

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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BRIEFING ON NUCLEAR SECURITY
AND INCIDENT RESPONSE PROGRAMS

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ROCKVILLE, MARYLAND

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TUESDAY, MARCH 29, 2005

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The Commission met in open session at 9:30 a.m., at the Nuclear Regulatory Commission, One White Flint North, Rockville, Maryland, the Honorable Nils Diaz, Chairman of the Commission, presiding.

COMMISSIONERS PRESENT:

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

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

STAFF AND PRESENTERS:

LUIS REYES, EDO

ROY ZIMMERMAN, Director, NSIR

ERIC LEEDS, Dir. Div. of Preparedness & Response

MIRIAM COHEN, Dir., PMDA

BRUCE MALLET, Region IV Administrator

DAN DORMAN, Dep. Dir., Div. of Nuclear Security

P R O C E E D I N G S

1
2 CHAIRMAN DIAZ: Wow, what a distinguished group of people, all of
3 them three years older now. You're older.

4 The Commission meets this morning to hear from the staff on the
5 status of the agency's Nuclear Security and Incident Response programs and the
6 activities they conduct.

7 The purpose of this meeting is to ensure that the Commission, the
8 NRC staff, the stakeholders are up-dated on initiatives, challenges and
9 accomplishments of the NSIR organization -- that Nuclear Security and Incident
10 Response has been called -- I know you call it NSIR or you call it NSIR, or you call
11 it N-S-I-R. You're going to have to decide soon how you want to be called.

12 MR. ZIMMERMAN: We will we go with NSIR if that's okay.

13 CHAIRMAN DIAZ: All right. The Commission recognizes that NSIR
14 made substantial progress during the last three years. You are already three
15 years old. And especially this last year has been a very busy year, where all of the
16 work that you have done in planning has become a series of accomplishments.

17 We are eager for you to review the accomplishments and make sure
18 that there is closure in many of those issues, as well as know what are the other
19 issues that now making your staff busy, and especially those issues that connect
20 outside of the agency and that needs resolution on their interfaces.

21 I'm sure we all realize that the issue of nuclear security is one we
22 must maintain vigilance over, that we need to make sure we are doing the right
23 things at the right time.

24 I know you bring together a series of expertise regarding intelligence,

1 regarding what is going on in the field, what are the requirements that the agency
2 needs to be consistently providing oversight over.

3 This uncertainty is not going to go away. So we realize that many
4 times you have to deal with changing priorities. The Commission is very well
5 aware that you have made substantial progress in those areas. We continue to
6 ensure that we are going to a more stable process.

7 I think this agency has shown for a long time that once we take a
8 problem, find the solutions and make processes out of it, that we can work better
9 at it, even if we change the processes as they are needed.

10 I'm looking forward to seeing NSIR reducing to practice and
11 processes the majority of the issues that you deal with day-to-day.

12 Of course, we all have probably different interests of what makes our
13 meeting always interesting. And I want to see whether my fellow Commissioners
14 have any comment before we get started.

15 COMMISSIONER MC GAFFIGAN: Mr. Chairman, I join you in
16 commending the staff for their work in this area.

17 We are calling this the NSIR program review, but obviously, there
18 are very, very close ties with the other program offices, all of which contribute in
19 this area, NMSS, Research, NRR. And so this is an area where all of them, I
20 believe, are hard pressed.

21 They have done -- getting the 192 agreements done by last October
22 29th and reviewed, and that was a joint effort headed by an NSIR person with lots
23 of support from NRR.

24 I will say publicly that I think that these things that keep coming at

1 us -- I think I said this at the Reg Info conference -- are going to continue to come
2 at us for some significant period of time. I have seen some staff stuff about
3 rulemakings that extend -- just the ones we know about -- extend into 2009, 2010
4 space. If the legislative provisions we support are enacted, there's even a larger
5 security work program that would be required that we can't plan now because we
6 don't have the statutory authority.

7 So I am worried that these folks are being asked to almost do the
8 impossible or very, very important things are going to be postponed if we don't
9 deal with the shortage of resources.

10 CHAIRMAN DIAZ: Commissioner Merrifield?

11 COMMISSIONER MERRIFIELD: Mr. Chairman, just some brief
12 remarks. I too want to be associated with your remarks, which I think do set the
13 right opening tone for this discussion today.

14 The second issue I would want to mention, like Commissioner
15 McGaffigan, I think there would be unanimity on the Commission in terms of
16 making sure we have an adequate understanding of the breadth of the programs
17 before our staffs and appropriately providing resources to accomplish those.

18 Part of that, obviously, we are entering into the budgetary process
19 and the time of year when we consider these issues. There is a standard process
20 that we use here in the agency through PBPM to appropriately weigh the
21 balancing of these sources and goals. And obviously, the Commission, as it
22 normally does with the guidance and suggestions of our staff, will accomplish that
23 through a logical process that will, hopefully, assist the staff in prioritization of
24 these issues in getting the appropriate dollars put toward them.

1 The last comment I would make, and this is on somewhat of a lighter
2 note, but nonetheless, follows a lecture series that I have given in my six and a
3 half years here on the Commission. And that regards the use of abbreviations and
4 acronyms. The Commission currently has before it a two-page list of possible
5 acronyms for this briefing.

6 Plain English encompasses the use of acronyms when they are
7 appropriate and commonly understood and used as an effort to facilitate briefings
8 and recognizing words that are either commonly used or words that are repeatedly
9 used during a briefing.

10 I would say that DBT for design basis threat, EPA for Environmental
11 Protection Agency, and MILES, standing for multiple integrated laser engagement
12 system fall within this category.

13 BZPP, buffer zone protection plan; EKMS, electronic key
14 management system; and IPX, ingestion pathway exercises, I believe, do not.

15 We only use this term once during the course of a briefing, or if we
16 don't use it all, I don't think there is any need at all for the public to have to worry
17 about the use of these particular acronyms, particularly since members of the
18 public don't have this on their screen, available to them on the computers.

19 So I would strongly suggest that our staff minimize to the extent
20 possible the use of acronyms, not maximize the extent possible the number that
21 they are going put in front of the Commission.

22 This is not plain English. And I hope that the staff gets that
23 message.

24 Thank you, Mr. Chairman.

1 COMMISSIONER MC GAFFIGAN: Mr. Chairman, I don't know. I
2 don't think they intend the first time they mention these things to use the ones that
3 you just described. They probably don't even intend to say DBT the first time they
4 use the word design basis threat, but whatever.

5 CHAIRMAN DIAZ: That, that's okay.

6 Commissioner Jaczko?

7 COMMISSIONER JACZKO: I just want to make some very brief
8 remarks. I want to, again, echo some of the thoughts of the other Commissioners.
9 I think NSIR has done a very good job not only leading this agency, but I think
10 leading the Federal government in showing how to be better prepared after
11 September 11th.

12 And I think that is something you should be commended for. And I
13 think the one caution that I will add is that puts us in a very unique position. And
14 that in many regards, we are testing out, not only processes, methods and models
15 for this agency, but for the entire Federal government at times.

16 And so it is important to keep that in mind. And unfortunately, you
17 don't have often the advantage of relying on the expertise of other Federal
18 agencies to see how they have done things, and so that may sometimes lead us in
19 a direction that may not be appropriate but we will only be found out in later time.

20 I just want to say that I do think you should be commended for the
21 work that's been done.

22 CHAIRMAN DIAZ: Commissioner Lyons?

23 COMMISSIONER LYONS: I would just like to add my
24 commendations to what has already been expressed by the other Commissioners.

1 I think NSIR is doing an excellent job. They have been extremely -- in the
2 briefings I have had, and as you have helped us, particularly Commissioner
3 Jaczko and I, come up to speed -- very, very impressed with what's been done.

4 CHAIRMAN DIAZ: Thank you very much. With that, Mr. Reyes.

5 MR. REYES: Chairman and Commissioners, it's been about a year
6 since the staff had the opportunity to brief you on the Office of Nuclear Security
7 and Incident Response programs. So today we are going to try to do that. There
8 is a lot of material to be covered.

9 Roy Zimmerman, the office director, is going to lead the discussion.
10 He is going to introduce the other staff because we do have support from a lot of
11 other offices.

12 Roy.

13 MR. ZIMMERMAN: Thank you, Luis.

14 Let me start with to my left is Mr. Eric Leeds. Eric is the Director of
15 the Division of Preparedness and Response. To his left is Ms. Miriam Cohen, who
16 is the Director of the Policy of Management Development and Analysis.

17 To Luis' right is Mr. Bruce Mallett, Region IV, Regional Administrator.
18 And to his right is Mr. Dan Dorman, Deputy Director, Division of Nuclear Security
19 here at headquarters.

20 Good morning, Chairman. Good morning, Commissioners. I
21 appreciate this opportunity to brief you on the status of our activity associated with
22 the Office of Nuclear Security and Incident Response.

23 I will address our major program accomplishments, our key
24 challenges and then I will turn the presentation over momentarily to Bruce Mallett,

1 who will discuss regional perspectives related to incident response, emergency
2 preparedness and security. And then, I will then address our path to success and
3 near-term policy issues.

