

1 UNITED STATES OF AMERICA
2 NUCLEAR REGULATORY COMMISSION

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4 1998 ALL AGREEMENT STATES MEETING
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8 The Wayfarer Inn
9 121 South River Road
10 Bedford, NH 03110
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12 Friday, October 30, 1998
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15 The above-entitled meeting commenced, pursuant to notice, at 8:00 a.m.
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P R O C E E D I N G S

[8:00 a.m.]

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3 MR. CAMERON: Okay. Good morning everybody.

4 SPEAKER: Good morning, Jay.

5 MR. CAMERON: Thank you, Bob. We'll have people filtering
6 in here, but we might as well get started, and there's just a couple of
7 things on the agenda I wanted to point out for you.

8 This morning you're going to hear more about generally
9 licensed devices than you ever wanted to know probably, but we're going
10 to start out with an agreement state prospective, Jay Hyland from Maine
11 is going to present that, and then we're going to hear from John Feeney
12 of New Jersey on the nonagreement state prospective, and then to wrap it
13 up the NRC is going to tell us about what they're doing in terms of a
14 draft proposed rule on generally licensed devices.

15 In the 9:50 slot today Ruth McBurney is going to talk about
16 industrial radiography certification. Is that right, Ruth?

17 MS. MCBURNEY: That's right.

18 MR. CAMERON: All right. Okay. Then we're going to do
19 after the break a couple of related things, DOE contractors and low
20 level radioactive waste. I think you'll see how they're related when we
21 get there, and we going to finish off with compatibility and Tom Hill
22 and Paul Lohaus are going to do that for us.

23 Now when we get to the afternoon, we're going to have some
24 reports of NRC working groups and Tom McKenna, who's listed for incident
25 response, is not going to be here and Sam Pettijohn is going to do that

1 with Aubrey. Aubrey is still here and we have a lost source exercise,
2 and there may be, I need to talk to Roland when he gets here, he had an
3 errand he had to run, but that 2:35 slot Mad Scientists, Don, are you
4 still going to -- is that still on for that time?

5 BUNN: I was told 10:30.

6 MR. CAMERON: So you're suppose to be on this morning?

7 BUNN: Yes.

8 MR. CAMERON: Okay. Well, I'm only the facilitator. I
9 don't know this stuff. So we're going to start out with you after the
10 break so put Don in there.

11 The last thing this afternoon before we go to this general
12 question and answer, we have Ara Tahmassian who is with the University
13 of California at San Francisco. He's a radiation safety officer there,
14 and he's gathered some interesting data in regard to medical treatment
15 and what types of dose levels can be expected from patients.

16 Apparently, this type of data has not been gathered before,
17 but we're going to put him on briefly this afternoon before we go to the
18 general question and answer session because he can't be here tomorrow
19 for the Part 35 thing, but it should be a relevant kickoff for us for
20 our discussion of the medical rule.

21 All right. Diane's here. I guess mostly everybody is here
22 so let's get started with Jay Hyland.

23 MR. HYLAND: Based on the cover of USA Today, I had to start
24 out with a comment on one of my favorite comic strips, Calvin & Hobbs,
25 and Calvin was lamenting about the fact that there couldn't possibly be

1 intelligent life in the universe because they have contacted us. Hobbs
2 response was, "Well, that might be the best proof we have that there is
3 intelligent life in the universe."

4 I know I'm up here for 20 minutes to do a talk on generally
5 licensed devices, and I was putting the information together for this
6 presentation, I realized there was going to be Y2K problem with this
7 presentation. Hopefully we'll get you out of here sometime in the
8 middle of January.

9 We've been talking about generally licensed devices for a
10 long time, and I don't want to steal what Trish has to say, but February
11 12th, 1959 was when the regulation was first adopted by the AEC. I
12 think we've been talking about that pretty much since then.

13 An analogy I think I can draw is that the impeachment
14 proceedings in Washington. I happened to be listening to National
15 Public Radio as the Judiciary Committee was first dealing with the first
16 few days of the impeachment proceedings, and they played a quote from --
17 and unfortunately, I can't remember her name, the woman who was in
18 charge of the Judiciary Committee in 1972 when they kicked off the, or
19 '73, when they kicked off the impeachment proceedings with Richard
20 Nixon.

21 She said that the Congress has a lot to do and she ticked
22 off about a dozen things that Congress had to do aside from impeachment
23 proceedings. The thing I found fascinating about that was that all of
24 those things were on the agenda today. She talked about health care and
25

1 campaign finance reform and all the things that we're still talking
2 about 20 years later.

3 So the general license thing is kind of like that I think.
4 The background materials for this talk are obviously new Reg. 15.51, I
5 think everybody's fairly familiar with that, the working group report.
6 SECY paper 97-273, Roland's presentation to the NRC commission back in
7 January, which have all said about the same things.

8 That is basically supporting what the working group came up
9 with in that quick list of the problems, inadequate regulatory
10 oversight, inadequate control over accountability, improper disposal of
11 devices and orphan devices.

12 NRC was originally looking at adopting, sorry Trish, I'm
13 stealing it again here, originally you're looking at adopting
14 regulations regarding generally licensed devices back in '91, and it was
15 dropped essentially because of funding problems and just the fact that
16 they didn't have the personnel to support it.

17 In the introduction to the Federal Register notice, there's
18 a line there "About 45,000 generally licensed devices under 10 CFR 31.5,
19 who possess about six licensee, 45,000 general licensees, who possess
20 about 600,000 devices." Now the question is if that's just under 10 CFR
21 31.5 and there are 30 agreement states, how many devices are there out
22 there really? That's what my talk is about.

23 The Maine perspective. I didn't want to get into too much
24 actual programmatic stuff with regards to the State of Maine, but I'll
25 sort of show you where we are, what we're doing.

1 We adopted regulations on August 1st, 1997 which basically
2 require registration of generally licensed devices. We already did -- I
3 think all of us do -- in vitro testing laboratories and uranium for
4 shielding. What we did is we just added in our regulations and in
5 probably the SSRCRs what's in Part (c)(6)(b), which is measuring,
6 gauging and controlling devices.

7 Why didn't we use the working group recommendations and just
8 do cesium, cobalt, iridium, strontium 90 and transurancis, because this
9 was a heck of a lot easier. We added one line to our regulations which
10 basically just says you have to register.

11 Granted, Commissioner Diaz was very -- hit on this subject
12 over and over again, risk informed regulations, and I realized that
13 registering all of them may not be risk informed regulations, but the
14 fact that I've given this presentation for at least two years, and I
15 suspect we'll be talking about this for years to come and I know that
16 we've been talking about it, and I've been in this business now for 10
17 years, all that time I think that just the fact that we've been talking
18 about it all this the whole idea of lost control and accountability is
19 one of those things that really bugs a regulator.

20 Back to Commissioner Diaz' statement that we have to remind
21 the licensee that it's their responsibility with regards to control and
22 accountability. It's not ours even though it bugs us and that's why
23 we're adopting regulations. So the fact that we've been here, we've
24 been talking about this all this time, I think is just about as risk
25

1 informed as our regulation is. Obviously, it's been bugging us and
2 that's why we're here.

3 Now how do we get there? That's the easiest way to adopt
4 the regulations. Now how do you register the devices? That's not easy.

5 The other thing I wanted to add is that in measuring,
6 gauging, controlling devices we have -- interesting, like air hockey --
7 we have separated into fixed devices and portable devices. The reason
8 being that we have different registration fees for the two devices
9 because, and this is about the only risk informed thing in our
10 regulations, because we felt that fixed devices aren't quite as risky as
11 portable devices because we can't find the portable devices and in
12 general we know where the fixed devices are.

13 The other thing I wanted to point out, and that's why it's
14 in red, this includes all radioactive material not just the working
15 group isotopes as we'll call them. Where do we start? We became an
16 agreement state in 1992, April 1st, kind of a bad joke.

17 At that point in time we were given a database by the NRC
18 regarding all the generally licensed in the State of Maine. It was a
19 pretty extensive database and aside from some misspellings and some
20 problems that whoever entered the data had with names of companies or
21 name of towns or anything like, granted we do say "Bangah" and we do say
22 "Bah Hahbah" in the State of Maine, buy we don't spell it that way.

23 [Laughter.]

24 MR. HYLAND: The Cutlass "Calay," everybody knows about the
25 Oldsmobile car. We have a town, but it's not said "Calay," is called

1 "Callis." I always got the biggest kick when NRC inspectors came into
2 the State of Maine and how they'd pronounce the towns, "Top Sham, Scal
3 Hagan." Too many Indians up north I guess.

4 Anyway the NRC database, we had quarterly reports obviously
5 of companies, manufacturers and distributors. We had the SSD database
6 and obviously we have the input from other states.

7 The one thing I guess I wanted to make a comparison here
8 just to put it on the table is that the draft regulations or the draft
9 Federal Register report of the NRC is estimating or putting out anyway
10 for comment the registration fee of \$370 per device no matter how many
11 devices you have. The Maine regulations, the fixed devices are \$25 per
12 device and the portable device is \$100 per device.

13 The reason I'm bringing up the money, I will bring in with
14 my closing comments. The money is important. That's how we're going to
15 fund this program, remember? That's where we're going to get the people
16 to do it because it's not an easy job.

17 What I did using those areas that we're starting with is the
18 State of Maine sent out a letter to all the manufacturers and
19 distributors in the SSD database. Now why the SSD database? Why didn't
20 we use the NRC database and start with our licensees? We did sort of.

21 The problem is we didn't find all of our gauges and we were
22 getting actually very poor report with regards to -- in the NRC database
23 that we got in '92, there were devices listed from 1968, 1972 and most
24 of our licensees hadn't the faintest idea where those devices where.
25 Just, you know, "We don't have any records on that. This is like four

1 safety people before me." The whole range of excuses that I'm sure
2 we've all heard, so that was suspect.

3 You had the quarterly reports. In the State of Maine we
4 have about 31 companies that respond to quarterly reports once in a
5 while because they're not required to respond negatively, they're just
6 required to respond when they actually distribute something in the State
7 of Maine.

8 So what we did is went sent out this letter, March 19th,
9 1998 to all of the companies in the SSD database that have an SSD,
10 sealed source of device, number that ends in either "B" or "G." All
11 generally licensed devices are all devices that could be distributed
12 both ways.

13 It was 133 companies. We got 29 return to senders because
14 the address was no good, the company was out of business, didn't exist,
15 you know, it's the typical USPS stamp with one of the things checked
16 off, all the different reasons why this thing was undeliverable. We
17 only got 44 full responses from those 133 companies.

18 We actually got one response which was humorous to me,
19 actually we got a number of responses that were humorous. The best one
20 was from a company that will remain nameless that stated that this undue
21 regulatory burden that we were subjecting them to to report to us, that
22 they were going to charge us for.

23 [Laughter.]

24 MR. HYLAND: That's fascinating. I never did get a bill by
25 the way. Probably the most interesting thing with regards to that was

1 we also put out our registration forms to all of these companies, that's
2 sort of closing the circle.

3 If we do find a device that was distributed after the date
4 of this letter in the State of Maine that we did not receive
5 notification of, we've essentially got sort of a willful violation, if
6 you will because they've been notified, they've got the registration
7 forms and it's ultimately the manufacturer and distributor's
8 responsibility to notify their potential clients of the requirements of
9 the particular state that they're distributing it into.

10 After I got the 29 RTSSs, I talked to Lloyd -- I didn't get a
11 chance to buttonhole him last night, unfortunately, at the reception --
12 but I talked to Lloyd Bolling regarding these companies, like, "Why are
13 these addresses bad? Why are these companies out of business? Any
14 information that you can give me with regard to the SSD database, and
15 why, even though this was the most recent copy of the SSD database, why
16 wasn't it up to date?"

17 He talked to Steve Bagett and Steve ticked off about a dozen
18 companies that he knew specifically were either out of business or had
19 moved, and that he knew that the database wasn't up to date, but that
20 there was another database somewhere that was more up to date. I don't
21 know where that database is and it wasn't given a name during our
22 telephone conversation, but that will tie into my final comments as
23 well.

24 Are we any farther after my March 19th, 1998 letter? I
25 would say in general we are. The about over -- you know that's not

1 radio talk, it's just the fact that it's been cut and pasted a few
2 times. Like I said, this is the second year I've done a presentation
3 like this.

4 About over, 185 companies in the State of Maine, that's that
5 we know of. I don't have a number of devices yet because it's not all
6 into a database. I'm going to shoot from the hip and say roughly 50
7 percent of them are Tritium exit signs.

8 The interesting thing about that is that if they have them,
9 they generally have a lot of them. If you're a company that decides to
10 put these things in, you've got dozens and dozens of them. The only
11 company in the State of Maine that only had one was a Pentecostal Church
12 which I got kind of a kick out of. One Tritium exit sign in this
13 church.

14 The thing that I thought was most interesting, and everybody
15 else is probably going to say, "Well, that's the problem coming from the
16 small State of Maine," is that for the most part the generally licensed
17 devices that out there are replacing specifically licensed devices or
18 doing basically the same thing as specifically licensed devices.

19 So there are no surprising things for the most part on any
20 of these notifications that we received with regard to companies that
21 have specifically licensed devices, except for me, were these Americium
22 241 sources that are used in food processing plants in the State of
23 Maine.

24 We all know about, for example, Anhauser-Bush in the fine
25 State of New Hampshire that uses them as a fill indicator. We have one

1 bottling plant that uses Americium 241 as a fill indicator in a
2 generally licensed device, but two of the other food processing plants
3 are those wonderful Maine wild blueberries, and I don't know exactly
4 what it is they're using them for. I haven't figured that out yet. I
5 haven't been to the company, but we'll be going there probably in a
6 month.

7 The reason I thought was interesting is the typical problem
8 that we've got with generally licensed devices obviously is that the
9 licensees don't know that they've got them, that's why we're losing
10 control and accountability.

11 The general licensee doesn't know they have them, doesn't
12 know the regulator, so if you had a problem at a plant where there were
13 essentially devices that you didn't know about and the licensee didn't
14 know about them, processing blueberries, and there was say a fire or
15 something, and obviously you've got 44 tons of blueberries out there
16 that need to be processed, you're going to clean up the facility as
17 quick as you can, get everything up and running and if you don't know
18 you've got a device, don't know that there could be a radiation hazard
19 and don't know that the worst case scenario that's there's Americium all
20 over the place, away you go processing blueberries.

21 The regulator doesn't know that you've got Americium so my
22 only point is yes, Americium is one of the isotopes that the working
23 group talked about, and I think that from a risk based standpoint that
24 the working group sort of came at this from the back end. How do we
25 keep these isotopes out of scrap metal dealers? How do we keep the

1 model landfills -- and really what we've got to do is we've got to start
2 from the front end and make sure that the licensees and the people out
3 there know that they've got the actual devices.

