general counsel
7 just having left DOE.

8 How long has that been pending at this point? Do you
9 remember?

10 MR. MILLER: Exact date, I'm not sure.

11 MS. FEDERLINE: It's been since December.

12 COMMISSIONER MERRIFIELD: December?

13 MR. MILLER: A couple of months.

14 MS. FEDERLINE: And there have been some transitions
15 that are occurring over there in their legal staff. We stay in touch with
16 them.

17 You know, we wanted to let it work through the transition
18 and then, we will raise it up if it still in another month it is not resolved.

19 COMMISSIONER MERRIFIELD: Well, recognizing we all
20 have transitions and understanding that they have that underway, I
21 mean, it's an important program. It is one we certainly have a key part
22 in. And certainly, from my personal perspective, I think we need to
23 continue to encourage DOE to get that wrapped up so we can move
24 forward.

1 MR. MILLER: I can promise you my staff is strongly
2 encouraging them.

3 The one thing that we should note is that the existing
4 MOU did not run out. It will stay in effect until such a time as until we
5 can put a new MOU in place. So it has not impacted the source
6 recovery to this date.

7 COMMISSIONER MC GAFFIGAN: And I appreciate my
8 legal colleague being the one to raise the slowness of lawyers at times,
9 not ours. Ours are really good.

10 [Laughter]

11 CHAIRMAN DIAZ: Duly noted.

12 COMMISSIONER MERRIFIELD: Not all lawyers are
13 slow, speaking, at least, for myself and perhaps the other one at the
14 end of the fable.

15 CHAIRMAN DIAZ: Duly noted.

16 Commissioner Jaczko.

17 COMMISSIONER JACZKO: I have no more questions.
18 But I would hope that that would be noted so that perhaps at time --

19 [Laughter]

20 CHAIRMAN DIAZ: Commissioner Lyons.

21 COMMISSIONER LYONS: One small question.

22 We have a proposed legislative change that would bring
23 jurisdiction over discreet sources of radium 226 and other
24 technologically enhanced naturally occurring radioactive material within

1 the NRC jurisdiction. I'm just wondering if that legislation is accepted
2 as we are proposing, is that a substantial resource impact?

3 MR. STROSNIDER: I would think the answer would be
4 yes. We would have to develop the supporting infrastructure and
5 everything that goes along with that. So I would think it would have a
6 substantial impact.

7 COMMISSIONER MC GAFFIGAN: That's why we have
8 had a delayed date, so that if it were enacted, it does not go into effect
9 for a year or two; right, so you would have time for rulemaking, maybe
10 three?

11 MR. MILLER: Just to give you a flavor a little bit without
12 getting into specific resources, Commissioner, the kinds of things that
13 we would have to work ourselves through, of course, is promulgating
14 any changes to the regulations that would be needed.

15 Again, we would have to work with the Agreement States
16 on compatibility and putting compatible regulations in the Agreement
17 States. And what would be unique here would be we would be picking
18 up jurisdiction for those non-agreement state activities where the state
19 currently has jurisdiction. So we would have to see for non-agreement
20 states, if they were interested in possibly becoming an Agreement
21 State, or partial Agreement State for this activity.

22 And then, of course, we would have to work in putting
23 together the infrastructure for licensing and inspection which would
24 primarily be done in the regions.

1 MR. VIRGILLIO: Commissioner, there are two papers
2 that we did a couple of years ago that quantify what we think the
3 resource implications would be. This is the one that Charlie just said.
4 And we can provide those to you.

5 COMMISSIONER LYONS: I would be interested in
6 seeing those. Thank you.

7 CHAIRMAN DIAZ: Obviously we are running out of time.
8 But it appears to me one of the issues that we will continue to have to
9 grapple with is the issue of ICRP and ICRP environmental protection
10 and radiological protection.

11 I don't know how we are going to do this. But I still would
12 like to see the staff come and provide to the Commission a kind of a
13 simple wrap up paper, where we are in adopting, not adopting, some of
14 the ICRP recommendations regarding radiation protection, maybe
15 some conclusions regarding the fact that we have a regime that is
16 different but it is adequate, or maybe we want to do some changes.

17 And I know reviews have been done and a paper has
18 been done, but I do believe we are getting to the point where we need
19 to start looking at it in a more compact decisional manner.

20 MR. VIRGILLIO: Chairman, I would just say that in
21 response to the comments the Commission made other domestic
22 stakeholders and the international community, ICRP has taken a giant
23 step to decide they are reconsidering the recommendations. And we
24 expect to be engaging with them through a number of mechanisms.

1 We will keep the Commission inform.

2 I know that we are sending you some of the trip reports
3 that are coming up from the staff members that engaged like Don Pool
4 and others, and we will make sure we keep you up to date on our
5 interactions with the ICRP.

6 CHAIRMAN DIAZ: But fundamentally, in our radiation
7 protection area, don't expect any surprises in any short period of time.
8 All right.

9 MS. FEDERLINE: Research is preparing a Commission
10 paper on this topic. So this should be very helpful.

11 CHAIRMAN DIAZ: Well, see, I did not know that. Now,
12 we know. That's why these meetings are so good.

13 COMMISSIONER MERRIFIELD: Mr. Chairman, I think
14 this is an excellent point that you raise. And I think we have all, the
15 three of us at least, have in striving to increase the degree, and to use
16 your word, connectivity between the Commission and the staff that
17 empowers them as they work internationally to have a better sense of
18 the expectations and desires of the Commission and allow them greater
19 latitude to go out there and carry that message.

20 I think what has happened relative to the ICRP is clearly
21 an excellent success of that increased degree of connectivity.

22 CHAIRMAN DIAZ: I totally agree.

23 COMMISSIONER MC GAFFIGAN: I agree heartedly and
24 I think that that is the responsibility of both the NMSS and OIP.

1 We commended OIP at past meetings, but obviously, the
2 two of you work hand and glove on these matters, sources for all this
3 stuff. And the Commission has been extraordinarily effective in
4 affecting some of these international deliberations.

5 CHAIRMAN DIAZ: Very good. Well, I want to thank the
6 staff for the meeting. I think I see some issues in here that when we
7 get into budget space like how are you really facing up to the
8 challenges of your critical loading the different positions I think is an
9 important issue. How you are going to put these positions in the
10 manner that are flexible or fungible. But maintaining the skills, I think, is
11 an issue. I do see variabilities in the schedules.

12 I do you believe that maintaining the connectivity, the
13 efforts that you have put into making sure that every office knows what
14 everybody is doing, I think are paying off. I appreciate the effort.

15 And unless my fellow Commissioners have any additional
16 comments, we are adjourned.

17 (Whereupon, the hearing was adjourned.)

18