4 I plan to talk this morning within the constraints of what is publicly
5 available information and recognize that we have an opportunity this afternoon to
6 discuss and respond to questions and more sensitive information in our closed
7 Commission meeting.

8 Next slide, please.

9 Since 9-11 emergency preparedness and response and security
10 have continued to be very active programs for our agency. NSIR, in concert with
11 many other offices continues to work on a variety of initiatives to ensure public
12 health and safety are maintained.

13 Many of the preparedness and security initiatives we have been
14 working on have now progressed from the policy phase to the implementation
15 phase. And I will discuss these as part of my presentation.

16 As an additional preface before discussing specific activities, I would
17 like to mention our commitment to continuous improvement. We continue to
18 challenge ourselves on a routine basis, looking for ways to increase our
19 effectiveness and our efficiency.

20 Next slide, please.

21 At the highest level, our work has contributed to achieving the NRC's
22 overall goal to ensure protection for the public health and safety in the
23 environment.

24 We supported achievement of the four NRC fiscal year strategic

1 goals and met the eight security specific performance goals in '04, and are on
2 track for meeting the FY05 goals.

3 In addition, we have our own performance measures numbering
4 slightly over a hundred that are lower tier measures that help us to ensure we
5 meet the higher level goals.

6 Next slide, please.

7 Power reactor licensees and Cat 1 facilities were required to
8 implement the April 2003 order supplementing the design basis threat no later
9 than October 29, 2004, including revising their security plans and completing
10 necessary plant modifications to enhance security.

11 The staff reviewed and approved the upgraded security plans and
12 used a number of site visits to confirm implementation of the security plan
13 commitments on a sampling basis.

14 Verification of the upgrades and all commitments are being
15 conducted as part of the routine baseline inspection process being conducted by
16 the regions.

17 Another major program accomplishment is that we commenced our
18 more realistic commando-style mock attacks via force-on-force testing last
19 November after a successful pilot program that lasted about two years and
20 included about two dozen sites. Five exercises have been conducted since
21 November.

22 Enhanced realism has been achieved in a number of ways. Rifles
23 are now equipped with lasers to improve the accuracy of their results. The mock

1 adversaries have much improved their offensive tactics. Controller training has
2 clearly improved. And fewer time outs occur due to better preparedness.

3 There's also better integration by licensee security operations and
4 emergency preparedness personnel in realtime during a scenario. Advanced
5 notice of upcoming force-on-force testing has been reduced from six months to
6 two months. Our multi-year plan includes testing each site at least every three
7 years as compared as every eight sites prior to 9-11.

8 We have also implemented the revised security baseline inspection
9 program in March of last year. The program was developed in concert with NRR
10 and the regions. The inspection hours increased about 50 percent over the prior
11 program. And the inspection area was increased from four to twelve and now
12 includes other areas such as security equipment performance, testing and
13 maintenance, officer training, owner controlled area patrols, worker fatigue and
14 information security.

15 Our inspector training occurred in February of '04, so that they were
16 well prepared when the program went live in the March time frame.

17 Again, in December of '04, we again trained the inspectors so that
18 they could have the benefit of the security plan change effort, the findings from it,
19 so that we were able to accomplish our inspection reviews in a consistent manner
20 across the regions.

21 Over the past year, we have increased our coordination with the
22 Department of Homeland Security, the Homeland Security Council, the FBI,
23 Department of Defense, and other departments and agencies to achieve an
24 effective federal response to a potential threat. We are currently working with

1 DHS in addressing an integrated local, state and federal response to threats that
2 go beyond the DBT.

3 These include DHS's buffer zone protection plan and a
4 comprehensive review program, both of which address prevention, protection and
5 response efforts outside the owner controlled areas.

6 Next slide, please.

7 What this slide depicts are some of the significant upgrades that
8 have occurred post 9-11 at nuclear power reactors. There are many more of
9 these but this is to be able to provide an idea of what some of these upgrades
10 included.

11 In the upper left, one can see a security force fighting position. It's
12 obviously a hardened target known as a BRE, a bullet resistance enclosure. It has
13 portals that the security officer can use for protection and also for firing.

14 In the upper right, there's a water side barrier with intrusion
15 detection.

16 The lower left shows a pop-up vehicle barrier.

17 And if you look closely at the lower right, will you see a vehicle
18 barrier, white in color, surrounding the plant and is visible on the left side of the
19 plant.

20 Now, when licensees go through and consider these plant
21 modifications, they review these from an operational perspective as well to ensure
22 that while they are trying to do something positive associated with security, they
23 don't unintentionally create a challenge from an operational safety perspective.

24 An example of that could be impeding timely response by an

1 auxiliary operator trying get to a certain location inside the plant and having to go
2 through a lot of locked gates and so forth that could slow the individual down.
3 Those types of enhancements are reviewed by the licensee and also by the NRC
4 during inspections.

5 Next slide, please.

6 Since 9-11 our staff has worked to complete assessments of
7 potential at mitigative strategies for a range of threats, including threats that go
8 beyond the DBT. Although the details are sensitive, a number of reasonable
9 actions have been identified over the past few years that have been conveyed to
10 licensee representatives in workshops, the most recent being held in January and
11 February of this year.

12 The staff has continued to work with federal partners in the states to
13 enhance control of high-risk sources, draft protective measures and guidance to
14 cover approximately 2,000 material licensees are being developed. That will be
15 provided to the Commission shortly.

16 Additionally, inspections have been done of panoramic irradiator
17 licensees to verify compliance with their June 2003 order. And inspections are
18 underway for manufacturers and distributors of high-risk sources to verify
19 compliance with their January 2004 order.

20 In addition to previous enhancements for power reactors, we have
21 now also issued orders in August of last year to strengthen personnel access
22 controls for decommissioning reactors and dry cask storage installations. Full
23 implementation was required by mid-February of this year and inspections will
24 commence soon.

1 A number of initiatives were put in place to enhance protection of
2 sensitive information. I will go through a number of these.

3 We partnered with OGC to develop the proposed safeguards rule.
4 We issued a limited number of clearances of licensee employees at each site with
5 the need-to-know classified information. We similarly have issued clearances to a
6 number of vendor representatives.

7 We developed the safeguard designation guide which is currently
8 under review.

9 We are developing a formal qualification process for staff who are
10 the designators of safeguards information, adding more formality.

11 We identified and protected sensitive unclassified information when
12 access to ADAMS was blocked last October in our attempts to balance between
13 openness and protecting sensitive information. We have developed
14 computer-based information security awareness courses.

15 And lastly, we have installed security of video conferencing both
16 here at headquarters and in the regions, and we have been procuring additional
17 secure cell phones for when we are mobile.

18 Next slide, please.

19 Now, I'll turn to the major program accomplishments in the
20 emergency preparedness and incident response area.

21 The agency has continued to maintain a high degree of event
22 readiness. We man two individuals well qualified, 24-7, in the headquarters
23 operation center.

24 Over the past year, we responded to 39 unusual events and five

1 alerts. It's interesting this past year in that almost half of those unusual events
2 were due to severe weather associated with the four hurricanes.

3 We resolved issues and we strengthened communications on
4 various emergency preparedness topics with the industry through the issuance of
5 eight guidance documents to the industry.

6 We also actively participated with the Department of Homeland
7 Security in the development of the National Response Plan. We coordinated with
8 DHS and held five public outreach workshops around the country between
9 October through January to discuss the forthcoming National Response Plan. We
10 also took advantage of the opportunity to discuss security enhancements in those
11 forums.

12 About 400 representatives from the states, licensees, and the public
13 attended those workshops.

14 Last May, the NRC participated in a federal exercise term "Forward
15 Challenge." This was the first national exercise to test continuity of operations
16 which also known has COOP. These capabilities that are required to maintain
17 federal departments' and agencies' ability to restore central functions at alternate
18 locations.

19 In Forward Challenge, NRC maintained communications with federal
20 partners from an alternate site while responding to scenario events as well as real
21 off-normal events.

22 Next slide, please.

23 Continuing with major accomplishments in the EP and incident
24 response area. In addition to Forward Challenge, in fiscal year '04, we also

1 participated in three other federal interagency exercises and four traditional reactor
2 radiological exercises.

3 We have also increased our liaison with Department of Defense,
4 specifically the North American Aerospace Defense Command, also known as
5 NORAD. For example, we participated with NORAD in a number of individual
6 plant licensees in carrying out telephone-initiated communication exercises dealing
7 with potential aircraft threats. Licensees have appropriately demonstrated
8 implementation of actions associated and specified in their imminent attack
9 procedures. Similar exercises are planned in the future.

10 Last June, the NRC and FEMA evaluated the emergency
11 preparedness exercise at the Indian Point Power Plant in New York. In response
12 to state and local officials' requests, the exercise included a simulated terrorist
13 scenario with time lines consistent with the findings from extensive NRC
14 assessments of a large aircraft impact.

15 The consequence studies confirmed that there would be time to
16 prevent or minimize a radiological release, and in the unlikely event of a release,
17 time is available to protect the public.