4 CRCPD should be tasked with maintaining a database of "G"
5 companies. Now I'll get back to money. Obviously, CRCPD has funding
6 problems. I honestly think that just in the trouble I've had with --
7 and it's only 133, that we know of anyway, manufacturers, just in the
8 trouble that I've had at getting all the addresses, the name changes and
9 everything else correct, and I haven't found anybody yet who has all of
10 them.

11 I talked to a number of different states. A number of
12 states have submitted their databases to me, Florida, Washington,
13 Illinois, Texas, are the ones that are coming to mind right off the top
14 of my head here, but there are others. Most people have a database of
15 their generally licensed device manufacturers of 50, 60 people --
16 companies. So I haven't seen yet anybody who's got them all and
17 obviously I think there should be. As close as I can tell, the best way
18 to tackle this problem is from the manufacturer's end not trying to find
19 the licensees one by one.

20 Let's get back to my food processing comment. If you don't
21 know where it is, if you don't know where to look, we have had paper
22 mills in the State of Maine that have closed recently, textile mills
23 that have closed, primarily because of national competition.

24 Last Christmas we had a static elimination bar got cut in
25 half and scrapped and ended up in Quebec. I was dealing with a

1 consultant in Quebec and the scrap metal company in Quebec until about a
2 month ago the thing finally got disposed of in Chalk River. Why?
3 Because disposing of this quantity of radium, the United States, I
4 think, estimated at \$27,000. I disposed of it in Chalk River with the
5 help of the Canadian authorities for \$3,000 U.S.

6 Interestingly, that static elimination bar was in a textile
7 mill. They didn't know they had it. It was a radium static elimination
8 bar that was manufactured by a company in Andover, Massachusetts that
9 went out of business in the early 80s, and in talking to the
10 Massachusetts inspectors, that company -- that building is still there,
11 still says the name of the company in the cornerstone and it's now like
12 a computer office for somebody or another. It's just kind of a curious
13 thing.

14 Risk based regulations only work based on the risk not the
15 isotope. This is sort of a general comment that I'm making specifically
16 to the draft proposed regulations. If it's truly a risk based
17 regulation, I feel we should do it from the standpoint of a dose base,
18 rather than from the standpoint of an isotope base.

19 My point being that we all know from this meeting last year
20 that the more regulations you pile onto the regulated community as it
21 were, the more ways they're going to find around it. So if you
22 specifically list isotopes that you're going to register, they're going
23 to find different isotopes.

24 About the exempt gauges that we talked about at the last
25 meeting, go out and buy a device that has never been evaluated and then

1 pile 10, 20, 30 exempt sources into and all of a sudden it's a device
2 that was never reviewed.

3 I think that's the problem we're going to run into with the
4 implication and the implementation of these generally licensed
5 regulations and that is that essentially the manufacturers are going to
6 start doing an end run around us because it's just too damn expensive to
7 get these things out there.

8 One of the comments I received at the NERF meeting, New
9 England Radiological Health Committee Meeting, when I made this
10 presentation last year was if in fact, we're going to register generally
11 licensed devices and all of a sudden now these people are going to have
12 to pay money, the devices are going to disappear faster. I haven't seen
13 that yet, but it's at least something to consider and that's it. Any
14 questions?

15 MR. CAMERON: I would just remind everybody keep in my Jay's
16 point in his closing remarks and anything else from the presentation
17 that go to how the NRC's draft proposed rule should be structures, and I
18 think that we're going to have a lot of discussion on that topic, not
19 only from Jay's presentation, but also from John's, but there may be
20 some questions specifically about Maine's program that you want to bring
21 up now, but it may be better to hold all of these overarching issues
22 until we get to the NRC presentation. Yes?

23 MR. JACOBI: Jay, you mentioned that you thought the
24 conference should maintain a database, is that because the NRC is out of
25 date and hasn't been able to do it or is there another reason?

1 MR. HYLAND: Two reasons. At least with the SSD database I
2 found it wasn't up to date. I have been told, like I said, that there
3 is another database that may be more accurate, but the other overlying
4 reason is the whole reason why we exist as agreement states. We
5 regulate all radioactive materials, and that was one of my points why I
6 brought up the radium static elimination bar.

7 I know that in general a lot of agreement states have tried
8 to get rid of all the radium that's out there, but I still have quite a
9 few fixed gauges that are using radium. I don't know how many everybody
10 else does, but you know, there are still NARM sources out there. I
11 mean, we've got concerns over and above the NRC if you will.

12 MR. CAMERON: Steve?

13 MR. COLLINS: Steve Collins, Illinois. You said earlier
14 you're going to tie in the \$25 per fixed device and \$100 per portable
15 device --

16 MR. HYLAND: Funding for the CRCPD's database.

17 MR. COLLINS: Ah, okay.

18 MR. CAMERON: Okay. You got your answer on that one.

19 MR. HYLAND: I think if we want the CRCPD to work for us,
20 they shouldn't have crawl to the federal agencies for grants and
21 everything else. I honestly feel that the states should do something to
22 support the organization that we have created for ourselves.

23 MR. CAMERON: Okay. That's Jay. We have Aubrey, another
24 question.
25

1 MR. GODWIN: Yes, Aubrey Godwin, Arizona. I just wondered
2 if you ran into any problems relative to disposal where perhaps the
3 manufacturer was out of business or where some of your companies that
4 reached bankruptcy stage and they're still there. Did you run into
5 those kinds of situations in your survey?

6 MR. CAMERON: Jay, are you going to answer that? Yeah, he's
7 going to answer that, Aubrey.

8 MR. HYLAND: It's not really an answer unfortunately. Of
9 the 29 companies I still don't know where all of them are or where they
10 went or what they've become. There's still a lot of unanswered
11 questions with regards to the actual manufacturers and what's out there,
12 so I don't know if I can answer the question.

13 MR. CAMERON: Okay. Is that satisfactory, Aubrey? Do you
14 have any follow-up on that? Okay. Jay, we have a questions from
15 Richard.

16 MR. RATLIFF: Jay, I was just trying to figure out how you
17 come to the conclusion that risk based rules are not based on isotope.
18 When you really look at the general licensed devices that are out there
19 and you look at the problems you have from actual exposure to people,
20 sources that are causing massive contamination, it makes sense because
21 that is the risk and it's not only the radiation risk, but the risk we
22 have on the time we take. So I disagree that -- I think by source is
23 the risk based way to go.

24 MR. HYLAND: Obviously, there are a lot of other people that
25 feel that way. My comment specifically was that if we list isotopes in

1 the regulation, that the manufacturers will find other isotopes because
2 they're not regulated specifically.

3 Yes, we're having the biggest problem with cesium and
4 cobalt, you know, what's to stop the potential companies out there from
5 making 500 military cobalt 57 sources?

6 MR. RATLIFF: Yeah, and I think that that's why with risk
7 based regulation it can't be static, you're going to have to change as
8 things change, but not put the burden on ones that you know don't cause
9 you a problem, but really set up a program so you can track the ones
10 that you know have the real potential and really are causing problems.

11 MR. HYLAND: Yeah.

12 MR. CAMERON: Well, let's revisit that issue when we get to
13 the NRC presentation on the draft proposed rule and hear what the NRC's
14 approach is on that particular issue. Thanks a lot, Jay.

15 MR. HYLAND: Thank you. And means regulations are all too
16 static or at least that's what the last IMPEP said.

17 MR. CAMERON: All right. All right. Now we're going to
18 hear from the State of New Jersey on a nonagreement state prospective on
19 this.

20 MR. FEENEY: Thank you for the opportunity to share our
21 views on the general license regulation.

22 SPEAKER: You're going to have to speak into that
23 microphone.

24 MR. FEENEY: Thanks for the opportunity to share our view on
25 the general license device regulations.

1 New Jersey's current generally licensed program is no better
2 than the NRC's, in fact, it's probably even worse. Thankfully, there
3 are fewer generally licensed devices containing NARMS than there are
4 containing Atomic Energy Act regulated materials.

5 The general license has been a licensing instrument for
6 about 40 years, and during that time a lot of devices have been
7 distributed. As you're probably aware there are approximately six times
8 as many general licensees as there are specific licensees for Atomic
9 Energy Act materials, and there are approximately 1.5 million devices
10 out there.

11 The specific licensee has a license to possess and use
12 radioactive materials. They go through a formal application process.
13 The problem with general licensees is that they don't go through a
14 formal process and they forget that their licensees or they forget the
15 conditions of their license and in some cases don't even know that
16 they're licensees.

17 That 500,000 device for specific licensees is not an
18 accurate number, okay, this is made up, but I have gotten that number
19 verified out of headquarters, but the other numbers are fairly accurate.
20 Next slide, please.

21 There are three critical phases in the licensing process:
22 initiation, maintenance and termination. The really important thing
23 that needs to be done is that all licensees is to have -- is that they
24 have to get off to a good start.
25

1 Initiation of a license, whether it is a general license or
2 a specific license, has to be an event where the licensee is made fully
3 aware of their commitment. If an individual is not properly informed
4 that once they accept a license, they become a general licensee with
5 certain rights and responsibilities, how can we as regulators expect
6 them to maintain their license and terminate it properly?

7 The awareness of the commitment should be made when the
8 person is considering the general licensed device, not afterwards. The
9 product literature should explain all the fine qualities and benefits of
10 the product, but it should also explain the concept of a general
11 license. This literature should be provided to the potential prior to
12 the purchase or commitment to buy the product.

13 The potential licensee should be provided copies of the
14 regulations and in fact, should be required a statement they've been
15 made aware of the regulations and what their commitments are. Next
16 slide, please.

17 New Jersey may be the exit sign capital of the nonagreement
18 states with approximately 55,000 of 350,000 exit signs licensed by the
19 NRC. This is a slide of the Marlboro Hospital in New Jersey. This
20 psychiatric institute was in possession of 256 exit signs, and there
21 were not aware that they were a general licensee. Next slide.

22 This is a slide inside the institution. Here's an exit sign
23 inside the facility. If you can read the posting on the doors it says
24 that there are patients of high risk of escape beyond this point.
25 Should signs such as this be used in this type of environment?

1 The institution's building and maintenance section acquired
2 the signs from an electrical supply house. The product sales literature
3 supplied by the exit sign manufacturer stated that these exit signs are
4 the easiest to install, zero maintenance building exit signs in
5 existence, that they can literally be screwed into place and forgotten
6 about for up to 20 years and some of them do and they move out of the
7 place after 10 years.

8 There was no mention in the product sales literature that
9 the exit sign contained radioactive material or that they were possessed
10 under a general license. The literature did state that it contained
11 tritium and that it decays, but how many building and maintenance
12 personnel realize that tritium is radioactive and many things decay,
13 such as teeth.

14 In following through our review of the literature, it
15 appeared that the first time they were informed that they were licensees
16 was when they received the product, since the information was included
17 in the packing material with the general license device which was
18 overlooked by the building and maintenance people.

19 With license initiation such as this, how can anybody be
20 surprised that these exit signs are abandoned or disposed of
21 inappropriately. Are the general license regulations so trivial that
22 the general licensee should be informed in such a manner?

23 I tried to find in 10 CFR 31 where electrical supply houses
24 get the authority to distribute general license devices. Is it possible
25

1 that Section 31.5(c)(9)(ii) is a basis for this? If it is, is it
2 appropriate?

3 It appears as though -- I understand the concept of the
4 intermediary that that section allows and can appreciate how it can be
5 used when facilities are under construction, but it appears that some
6 electrical supply houses have stepped over the line and become
7 distributors of these devices.

8 NRC's proposed registration for general licensees is orders
9 of magnitude than the current program, but it is a passive system and
10 will only apply to 6,000 licensees. We are revising all of our
11 regulations and are in the early stages of revising our general license
12 program. Next slide, please.

13 We are following very closely NRC's progress in the revision
14 of their general license program. We are also considering a
15 registration as well as the following options:

16 Option A is essentially a watered down license or a specific
17 license of low priority that will differ from the registration program
18 by having the licensee deal directly with the regulating agency up
19 front, and then from that point on there would be the annual
20 registration and reporting similar to the NRC's proposed program.

21 Option B is essentially the same as NRC's registration
22 program except that it would document up front that the general licensee
23 was made fully aware of his rights and responsibilities before he
24 committed to purchase this product.

25

1 The general license may expedite the sale and distribution
2 of products, but it does so at a cost. When there are incidents
3 involving these devices sometimes the cost of these incidents are borne
4 by the general licensee, that is when they can be identified, but states
5 and local governments who have to respond to these incidents have to pay
6 a price for every incident. When they're taking away from their
7 licensing and inspection schedule or when the responsible party can't be
8 identified and the state has to pay for the cleanup. Next slide,
9 please.

10 Our radioactive materials licensing, inspection and
11 investigation section consists only of two physicists, myself and a
12 secretary. The number of specific licensees has gone up since 1994 from
13 250 to just under 400. The number of investigations has gone up from 28
14 to 80 and the number of annual inspections of specific licensees has
15 gone down from 176 to 103.

16 Incident investigations are taking a toll on our program.
17 The increase in the number of radiator monitors at weight sites and
18 recycling facilities has led to this, but in reality they have probably
19 only made us aware of what was always there and that includes general
20 license devices.

21 In fact, three significant incidents occurred in New Jersey
22 in the past 18 months involving AEA regulated general license devices.
23 Two exit sign incidents and one low density gauge with curie-cesium.
24 I'll submit a copy of the report on the exit signs to the group at the
25 end for the records. Let me recap these incidents. Next slide, please.

1 The first exit sign incident on May 10th, '97 when a
2 teenager who lived across the street from a building that was being
3 demolished found three exit signs in the building rubble and took them
4 into his home. This is a slide of the demolition site. During the
5 incident the fence was around so it was open with easy access.

6 The tritium activity in the signs had decayed down from 25
7 to 15 curies. One of the signs appeared damaged. The boy had a
8 basement apartment in a two-story house. The teen had the signs in the
9 basement and was trying to get the light sources out of the sign that
10 appeared damaged and planned to use them to illuminate his swimsuit
11 posters. Several damaged tritium tubes fell out of the housing as he
12 attempted to remove them. Next slide, please.

13 This is the boy's house. Wipe tests were collected
14 throughout the house to determine the extent of the contamination.
15 Urine samples were collected from all individuals who entered the house,
16 the boy, his friends and family were directed to stay out the basement,
17 drink fluids and if they had any health questions to call the U.S.
18 Department of Energy's ReAcs physician.

19 It was determined that the basement had extensive
20 contamination and that the first floor was contaminated from material
21 that was being tracked up from the basement. The family had to be
22 relocated, housed and fed during the decontamination process.

23 Since the responsible part had not been determined, the New
24 Jersey Department of Environmental Protection, the DEP, hired a
25 contractor to decontaminate the house as well as house the people and

1 feed them during their stay away and appropriately dispose of the
2 radioactive materials. The DEP was at the house during the cleanup to
3 provide health physics assistance and insure that the situation was
4 properly resolved in compliance with federal and state regs. Next
5 slide, please.

6 Results of the urine analysis indicated that the highest
7 dose received during the event was by the boy who dismantled the sign
8 with a dose of 80 millirem. The does could have been higher if quicker
9 action wasn't initiated. Contamination levels as high as 230,000 DEP
10 per hundred square centimeters were encountered in the basement bedroom.
11 All areas of the house were decontaminated so that there were in
12 compliance with Reg. Guide 1.86.

13 The decontamination and disposal cost of this incident
14 amounted to approximately \$100,000 and that didn't include the cost of
15 the governmental agencies involved.

16 The second exit sign incident occurred at the Brisbane
17 Treatment Center on October 29th of '97 when a resident tore down an
18 exit sign from the wall in his bedroom and threw it against the floor.
19 This is a slide of the dormitory which houses 16 students. The sign
20 originally contained 25 curies, but again had decayed down to 15.

21 The sign was damaged and several of the tubes were broken.
22 All residents were removed from the residence cottage, showered and
23 changed clothes. Wipe tests were collected to determine the extent of
24 the contamination throughout cottage and other areas that the students
25 may have travelled.

1 Urine samples were collected from all children and personnel
2 that may have been impacted by the incident to determine their radiation
3 exposure. It was determined the the residence cottage -- next slide,
4 please -- have extensive contamination while the cafeteria, gymnasium,
5 building maintenance had minor contamination. This is a slide of the
6 gym. It was also determined that two other exit signs were missing from
7 the residence hall and may have added to the contamination event.

8 The same contractor that handled the previous incident was
9 brought in to measure the extent of the contamination and decontaminate
10 all areas. DEP was at the facility for 24 hours a day in the early
11 stage of the event to provide health physics assistance and insure that
12 the situation was properly resolved in compliance with federal and state
13 regs.

14 Results of the urine analysis indicated that the highest
15 doses received during the event was by the resident who damaged the
16 sign, with a does of 16 millirem. Contamination levels as high as
17 930,000 DPM per 100 square centimeters were encountered in the bedroom.
18 The cleanup was complicated by the fact that the floor tile which was
19 contaminated had to be removed and they contained asbestos. Next slide,
20 please.

21 This is a picture inside the room during the decontamination
22 process and removal of some of the -- they tried to clean it up -- some
23 of the wall material had to be actually disposed of because it couldn't
24 be cleaned up totally. All areas of the facility were decontaminated so
25 there were no areas again above levels in Reg. Guide 1.86.

1 The incident became even more complicated when the Brisbane
2 Safety Office did not comply with DEP's recommendations regarding
3 disposal of the contaminated waste. The decontamination and disposal
4 cost for this incident amount to approximately \$200,000, again, that did
5 not include the cost of the governmental agencies involved.

6 State officials determined that this type of sign didn't
7 belong in this type of environment, therefore, all 24 remaining exit
8 signs containing tritium were removed by contractor.

9 The cesium gauge incident occurred in July '96 when a gauge
10 was discovered at a construction site of a large shopping center in
11 Elizabeth, New Jersey. The site manager had worked in a building that
12 had been demolished on that site earlier and he was working on the crew
13 at the construction site, and he recognized a gauge that was attached to
14 a 12-inch diameter pipe and was partially buried and had been pushed
15 around the site by a bulldozer.

16 This individual notified NRC headquarters who then notified
17 the DEP. DEP responded to the incident, performed survey, a preliminary
18 wipe analysis, which did not indicate any loose contamination. It was
19 also determined that the shutter of the device was open.

20 Dirt had to be removed from around the device and through
21 the use of mirrors we were able to gather information on the name of the
22 device. It was a TN Technologies Model 5203. Had the site manager not
23 recognized the gauge who knows what events could have resulted. Next
24 slide, please.

25

1 This is a summary of the agencies involved in the Union sign
2 incident. All toll there were actually 16 agencies that actually were
3 active in this response. Next slide.

4 The performed such activities as initial response and health
5 physics evaluation, analytical and technical support, incident
6 coordination, relocation of the family, hiring a consultant to
7 decontaminate the house and dispose of the material, working with the
8 teenagers to collect urine while they were in school.

9 There were a lot of logistics problems that people -- you
10 just don't imagine when you have problems that impact on families and
11 the kids want to live their normal life and they're put out for a couple
12 of weeks. Arrangements had to be made with the guidance counselor and
13 the school principal to accumulate urine samples during the day for
14 accurate dose assessment.

15 The assistance provided by DOE during these incidents was
16 excellent and without their help we never would have been able to assess
17 the situation as quickly as we did. Next slide, please.

18 This is a summary of the lessons learned and recommendations
19 and questions resulting from recent incidents.

20 Regulators should look into possible misuse of 10 CFR
21 31.5(c)(9)(ii).

22 Sales literature should be required to clearly state that
23 devices containing radioactive material and the purchaser become a
24 general licensee with rights and responsibilities.
25

1 NRC should issue guidance on inappropriate conditions for
2 use of general license devices, perhaps there should be a possession
3 limit on the number of general license devices one could possess before
4 becoming a specific licensee.

5 If tritium could be mixed with the phosphor contamination
6 could be visually detected through the use of an ultraviolet light
7 source. If the tritium phosphor mixture could be incorporated into a
8 solid, its radiological impact could be minimized. Next slide, please.

9 According to Princeton Plasma Physics laboratory personnel
10 it is possible to detect tritium with a thin window GM detector when
11 you're dealing with more than 10 millicuries of tritium.

12 These two incidents cost our state more than point three
13 million dollars and who should have to cover the costs for these
14 incidents. Events such as these that occur in the public domain do not
15 end when the last agency on sight leaves the scene. There are always
16 follow-up questions. Every time a new tenant moves into the house or a
17 new owner takes over the building, questions come back again.

18 Especially for general licensed devices where the general
19 licensee has no radiation background. The safety analysis summary
20 should provide more than just the information provided in new Reg.
21 15.56, Volume 3. The safety analysis summaries should provide
22 information that would be useful to the regulating agency and end user
23 during an accident condition.

24 This could include measure to take when an accident occurs
25 to reduce radiologic impact, any special methods needed to detect the

1 radiation involved as well as a range of exposures that can be expected
2 during an accident and include the assumed accident parameters.

3 This could be similar to an MSDS sheet and provided to the
4 general licensee because so many of these, as most are well aware, most
5 licensees don't know that they're general licensees and have no idea
6 what to do when an accident occurs, and it would be certainly nice if
7 they had something to help them get started as to what measures to take
8 when an accident does occur.

9 NRC should work closely with EPA in developing clearer
10 standards and they should be based on economic as well as health and
11 safety criteria. If the NRC and the states were held accountable for
12 resolving situations resulting from flaws in our regulatory systems,
13 would our regulations and their implementation be significantly
14 different? Would there be fewer incidents because we really scrutinized
15 the licensee or would we be so stringent that we would discourage the
16 beneficial use of radioactive materials?

17 Events such as those I described don't do much to instill
18 confidence that the general license program is working properly and it
19 can lead to doubts about the control of all radioactive materials.

20 We have a state assembly person responding the tritium
21 incident sign situations and she's introduced a bill to ban the purchase
22 with state funds and ban the purchase in all state institutions for any
23 and all products containing tritium.

24 We had to react quickly to inform that individual that this
25 bill was going far too far and that it would impact in so many other

1 areas that they hadn't even considered, the health care industry and
2 research et cetera.

3 In conclusion don't let the general license program give the
4 whole radioactive materials program a bad image. Thanks.

5 MR. CAMERON: Thank you very much, John. When you hear the
6 NRC's presentation, I would ask both you and Jay to bring some of the
7 points you made back into that in terms of that draft proposed rule, and
8 do we have any questions for John about the New Jersey experience before
9 we got to the NRC?

10 [No response.]

11 MR. CAMERON: Okay. Well, let's bring the NRC up to talk
12 about the draft proposed rule and to the extent that you can recall some
13 of the points that were made by Jay and John, Trish you may want to just
14 point out how the NRC has addressed those issues. Okay. This is Trish
15 Holahan.

16 Can we move the microphone down a little bit?

17 MS. HOLAHAN: Well, good morning and I thank Jay and John
18 because I think they've good lead in to this discussion, so I hope we
19 can get some lively discussion on the proposed rule today.

20 If we can go on to the next slide. I think Jay already
21 touched on some of the background for this rule. First of all, there
22 was a study that was conducted in the 1980s and incidents of lost
23 sources and meltings of sources indicated that there was a problem.

24 Then as Jay mentioned there was a proposed rule that was
25 published in '91, but was never published as a final rule. Then as

1 you're aware the NRC agreement state working group in '95 was formed to
2 look at this issue and published a report in October of '96.

3 The staff then provided the recommendations to the
4 Commission in late '97 and the Commission in April of this year provided
5 direction to us to go forward and do two rule makings. Terminate the
6 '91 rule, first of all, but keeping the provisions that would provide a
7 basis for a registration program,

8 Then to do a second rule that would implement a registration
9 and follow-up program and would address other working group
10 recommendations from the '96 report. It would apply fees and labeling
11 requirements.

12 The first proposed rule should be published sometime in
13 November. It went up to the Commission and the Commission has directed
14 the staff to go ahead and publish the first proposed rule.

15 It would basically require general licensees to respond to
16 inquiries from NRC for information. The way that it is phrased though
17 is, and again going back to Jay, it's based on the working group
18 recommendations. It would apply in general to about 6,000 licensees and
19 it would include the criteria are the recommendations of the working
20 group, greater than 10 millicuries of cesium 137, .1 millicuries of
21 strontium 90, 1 millicurie of cobalt 60 or any other transuranic or any
22 transuranic, I'm sorry. This would be about 6,000 general licensees.

23 It did allow that on a case-by-case basis we could request
24 information from other licensees and in the reg analysis we indicated
25

1 this would perhaps happen to about another additional 100 general
2 licensees.

3 The second comprehensive rule is now under development and
4 in fact, we provided a staff working draft to all the agreement states
5 about two-and-a-half weeks ago. It was posted on the Technical
6 Conference Forum Web site again in an effort to get early input that we
7 could then incorporate into the draft that will then be provided for
8 formal review by the agreement states in about mid-December. So we're
9 really trying to get as much early input as we can.

10 We do have a rule writing working group. Kathy Matson is
11 the project manager for that effort and a number of the working group
12 members are here, Carl Trump from the State of Maryland and John Feeney
13 is helping us on the development of the rule. Jenny Johansen is the
14 project manager for the generally licensed registration system and is
15 here and then Sheri Minnick.

16 I encourage you if you don't get a change to get all your
17 comments in during this discussion and you have comments that you'd like
18 to provide to us, please stop any one of us and give us some input.

19 As I indicated the proposed rule will then be sent out for a
20 more formal review and comment to the agreement states in about
21 mid-December.

22 The working group also does include representatives from our
23 office of the general counsel and office of enforcement and state
24 programs as well as the office of chief financial officer to help us
25 address the fee issue.

1 In addition to the rule makings there are a number of other
2 related activities and that's development of a generally licensed
3 registration system. Also the development of an interim enforcement
4 policy which would provide an amnesty program initially and then
5 proposes increased civil penalties for lost sources down the line.

6 We are also developing guidance for one of the new reg
7 series and I'm not sure which number it is, but it would add a volume
8 for the licenses for GL distribution and include information that
9 manufacturers and distributors could provide to general licensees.
10 Yesterday there was a discussion that efforts are continuing on the
11 orphan source program and that was also part of the SRM.

12 In terms of an overview of the comprehensive rule, there are
13 basically three major areas. There are requirements for 31.5 general
14 licensees, basically seven major areas, explicit registration
15 requirements, fees, a requirement to identify a responsible individual,
16 revisions to the transfer provisions requiring report of change of
17 address, restrictions of store times in deferment of testing during
18 storage.

19 Second major component is the requirements for the
20 manufacturers and distributions of devices, and these include revisions
21 to quarterly transfer reports, additional labeling requirements,
22 recordkeeping and record retention changes and additional information
23 that needs to be provided to general licenses.
24
25

1 The third category is for all Part 31 general licensees in
2 which we've tried to clarify which other regulations are applicable to
3 general licensees to include the Part 30 provisions that are applicable.

4 By the way, I will say I do apologize. I had copies of all
5 these slides that I had FedEx'd to be up here and the package either has
6 not arrived or appears to not be able to be found so I do apologize, but
7 if it does come I will certainly make sure copies are available for
8 everybody. Hopefully everybody did at least see the staff draft of the
9 proposed rule that was up on the Web site or still is up on the Web
10 site.

11 All right. What I'd like to do is sort of go through the
12 summary of the proposed requirements very quickly and perhaps I'd like
13 to stop at the end of each major section and see if there are specific
14 comments. Is that all right?

15 MR. CAMERON: Sure, that would be fine, Trish.

16 MS. HOLAHAN: Okay. The first category are revisions to the
17 requirements for general licensees. First of all there is the new
18 31.5(c)(11) which is being proposed in the first proposed rule that will
19 be published as I say sometime in November.

20 This basically requires the general licensee to respond to
21 written requests from the NRC within 30 days or other time as specified.
22 The general licensee can request additional time in writing if they feel
23 that they cannot get information to us in the time requested.

24 This would be used as the basis for a first round of
25 registration and as I mentioned before used for miscellaneous requests

1 which we anticipate being about a hundred per year and the types of
2 things there, is if we were investigating for example the extent that
3 other users may have a problem with a specific device or specific design
4 of a particular device.

5 Let me continue on. We could also request information --
6 I'm sorry -- on devices no longer in the possession of the general
7 licensee so that would not necessary be subject to registration, but we
8 can still go ahead and request information from them.

9 MR. CAMERON: Just let us know when you want to see if the
10 participants have questions.

11 MS. HOLAHAN: What I'm going to try and do unless I hear
12 somebody else has a strong suggestion is go through the 31.5
13 requirements and then pause.

14 Another new requirement is for the general licensee to
15 appoint a responsible individual to insure compliance with the
16 applicable regulations. Right now they just have to name a contact, but
17 this individual would be responsible, would have knowledge of the
18 device, general licensee and all the applicable regs. Next slide.

19 Again another new requirement would be the explicit
20 provisions delineating a registration requirement. Again essentially
21 consistent with the plans under the first rule. I mentioned before what
22 the criteria are for those devices that would be subject to
23 registration.

24 The way this would be done would be by verifying, correcting
25 and/or adding to the information on a registration certificate. Also,

1 there would be a notice that they would be subject to the bankruptcy
2 notification and I'll get into that a little more later.

3 On the next slide, we go through what the specific
4 registration information is. Again name and address, the name of the
5 responsible individual, specific information about the device to include
6 the manufacturer, model number, serial number, isotope and activity.

7 They would be required to certify that they've actually done
8 a physical inventory and check the label on the device and make sure
9 that what they're saying is there is in fact the device that is there.
10 The responsible individual would have to certify that there aware of the
11 requirement.

12 Actually, let me pause there for a minute because that's
13 really the requirements for the registration and see if there's any
14 specifics comments on what we might be able to add to this or change.