18 The exercise at Indian Point demonstrated effective on-site and
19 off-site emergency response.

20 Next slide, please.

21 Now, I'll turn my attention to infrastructure that helps us accomplish
22 our mission.

23 One of the larger ones is that we consolidated NRR's emergency
24 preparedness project office into NSIR last June. This transfer consolidated and

1 closely linked the emergency preparedness and incident response roles in the
2 agency in one office, which also serves as a point of contact with the Department
3 of Homeland Security and the states as well as FEMA's portion as a part of DHS.

4 In 2004, NSIR made significant hardware and software upgrades to
5 the NRC's headquarters operations center. The upgrades included new data and
6 display systems, improved computer systems, as I mentioned, we installed secure
7 video teleconferencing. Upgrades were also conducted at the regional office.

8 As a result of aggressive recruitment and hiring strategies, NSIR
9 reached its allotted staffing level for the first time last fall. Since last March, we
10 brought on board 35 well-qualified external hires, three, what used to be called in
11 entry level, now called nuclear safety professional development participants. We
12 had seven reassignments from other offices and effectively employ two summer
13 hires.

14 We have also enhanced use of a number of automated systems.
15 Our administrative staff and our managers now have direct access on their
16 computer to a number of management tools that help with efficiency. These
17 include our operating plan, our budget documents, procurement plans and ticket
18 tracking.

19 Last May, we implemented an emergent work process to identify and
20 track emergent work impacts, manage the impacts, and communicate those
21 impacts up the management chain. This tool has been successful in adding
22 transparency to understand the impacts of the work.

23 Next slide, please.

24 As I turn now to key challenges. Since its inception, NSIR has been

1 challenged by the amount of emergent work assignments the office receives. As I
2 stated at the outset, we recognize that our area of program responsibility
3 continues to be very active. So the emergent work comes with the territory.

4 Our challenge is to use the emergent work process to manage this
5 work, to assess its impact and inform the EDO's office in a timely manner what
6 that impact is.

7 Because the areas of security and emergency preparedness and
8 response are so active, it is important that we over communicate the status of our
9 activities in order to keep our stakeholders informed. Included in this initiative are
10 other NRC offices, the regions, federal partners, state and local representatives,
11 the public and the industry.

12 We need to stay focused on doing our work in the most effective and
13 efficient manner. We implemented a number of effectiveness and efficiency
14 initiatives over the past year, but need to continue to approach our work with that
15 questioning attitude on how we can do our work better and with fewer resources.

16 With a large number of external hires in NSIR, it is all that more
17 important that we invest the time for training and for mentoring our new staff to
18 assist them in their transition to the NRC.

19 Recognizing their skill set as very valuable, maintaining good
20 dialogue so that they understand their performance, we understand their career
21 aspirations and that we recognize noteworthy performance is vital.

22 We also use all-hands meetings from the section chief level all the
23 way up through the divisions as well as brown bag lunches, which are informal
24 get-togethers to bring management and staff together to maintain open lines of

1 communication in a safe room environment, so that we can receive feedback and
2 basically take the pulse of the office. That is done on a regular basis.

3 Next slide, please. I'll now turn the presentation over to Bruce
4 Mallet.

5 MR. MALLET: Good morning, Chairman Diaz, Commissioners. It is
6 a privilege to participate in this briefing with the Office of Nuclear Security and
7 Incident Response.

8 Our goal with this slide of these four bullets is to give you an idea of
9 what we have implemented in the regional programs in this area and what some of
10 the challenges we see in going forward in keeping with your comments, Chairman.

11 The first area I would like to talk about, one key to success of
12 implementation is to recruit and retain highly qualified and skilled staff.

13 Regional offices have been quite successful in this in the past year.
14 We have done this through targeted recruiting and through cross training of other
15 individuals from other areas.

16 I can't emphasize enough the importance of a skills mixture when
17 you inspect in this area, review in this area.

18 We been quite successful in Region IV for example, having a mixture
19 between the operations examiners and the individuals inspecting the emergency
20 preparedness area. It not only gives you a fresh idea at looking at things but it
21 gives you a more detailed review of the issues.

22 Lastly, in this first bullet, I would emphasize it is very important the
23 vital role to our implementation to train individuals in incident response.

24 We found that it is not only important to practice and train the

1 members of the incident response team, but it is important to have a succession
2 plan for those members on that team to determine who's going to be leaving and
3 who you need to replace before that occurs.

4 The second bullet, I think the key to successful implementation in
5 this area is to have effective internal communication and Chairman, you
6 mentioned many times, connectivity between the offices.

7 This past year, the regional offices and NSIR have improved this
8 communication through several mechanisms. We have monthly counterpart calls
9 at the branch level in both security and emergency preparedness. We annually
10 hold counterpart meetings. The last one we held was in Region IV. I personally
11 participated in the area of security.

12 We are most encouraged by a monthly newspaper that's coming out
13 now by the emergency preparedness director, called "Issues." It's laid out issues
14 beforehand. One of the areas we have struggled with is how do you know what's
15 coming up next? and where are we going? It's very effective newsletter. I
16 commend Eric Leeds and his staff for that newsletter.

17 We have also had much improved discussions in the budget area.
18 And we found not necessarily internal communication but I would highlight the
19 book "Protecting Our Nation." It has been very helpful in us connecting with our
20 external stakeholder and communicating with them as well.

21 There has been improved connectivity on security issues, I think also
22 through such venues as, I'll use the acronym SDIS, the security database
23 information assessment team discussions on events and evaluation of security
24 findings through this management review panel.

1 We have also -- I would highlight -- I've been quite effective and
2 successful in reaching consistency among the regional offices by a new program
3 started by Louis Reyes and Ellis Merschoff about a year ago, called best practices.

4 We did a best practice in the area of incident response and I think its
5 helping us come in alignment with each other and improving performance.

6 There is still one area of improvement in this area in communication
7 and that is making our internal stakeholders aware early in the process of changes
8 we are going to make with the inspection program or advisories we are putting out.

9 I think we have improved in that area but there is still work to be
10 done.

11 The third bullet in this area I would highlight for success has been
12 effectiveness of outreach with stakeholders. This is more in the emergency
13 preparedness area than the security area. All the regions have embarked upon
14 outreach programs to deal with the state and local authorities prior to exercise
15 participation.

16 It has helped us immensely during the exercise and how we are
17 communicating. I just recently completed a exercise with the Grand Gulf
18 organization with the states of Mississippi and Louisiana. The preplanning for that
19 helped us immensely in performing and communicating with the state during the
20 exercise. I did notice one area that we practiced on the ingestion pathway that is
21 good to practice. That was aligning the federal agencies with each other on
22 making a combined recommendation during a long extended exercise or doing it if
23 it was a real event. And we need some more practice in that area. From the
24 beginning we were not too aligned. But by the end of the exercise, we were very

1 aligned.

2 The last area I want to cover is what I see as challenges or
3 successes specifically towards the Strategic Goal from the regional offices.

4 We feel that, as Roy Zimmerman mentioned earlier, communication
5 and response to events have been very successful and we been very fortunate, I
6 think, in coordinating that effort with NSIR and very aligned on what the response
7 is to that.

8 I think we have also been very successful in having licensees report
9 suspicious activities. This has helped us have an early detection, early indication
10 of issues that might go on.

11 There are some key challenges, and I will tick them off that we see.

12 One is maintaining consistency and evaluating security plan changes
13 as we move, as Roy mentioned, into the inspection of those plan changes that we
14 put in place after last October.

15 Another is I think it is very important for to us meet with the local
16 community around nuclear power plants and licensee stakeholders when there's
17 not an event, so that we can discuss issues without emotion being involved in that
18 discussion.

19 Third challenge we see is achieving the appropriate balance as we
20 implement new changes and enhancements, so that we don't take away
21 something that's currently in the program that adds value.

22 Fourth one is as we implement the security oversight program and
23 we have taken it out of the reactor oversight program, it's very important for us to
24 stay consistent with what's in the reactor oversight program.

1 And lastly, and this is very dear to my heart, in Region IV recently is
2 it is important as we increase a number of people handling sensitive, classified
3 information and not only our staff but external stakeholders to make sure they are
4 trained and that we take extra precautions in handling that.

5 I'll now turn the discussion back over to Roy Zimmerman.

6 MR. ZIMMERMAN: Thank you, Bruce.

7 Next slide, please.

8 Now, I'm going to talk a little bit about the nuclear security program
9 path to success.

10 Now that the baseline security information program and
11 force-on-force exercises are in the implementation phase, we now need to
12 complete development of a revised physical protection significance determination
13 process to achieve consistency in assessing inspection findings and to correlate
14 the findings with performance indicators.

15 We are also working to revise and implement improved security
16 performance indicators as well.

17 The Commission SRM associated with SECY-04-0020 directed the
18 staff to develop a separate but complimentary oversight program to the reactor
19 oversight program. The draft revised STP was conducted as a pilot from July to
20 December 2004.

21 The staff will continue to process inspection findings through a NRC
22 management review panel to ensure consistency across regions in the meantime.

23 We plan to complete development of proposed enhanced security
24 measures for approximately 2,000 material licensees who maintain high risk

1 sources, as I mentioned before. The staff is coordinating this efforts with NMSS,
2 the Office of State and Tribal Programs, OGC, the regions, Agreement States,
3 licensees and industry groups for information and comment.