15 MR. CAMERON: Okay. I think Steve.

16 MR. COLLINS: Steve Collins, Illinois. It's not clear in
17 the rule language that the activities that are listed on your previous
18 slide are the activities at the time of distribution or at the time of
19 manufacturer or at the time of the annual report.

20 Some of the half lives of these materials are shorter than
21 that, so that a device could become no longer reportable after they
22 reported it several years, if you're going with risk based, but you
23 really don't want these things to all of a sudden become unaccounted for
24 just because they decayed.

25

1 MS. HOLAHAN: Right. It would be the activity at the time
2 of distribution and perhaps we can look at that and verify what's on the
3 label which would be what they would need to say so we can certainly
4 check and make sure that we've got that clear.

5 MR. CAMERON: Okay. Let's go to Richard and Aubrey and then
6 we'll go to Don. Don?

7 MR. RATLIFF: Mine is more of a comment on procedure. What
8 we found after we implemented our program, a lot of the people who had
9 general license devices then decided since we have a specific license,
10 why are we going to pay two fees and so they added them to that license.

11 The problem being making sure that you still have
12 accountability as they transfer these, and I think something -- I know
13 we're still struggling with it -- something that makes sure that once
14 they decide to sell the plant or do different things, that the general
15 license, the license still follow under those requirements.

16 MS. HOLAHAN: Let me clarify. Are you saying that they are
17 adding the general license devices to their specific license?

18 MR. RATLIFF: Right. That way they only have once license.
19 It's easier for them to account for it and we encourage that. We think
20 that's better. It's just the problem some of them had is then once
21 they're on there, they know their GL, sometimes they've done things with
22 them because they think they're not a device that has the same
23 requirements as a specific license device. So we've kind of run into
24 some of those problems with them.
25

1 MR. CAMERON: I think Aaron Padgett from North Carolina
2 agrees with Richard.

3 MR. PADGETT: Yes, we also encourage general licensees to
4 add it to their specific license. It works so much better when they do
5 from an accountability and keeping up with it point of view. Otherwise,
6 you know how many are lost.

7 MR. CAMERON: Don, is your point on that particular one?

8 BUNN: Yes, it is. All right. Under the certification
9 information of the device, is any consideration for using a bar code for
10 instance for positive identification of these, makes life a lot easier
11 if we do this thing electronically, utilize the technology that's out
12 there. It certainly would help. I'm just -- I've been pushing for this
13 for a number of years now.

14 MS. HOLAHAN: Ugh-huh. That's a good thought and I'm sure
15 we'll take that into consideration as we're looking at some of the other
16 things.

17 BUNN: Thank you.

18 MR. CAMERON: So you haven't been thinking about the bar
19 code issue, but you will put it into the mix?

20 MS. HOLAHAN: Jenny, do you know if that's been considered
21 at all?

22 JENNY: Not yet.

23 MS. HOLAHAN: Okay. Let's go to Aubrey and then we'll go to
24 Rhode Island.

25

1 MR. GODWIN: A slightly different issue. You don't seem to
2 address the mobile gauge situation where in my former life, we had one
3 installed on a barge which is a permanent place of storage for it. Then
4 of course the barge moves to other jurisdictions and finally gets
5 scrapped out.

6 There also have been some of these things put into trucks
7 and a truck moves, but again, it's a permanent place of storage, so how
8 do you address in those kind of issues, are you going to try to stop
9 this, which is the way I'd like to see it go, frankly.

10 MS. HOLAHAN: Well, I think the licensee would still be
11 responsible in terms of when the registration requests comes out is to
12 be able to identify where that is. I'm not sure if the barge is moving
13 if you'd classify that as a change of address.

14 [Laughter.]

15 MR. CAMERON: Well, they reach the headquarters and the
16 barge can be all over everywhere, or the truck either one, so you have a
17 real problem on keeping up with these things because in the case of both
18 of them, they go into different jurisdictions, and quite frankly they
19 don't usually bother to tell the new jurisdiction, because they're like
20 most general licensees, they're probably not going to read the fine
21 print that says that when you go to a new jurisdiction, you have to
22 notify and then there's the matter of transferring a GL to a GL that's
23 probably prohibited.

24 You've got a lot of little things in there. It would be
25 nice if we just wouldn't do this.

1 MS. HOLAHAN: Well, I think one of the things with the
2 responsible individual is hopefully they become -- they are more aware
3 of the regulations than currently.

4 MR. CAMERON: Okay. Ed, do you have a point on that the
5 barge issue? Then we'll go to Bill.

6 MR. BAILEY: The situation that Aubrey mentions brings to
7 mind a need for some reciprocal recognition or something else and we see
8 these occasionally now where someone has a general license device and
9 they want to bring it into a state under reciprocity.

10 Now with the registration of these, there's got to be some
11 allowance so that they don't have to pay, I would assume, pay a fee in
12 each state. However, we don't mind that.

13 MR. CAMERON: Okay. Do you have a response to anything to
14 say to that, Trish?

15 MS. HOLAHAN: Not at this point, but we'll certainly
16 consider it.

17 MR. CAMERON: All right. Bill.

18 MR. DUNDULIS: Bill Dundulis from Rhode Island. Two
19 questions. Number one, when you put the first slide up, you said your
20 phase one rule wouldn't be considered for compatibility.

21 For these other items as you're going through, have you
22 given any thought as to what level of compatibility, you know, these
23 items would be for agreement states?

24 And secondly, I'm not sure if given the highly advanced
25 health physics knowledge that most of these general licensees will have,

1 if you use the term transurancis just for the purposes of illustration,
2 but some of them may think literally, it doesn't say transuranic on my
3 thing, so I must not have to register this device, and I'm just curious
4 how you're going to get the word to the manufacturers or is it going to
5 be on the manufacturers, you know, to tell them like if it says "AM-241"
6 you know, that's a transuranic.

7 MS. HOLAHAN: This comes into the guidance that we're
8 developing and as I mentioned, let me answer your second question first
9 is, that we're developing the guidance for what distributors need to
10 send to general licensees and it could be a little pamphlet that
11 explains some of exactly what we mean when we say "transuranic."

12 On the first point, I'd like to defer that until the end
13 because I do have a couple of slides on the compatibility issues and
14 yes, the first rule just to get the basis for the registration in place
15 is not a matter of compatibility, but that will become a matter of
16 compatibility with the second rule. So I'd like to defer that for now.

17 MR. CAMERON: Okay. Before you move to your next provision,
18 I'd just like to give Jay and John an opportunity, anything from the
19 Maine or New Jersey experience that you want to offer that's relevant to
20 this particular point?

21 Okay. Let's keep moving. Richard, do you have a comment?

22 MR. RATLIFF: One follow-up. Regardless of all the little
23 things we find, I want to thank you all for doing this because you have
24 contact with the licensees then once a year with your fee, so they at
25 least know they have a device and what you're doing is good.

1 MS. HOLAHAN: Thank you.

2 Next one again is another new provision in 31.5(c)(14) and
3 this is a requirement to notify NRC in the event of any change of
4 address, previously that wasn't -- and it supplements, you know,
5 information that's provided by the vendor.

6 Another new provision, C(15) limits the amount of time a
7 general licensee can keep a device in storage unused, to avoid it being
8 forgotten or ultimately disposed of or transferred inappropriately. To
9 try to get at some of these issues where everybody forgets that they
10 have a device and moves on and you know, if it's longer than two years,
11 it's not likely that they're going to start using it.

12 In the statements of consideration we've indicated that if
13 they feel that they may need to use it, they could always ship it back
14 to a distributor for storage under their specific license until such
15 time as they feel they might put it back in use.

16 Also, it always the deferment of testing during the period
17 of storage only so this if it's longer than the leak testing
18 requirements. However, when the device is removed from storage, they
19 must be leak tested and the shutter must be tested before use.

20 MR. CAMERON: Is this the end of another segment?

21 MS. HOLAHAN: Yes. These are at the end of a segment of new
22 provisions. The next set of slides are some revisions to 31.5.

23 MR. CAMERON: Okay. Well, I think Aaron and Aubrey have
24 some comments here on this.

25

1 MR. PADGETT: As I notice the life of these, as these
2 facilities age they seem to be sold from one party to another before
3 they're finally scrapped. That's not always true, but it happens
4 frequently. Looking at your requirement to notify NRC is the even of
5 change of address, do you also have in there at the change of ownership?

6 MS. HOLAHAN: It's already a requirement. In fact, they
7 can't just transfer a device to another general licensee unless it's
8 staying in the facility, but then there is a requirement to notify us.

9 MR. PADGETT: There is then a specific requirement to notify
10 you on that case. I know it happens frequently now without any
11 notification.

12 MS. HOLAHAN: Yes.

13 MR. CAMERON: Okay. That was an affirmative answer to that
14 question. Go ahead, Aubrey, and then we'll go to Cheryl.

15 MR. GODWIN: You need to define clearly a storage provision
16 because we've noticed that quite often a plan will be producing
17 something and then the market falls out and they just shut down the
18 production line. Then don't do anything to it except maybe paint the
19 whole thing, just stop production, nothing moves off of it, and then
20 several years later, they decide "Well, we haven't used it now for
21 awhile, let's just scrape this sucker." Since it's painted you don't
22 see any of those good labels that you had put on there.

23 Storage, the defined section would include just leaving in
24 on the line or does it have to be physically moved somewhere? How did
25 you have your storage defined there.

1 MS. HOLAHAN: I don't recall the specific working, but I
2 think the intent would be that if they're not using, it should perhaps
3 capture your thought there that if it's just stopping production that
4 can be considered storage, but I cannot really the specifics that we
5 have in the statements of consideration. We'll have to look at that.

6 CHERYL ROGERS: I had a question. Is there a decision yet
7 as to what the amount of time might be? Is it like two years?

8 MS. HOLAHAN: Oh, yes. I'm sorry. I didn't mention that
9 yet. It's greater than two years.

10 CHERYL ROGERS: And have you considered as part of the
11 annual registration making them tell you whether it's in storage or not?

12 MS. HOLAHAN: That would be under the location of use and on
13 the registration form. I'm sorry.

14 MR. CAMERON: I think we need to either to capture these
15 comments on the transcript.

16 MS. HOLAHAN: Okay. Jenny was indicating that it would be
17 captured under the location of use provision when they are being asked
18 to identify exactly where it is on the registration form.

19 MR. CAMERON: Ed, do you still have your card up from
20 before?

21 MR. BAILEY: I have it up for new.

22 Does the storage include the initial time say at a new power
23 plant, a gauge may be shipped while the plant is under construction. It
24 may sit there and be installed, you know, whenever the plant goes into
25 operation.

1 So for instance, if I'm building a power plant or a
2 petrochemical plant, it's a turnkey operation, the gauge will be shipped
3 generally to the construction company and installed at some future date
4 which may be more than two years.

5 MS. HOLAHAN: I don't know because I guess I wouldn't have
6 thought that it would be more than two years, but what you're saying is
7 it could be?

8 MR. BAILEY: I think it could very easily could be. I don't
9 know if it's still occurring, but I know that use to be the --

10 MS. HOLAHAN: You think that would get at the provision then
11 is that if they feel that they're going to be using it, it could go back
12 to a distributor to be held under the specific license until such time
13 as they would ready to actually put it into use, which is how it is
14 currently.

15 MR. CAMERON: Ed, any final comments?

16 MR. BAILEY: Generally, what happens or what I remember
17 happening was that the salesman's out there and the salesman sells the
18 device. The company that's shipping the device may or may not know that
19 it's for a new plant. I mean, they may not care so that they get an
20 order and if they happen to have a large inventory, they ship that
21 sucker as soon as they can so they get their money and it's not
22 necessary phased into construction so that it appears on site at the
23 time it's needed to be installed.

24 MS. HOLAHAN: Another new provision and I'll get into that a
25 little bit later, that the distributor now has to provide to the general

1 license prior to transfer the requirements, so they'd be made aware of
2 it before they actually received it, and this gets at the point I think
3 either John or Jay had made.

4 MR. CAMERON: Now Aubrey and Ed have both used the term
5 "sucker" and I wonder if that is -- is that defined in the rule?

6 [Laughter.]

7 MR. CAMERON: I don't know much about generally licensed
8 devices, but --

9 MR. GODWIN: It's a special kind.

10 MR. CAMERON: Okay. Before we go over to Ken, Steve do you
11 have a comment on this particular section? No? Okay. Someone's card
12 is up there. I just --

13 MR. COLLINS: I have a comment, but not on this particular
14 section. It's more general.

15 MR. CAMERON: Okay.

16 MR. COLLINS: I took your question literally.

17 MR. CAMERON: Go ahead, Ken.

18 MR. WANGLER: Ken Wangler from North Dakota. I don't think
19 that your storage provision is going to work very well. I tend to agree
20 with Ed, a lot of these big companies put these process gauges in
21 storage for much longer than two years, and if you have an annual
22 registration which is very similar to an inventory provision.

23 I don't know that storage is such a big issue and I don't
24 know how you're going to make it work on a two-year time frame for sure,
25

1 maybe five years, but I think storage is going to cause you some
2 problems.

3 MS. HOLAHAN: Okay.

4 MR. CAMERON: Thanks, Ken. Trish, just for information, how
5 many more individual segments do you have that you want to comment on
6 because I think that like Steve, people may have general comments,
7 comments about the whole risk informed business.

8 MS. HOLAHAN: I have about another six or seven slides of
9 specifics. Shall I just go through maybe at this point, then and we can

10 --

11 MR. CAMERON: That might be a good idea and then we'll just
12 throw it open for general discussion. Bill, specific comment here?

13 MR. DUNDULIS: Specific on storage, a company that use to be
14 based in Rhode Island did gauges some of which were generally licensed
15 and because of the positioning of the source and the receptor, it only
16 had to be -- it could only be done by company individuals because of the
17 radiation safety issues.

18 And getting back to what Ed says about storage, some of
19 these companies just send Joe Mechanic up, take that off, put it back in
20 the warehouse or put it in, and I suppose this probably goes back to
21 company literature that's got to be made available, but how do you
22 handle the storage issue if it's a GL device, you know, that requires
23 service and installation, you know, only by appropriate radiation
24 trained personnel? I don't know if that's going to be coming later, but
25 that's probably another issue with this in and out of storage.

1 MR. CAMERON: Okay. Thanks, Bill. Trish, why don't you go
2 through the rest of it and then let's open it up for discussion.

3 MS. HOLAHAN: Okay. We're going to revise 31.5(c)(8) which
4 gives some flexibility and allows the transfers to specific licensees
5 other than Part 32 licensees, but it would have to be with specific NRC
6 approval, and they would also have to add the recipient's license number
7 and the date of the transfer which would help insure that the general
8 licensee has in fact verified that the recipient is a Part 32 licensee.
9 This flexibility would allow them to transfer, for example, to a waste
10 broker for disposal rather than going back to a Part 32 licensee.

11 Also revising C(5) to add a plan for insuring that the
12 premises are suitable for unrestricted access to information that must
13 be sent to NRC in the case of a failure.