4 Stakeholder meetings have been held. The proposed protective
5 measures are expected to be provided to the Commission during the next several
6 months following the approach we took with the irradiator and the
7 manufacturer/distributors orders.

8 We are also working with the other offices to enhance Agreement
9 State participation in these activities.

10 With Commission approval, NSIR will support the DHS's
11 comprehensive review process for power plants and the Risk Analysis and
12 Management for Critical Assets Protection known as RAMCAP initiative for
13 enhancing prevention, protection and response to threats beyond the DBT. The
14 first pilot is planned to begin in May.

15 We also intend on completing plant specific reviews of licensing
16 actions taken in response to an NRC order to power reactors related to
17 implementing reasonable mitigative measures.

18 Recognizing that regulatory stability is served by codifying certain
19 requirements currently in issued orders, security and safeguards rulemaking
20 activities are being closely coordinated and scheduled with NRR, OGC and
21 NMSS. Following a recent review of the existing materials controls and
22 accounting programs for possible areas for improvement, the staff is now
23 reviewing the report recommendations and considering areas for possible
24 improvement, including any effectiveness and efficiency gains.

1 Next slide, please.

2 Turning to path to success for Emergency Preparedness and
3 Incident Response Program. We are currently completing staff training in incident
4 response procedures changes to incorporate the National Response Plan
5 protocols. In coordination with the regions, we intend to increase our outreach
6 through greater personnel interaction with state and local representatives on
7 programmatic issues related to EP.

8 We plan on doing this through face-to-face contacts and use of the
9 telephone primarily. By being more proactive, we intend to increase trust and
10 credibility with our stakeholders, as well as again ensure that our respective roles
11 and responsibilities are clear.

12 We have been working to enhance the integration of safety, security
13 and emergency preparedness through exchanges at various working group
14 meetings. Areas being explored include review of emergency action levels and
15 on-site protective measures, assuming the initiating event is a security event
16 rather than an operational event.

17 We are also working with the industry to increase the number of
18 security-based EP drills to compliment the traditional exercises currently run. As
19 the Commission is aware, we have been working in a team effort in headquarters
20 and the regions to develop an improvement plan for our emergency preparedness
21 and incident response programs. We plan to submit this plan for Commission
22 consideration soon.

23 Next slide, please.

24 Continuing on with the path to success for infrastructure. As part of

1 our effort to develop the infrastructure, our path to success includes continued
2 focus on enhancing organizational and staff effectiveness, implementation of
3 qualification training and development of an electronic safe/secure local area
4 network initiative.

5 With the influx of new staff into our organization, we are also
6 recognizing that a qualification program for nuclear security staffing would help to
7 ensure effective utilization and integration in the NRC work force.

8 Another challenge is associated with the electronic safe and secure
9 LAN initiatives. But we are making progress in that area. Presently, I believe the
10 inventory of safes has been completed, and we are starting a pilot this week to
11 start scanning documents into an electronic safe. This is located on the 6th floor
12 of Two White Flint.

13 We appreciate the support from the offices of Information Security
14 and Administration with this initiative.

15 Next slide, please.

16 Now, I'll turn our attention to near-term policy issues in the nuclear
17 security area. We will shortly be providing the Commission with staff analysis and
18 proposal for an enhanced significant determination process for physical protection.
19 Remaining policy issues on how to assess significance with respect to
20 predictability and exploitability as well as the significance of findings resulting from
21 licensee performance in force-on-force exercises are a couple of the remaining
22 items that we currently have under review.

23 The staff is also finalizing recommendations on revisions to how
24 security is considered in the reactor oversight process, including revised

1 performance indicators in the action matrix.

2 As the Commission is aware, the staff is completing
3 recommendations for the Commission on how to enhance the security of
4 transportation of quantities of radioactive materials of concern, and resolving
5 outstanding issues between federal agencies.

6 We will also submit our assessment of stakeholder comments and
7 final recommendations on how to enhance security and control of high-risk
8 sources.

9 The Commission's supplemental requirements for the design basis
10 threat have been key to enhancing security for reactors and Category 1 fabrication
11 facilities. By using the NRC's systematic screening process, the staff plans to
12 present our semi annual review of the current threat environment this April and
13 follow-up on a couple of specific issues that we have been clarifying through
14 monitoring.

15 Next slide, please.

16 Now turning to near-term policy issues in the emergency response
17 and incident response program. The staff has been actively working on a number
18 of policy issues associated with enhancing the interface between security and
19 emergency preparedness.

20 These issues include working with stakeholders to enhance
21 emergency action levels to address security events, to ensure on-site protective
22 actions, to achieve more prompt notification to the NRC, and to pilot a
23 security-based emergency preparedness drill and exercise program.

24 We look forward to implementing Commission direction on the issues

1 in SECY-05-0010.

2 We also intend to provide the Commission a plan to enhance the
3 effectiveness of emergency preparedness including an improved training program
4 for NRC responders. Our emergency preparedness and response program has
5 worked well for more than 20 years following the accident at Three Mile Island in
6 1979.

7 In the aftermath of 9-11, we recognize the changed environment that
8 we prepare and respond in to ensure protection of the public. We have partnered
9 with other NRC offices to develop a comprehensive set of improvements for
10 Commission consideration that could be taken to take us to the next level.

11 Next slide, please.

12 In summary, the NRC has made significant progress since our last
13 program review in March of 2004. Although we have focused on programs that fall
14 under the purview of NSIR, successes have been accomplished in a partnership
15 manner with the other NRC offices and with stakeholders, as the Commission
16 mentioned in their opening remarks.

17 We are now transitioning toward implementation of more stable and
18 predictable regulatory programs that have been re-engineered for the current
19 environment. Supplemented design basis threat, security requirements, baseline
20 inspection program, enhanced force-on-force programs, to mention just a few.

21 We still have a number of important policy issues to work through
22 with the Commission. However, the fundamental building blocks are firmly in
23 place. We will work to further strengthen our working relationship with internal and
24 external partners and stakeholders as we strive for improving the effectiveness,

1 efficiency and openness of our regulatory programs so that we can better serve
2 the American public.

3 That concludes my remarks.

4 MR. REYES: Chairman, Commissioners, that concludes the staff
5 presentation. We are ready for questions. We finished in the green -- just
6 changed to yellow, but we are available for questions.

7 CHAIRMAN DIAZ: Thank you very much, Mr. Reyes, Roy, and
8 Bruce. We appreciate your briefing. And I think I will start with Commissioner
9 Jaczko.

10 COMMISSIONER JACZKO: You talked a little bit Roy in your
11 presentation about some of the things that are going on with the interface in safety
12 and security, and you talked about making sure that the licensees and inspectors
13 are reviewing safety modifications to ensure that they don't have a security -- or
14 the other way around -- security improvements, they don't have a safety
15 implication.

16 Can you talk a little bit more about what's going on, what activities
17 you have in place or plan to have in place inter-agency to ensure that there is an
18 effective communication as decisions are being made to ensure that -- I mean,
19 ideally, we would want to not see those problems ever kind of get out at the plants,
20 so-to-speak.

21 MR. ZIMMERMAN: Right. That's a good question. So the question
22 is really focused on how we outreach to other agencies more so than --

23 COMMISSION JACZKO: How more internally. I'm sorry,
24 intra-agency. So how we work within the NRC?

1 MR. ZIMMERMAN: What we do is -- and a number of cases have
2 been identified where, with all the best of intention, security upgrades have been
3 put in place that may not recognize the fact that it can have some impeding aspect
4 associated with an operational response.

5 What we do not collectively, the industry and us, is bring attention to
6 those items. We do it in working groups that serve as lightning rods for getting the
7 word out to the industry.

8 I think when we have, I'll call it a subset, a quorum, that an
9 information notice to provide those out and then to request ones coming back in,
10 so that we have good communication of those issues, so that we don't have
11 multiple organizations going into the same pothole. Give them a heads up in
12 advance, I think is very important.

13 But this is an issue that we talk up. We have an NRR/NSIR working
14 group that is targeted just for this area to be able to look for and identify it.

15 We have provided some degree of training to the NRR technical staff
16 and to the NSIR technical staff to indicate that when are you wearing your security
17 hat doing this review, take it off for a couple of minutes, borrow your partner's hat,
18 put on a safety hat, and with your knowledge, if you have some in safety, see what
19 it tells you.

20 We tell the same thing to NRR. NRR management has told their
21 project managers and technical reviewers, in addition to your primary area of
22 expertise think about security. Is there something here that raises a question in
23 your mind?

24 And if so, let's get hold of NSIR and talk it through before we make a

1 determination on the acceptability of the modification.

2 MR. MALLET: I wanted to add, Commissioner, the key role in this is
3 also the NRC resident inspectors that are on-site.

4 COMMISSIONER JACZKO: Good point.

5 MR. MALLET: They are review this. They have given us heads up
6 on things that have impacted operations, maybe, from security and suggestions on
7 how to fix.

8 MR. REYES: Let me give two examples that I think bring it home.
9 One case had to do to with how jersey barriers, the concrete barriers were
10 deployed and how flooding could now be a problem that was not there before.

11 Another example is physical delay barriers that have been installed
12 at the sites to delay the adversaries in a particular area. The valve that isolates
13 the fire header could only be assessed for a particular point of view. So, day to
14 day, our on-site engineers or resident inspectors have been looking for this
15 potential.

16 COMMISSIONER JACZKO: My experience when I travel is that the
17 resident inspectors do a really good job.

18 My point is, in some ways, it would be nice to try to catch some of
19 those problems before they actually get implemented. And I think the best
20 situation we can be in is in a place where the resident inspectors never have to
21 identify those problems.

22 MR. DORMAN: Commissioner, on that note, the panel that Roy
23 mentioned that is led by NRR, the Safety Security Interface Advisory Panel, is also
24 involved in both safety and security rulemaking. So that we try to catch those

1 issues in the policy development stage.

2 COMMISSIONER JACZKO: Who has membership on that working
3 group.

4 MR. DORMAN: Each of the divisions in NRR is represented. The
5 Division of Nuclear Security and the Office of Research are all represented at the
6 division level on the advisory panel and at the senior staff level on the working
7 group.

8 COMMISSIONER JACZKO: There are a couple of other issues I
9 want to address, but on this one thing I think the one thing that I do want to close
10 with, I know resources are obviously very tight and these are extra burdens on all
11 of those people who participate in this working group. And I think it is important
12 they that they do and recognizing the resources, ultimately, I think the goal here is
13 in the long term to minimize the resource utilization, I guess you could say,
14 because we don't want to be in a position where we are implementing actions that
15 we then from a safety standpoint have to go back and expend resources to
16 reverse.

17 So as much as the work is, I know resource intensive on the front
18 end, I think the more --

19 MR. ZIMMERMAN: We are in full alignment with your comments
20 and work well with NRR. And as these items percolate up, when there are some,
21 we need to big deal them so we can get the word out to others so that others don't
22 have a similar problem.

23 COMMISSIONER MC GAFFIGAN: Mr. Chairman, on my time and
24 not Commissioner Jaczko's, I just would add the safety security interface can

1 also -- and we talked about it previously here -- involve license amendments in
2 safety space that we process hundreds of -- 1,500 a year, whatever it is, having
3 potential security implications that have not been thought about.

4 And I think you told us that the PM's in NRR think about this. I'm a
5 little concerned that there's not NMSS/NSIR security interface group for materials
6 licensees, because the same sorts of issue could come up there where there's --
7 and this working group was supposedly looking at this safety security interface as
8 well.

9 Clearly in 50.46, the rulemaking there, that comes up. And I think
10 what you guys have said is, we are going to kick it down the road until you actually
11 see somebody asking for something on the safety security interface issue, but
12 changing the large break LOCA could have security implications.

13 Do you have the PM's in both NMSS and NRR -- not for every facility
14 in NMSS, obviously, but for the risk significant ones, do they know to think about
15 this in normal licensing actions?

16 MR. ZIMMERMAN: Let me respond, perhaps, to a couple of
17 different aspects. When you first were talking, Commissioner, you were talking
18 about NRR and the project managers. When I was going through the switching of
19 hats, it was the reviewers that I was thinking of in the licensing action space, both
20 in the NSIR reviewers for their part on security and the NRR's with their
21 responsibility --

22 COMMISSIONER MC GAFFIGAN: You don't review all 1,500 NRR
23 licensing actions. Somebody makes a decision as to which should be referred to
24 you.

1 MR. ZIMMERMAN: Right. NRR will see something. They will raise
2 a question associated -- gee, I wonder if this has security implications. Fire
3 protection was a great example of that.

4 So I think that's working quite well. And again, we have that
5 oversight group to deal with it.

6 With regard to materials, Dan, did you say that there was or was not
7 a representative from NMSS?

8 MR. DORMAN: The panel that NRR leads does not, but in the
9 context of the security plan reviews for the Category 1's, that was an issue just as
10 it was for the reactors. It was an issue that was dealt with both on the NMSS and
11 the NSIR side in terms of heightened awareness.

12 As you noted, there is a smaller number of folks who were
13 concerned about the magnitude of these issues on the safety security side on the
14 NMSS side. So it's really more of a direct liaison between our reviewers and the
15 fuel cycle reviewers. We have not raised it to a division level advisory panel the
16 way it is in NRR. But we can certainly keep our eye on that as it develops.

17 MR. ZIMMERMAN: The reaction that I'm having --

18 COMMISSIONER MC GAFFIGAN: I don't want to spend all of my
19 time on this.

20 MR. REYES: We got the feedback.

21 MR. ZIMMERMAN: Yes, we did. Thank you.

22 COMMISSIONER JACZKO: One other quick point that I want to
23 touch on is the issue the Chairman mentioned in his opening remarks, kind of
24 formalizing processes and things of that nature.

1 One area that I think perhaps not enough is being done on, or more
2 could be done on, is the process involving safeguards advisories. This is
3 something that -- I think this is not a standard NRC regulatory process right now.
4 And it has -- for that reason, I think it has two problems, one, because -- well, I
5 think both are the same problem -- that is public trust and public understanding of
6 what we are doing.

7 I think it is crucial that we get that in some form of, preferably, a
8 process that is much more transparent to the public; and secondly, is more in line
9 with our standard agency processes.

10 So if you could just briefly comment on if there is anything going on
11 in that avenue or what kinds of things could be done?

12 MR. ZIMMERMAN: Sure. I would be glad to.

13 First, the safeguards advisory has been around for a long time, well
14 before NSIR. It is incorporated in office procedures.

15 But the point that are you raising is we have an overarching list of
16 generic communications. And this is not one of them.

17 What we are looking at is working to get it put into the fold with the
18 others. There's no reason for it to be an outside process, even though it is an
19 NRC process, to take it and put it under the bigger heading of the larger generic
20 communications. And we are working with NRR and NMSS to accomplish that.

21 COMMISSIONER JACZKO: What to not you think the time frame is
22 to get that done?

23 MR. ZIMMERMAN: Dan, a sense on time?

24 MR. DORMAN: I'm not sure off the top of my head. I know it's

1 working in our security oversight section with NRR and NMSS.

2 We will get back to you on that.

3 COMMISSIONER JACZKO: Fine. Thank you.

4 All right, Chairman.

5 CHAIRMAN DIAZ: Commissioner Lyons.

6 COMMISSIONER LYONS: My first question actually is somewhat
7 similar to the direction that Commissioner Jaczko was just addressing.

8 Roy, you referred to the need to codify a number of requirements in
9 the rulemaking process, in many rulemaking processes. And many of these are
10 going to involve security issues.

11 I'm guessing that there's going to be a very complex and difficult set
12 of procedures that are going to have to be set up in order to maintain security,
13 appropriate security and also get public input.

14 And I was curious if one of you could talk a little bit about as you start
15 into these rulemaking procedures, how you see appropriate involvement of the
16 public where possible?

17 MR. ZIMMERMAN: Where possible, we will look to maximize public
18 involvement. As we go through security rulemakings, we will be working very
19 closely with Karen Cyr's staff to make sure that it's done in accordance with all
20 appropriate processes being considered.

21 MR. REYES: We have security rules in place that proceeded
22 September 11th. Part 73 is one.

23 We have done this before. But the context of some of the
24 discussions and some of the material is an issue because it cannot be made

1 public, and I'll let Karen --

2 MS. CYR: I think you are exactly right. We have dealt with, in a
3 sense, sensitive topics before. For instance, we did a rulemaking on the vehicle
4 bombs and incorporating that into our design basis threat, which we did in the
5 early '90's.

6 And it is a challenge for the agency to basically establish a
7 requirement which provides enough specificity for a requirement but also, in a
8 sense, doesn't get into a level of safeguards information, which is one that we
9 would not necessarily make public. But we were able to do it in that context.

10 Again, it is a challenge for the staff to come up with what, in fact, the
11 requirement is and evaluate public comments in that context. But we have done it
12 in the past, and I think we will be able to do it again. It is just it is a more sensitive
13 and difficult process for to us work through.

14 COMMISSIONER LYONS: It's just an area where I can imagine, as
15 you have said, will be difficult and sensitive and I trust we will do it with appropriate
16 care.

17 Roy, when you talked about completing the security oversight
18 process you, I think, alluded to or mentioned the physical protection, STP process.

19 I have had just one preliminary briefing on some of the development
20 of that. I was a little concerned that it might be moving in a direction of rather -- a
21 very complex process.

22 I just wondered if you could expand a little bit more on how that is
23 developing and if perhaps there's any others who might share my concern that it
24 seems to be going in a very complex direction?

1 MR. ZIMMERMAN: Sure.

2 There are aspects of the STP program that we rally around the fact
3 of the, I'll call them the consensus circles, the closer you get into the plant,
4 whether you are in the OCA, owner controlled area, or the protected area, or a
5 vital area and the significance that could be associated with that, the way it looks
6 at the existing inspection procedures to see does this issue or event touch many of
7 our inspection procedures where there could potentially be findings.