14 For example, if the failure results in contamination of
15 premises and I think this maybe gets at some of the issues where devices
16 are broken and NRC could then determine what actions are necessary on a
17 case-by-case basis because general licensees are not subject to the
18 decommissioning requirements.

19 We were going to revise 31.1 to clarify that only the
20 paragraphs of Part 30 that are specified in 31.2 are applicable to
21 general licensees, and then accordingly, clarify in 31.2 which sections
22 of Part 30. This would include making reference to employee protection,
23 completeness and accuracy of information and deliberate misconduct
24 regulations in Part 30.
25

1 In addition again because the concern that general licensees
2 subject to the registration requirement are perhaps in a higher risk
3 category is the bankruptcy notification requirement in 30.34(h) would
4 also apply to general licensee subject to registration.

5 This would allow a higher level of oversight and possible
6 need for intervention by NRC in the case of notification to make sure
7 that their financial status doesn't lead to improper disposal.

8 Jay mentioned this earlier is adding a fee in Part 170 of
9 \$370 per general licensee for the registration. Again, as he mentioned
10 it is a fee per licensee not per device. An annual fee. I'm sorry.

11 MR. CAMERON: Bill, if you could just hold that, okay and
12 let Trish get through this, and then --

13 MR. DUNDULIS: It was directly regarding the fee.

14 MR. CAMERON: Okay. We'll come back to that.

15 MS. HOLAHAN: Next group is the requirements for the
16 manufacturers and distributors and making changes to the reporting
17 requirements where the quarterly transfer reports would now also have to
18 include the serial number, and for NRC licensees, the model number.
19 That's already required in reports of the agreement states. The date of
20 transfer.

21 An indication that the device is a replacement because the
22 general licensees are not required to report a transfer if it's for
23 purpose of replacement and then the name and license number and the
24 specific reporting period. Okay.

25

1 In addition, they would have to -- the manufacturer and
2 distributor would also report the name and number of the responsible
3 individual for insuring the compliance, the same again, as the general
4 licensee now being required to name a responsible individual.

5 We'll be providing a form for use in making these reports,
6 but they won't be required to use this report so long as it includes all
7 the required information. This is just to try and make it easier and
8 more consistent.

9 In addition, we're going to change the recordkeeping
10 requirements, revising 32.52 to extent the record retention period to
11 three years after the expected useful life of the device and also add a
12 requirement for records on the final disposition of devices, again to
13 try and enhance knowing where a specific device -- what the eventual
14 disposition is.

15 There would also be a new requirement to provide upon
16 request to the NRC in appropriate agreement states records of final
17 disposition in the case of bankruptcy or termination and this would be
18 used to verify information to keep tract of devices again.

19 MS. HOLAHAN: The next, and again this was commissioned as I
20 mentioned specifically one of the items in Commission SRM was to add
21 some new labeling requirements, to add a specific requirement to label
22 any separable source housing and also to include a permanent label on
23 devices meeting the criteria for registration, and this could be done by
24 embossing, etching, stamping or engraving in metal.

25

1 Currently for new distributors the proposal is that the
2 labels would be approved when obtaining a license and for existing
3 distributors they would have to begin doing this, but we would not have
4 to approve the label prior to them using it, but they could send it in
5 if they chose and it would be looked at upon inspection.

6 The information that the distributor is required to provide
7 all of the information in 31.5 would necessarily be required to be
8 provided prior to transfer rather than -- currently it's at the time of
9 transfer so this is giving the general licensee sort of a heads up ahead
10 of time as to what the expectation is.

11 In addition there's be an added requirement that they would
12 have to provide copies of all the additional applicable regulations, a
13 listing of the services that can only be provided by a specific
14 licensee, information regarding disposal options and to the extent that
15 the cost information is available the cost of disposing of the device at
16 the end of its useful life. And then in the case of general licensees
17 in agreement states, the name, address and phone number of the contact
18 at the state regulatory agency.

19 There's a couple of then miscellaneous new requirements just
20 clarifying amendment in 30.31 and 15 and then minor conforming
21 amendments to the 170 and 171 regarding fee issues.

22 Let me just quickly run through the issue before we open it
23 up again, it is on the compatibility is in the '91 proposed rule it was
24 initially proposed that it would be a division one compatibility with
25 limited exceptions. However, the current draft proposes to keep all the

1 Part 32 requirements, the category B, make all of the 31.5 category C
2 and that would include the 31.5(c)(13) and then all the other changes
3 would be a category D level of compatibility.

4 Just some issues for your consideration. In terms of
5 questions and hopefully to sort stimulate some discussion is other
6 options certainly would be to make it all category B to perhaps get a
7 more consistent national program.

8 Making it all category B with the exception of the
9 registration requirement because I think there's some states that
10 perhaps don't have general licenses or the third option would be making
11 certain, specific limited paragraph a category B and such that if a
12 state has an equivalent general license certain provisions might be
13 needed.

14 So those are just option for consideration or discussion and
15 at that point.

16 MR. CAMERON: Thank you very much, Trish. There's at least
17 three major discussion topics here. One is the comments on the specific
18 provisions of the rule. For example, I think Bill have a comment about
19 fees out there.

20 Second general area here is the whole compatibility issue
21 and the third is a general category. Jay Hyland raised the point this
22 morning about risk informed, is the rule risk informed. I think he used
23 the label risk based. I think Steve Collins has a general comment. Are
24 there any concerns about the NRC's approach to this? Is everybody
25 pretty much in agreement that this is the way to solve this problem.

1 Why don't we do these sort of overarching general points,
2 move into compatibility and then get into some of the specific items
3 like the registration fee. Steve, do you want -- you had a comment,
4 general comment. Why don't you go ahead.

5 MR. COLLINS: The general comment fits in that category of
6 the first area, I think. With regard to maintenance of the data by NRC,
7 I think we're getting close to the right system for requirements on
8 reporting the data, but the experience -- about 12 years ago when we
9 received database from NRC was that the maintenance or the entry of the
10 information in the database had been turned over to a contractor and
11 there was QC on it.

12 So what is NRC's plan or will NRC have a good plan for
13 making sure they have quality control on the data that is provided to
14 NRC?

15 MS. HOLAHAN: Well, what I think first of all is that as
16 part of this overall effort as we are developing a generally licensed
17 registration system which we are in the process now of looking at how to
18 proceed going through the process laid out by our chief information
19 officer in order of getting information technology, to look at different
20 systems, to try and get an overall system that can handle this and then
21 the information would be entered by a contractor, but we do have
22 somebody that can specifically -- would be doing the QC and things like
23 that on it.

24 Don, do you want to add anything to that?
25

1 MR. COOL: This is Don Cool We have also identified the fact
2 that the databases have at various times been less than adequate.

3 One of the things we did earlier this was, in fact, I had to
4 folks go through and take a look at this, the associated or the older
5 GLDB from which it would originate, the SSD, some of the license
6 tracking systems and go back and from first principles go through an
7 analysis of requirements and systems needs.

8 There are a number of things that we're going to be
9 attempting to do to try and upgrade the database. As Trish mentioned,
10 our chief information officer has laid out a rather rigorous process,
11 it's mandated within the federal government, for obtaining information
12 technology.

13 The first state of that requires the development of the
14 basic overall plan and the systems requirements and approval by the
15 information technology council, that happened just last week and now the
16 details of the system requirements which would then be in a process for
17 bidding to contractor in terms of how it would be implemented. That's
18 where we are at this point.

19 We still have perhaps some limited opportunity to get
20 particular kinds of features into it. We talked about bar coding. We
21 tossed around a little bit the idea of whether or not just like you do
22 with computer software whether you could get an online registration,
23 that if you bought it there would be some combination, you could put it
24 directly into the system and completely eliminate that whole potentially
25 error fraught bit of data entry and cross linking the thing.

1 So there's a number of things that we're trying to look at
2 in terms of the technology and in terms of what we might be able to get
3 from off the shelf systems as opposed to going out and trying to
4 recreate a wheel, which I'm convinced somebody else must have built
5 probably three or four different times.

6 MR. CAMERON: Okay. Follow-ups on the technology issue.
7 Terry, that's not what you wanted to address, was it? Okay. Well, then
8 let's keep going on general comments on the rule.

9 Jake, do you have a comment in this area?

10 MR. JACOBI: Well, I've got actually three comments and
11 since I've got the microphone let me spit all of them out.

12 MR. CAMERON: All right.

13 MR. JACOBI: First of all, one of them was on your
14 technology issue. It sure seems to make sense and I think manufacturers
15 would like it much better if instead of sending reports to 50 states, if
16 they had one centralized place that they could send the report and then
17 electronically that information could be sent to us and we could just
18 append it to our databases, and there's a number of ways that can be
19 done very easily and that would make more sense.

20 Of course, going with that we already have information of
21 what manufacturers supply for us and at least for exit signs, most
22 manufacturers think maintenance is somebody's name and usually they
23 think there's no phone numbers associated with their licensees because
24 the reports we get right now are not even meeting our current
25

1 requirements so I hope some thought went into how you're going to
2 enforce this.

3 The second comment I have relates to what Jay was saying is
4 I also believe we need to talk about a risk and we can ahead of time do
5 analysis of what constitutes that risk. I assume when you identified
6 isotopes that you want to regulate in concentrations or amounts.

7 You already did some sort of analysis, but maybe we should
8 more formalize that analysis rather than the result because we all know
9 how great Bergholz in taking exempt sources and putting them in devices
10 that nobody can control right now.

11 So if you say you had 100 millicuries of isotope X you know
12 somebody's going to find a way to have 50 microcuries distributed to
13 their customers and say "Here, put them in your device."

14 So these people are creative, they're already seeing profit
15 motives and you're going raise the price of licensees. They'll say
16 "We'll save you \$375 a year plus your time for reporting and collecting
17 the information."

18 I think it is foolhardy to say we can put an isotope here
19 and after the experience we've had we Bergholz, they're just setting us
20 up. They've told us and you know, a fool is one who does the same thing
21 twice and expects different results. So let's be real careful about
22 that.

23 The third comment is that while you're talking about what
24 the manufacturer and what the licensee will do, there's another part of
25

1 this whole problem that really needs to be addressed and that's
2 evaluating what constitutes a generally licensed device.

3 Many of us I think would disagree with the amount of
4 activity that has been allowed to go out to the generally licensed
5 device. We ask all of our licensees, most of us in the state in five
6 years and the NRC now in ten years to reevaluate everything you're
7 doing.

8 I think there should be a reevaluation of the devices that
9 are still being sold out there only because I think some of these will
10 greatly exceed the dose basis on which they were originally based, but
11 philosophically the dose to the public has now dropped by an order of
12 five and therefore maybe the criteria for a generally licensed device
13 should also drop.

14 Right now we're saying you can have a generally licensed
15 device if someone is not likely to receive over, I believe, it's 500
16 millirem, but the general public dose has now dropped to 100 millirem
17 and maybe it's time to reevaluate what constitutes a generally licensed
18 device.

19 MR. CAMERON: Okay. Thank you, Jake. Let's keep following
20 this risk issue and the related issue about definition of generally
21 licensed device and let's go to Don and over to Richard who had a
22 comment on this. Don?

23 MR. COOL: A couple of quick remarks on the things that were
24 brought up and those are very good points. Twice already this morning
25 we've had a mention of what was quite a bit of a discussion last year at

1 this meeting with regards to bundling of sources. That somehow didn't
2 manage to get on the agenda. I'm not quite sure how we managed to miss
3 one of those.

4 But in fact there is a document in preparation to go to our
5 Commission because any time there's a significant change from existing
6 policy, the Commission has to approve before I can put out the
7 publication. Let me simply note that the directions that the states
8 were pursuing last year and the finding that the current situation in
9 being able to bundle them wasn't exactly where you wanted to go. You
10 will be quite happy if the Commission approved that which I want to try
11 and lay in front of them.

12 The Commission hasn't approved it so I don't know where we
13 will go with that yet, but we would like to move in a direction that
14 that would no longer be something which people would be able to do.
15 With regards to risk, we're going to have another opportunity this
16 afternoon -- there are several interrelated activities which are
17 ongoing.

18 One related to looking at the exemptions overall and then
19 the discussions this afternoon, one of those topics is the group which
20 has included some state folks trying to look at this risks posed by all
21 of the different things within the byproduct arena which is a step
22 towards exactly what you've been suggesting in terms of going back and
23 taking a look and seeing where they all fallout in terms of regulatory
24 requirements.

25 MR. CAMERON: Okay. Thank you, Don. Richard.

1 MR. RATLIFF: After we looked at the rule, we really agree
2 with what we've done. We think what will help though is once you
3 implement it and since you have a fee it's almost \$400 many of these
4 facilities that's not a high amount and what we've found has helped more
5 because we were getting a lot of accountants who'd pay the fee, but even
6 though you have a contact person, they never, ever did anything with it
7 because it was just paying a fee.

8 We've now added a self-inspection that we require. It's a
9 two-page, double-side form that requires them to submit that back with
10 their fee. If they don't, that gives us a level that we contact them if
11 we don't get it, then we go to inspection.

12 We're getting more good results from that than anything else
13 because they actually didn't have to go out and look at the device, make
14 sure it's there, make sure it's labeled and if you can coordinate that
15 with your fees it really helps.

16 MS. HOLAHAN: That's in fact exactly how it will work
17 because when we send out the registration form that's when the fee will
18 also be billed, and so they will have to respond to us, as I mentioned,
19 currently within 30 days or otherwise specified, with this form that
20 they have gone out, physically inspected the device and things like that
21 and gotten back to us that they in fact have everything that they
22 supposedly have and also if there's anything additional that they have
23 to let us know.

24 MR. RATLIFF: And after that annually --

25 MS. HOLAHAN: Pardon me?

1 MR. RATLIFF: Do they have to do that annually with --

2 MS. HOLAHAN: Okay. That's good.

3 MR. CAMERON: Okay. Bill, you might as well ask or make
4 your fee comment now since we've got it on the table here.

5 MR. RATLIFF: Actually, two-part question. You know, you
6 said, "Per licensee." How are you defining licensee? Let's take an
7 example a company like Exxon which may have its headquarters in one
8 state, but has five billion factories all over the country and if they
9 were all in NRC territory that might be one answer, but what if they're
10 headquarters is say in NRC territory and their branch offices are in
11 Texas and California or vice-versa.

12 It's a Texas- or California-based company, you know, that
13 has branch offices, you know, in a NRC jurisdiction state, and you know,
14 have you thought about exactly how you're going to define this licensee
15 for fee purposes and, you know, particularly in the case of large
16 companies?

17 MS. HOLAHAN: I don't have the answer to that question. I
18 don't know. I don't know.

19 MR. CAMERON: Okay. Well, thank you. Let's go to Terry and
20 over to Pearce and Steve and Aubrey. Terry.

21 MR. FRAZEE: In the State of Washington we do have -- I
22 don't want to call it a general license registration program, but we do
23 make contact with our licensees once a year and verify, that's in loose
24 terms, what they have, but we are trying to make inroads into a true
25 verification both of the current set of registrants and also the ones

1 that are "Return to addressee." You know, the folks who we sent out a
2 notification originally based on the database, but the letters come
3 back.