8 For me, I see logic in that. But as you said, there is some level of
9 complexity that is associated with it.

10 Now, the feedback that I received -- and I am going to ask Bruce to
11 comment, because the regional feedback, I think, is extremely important because
12 they are the ones that are out in the field doing it.

13 The feedback that I have received is that the regions like this new
14 program and are able to reproduce it very well. What you don't want to have is
15 have different inspectors come up with different findings. And then we lose that
16 consistency that we are driving for.

17 Apparently, at least from the feedback I had received, that's why I'm
18 very interested in hearing from Bruce, it was very positive with regard to
19 consistency and, ultimately, it looks harder than it is once you start to work it.

20 MR. MALLET: I would add to that that it is important that you can
21 repeat and have consistent results no matter who is evaluating that finding.

22 But complexity is an important issue that we sometimes forget that it
23 is a tool in evaluating that finding.

24 And I think we have to keep in mind when it is all done and we have

1 used the process to guide us through, there has to be some judgment in the end
2 that was it an effective tool or not. Sometimes when we make it too complex,
3 people get involved in the process more than in the outcome.

4 MR. ZIMMERMAN: If I can add another aspect to it.

5 We have developed our significant determination process, as you
6 well know. The industry has their own parallel model that they have been using to
7 put findings in the field through to see if they compare with ours. It is a simpler
8 program, but there is some issues associated with it that we continue to work with.

9 We have a Commission paper that we will be sending to the
10 Commission probably next month on this. What we will do is bring out the different
11 points that are in some contention associated with ease as well as some of the
12 other challenges.

13 The thought that we have is to run these in parallel potentially for a
14 period of time, additional time in parallel. We try to get enough points on the curve
15 to be able to make as an informed decision as we can.

16 COMMISSIONER LYONS: I appreciate the care that you are
17 devoting to this issue because it is a very critical issue.

18 MR. ZIMMERMAN: Agreed.

19 COMMISSIONER LYONS: I could ask additional questions if we
20 have another round, but let me not hold the time now.

21 CHAIRMAN DIAZ: Thank you.

22 Let's see. Commissioner Lyons has already talked about the issue
23 of rulemaking. We have a series of high priority rulemakings – two sets of them.

24 One is with regard to DBT and then everything else that we have

1 done, we are going to put together.

2 Are we on schedule with those rulemakings? Can you bring us
3 up-to-date?

4 MR. ZIMMERMAN: I think that we are generally on schedule for
5 what we have set out for FY05.

6 That having been said, we are challenged in this area as we work on
7 our '06 budget. And we have looked at some of the activities that we have that are
8 viewed as high priority for us. And that gets us into our process of looking for
9 where we may need to find resources to support emergent work that has come up.

10 Those are decisions that we will need to bring forward, regardless of
11 what it is, and it has the potential that there may be some rulemakings that are not
12 needed for safety security but are beneficial for stability that could potentially be
13 impacted as a result of what's called the above guidance items from '06 that we
14 are looking at. Some of the inspections that we need to do in the field is an
15 example of that.

16 CHAIRMAN DIAZ: I think it is important you keep the Commission
17 apprised --

18 MR. ZIMMERMAN: We will do that.

19 MR. REYES: We are challenged by the no growth in the budget and
20 the growth in the reactive workload. And something has to give, and we will come
21 to the Commission with the staff suggestions.

22 CHAIRMAN DIAZ: Karen, I know you have been thinking of this
23 delicate balance in the rulemakings.

24 Do you have any additional comments of some potential path

1 forwards and how we can do the rulemakings and still maintain a significant part of
2 it that is appropriate to be in the public domain versus that which needs to be
3 sensitive?

4 MS CYR: As I said, I think the approach that the Commission had
5 taken with its original DBT rules sort of provides a certain amount of guidance.
6 You are providing the high level standard against which licensees are required to
7 protect, but the actual implementation details are contained in their actual physical
8 security plans that they submit to us for review.

9 And we provide enough guidance -- I mean, detail in the rule that
10 gives both the licensee who has to comply with it and the public who wants to
11 comment on it in terms of what the appropriate standard is there so that they can
12 provide us comments and we can evaluate those comments.

13 We may get comments that go into areas where a response to that
14 that we have to be careful there might be a safeguard response in terms of our
15 understanding, but we have to write it at a level of information where we are
16 striking the appropriate balance between responding to the comment but not doing
17 it in a sense of a plant specific or a site specific way that provides too much detail
18 in terms of sort of what our concerns are.

19 So I think that is the challenge for the staff. I think you can deal with
20 these issues. You can deal with the comments that you get from the public in a
21 level of information which is not safeguards.

22 But you have to be -- it's a bigger challenge, it takes perhaps more
23 time for the staff in terms of doing that, working with us, so that you do
24 appropriately respond to those comments, you address the comments, but you do

1 it at a level of information so you are not dealing with it at a safeguards level.

2 CHAIRMAN DIAZ: I think that needs to be taken into the overall
3 resource issue, because it is going to be more time consuming just because of the
4 need to maintain that key balance that the Commission is striving to achieve.

5 Let me quickly change to a couple of issues. In the challenges that
6 you have, I think one, it's internal and one is external.

7 Could you tell us what is the major challenge that you see that will
8 require Commission attention?

9 I'll tell why. You guys take more time with this Commission than
10 anybody else. You are like a little three year old, we are always trying to meet with
11 you every two weeks. And you know, we want to graduate.

12 MR. ZIMMERMAN: We need a lot of attention.

13 CHAIRMAN DIAZ: You need a lot of attention. And we want to put
14 you in college very quickly.

15 MR. ZIMMERMAN: Since you mention the three-year-old the
16 second time, I'll use that as an entre to think that at the first time that maybe
17 wishful thinking that my hair was growing back. But recognizing that was unlikely,
18 the second choice was the birthday. So thank you for wishing NSIR a happy
19 birthday.

20 COMMISSIONER JACZKO: I'm not is sure about the hair growing
21 back.

22 MR. ZIMMERMAN: I'm in denial on that.

23 CHAIRMAN DIAZ: So, two things: Internally, what are those issues
24 that really take -- and externally the interfaces? And you need to be quick.

1 MR. ZIMMERMAN: I will be quick.

2 The main area that we would ultimately like to be able to work with
3 the Commission on is emergent work.

4 Bill Kane has done a tremendous job in looking at the workload that
5 we have, and I think largely agrees with the significant amount of emergent work
6 that comes our way. And we have added transparency.

7 Early on, we could not do this. We could not say what the impact
8 was because we had to get this done.

9 We put the controls in place, which was one of our accomplishments,
10 so we can say this is what's not getting done. So the transparency is there so the
11 Commission can decide and say, okay, if you are going to continue with this, this
12 is what it is going to cost. If you are going to put people on DHS's comprehensive
13 review effort when they go out and start doing these pilots, here's what it is going
14 to cost.

15 We owe it to you, so that we can make these informed decisions. So
16 again, with Bill's leadership, we have packaged this in a way that we can better sit
17 down and explain what the impacts are.

18 CHAIRMAN DIAZ: And externally, any major interface issue that you
19 are saying that it is proliferating or creating problems for you?

20 MR. ZIMMERMAN: I look at it as our own initiative. Externally, our
21 key challenge is we want to get out more. That takes more resources. So it
22 pushes and pulls against each other to a degree.

23 But if we are going to become -- if we are going to go to the next
24 level in incident response and emergency preparedness, people need to get to

1 know us better in the field. They already do, but we want to take it to the next
2 level.

3 That's what that improvement plan is that we are sending to the
4 Commission. And we are looking at modest bites because of the resources
5 involved to step wise work through that. We have prioritized the paper of where
6 we would suggest going first.

7 So we are trying to put it into the Commission's hands so it can be
8 taken in small bites if decided.

9 CHAIRMAN DIAZ: Thank you.

10 Commissioner McGaffigan?

11 COMMISSIONER MC GAFFIGAN: Let me go back to the budgeting
12 area.

13 Without getting into the details, this emergent work that are you
14 talking about is a major challenge, continues to surprise us on the upside. Is that
15 a correct statement?

16 MR. ZIMMERMAN: Right.

17 COMMISSIONER MC GAFFIGAN: And we are now planning for
18 fiscal year 2006, and I will not go into the numbers publicly, but there is significant
19 shortfall, as I understand it, at both the FTEs and contractor resources -- I mean, a
20 very significant fraction of your budget. And that is the emergent work we know
21 about on March 29th, 2005, not the emergent work that will emerge, if past history
22 is any precursor, going forward.

23 Is that a fair statement?

24 MR. ZIMMERMAN: Well, I think it is a fair statement.

1 COMMISSIONER MC GAFFIGAN: I don't know how to fix it on the
2 spot. But I'm pretty sure that the way to fix it is not to defer rulemakings. I mean,
3 stability is the word you used on rulemakings. And I know they are going to be
4 frustrating, I think, if you go back and read the history -- for some members of the
5 public, read the history of the vehicle bomb rulemaking.

6 But the Chairman is right. They are going be resource intensive, but
7 they more or less have to be done because we can't -- as 9-11 gets to be a more
8 distant time, we need to have had a fair Administrative Procedures Act process so
9 that everybody has their say. And it is an enormous number of rulemakings.

10 We have issued to all sorts of different categories of folks orders.
11 And we are working on four additional categories in materials space. But we have
12 homeland security advisory system regulatory information summaries, I think, for
13 like ten different categories of licensees.

14 You are not going to mix all those. You are not going to do
15 irradiators in the same one you do Category 1 fuel cycle facilities or power
16 reactors or research reactors.

17 As I said, there is rulemakings that we really want to do. One of the
18 points that Roy made was that access authorization, and he mentioned that we
19 had done something last year for ISFSIs and decommissioning reactors, but we
20 are asking for legislation that would allow us for additional categories of licensees
21 to have background checks.

22 So I think it is the most important provision, to be honest with you, in
23 the legislative package that Congress has been working on for a couple of years.
24 But will mean work. And that's not in our current plan.

1 So there is an enormous rulemaking program ahead of us and I
2 suspect it under budgeted.

3 To turn this into a question: is there a problem with the current
4 scheme where you don't have rulemaking resources other than policy resources
5 and you use NRR's and NMSS's administrative support?

6 The original thought was that rulemaking was a relatively small part
7 of your activity, and you should rely on the two big offices. But that can lead to
8 finger pointing as to who -- so do we need to rethink that decision that was made
9 when you were born three years ago not to -- other than rulemaking policy, to
10 leave the NRR and NMSS in charge of rulemaking in your areas?

11 MR. ZIMMERMAN: That's a good question. I'm going to answer
12 first, then I'm going to ask Dan to share his thoughts.

13 From my perspective, nothing has reached my ears to say that
14 there's effectiveness or efficiency problems associated with NSIR doing the
15 technical review of the rulemaking and the licensing office is doing the more
16 programmatic work associated with the rulemaking.

17 Dan may have some information on that. If not, we can easily get it.

18 But the fact that nothing has occurred may also be a recollection that
19 we are --

20 COMMISSIONER MCGAFFIGAN: We haven't done a lot.

21 MR. ZIMMERMAN: You beat me to it. We are early in the process.
22 We are early in the process.

23 So let me turn to Dan. I have another comment after.

24 MR. DORMAN: I think that as we have been working on the

1 transition into rulemaking, early on we had some challenges in our coordination
2 and planning and prioritization. But I think we have worked through those. I think
3 in the current budget process that we are working through, it's been much more
4 effective.

5 I would agree with Roy's characterization that in terms of the
6 process, the actual mechanics of the rulemaking, it's currently working with the
7 rulemaking resources in NRR and NMSS in the technical basis development in
8 NSIR. I think that at this point, shifting it we would have to look at what challenges
9 that transition would give us.

10 COMMISSIONER MC GAFFIGAN: You are going to have some
11 opportunities for success. The DBT rule had better be here in June and the
12 fitness-for-duty rule had better be here in June.

13 MR. REYES: If you go back in the last 30-year history of this
14 agency, we have been all over the place on how you do rulemaking in terms of
15 organizational structure.

16 I think the organizational structure that we have now to do
17 rulemaking is the right one. But it is just a matter of priorities and resources. If we
18 decide that the DBT is at the top of priority, the resources will be given and we will
19 do that, even if it has an increase in scope of work, and something else will fall off
20 the plate.

21 So I think we have the structure to do it.

22 COMMISSIONER MC GAFFIGAN: But it's just -- Mr. Chairman,
23 during our tenure, we changed. And I think Commissioner Merrifield was here,
24 perhaps, when we did this. But we took Research -- Research used to have the

1 technical basis -- I mean, rulemaking had the technical basis in Research -- and
2 they tossed the technical basis over the transom to the program offices. And that
3 didn't work. And so we gave the two program offices, NMSS and NRR, the full
4 responsibility.

5 Here we are a little bit divided like we were back in the old days
6 where Research threw things over the transom to the program offices.

7 I recognize it would be disruptive, but if to the extent the decision
8 was made on the notion that this is going to be a temporary thing for you, I would
9 say a better part of a decade ahead, you are going to be doing significant
10 rulemakings, and you need to figure it out because you can't do them all at once.
11 I'm not arguing that.

12 MR. ZIMMERMAN: I know in my dialogues with Jim Dyer and Jack
13 Strosnider when we talk rulemaking, there have not been issues in terms of
14 prioritization or resource support. We are just making sure that we taking well to
15 each other so that everybody knows where everybody stands. So there's not
16 been an issue there.

17 I look at it that in emergent work, our role is that we need to
18 unemotionally recognize that it is, as I said during my talk, it comes with the
19 territory. That's what life is. And we have to approach it unemotionally.

20 We need to identify what the impacts are. We need to not put up
21 Washington monuments. We need to be using our prior decision scheme. But we
22 need to give them to Luis's organization so that they can look at it, be transparent
23 and let decisions be made by the 17th and 18th floor.

24 CHAIRMAN DIAZ: Thank so you very much.

1 Commissioner Merrifield.

2 COMMISSIONER MERRIFIELD: Thank you, Mr. Chairman.

3 I guess to follow-up on some of the comments here, I certainly
4 appreciate the challenge that the staff has had to deal with with emergent work.
5 And the Commission will have to take a look at what the staff comes up with in its
6 recommendations in coming to our own conclusions about the ultimate priority in
7 which we should fund some of these issues.

8 I think one of the challenges, particularly one that relates to
9 emergent work that comes outside of the agency and the desire of others to find
10 us things to do. I think one of the difficulties that we have is related to the
11 agencies with whom we deal.

12 I don't mean this in any kind of negative or pejorative way, but when
13 we interact with the Department of Homeland Security, when we interact with the
14 Department of Defense, when we interact with the Department of Energy, all which
15 have vastly greater amounts of dollars and people, than our little 3,000 member
16 \$675 million agency, we just need to keep some of that in mind.

17 I know we try to be sort of the honor roll student in being there first
18 with the best answer. I think resource allocations force hard choices. And some
19 of those hard choices are that we have to say no.

20 And I think prioritizing these in a risk-informed way, focusing on
21 those things which are most important for us achieving our mission, I think, should
22 certainly be a guide post, and I look forward to a range of options that the staff will
23 give the Commission for consideration of those issues.

24 In terms of rulemakings, I agree with my fellow Commissioners, it is

1 important for us to take the process and move it into a more standard, logical
2 framework which puts these things into a rule.

3 I would say I think it is important for the staff to keep timeliness on
4 meeting those rulemakings at the fore. At the end, obviously, we want high quality
5 rulemakings. And merely meeting an arbitrary deadline to do so certainly should
6 not supersede having good quality information in rulemakings brought before the
7 Commission.

8 In terms of a couple of questions, without going into too great a
9 detail, one of the issues that we have been grappling with over the five
10 force-on-force exercises that we have had so far relates to the performance of the
11 adversary forces.

12 I'm wondering if you could comment a little bit on your general
13 observations of the staff of how that relationship has transpired and what you have
14 seen preliminarily in terms of how those adversary forces have performed?

15 MR. ZIMMERMAN: Sure, I will be glad to. I will share it both ways,
16 my own personal observations as well as those of my organization.

17 Starting off with my organization, they have watched what's called
18 the composite adversary force which is a dedicated group of mock attackers that
19 go from site to site that are carrying out these activities for us.

20 We have watched them train at their facility down south, and found
21 their training to be robust. We have observed them closely to understand their
22 tactics and the way they approach this scenario.

23 They have been very professional. They have been very good in
24 terms of their physical conditioning and their knowledge level. And they are

1 performing at very high level.

2 An example, just to give one quick one, is the case where during
3 these exercises, people are moving pretty fast. And the adversary is running
4 pretty fast. And the controller is trying to keep up with the adversary.

5 The adversaries are in very good shape. They were before, they got
6 themselves in better shape, and they are moving out. They have performed very
7 well.

8 And we see fewer instances of errors on their part. Where there was
9 friendly fire problems before, we don't see those same types of activities currently.

10 They take it very seriously. They want to win.

11 And when they don't win, you physically look at them and their
12 shoulders are a little bit down. But they take their job very seriously.

13 COMMISSIONER MERRIFIELD: Two cross-cutting follow-ups.
14 One, obviously, there is always a concern about making sure that they are
15 realistic, not only in terms of being sufficiently robust but also in terms of not being
16 inappropriately expert, given all the exercises they are doing.

17 I trust you have been able to maintain the balance between those
18 two goal posts?

19 MR. ZIMMERMAN: So far. If we see that they start to exhibit
20 something beyond what we think the adversary's capabilities are, we will clearly
21 make that known.

22 COMMISSIONER MERRIFIELD: The other follow-up quickly. There
23 were concerns raised about the objectivity of these forces relating to the use of
24 Wackenhut.

1 Is there anything that the staff has observed at this point that would
2 lead credence to some of those concerns?

3 MR. ZIMMERMAN: None. We have witnessed Wackenhut on
4 Wackenhut exercises, and without knowing some of the background of what's
5 transpired and you just watched it in the field, which I have done, none of it is
6 visible.

7 But to deal with the perception, the industry has trained individuals to
8 join the CAF from outside of the Wackenhut organization.