4 There's a significant amount of activity that's still
5 floating around out there at least on paper and we are trying to get to
6 a point where we can get out and actually verify that either the
7 material is still there or isn't.

8 There's also, even with the folks who are responding, they
9 may say they don't have material or that they do have a gauge or several
10 gauges when in point of fact we know if a couple of cases, they've got
11 more than that. They just haven't been able to locate it, and so I
12 guess my question is, the bigger concern for us is the verification
13 issue.

14 It's one thing to establish a great program, this is all
15 paper basically, but you really need to get out somehow and verify if
16 what they're telling you is accurate and certainly at some point you
17 should be going back and looking at some of the old reports, the old
18 paperwork because there's got to be gauges out there someplace and we're
19 just following up on them.

20 Since again, as Jake said, once you get the microphone, you
21 better hang onto it. We do have a program, it's developing, but I would
22 certainly hope that in terms of compatibility that whatever the
23 compatibility designation is that if we can come up with something
24 innovative that we don't get locked in or locked out of doing something
25 better, hopefully, than what NRC's baseline would be.

1 MS. HOLAHAN: Okay. Well, let me go to your first point
2 first is that's very true in terms of the verification and in fact,
3 that's where a large portion of the costs associated with this are is
4 the inspection, enforcement and follow-up program is when we send out
5 the registrations, that there is either the returned addressee unknown,
6 then we would begin to try and follow-up, first of all, sort of tracing
7 down the licensee or if they've come in and we are basing the initial
8 registration on what our current records show that they have, and if it
9 comes back and it doesn't match, then we would go out and follow-up and
10 that's where I mentioned that there is an interim amnesty program to
11 encourage licensees to identify that they don't have all the sources
12 that we believe they have.

13 Then, as I say, that would be followed down the line with
14 sort of increased civil penalties for when they do have lost sources,
15 but there would be a major follow-up program with inspection and
16 enforcement.

17 MR. CAMERON: Okay. Let's hold that thought that Terry
18 brought up about flexibility for innovation for the agreement states in
19 terms of compatibility designations, and we'll get into compatibility in
20 a minute. Let's take this remaining cards and then specifically go to
21 compatibility. Pearce?

22 MR. O'KELLEY: Yeah, we've had a lot of experience in
23 registration of X-ray equipment and other devices in our state, and
24 there are some things you might want to consider at least.
25

1 Ed brought up an interesting point about the devices being
2 shipped and then held till the construction phase was complete.
3 Sometimes those things can -- your information's going to show that they
4 were shipped to the construction company building the plant, and so
5 you're not going to have information on the final user unless that
6 construction company now follows the reporting requirements.

7 You need to really look long and hard about what you're
8 going to ask for on registration and what you're going to ask the
9 distributors to provide, the registrants and you may want to consider
10 that a facility has to be registered before they can receive the device.

11 It would help a whole lot in looking at getting your
12 responsible person accurately named because a lot of times you're just
13 going to get the person that ordered that device from the distributor as
14 the contact person, and you're going to get these things shipped to
15 people that don't know how to use them or the precautions that need to
16 be taken. Look real close at what you're requiring on the registration
17 information and how you're going to run the program.

18 MR. CAMERON: Thank you, Pearce. Let's go to Aubrey and
19 Steve and then let's see how many people have comments on the
20 compatibility issue.

21 MR. GODWIN: First, I'd like to comment that this is an
22 improvement having an annual contacts in and of itself would help in
23 accountability. I think if we look at the situation we're in now, we
24 need to recognize that a part of our problem that we have now is a
25

1 failure to dedicate resources to keeping up with the problems that are
2 developing.

3 The reports that are coming, in a lot of them, your would
4 know just from looking at the report, there's a problem. When you see
5 something addressed to "Maintenance," and no contact or you see it
6 addressed to a construction company, purchasing agent and not to the
7 final user, you know, you could look at these things and you don't have
8 to wait to find out that there's a problem. You can look at them.

9 The problem is we all get these reports and we say, "Hey,
10 we've got to go out and do these other inspections because if we get
11 behind, we're going to get a ding from the NRC, we're going to get a
12 ding from legislature, we're going to get a ding from somebody, you
13 know, put those on the back shelf and don't look at them. Point of fact
14 is if not only NRC but the states look at them we could do a lot to
15 clean up the business.

16 There's a requirement to supply a copy of the general
17 license at transfer. You check around you'll find out they are not
18 getting these general licenses. They don't know what you're talking
19 about. You could do telephone calls and really do a whole lot just with
20 putting resources into the problem.

21 If you don't put resources into this general license after
22 you change it, you're going to end up at the same place. So don't just
23 change the regulation without putting some resources into it. Somebody
24 at least needs to look at the reports and do a little telephone calling,
25 that's got to be done.

1 I'd like to drift back to the initial reports as they come
2 out and some problems I foresee that you need to look at. In the
3 several states that have an industry development loan or plans in which
4 a city or a county or even the state in some cases can issue a
5 construction -- a series of bonds to build a plant for a company, and
6 then the company leases it back from the bond holder and then eventually
7 owns it.

8 Quite often in situations like that it's a turnkey
9 operation. You have a construction company that comes on site, builds
10 it and turns it over to the leaseholder, which is the company that's
11 really going to be running it and probably who you want to be listed as
12 a general licensee.

13 When these companies ship to the construction company they
14 usually ship quite often I've found to an electrical that's doing the
15 electrical part of the construction. They ship it in, maybe as Ed has
16 said, up to several years in advance.

17 They get it, the construction company is the only thing that
18 may even be listed or the city. You may end up with the city being
19 listed as the general licensee when in fact the city is just simply
20 servicing as a financial conduit for building the plant.

21 So you need to look very carefully at how you raise the
22 questions in these registrations or licenses to make sure that you get
23 the information you really want. It really is a difficult part.

24 That's really one of the more difficult things because
25 there's so many different schemes for building plants and it's all tied

1 to the financing, and if you're not careful, you end up with a lot of
2 chief financial officers as your general licensee response for thing so
3 you need to look at that very carefully.

4 MR. CAMERON: Okay. Thanks, Aubrey, and I guess that your
5 first point flags a question for the NRC staff. Will our regulatory
6 analysis that accompanies this rule spell out for the Commission's
7 benefit what types of resources are going to be required both by NRC and
8 the agreement states?

9 MS. HOLAHAN: It will spell out -- yes.

10 MR. CAMERON: Okay. Good.

11 [Laughter.]

12 MR. CAMERON: It's great to give a simple answer sometimes.
13 All right. Okay. Before we get into compatibility, Steve, did you have
14 another comment you wanted to make?

15 MR. COLLINS: Yes, before compatibility actually.

16 MR. CAMERON: Go ahead.

17 MR. COLLINS: With regard to the issue of storage for a
18 certain period of time or actual enforcement, what are you going to do
19 when they don't meet the requirements? Particularly since there's some
20 of the nuc labs that are generally licensed that do not have a final
21 home. There's some of these radionuclides that there is no disposal
22 site where they can go to right now.

23 So the licensee may be put in a situation of "Okay, I don't
24 -- I'm not going to comply with the rules. I'll file bankruptcy so I
25 don't have to pay you the fees." Now what are you going to do?

1 NRC doesn't usually do what some of the states do and go out
2 and secure the device in storage or confiscate it in some manner and
3 actually get it to a final home so this needs to be considered very
4 carefully as to how you are going to handle these enforcement issues.

5 MINNICK: There have been a lot of issues raised about the
6 two-year storage and the working group who developed the rule discussed
7 this in great detail and we have these requirements for specific
8 licensee that they can't have material for greater than two years if
9 they're not going to use it and we feel that general licensees should be
10 as restrictive as are specific licensees.

11 We understand that there are going to be a lot of cases
12 where we have construction companies and they're going to be ordering
13 these devices and then changing hand. We are asking for the vendors to
14 supply information on intermediary holders and in those cases where it's
15 going to go beyond two years, we're just not going to allow it.

16 We want this to be more restrictive regulations. We don't
17 want to have a case where a device is going to be sitting around for
18 three, four, five years, that's when it get lost, and we want to
19 maintain control over that. So we specifically put in two years to be
20 restrictive.

21 In terms of the enforcement of that rule, we are having a
22 group work on the enforcement policy and how we are going to handle
23 this. We are going to need to take action against these companies who
24 are not going to want to follow those rules.
25

1 MINNICK: We want them more restrictive. We're going to
2 have to do something to maintain that.

3 MR. CAMERON: Sheri, can you just identify yourself to
4 everybody.

5 MINNICK: I'm Sheri Minnick. I'm in Region I of the NRC and
6 I've been -- I'm involved in the consolidated guidance for GL and also
7 in the rule making team.

8 MR. CAMERON: Okay. Thank you very much. Let's go to
9 compatibility. Mike, do you have quick comment on that before we go?

10 MR. STEPHENS: Yeah.

11 MR. CAMERON: I guess you're going to need to do that.

12 MR. STEPHENS: Mike Stephens from Florida. We registered
13 devices in the sense that they pay us 25 bucks per device, per year, so
14 we kind of have an idea of what's out there and they're suppose to tell
15 us who's responsible, and it sort of works.

16 I look at all the requirements that are being put on, risk
17 based, with the isotopes and more tracking, disposal and about the only
18 thing I don't see that a specific licensee has to do is training
19 requirements for users and occupational dose considerations.

20 Maybe the easiest way around this is to reevaluate the whole
21 concept of general license for these products. Maybe you need to revise
22 your specific licenses, create a category specific license that would
23 take out those two things and you've got everything else.

24 You have your timeliness rule for getting rid of these
25 things. Your two-year time period is built into it and it may solve a

1 lot of problems and a lot of headaches. You've got your financial base
2 to support this, and you've got your inspection criteria spelled out.

3 So I know there's probably been a lot of discussion on that
4 already, but just -- you shouldn't rule it out. You know, you look at
5 all the requirements that are being put in the general license and Part
6 32 and in Part 31.

7 MR. CAMERON: Well, let's ask the NRC about that. Is that
8 alternative going to be considered in the range of alternatives that are
9 looked at in developing the draft proposed rule? Don?

10 MR. COOL: The answer is that it has been. The Commission
11 is giving us direction back a couple of months ago to proceed with this
12 rule basically concluded that it wanted to pursue something which wasn't
13 a full blown specific license.

14 The simple reason for that was to find some alternative
15 scheme and quite frankly I think the longer term outlook on this would
16 be once you establish and in a sense pilot this would these kinds of
17 devices to go back and look and see if there are other things which are
18 already in the specific license range, which because they are devices
19 they have a number of things like the occupational safety built in in
20 the device design, that in fact we might look at and think about moving
21 things which are presently in the full blown specific range into this
22 middle category which would potentially have resource savings as well as
23 focus more closely on the principal ways in which something can go wrong
24 which is to lose accountability and have it get away from you.

25

1 MR. CAMERON: So there may be another shoe that's left to
2 drop on this? Okay. We're getting close to break time and we need to
3 talk about compatibility. Who wants to start us off on that? Let's go
4 to Aaron and then will go to Steve. Aaron.

5 MR. PADGETT: My comment on compatibility is fairly general.
6 There are states out there with some good thoughts. We in North
7 Carolina lag far behind some of those. We're far ahead of others. I'd
8 like to think in some ways we're far ahead of the NRC right now. In
9 other ways, we might not be.

10 The point I want to make is set up the compatibility so that
11 you don't shut out better approaches or at least alternative approaches,
12 and that's my one plea on compatibility. We do need a somewhat
13 consistent approach to this problem, but we do not need it to be so
14 specific that states can't be innovative in trying to get these sources
15 under control

16 MR. CAMERON: Okay. That jives with what Terry Frazee said
17 earlier on that. Steve and then we'll go to Ed.

18 MR. COLLINS: My remark jives with that also. It's just a
19 little more specific. I would suggest a category C as in Charles, for
20 this with it very clearly defined that the goal here is accountability.

21 That as far we go with accountability, we've all got a
22 division 1 or a division A concept in mind, but we want to have the
23 flexibility to do it by specific license in some case or we want to have
24 flexibility to do it with other things, and if you go with category B on
25 Section 32.2 which references Section 30.10, deliberate misconduct, some

1 of us don't like, don't have and will not have deliberate misconduct
2 rule like NRC, and we don't want to get that incorporated by reference
3 in some way.

4 MR. CAMERON: That's a very good point for the staff to
5 consider because it's sort of taking a major issue apart from this and
6 coming in through the back door possibly. Ed?

7 MS. HOLAHAN: May I --

8 MR. CAMERON: Go ahead.

9 MS. HOLAHAN: I just wanted to ask Steve, then, do you agree
10 with the way we currently are proposing that all of 31.5 is category C?

11 MR. COLLINS: Yes.

12 MS. HOLAHAN: Okay.

13 MR. CAMERON: Maybe would it be useful to get a feeling from
14 the rest of the group here about whether they agree with Steve's
15 recommendation that 31.5 would be category C, is that correct, Steve? I
16 guess that would be a show of hands perhaps by people who think that it
17 should be category C.

18 [Show of hands.]

19 MR. CAMERON: Okay. It looks like that's a pretty strong
20 majority. Let's go to Ed.

21 MR. BAILEY: Is there also the possibility and I don't
22 remember under category C, that if a state decided they wanted to do
23 away with general license gauges in their state and make them all
24 specifically licensed, could they do that?

25 MS. HOLAHAN: Yes.

1 MR. COLLINS: That's category C.

2 MS. HOLAHAN: Yeah.

3 MR. BAILEY: Okay.

4 MR. COLLINS: You have flexibility to meet the same end goal
5 anyway you want to go about doing it, basically, avoid gaps, duplication
6 and something else.

7 MR. BAILEY: I guess it goes further than that. There has
8 been some discussions in the past that the concept of a general license
9 has to exist in the state regulations, and you know, we've gone for
10 years and years and years talking about GL devices and sources and so
11 forth, and I think periodically we've floated the notion that let's do
12 away with GL.

13 Either it's exempt or it's specifically licensed and to me
14 that's always had a lot of appeal as a simplistic way to get rid of a
15 lot of our problems, administrative type problems. So I'm not saying
16 we're going to do it. I'm just saying that that thought has not gone
17 out of my mind yet.

18 MR. CAMERON: Okay. Thank, Ed. Any more comments on
19 compatibility before we go to the break? Steve and Aaron you want to
20 comment again? Oh, Okay. Steve.

21 MR. COLLINS: I would like to have some of the other
22 sections of this proposed package other than just 31.5 to also be
23 category C.

24

25

1 MR. CAMERON: Okay. So noted. We're going to Roland and
2 Diane has a couple of administrative announcements for us to before we
3 break. Roland.