9 I can't give you the number, but there's at least one, and they are
10 continuing to train groups that are made up of individuals from various background
11 and companies, not just from one.

12 They did that for expediency.

13 MR. REYES: Let me add my personal observations, as I just
14 observed a force-on-force and I have observed through the years in this agency all
15 the variations that we have had for the last 27 years on similar activities.

16 Clearly, my personal view is this is the best arrangement we ever
17 had in terms of testing, real dynamic testing, of the security features of this facility.
18 And it is unfortunate that others cannot observe the details of what goes on,
19 because it only takes an observation of the individual's performance to quickly
20 come to the conclusion that the perceptions are not based on sound facts. But it's
21 very impressive.

22 COMMISSIONER MC GAFFIGAN: Commissioner Merrifield, could I
23 just note that others do and that state homeland security officials do and the
24 General Accounting Office does and the NRC IG does, and we will see what they

1 have to say in various upcoming reports, some of them, as to whether they
2 agreed. But I would agree entirely with Luis, this is by far the best that we have
3 ever had. We have a uniform high quality force.

4 COMMISSIONER MERRIFIELD: Last quick question. One of the
5 things that you are working on right now is the STP process for the indicators and
6 following along the lines of what -- the significance determination process for
7 performance indicators and findings.

8 Are you watching closely the issues that NRR has been grappling
9 with on timing and making those findings in a more expedited way, perhaps?

10 MR. ZIMMERMAN: We understand that there are some of those
11 issues. And we want to be able to learn from our partners so that we are following
12 what NRR is doing.

13 The other thing that we are doing is we are trying to make sure that
14 we understand their process inside and out so we can inform the paper that we
15 are going to be providing to the Commission.

16 To the extent we can make it apples and apples, we are trying to do
17 that, recognizing one's safety and one's security. But if there are variances, we
18 want to try to explain why.

19 MR. MALLET: Roy, I would add to that.

20 Commissioner Merrifield, this panel that NSIR has reviewing with
21 regional offices participating in -- all the findings also helps that process for
22 consistency and timeliness up front.

23 COMMISSIONER MERRIFIELD: Mr. Chairman, just two quick
24 comments.

1 One, I think it was noted the slide on the operations center and
2 changes made there in the course of that last year. And I would want to
3 compliment the staff on what I think is a terrific operations center and significant
4 improvement over where we were.

5 The second one which we cannot go into any kind of detail, but our
6 staff has been involved in a number of engagements with many of our
7 counterparts outside of the United States. And I think without getting into any
8 detail, it should be noted the importance of those interactions and the value that
9 those have brought to many of our counterparts internationally which have not only
10 helped us learn about ways in which to improve our own way of doing security, but
11 I think it significantly enhances security of facilities around the world.

12 MR. ZIMMERMAN: We and people in the room that are listening to
13 us appreciate the comment.

14 CHAIRMAN DIAZ: Thank you.

15 One question? One more quick round.

16 COMMISSIONER JACZKO: I have a very specific question. And
17 maybe, Eric, you can answer this one. And I'm not sure how much detail you can
18 describe. But we recently, or Luis recently sent out a memo on these emergency
19 response organizations, the three-team concept to start filling these teams.

20 I was wondering if you could give me a brief update on how the
21 management of that is going and how the filling of those teams is going?

22 MR. LEEDS: Just briefly, Commissioner. The progress is good.
23 We have gotten input from all the major program offices here in headquarters;
24 terrific candidates. I have been very pleased.

1 We are structuring our red, white and blue teams now, right now, and
2 hope to have it implemented soon. Hopefully for the Honeywell exercise. Yes, sir.

3 CHAIRMAN DIAZ: Thank you.

4 Commissioner Lyons.

5 COMMISSIONER LYONS: On the issue of the states which have or
6 have not agreed with the 274-I inspection for the panoramic irradiators, I'm just
7 curious, what you are seeing is options, since only a small number of Agreement
8 States have taken on that responsibility. And where do we go from here?

9 MR. REYES: The staff has a proposal that will be forthcoming to
10 the Commission. We think there is a way to make some minor changes on Part
11 20 and regulations that will allow us to really move further in that area.

12 So we are going to be forthcoming with a proposal to alleviate the
13 situation regarding the states participating.

14 COMMISSIONER LYONS: So this would presumably, to some
15 extent, address some of the states' concerns.

16 MR. REYES: We think that this minor change is going to go a long
17 way to get all the states to participate.

18 COMMISSIONER LYONS: Be very positive.

19 MR. REYES: We already have dialogue with them. We understand
20 what the issues are.

21 And based on that, we are going to come over to the Commission
22 with a proposal that we think will be in great response to resolve the issue.

23 COMMISSIONER LYONS: I will be very interested. Thank you.

24 CHAIRMAN DIAZ: Let me go back to just one quick comment, the

1 issue of orders and rulemaking for those who have not been following the
2 Commission in the last three years as Commissioner McGaffigan said. We had to
3 issue orders to be able to expediently move into securing not only facilities but
4 sources.

5 And that work eventually needs to be codified. We chose to do
6 orders because we thought that it was the most expedient way to provide
7 protection to the American people.

8 In the area that Commissioner McGaffigan brought up, and I had
9 written it down. Sometimes I'm scared how Commissioner McGaffigan and I think
10 alike. I get concerned about it.

11 COMMISSIONER MC GAFFIGAN: Ditto.

12 (Laughter.)

13 CHAIRMAN DIAZ: As we go into the materials arena and look at the
14 safety and security interfaces, this needs to be really looked at in risk-informed
15 manner because we want to improve the security. On the other hand, the
16 operations are smaller, sometimes spaces are smaller, but it is an area that really
17 needs to be looked at.

18 And with that, Commissioner McGaffigan.

19 COMMISSIONER MC GAFFIGAN: This is going to be more a
20 comment -- to the response from Mr. Reyes to Commissioner Lyons.

21 Mark me down as a skeptic that there's some magical action -- that
22 Part 20 change. I mean, we have been working, we have irradiators out, we have
23 manufacturers and distributors out. You tell us that we are inspecting those. We
24 have four more categories of licensees that possess greater than Category 2

1 quantities of the IAEA Code of Conduct radionuclides of concern.

2 We have been working on those a long time. You are promising
3 some time this year we will get those orders out and next year presumably, start
4 inspecting and all that.

5 This would be an area for this Commissioner where these things
6 would have to be Category B, if legally we can even get into security space. And
7 we have got so many other rulemakings underway that I don't know -- as I say, I
8 don't know how you make a tweak to Part 20 and suddenly have peace with the
9 Agreement States in this area.

10 I think it's much more likely that for many years, we are going to
11 have to do what we have to do -- and I believe it's 1,300, Roy has used 2,000, but
12 I think there is about 1,300 licensees, according to our database, that actually
13 possess Category 2 quantities of radionuclides of concern. There may be others
14 who are authorized to, and I suggest that they may want to give up that
15 authorization if they are not going to use it.

16 But there's a very complex process here that we have to deal with.
17 And if the states don't want to enter into 274-I agreements, if I'm right, that it's
18 2010 or '11 before this whole infrastructure is in place for all these different
19 categories of licensees with Category B compatibility, then we have to solve the
20 problem for the next five years.

21 As I say, there was a TA brief, I believe, yesterday, my TA briefed
22 me on it and I am extremely skeptical of, that there is a tweak to Part 20 that is
23 going to solve this problem anytime soon.

24 MR. REYES: It's not simple, but when there is a will, there is a way.

1 So we have a will.

2 CHAIRMAN DIAZ: We have encouraged the staff to do some
3 creative thinking in this area.

4 Commissioner Merrifield.

5 COMMISSIONER MERRIFIELD: Thank you, Mr. Chairman.

6 Just briefly, we have had a lot of talk about rulemakings. I would
7 encourage the staff, as we move down the road on rulemakings, to try to do this in
8 manageable pieces rather than one large mega rulemaking.

9 We are going to receive fairly soon a revised fitness-for-duty
10 package. I hear that the forests are still being clear cut in order to provide the
11 sufficient paper, thousand pages I'm told.

12 COMMISSIONER MC GAFFIGAN: Do we have to do an
13 environmental impact statement on the forest that we are cutting down?

14 COMMISSIONER MERRIFIELD: We may need to consider that.

15 I think as a general message, doing this in bite size manageable
16 pieces so that the Commission can work their way through those rather than
17 packaging it up in one horrendous package is a better way to go.

18 MR. REYES: It's a ten-year product, so that's what happens when it
19 takes you ten years to do something. So we got the message.

20 COMMISSIONER MERRIFIELD: A whole other day that could be
21 spent on lessons learned with that package. But we need not go into that.

22 CHAIRMAN DIAZ: Well, on behalf of the Commission, I want to
23 thank the staff not only for the briefing but for the amount of work that's been going
24 on. We realize that you are not a three-year-old child. You are a mature

1 organization striving to do better work every day. We do appreciate it. We look
2 forward to meeting with you. I would like to meet with you less often.

3 MR. ZIMMERMAN: Nothing personal I'm sure.

4 CHAIRMAN DIAZ: That's right, and with that, we are adjourned.

5 (Whereupon, the hearing was adjourned.)

6