4 MR. FLETCHER: Diane and I may have some of the same
5 announcements. One announcement I'd like to make, I'd like for all of
6 you to just look around the table, you'll note that we were concerned
7 yesterday about being able to read each other's name, and now we can
8 read them very clearly. A number of Diane's staff took it upon
9 themselves and rewrote all of our names in Halloween colors you'll note.
10 So, Mario we thank you very much for making that possible. Did he leave
11 the room.

12 MR. CAMERON: Yes.

13 MR. FLETCHER: The second as we discussed in the business
14 meeting as Virgil brought to our attention the condition of Haywood
15 Shealy. We have purchased two cards. They're out on the registration
16 desk. I would like for you to sign one or the other so that we can make
17 sure everybody gets to sign them. They'll be out on the registration
18 table.

19 MR. CAMERON: Good. Thank you. Diane?

20 MS. TEFFT: I just wanted to remind people that our break
21 this morning is sponsored by Canberra industries and Karyl McGeehan is
22 still here and does have her table set up. We also have another vendor
23 out there for radiation safety control services so stop by there as
24 well.
25

1 I am going to be passing around a list for those people who
2 are expecting the hotel van to drive them back to the airport. They ask
3 that you sign your name, your room number and your flight departure time
4 so that they can plan how to get you back to the airport on time and I
5 suppose date needs to go on there as well, what day you're leaving.

6 Lastly, the hotel is very interested in feedback, good or
7 bad, about this meeting, things that you wish were different or things
8 that you liked so that if you want to get that to me or one of my staff,
9 I told the hotel that we would get back to them on that.

10 MR. CAMERON: Okay. Thank you. Thank you, Trish and the
11 rest of the NRC staff for that presentation. Let's break and come back
12 at 10:30 and we'll figure out where we are.

13 [Recess.]

14 MR. CAMERON: We'll get you on sooner or later. Okay. We
15 have a couple of administrative announcements. Some of them are pretty
16 important so I'll start with perhaps the less important ones.

17 Someone asked Diane's staff to Xerox some material and this
18 material is on the IMPEP process. Kathy, I don't don't if -- David?
19 Okay. That's okay, Kathy. No, no. We're fine.

20 One of the things that Trish Holahan didn't get to say at
21 the end of her presentation is that she would really appreciate any
22 written comments on the draft proposed rule and if anybody has any
23 questions about where to send those comments, we'll get Trish to give us
24 the address later on of where those should go.
25

1 Note there is no business meeting schedule for tomorrow
2 afternoon, so those of you who want to try to get earlier flights, we're
3 going to stop at 12:00 o'clock with the part 35 discussion so there is
4 no business meeting tomorrow.

5 I just want to do an agenda check with you so that you know
6 what's going on. We're going to start with Ruth McBurney who is going
7 to talk about industrial radiography certification. Then we're going to
8 go to the Mad Scientist, Don Bunn -- you are the Mad Scientist, right?
9 No, okay. I'm sorry.

10 The privatization of DOE contractors has been moved to this
11 afternoon and that's going to be at 2:35 this afternoon. You know how
12 we precisely run on schedule. So 2:35, be here, right.

13 After Don Bunn we're going to have Alice talk a little bit
14 about low level radioactive waste exemptions and I'm going to try to
15 answer some questions that you may have from the NRC's prospective on
16 this since Hampton is not here. We have a discussion on compatibility
17 then.

18 And everything else will be the same. Again, we have Ara
19 Tahmassian who's going to talk to us later on this afternoon about some
20 data from the medical world, and Tom Hill has an announcement that he'd
21 like to make relative to CRCPD. Tom.

22 MR. HILL: I've had a couple of people ask me about the May
23 meeting of the conference in Atlanta, so I wanted to let everybody know
24 that it's not going to be in Atlanta. The hotel decided they could not
25 meet the meeting space requirements that we had since they're under

1 construction and it's sold twice since we signed the contract two years
2 ago.

3 So the conference meeting will be held in Louisville,
4 Kentucky, at the Hyatt Regency, May the 9th through 12th, I believe.
5 The next weekend, the unfortunate thing is that's Mother's Day weekend
6 so it's delayed one week. Okay. Chuck will have an announcement in the
7 news brief saying it's been changed and then further information will be
8 coming later.

9 MR. CAMERON: Thanks, Tom. Let me remind everybody. We've
10 been having some trouble hearing some of the speakers so when you're
11 either at the table or you're up at the podium, the more you can speak
12 directly into the microphone, if you can do that then we'll be able to
13 hear you. Let's go to Ruth.

14 MS. McBURNEY: Thanks. Can everybody hear me?

15 [Laughter.]

16 MS. McBURNEY: I can talk louder if I need to.

17 When I got up here to New England, one of the first things
18 that I noticed is that some of the folks up here have an accent. I'm
19 going to try to talk to you in plain English because I don't have one,
20 an accent.

21 Somebody mentioned that some of the topics that we're seeing
22 on this year's program have been on there several times before and so
23 why are we talking about industrial radiography certification again?

24 Now that the rule that, the NRC's rule is in place, it's
25 time for the states, the agreement states and NRC to have some

1 coordinated implementation of the requirements for industrial
2 radiography certification. The devil's in the details as we say.

3 In May 1997, the NRC adopted regulations that included
4 requirements for individual radiographer certification. It was part of
5 a rule marking package that concluded a series of workshops, public
6 input and meetings with states and industry over a period of several
7 years.

8 The rules also include requirements for 40 hours of
9 classroom training in specific radiation safety topics, documentation of
10 two months on-the-job training, a licensee administered exam on
11 operating and emergency procedures and practical exam on the safe use of
12 radiographic exposure devices and associated equipment and survey
13 instruments, in addition to certification by a recognized certifying
14 entity.

15 All radiographers must meet the new requirements by June
16 27th, 1999 in NRC states. Agreement states will be required to
17 implement the rules requiring certification by June 2000. I was too
18 loud.

19 [Laughter.]

20 MS. MCBURNEY: Certification must be issued by a recognized
21 certifying entity either an independent certifying organization meeting
22 the NRC requirements for such or an agreement state that meets the
23 requirements for all certification programs regarding the written
24 examination, including ascertaining training, renewal procedures and the
25 response to inquiry by radiographers.

1 In June of this year the American Society for Nondestructive
2 Testing was recognized by NRC as an independent certifying organization
3 for radioactive materials, I will note that.

4 Agreement states that have already become certifying
5 entities include the states of Georgia, Illinois, Iowa, Louisiana,
6 Nevada, North Dakota and Texas. Oklahoma is an examining or a testing
7 entity, but not a certifying entity at this point.

8 The NRC team that reviewed the ASNT requests to become a
9 certifying organization included two states -- if agreement states adopt
10 certification rules, they may include X-ray radiography in their
11 requirements as well. There is no federal body that reviews certifying
12 entities for X-Ray.

13 However, the conference of radiation control program
14 directors committee on industrial radiograph, G-34, has been given the
15 charge to review requests for certifying entities for X-Ray. They would
16 be reviewing those certifying entities that want to certify in X-Ray
17 radiography. Next slide.

18 I want to talk a little bit just briefly about the ASNT
19 certification and a few remarks. As of August the contract with Texas
20 for us to contract with them to provide examinations to ASNT was not
21 renewed. The contract ended and we did not renew it.

22 At first when ASNT was going to be requiring certification
23 or going to be doing certification they stated that they would not
24 review training. Following a letter from the state, ASNT responded that
25 they would check with the state program to make sure that the

1 appropriate training had been done and that the training was
2 appropriate.

3 That leads us to the things that the states can do to best
4 make the implementation of the radiography rule take place, and that
5 will truly be a national process.

6 Since certifying entities will be checking in those states
7 to make sure that the training, the 40 hours in courses that have been
8 recognized by the states have been done, it might be a good idea to have
9 available a list of those training courses that have been accepted in
10 your state because the certifying entities will be reviewing the
11 training as part of the certification process.

12 There's several reciprocity issues that we've identified
13 that will be involved. As we do when granting reciprocal recognition of
14 licenses, the granting of reciprocity of industrial radiography
15 certification will be based on the equivalency of the requirements for
16 certification. The closer the state regulations are to each other for
17 certification, the easier that will be.

18 The CRCPD's suggested state regulations, Part E contains the
19 model language that can be used for the industrial radiography
20 certification part.

21 Another area that we'll need to require additional
22 regulatory program coordination is the sharing on enforcement actions
23 taken against individual radiographers. At least the certifying entity
24 and the NRC should be notified of the licensee involved if the action
25 was in another jurisdiction other than the one that's certifying --

1 where the certifying entity is different from the state or jurisdiction
2 where this took place.

3 We in Texas have added a statement in our regulations that
4 enforcement actions taken against radiographers in other jurisdictions,
5 that we certify in Texas, we can take similar action against them under
6 our regulations as well. One of the issues is suspension and revocation
7 of certification. This should be similar procedures to revoking and
8 suspending a license.

9 The adequacy of mechanism for achieving certification. Are
10 there adequate mechanisms to assure that all the radiographers out there
11 are going to be certified in the time frame that has been set out.

12 We feel that many of the radiographers, if not a majority of
13 them, already have been certified because some of the major radiography
14 states already are certifying or radiographers that are coming into
15 those states under reciprocity are having to be certified to work in
16 those states, but we don't have a real good feel about how many are
17 still out there that are not certified, so any feedback on that would be
18 appreciated.

19 There is going to be an open discussion at the '99
20 conference of radiation control program directors meeting, as I
21 understand it -- is that right, Steve, between the certifying entities
22 or do you know? Ah, the program committee hasn't met yet, but that's
23 one of the things they will be considering.

24 To sort of coordinate the certifying entities and work and
25 jurisdictions and whether or not we need a national database for

1 industrial radiographers so that it will make it easier to share this
2 information on enforcement actions, on who's certified, who's been
3 revoked, that sort of thing as we go on.

4 There are several methods that the agreement states can use
5 in order to implement certification requirements in their regulations.
6 There are four parts to certification. We just recently went through a
7 fee review of the certification process and since we do some of both
8 parts, we do testing of all the radiographers that are going to be
9 certified in our state, but we also for example, Oklahoma where they do
10 the testing in their state, but to actually become certified in Texas we
11 have to do the pieces of that that are the reviewing the training, the
12 on-the-job training and the issuance of the certification, so that piece
13 of it, we have split out the fee so that there will be an exam fee and a
14 certification fee. Agreement states can do all or none of this and just
15 recognize other certifying entities.

16 So the first method of the requirements for certification
17 would be that the agreement state can accept a certification issued by a
18 NRC recognized certifying entity, that would be ASNT for radioactive
19 materials and any of the states that have been recognized as certifying
20 entities.

21 The next method is called the Oklahoma Way, right now, they
22 may change if they become an agreement state, is to accept a review of
23 the requirements of training and on-the-job training issued by an NRC
24 recognized certifying entity, but give the exam in your own state.
25

1 That is more customer friendly. The radiographs don't have
2 to travel as far to take the exam, but if you're not able to actually do
3 the certification process either because of laws in your state that
4 would not allow you to certify or license individuals, then this is one
5 mechanism that could be done to be customer friendly but still maintain
6 yourself within your legal framework.

7 The next method is to issue the certification and do all the
8 training reviews and application reviews in your own state, but accept
9 the results from another testing or certifying entity for the exam
10 portion of that so it would just be the opposite of the Oklahoma Way,
11 where you're doing the certifying but accepting exam results from an
12 exam given in another certification or testing entity jurisdiction. So
13 they could go to Oklahoma, get tested, but be certified in your state.

14 And then the fourth method of doing it is to do all four of
15 the pieces in your own state by reviewing the training, the on-the-job
16 training and issuing the certification and either developing your own
17 exam or contracting through the conference of radiation control program
18 directors to purchase exams to be used in your state.

19 So there are several issues and I just wanted to do this
20 today to get your thinking about how you're going to be implementing
21 those requirements in your own state and also are there enough
22 mechanisms out there already in order to get everybody tested and
23 certified in the time frame.
24
25

1 There are several folks here from the certifying entities.
2 If I can't answer any questions, I'm sure they would be able to and I'd
3 like your comments on any of these issues. Thanks.

4 MR. CAMERON: Thank you very much, Ruth. How about
5 questions or comments for Ruth on this whole process. Cheryl?

6 CHERYL ROGERS: Ruth, how far along is the CRCPD as far as
7 possibly being that entity to contract with for the exams?

8 MS. McBURNEY: That's in place right now, in fact, all the
9 certifying entities and the one testing entity are contracting through
10 CRCPD, and it's actually the Texas exam and we have a contract with
11 CRCPD to provide that exam, then the states that want to use that exam,
12 contract with CRCPD so they're a pass through for the exam.

13 MR. CAMERON: Bill?

14 MR. DUNDULIS: Bill Dundulis, Rhode Island. Ruth, you
15 mentioned that was it G-34, is looking at the X-Ray portion of it. Now
16 are any of the states that are currently certifying, currently examining
17 X-Ray or is it strictly materials as with an ASTM and do you have any
18 kind of a ASTM.

19 MS. McBURNEY: ASNT.

20 MR. DUNDULIS: ASTM is the other group.

21 MS. McBURNEY: You can't say it. It's not one of the
22 acronyms that you can --

23 MR. DUNDULIS: ASTM is the other group, but what's the time
24 table if none of the states are currently on tract, what's your best
25 guess of the time table?

1 MS. McBURNEY: All of the certifying entities do both
2 radioactive materials and X-Ray except ASNT.

3 MR. CAMERON: Is that clear to everybody? Joe, go ahead.

4 MR. KING: Yeah, Ruth, you mentioned that you are now able
5 to take some enforcement action against a certified radiographer if they
6 had problems in another jurisdiction?

7 MS. McBURNEY: In our proposed rules that we are about to
8 propose, we can take action against a radiographer that has had
9 enforcement action or we may -- it's permissible.

10 MR. KING: It's optional?

11 MS. McBURNEY: Right.

12 MR. KING: Because that a difficult thing. We though we
13 could right away, but then our legal staff said you can't really do that
14 just because somebody messes up in Maryland or something and you find
15 out about it, you can't just revoke the certification based on that.

16 However, in Illinois what we do if they use their Texas
17 card, for example, and they're in under reciprocity, that's how we do
18 that, that serves as a basis of how we're issuing that certification so
19 if the Texas card then becomes invalid, then they would not be able to
20 work in Illinois so that's the best way we've been able to handle that.
21 But it also points out a need for us to know when someone has revoked
22 someone's certification in another jurisdiction.

23 MS. McBURNEY: Right.
24
25

1 KING: I don't know if that happens that often, but if it
2 does, I think everybody needs to know about it so they can take the
3 appropriate action.

4 MR. CAMERON: Is there any mechanism -- I'm sure that this
5 might apply in other areas too, besides radiographers -- is there any
6 mechanism, Ken, go ahead.

7 MR. WANGLER: When we adopted the certification rule for
8 industrial radiographers we took some lessons learned from the asbestos
9 program and what we found there was we had to put a section in our rule
10 for under what conditions we could revoke or suspend. It was
11 revocation/suspension provisions.

12 One of the statements that's in our rule says that we can
13 revoke or suspend a certification for violations in other states that
14 are similar to the requirements in this state or something to that
15 effect. In other words, we say you can't just say because another state
16 revoked, you can revoke it, but if you can say it was revoked for
17 violations that you would also revoke in your own state for, then you
18 can have that section in your rule.

19 So you have to be kind of specific about under what
20 conditions you'll revoke or suspend, but you can do it for similar
21 violations in another state.

22 MR. CAMERON: How would you -- because should there be some
23 mechanism established for the sharing of information about revocation of
24 certifications or revocation of licenses generally, I guess is the sort
25

1 of the issue that I think Joe, one of the issues that Joe put before the
2 group.

3 Anybody around the table have a comment on that? Anybody
4 from the NRC want to say anything about this type -- the need for this
5 type of information sharing? Do you have comments on this? Okay.
6 Ruth, you wanted to say something on this?

7 MS. MCBURNEY: One of the things that the CRCPD's industrial
8 radiography committee have discussed is the establishment of a national
9 database on the status of individual radiographers that would be
10 accessible to the states to find out, but I don't know if they've -- is
11 there anybody from G-34 here? Mike, do you know?

12 MR. CAMERON: Mike?

13 SPEAKER: You've hit the nail on the head. We've discussed
14 it, but have not come up with anything specific because the various
15 jurisdictions have different feelings about how much information they
16 can distribute, and we have open records laws in Louisiana, absolutely
17 everything is open, but I think the NRC has almost the opposite
18 situation where they won't release very much information so it's not as
19 easy as it sounds.

20 MR. CAMERON: Okay. Thanks for that clarification, Mike.
21 Ed?

22 MR. BAILEY: That reminded me. NRC puts out their orders
23 against individuals, they actually publish those, and I don't know why
24 if you had an order suspending or revoking you couldn't distribute that.
25

1 We have a program for mammography accreditation and quite
2 frequently we get people shifting from the other accreditation body and
3 so we've had to modify our application forms to essentially make them
4 give a history of prior accreditation attempts or prior accreditation
5 and so forth so that they have to disclose what their history has been
6 when they apply to us, and I think most of us have a provision that
7 allows us to take into account past conduct of an applicant for
8 something.

9 That might be a mechanism to use if you've really got a bad
10 actor who messes up in one jurisdiction and goes to another state to
11 work in radiography by getting a certification there.

12 MR. CAMERON: Thanks, Ed. Aubrey.

13 MR. GODWIN: I see we're back to talking about training
14 courses and one thing or another. It looks to me like from where you're
15 going, we're going to need something like a sealed source and device
16 catalog or a database at least on acceptable training courses. Is
17 anybody pursuing that?

18 MR. CAMERON: Comments on Aubrey's suggestion? Joe?

19 MR. KING: Yeah. Years ago there was the STIS, the Service
20 Training Information System, that the NRC had and it was out on the
21 street and we started trying to use it and they cut back on the funds
22 for it or something, but I always thought that was a laudable goal
23 because that way everybody that authorizes any sort of a training course
24 or service was put into this system and so it was readily accessible
25 just like the sealed source and device registry.

1 Also that would help the ASNT because they were reluctant --
2 that one issue where they balked and we didn't let them get away with
3 it, but we said, "No you do have to call around to these jurisdictions."
4 They said, "Well, when you do you can't get the information. It's not
5 readily available. It's just a hassle."

6 If there was something like the old STIS, I think that would
7 be nice. I don't think it would be that hard to manage or handle, but I
8 don't know who will come up with the funds to do it.

9 MR. CAMERON: Does the group want to recommend that the NRC
10 at least explore the issue of an STIS-like system and any of these other
11 recommendations we've been talking about? I see a lot of heads shaking
12 affirmatively.

13 MS. MCBURNEY: That would probably be a good idea in
14 conjunction with perhaps on this issue at least, through the conference
15 in helping to put that together or one of their working groups.

16 MR. CAMERON: Great. I guess -- Dick Bangart would your
17 staff at least note --

18 MR. BANGART: We'll do it.

19 MR. CAMERON: Okay. Great. Thank you. Bill.

20 MR. DUNDULIS: Kind of a corollary to Joe's point, if there
21 was such a registry of approved training courses, it might help the
22 states because some of these guys are true entrepreneurs, and it would
23 help us for example in Rhode Island, if Joe's Mowing Service and
24 Radiography Training Company, you know, if Texas, Louisiana and
25 Oklahoma, for example, states that see a lot of radiographers have

1 already pulled this guy's ticket, and if that would be noted, but again
2 with the same thing, not only of approved courses, but if previously
3 approved courses had been unapproved and you know, they were kind of
4 using it as a pyramid to build into other states, because I think a lot
5 of states would kind of look at well, where's most of the radiography
6 done and if these people have approved or conversely disapproved of this
7 training program, we might want to think twice before we become the --
8 that they can use to pyramid into other states. Just a thought.

9 MR. CAMERON: Great. I think we've heard about the Joe's
10 Mowing Service also does training in the medical area so I think we'll
11 talk about that tomorrow. Ed?

12 [Laughter.]

13 MR. BAILEY: California is light years behind in getting its
14 Web site up, but that would be an ideal place and we've discussed with
15 our -- we, certified neutramed techs and X-Ray techs and doctors and we
16 have thought about putting the names of all those people that are
17 certified into part of our Web site because we get a lot of calls from
18 hospitals and clinics and so forth to verify that somebody is in fact
19 certified to do one of those services. This could be done it would seem
20 pretty easily for those of you who actually have your Web sites up and
21 operational, just an inventory of the people.

22 MR. CAMERON: Okay. Another good suggestion. Ruth, do you
23 have any final words for us on this?

24 MS. McBURNEY: No, I appreciate the feedback and the good
25 comments.

1 MR. CAMERON: Okay. Terrific. Let's here about the Mad
2 Scientist. Thank you, Ruth.

3 [Applause.]

4 MR. CAMERON: Don Bunn.

5 BUNN: Yes. Good morning. It's amazing how my talk will
6 tie in. I think we'll see later on that the Mad Scientist certainly is
7 applicable to some of the things that we talked about today and
8 yesterday.

9 Just wanted to pass on that on the flight out from
10 Sacramento, they announced that the movie would Godzilla, and I said,
11 "Gee, it's a long flight, might as well do something interesting, so it
12 might be entertaining." So I rented the headset and here's Godzilla
13 running around tearing up New York and just wrecking the whole place and
14 the hero of the movie, as some of you know, was a scientist employed by
15 NRC.

16 [Laughter.]

17 BUNN: I think that was a very clever bit of PR that NRC did
18 by getting their name out there like that, so congratulations.

19 I'll start out by saying that my talk is really geared
20 towards the agency that only has one representative here, you know, we
21 talked about that yesterday. I hope he's still here, but this is a
22 tribute to EPA for what they did in California. So if we could have the
23 first slide.

24 As you can see I say EPA to the rescue, I hope the final
25 solution for the curse of Dr. Riad Ahmed -- I don't mind using his name,

1 because he's a real nightmare for me and has been for a number of years.
2 If I didn't tell you his name, I'm sure you might here me wake up in the
3 middle of the night screaming his name so.

4 I do say the final solution, but that's really a wish on my
5 part. We did mention earlier about the "Wrongdoer Rule." We don't have
6 that rule in California so we can't let you know that he's a wrongdoer,
7 but if he does design to move to Oregon or Nevada or Illinois, I'll be
8 glad to tell you his whole history before you issue his license.

9 We have to go back in history on this operation. The name
10 of the company is California Bionuclear Corp. It was first licensed in
11 '73. This was a small company that produced customized labeled
12 compounds of tritium and C-14. The company was located in a pristine
13 part of Los Angeles called Sun Valley. They went along fine for a
14 number of years and then lo and behold Riad Ahmed, Ph.D., that's what he
15 claimed on his ap purchased the company in March of 1984. Next slide.

16 I said Ph.D. question, because later on it was alleged that
17 he really wasn't a Ph.D. that he just dreamed that up, but we don't have
18 any proof of that. You notice in history now we're starting to use Act
19 I and Act II because I think that makes it more dramatic.

20 He was named the RSO soon after he bought the company and
21 fired everybody. There weren't that many people involved, two or three
22 chemists. The license at the time he took it over only allowed C-14,
23 tritium, Sulfur-35 and for labeling compounds about two curies, but it
24 also allowed up to 65 curies for storage, you know, that's a lot of
25 activity for a small lab. I don't know why we ever granted that

1 particular item in the license. Of course, your labeling compounds are
2 all liquids, any form. Next slide.

3 Soon after Dr. Ahmed took over we did an inspection and we
4 found a number of violations. It didn't take long. Then in January of
5 the following year -- well, '86 Los Angeles County was big into
6 environmental protection back then. They've sort of changed a little
7 bit here lately, but they had a strike force, much like the police
8 strike force that go out and crash into places and take over.

9 So they had word that there was a lot of volatile chemicals
10 stored here that could cause a problem, and they decided to just raid
11 the place and go in and see what it was all about. As a result of their
12 raid, they discovered numerous violations for improper storage of
13 chemicals and eventually -- next slide -- everything was removed and
14 detonated by the bomb squad. Some of the things that -- this happened
15 to be near a school, so that made the press even that much more
16 interested.

17 After that, of course, the city attorney, who at the time
18 was running for the major or some other elected office decided to press
19 charges against this villain and Dr. Ahmed was found guilty, no question
20 about it, he was guilty. He served time in jail rather than pay his
21 fine. He said, "Okay. Six weeks" or whatever the sentence was, that's
22 the kind of guy he was, he didn't mind jail time if that was an
23 alternative. This resulted of course in the abandonment of the building
24 and the owner was order to pay for cleanup. Next slide.

25

1 We're still in Act I here of our history. After the owner
2 ran out -- pardon me, the owner ran out of money for the clean-up, they
3 did some, Dr. Ahmed wasn't responsible for any of this. He declared he
4 was insolvent or bankrupt or whatever so he did not have to pay any
5 clean-up that I could tell.

6 The EPA came in to the rescue, declared the building a Super
7 Fund site and finished the clean-up and got, you know, irradiated the
8 problem. Dr. Ahmed, however, never had to pay the clean-up costs that I
9 could tell because he maintained that the previous owners were
10 responsible for the situation in the first place. Dr. Ahmed got out of
11 jail and transferred his license to a new location in L.A.

12 I have been an inspector all my life, I could never
13 understand -- well, not all my life, but some of my life, I couldn't
14 understand how this transfer happened, and nobody around that authorized
15 the new location wants to admit it, you might say it was BB, before
16 Bailey.

17 Here we are now. We're in ACT II. He's down at a new
18 location, South Broadway Street in Los Angeles, an industrial area in a
19 small building that he occupies and he installed hoods and fitted them
20 with ventilation system, the chemicals that were at his previous
21 location that he was able to salvage were transferred and secured in
22 approved storage cabinets. I was in on the first inspection or
23 pre-inspection and the place did look good. It was a neat operation.
24 It did look good to begin with. Next slide.
25

1 We did our first inspection in 1989 and we right away
2 uncovered 11 violations, most of them contamination and although he
3 hadn't ordered any tritium, we found that there was plenty of tritium
4 around the place. It had apparently leached out of the materials, the
5 books and so forth that he brought in from his other operation so
6 although he didn't have tritium in his inventory, he had it all over the
7 place. He claimed he didn't, but our lab did verify that.

8 Shortly after we started taking action against Riad Ahmed
9 again, we said that -- we took him to the attorney general system this
10 time. We went to a hearing about him. He stonewalled the hearing. He
11 wasn't represented by a lawyer, so we had to be very careful with him.
12 The judge wouldn't let us badger him like we wanted to.

13 He brought all his papers in a big thick envelope and spread
14 them all over the place and everyone was afraid of contamination because
15 I had told them how bad this guy was so naturally they believed me. He
16 finally did settle this case. We couldn't take his license. He agreed
17 to a settlement. He and Ed Bailey signed the settlement which meant
18 that he would abide by all rules. Next slide.

19 You notice this is Act III. Even though he agreed to this
20 settlement, he didn't really change anything. In fact, he got worse. I
21 wanted to compliment the staff at the Los Angeles County Health
22 Department, Cass Kaufman and Barbara Hendrick who really pounded on this
23 guy to try to get him to do right.

24 They were so persistent that he started refusing entry and
25 you might say "Well, how could he do that?" Well, we've got a picture

1 of his front door and he had stuff on his window so you couldn't see
2 inside and he would just not open his door when we would be out there
3 asking to come in. You couldn't go around the back because there was a
4 big chain link fence and a huge dog. There were no windows in the side
5 so we start running to the police and fire trying to get a search
6 warrant. This is where his rights were starting to be violated
7 according to some and so we were at a loss for getting a search warrant
8 even.

9 We went to the attorney general's office -- next slide.
10 This is his front door, not a very good picture but the windows you
11 couldn't see inside. I'm sure he stood there on many a day looking out
12 at us trying to get in and not opening his door. He was a very small
13 operation. He might have one old car in his driveway, but you couldn't
14 tell whether somebody was there or not most of the time.

15 This is what the place looked like inside after we did get
16 in. I'm very disappointed that I didn't have a slide to show what it
17 was like to begin with because this just wasn't like that. It didn't
18 take him but a few years, three or four at the most to accumulate this
19 type of stuff. Next slide.

20 This is some of his inventory that he had just on shelves.
21 I don't know that he ever really sold anything he made. We tried to
22 find out who his clients were and we couldn't really -- he said some
23 military somewhere, but he would always bring up the fact that he was
24 working on a cure AIDS and that was something that got him loose a
25 couple of time, he was working on a cure for AIDS so people didn't want

1 to interfere with his research. Needless to say he didn't find the
2 cure. Next slide.

3 This is an example of his storage container for liquids, it
4 was just a mess. Next slide.

5 We're still into Act III, right? Fortunately or
6 unfortunately, however you want to put it, an explosion occurred in the
7 lab and the fire department was called out. Now this got the attention
8 of the media as well as the county board of supervisors and all the
9 other people that wanted this to be brought to closure.

10 The fire was extinguished and unfortunately the contaminated
11 items that were inside, the papers and so forth, were dumped in a
12 dumpster outside in the back so we had to go through that dumpster and
13 try to eliminate some of the noncontaminated stuff and we finally gave
14 up on that idea and the dumpster was brought inside the building until
15 we could have it managed properly.

16 The district attorney of Los Angeles was asked to file
17 criminal charges. In the meantime we cancelled Dr. Ahmed's license or
18 he failed to renew or whatever happened, but he no longer had a license.
19 We called him up to a hearing and he had a heart attack, fortunately or
20 however, he didn't make the hearing. So we administratively cancelled
21 his license.

22 Along the same lines he said he could not pay for clean-up
23 costs because he was totally financially wiped out by all this and
24 that's when -- next slide -- oh, this is showing the explosion that
25 occurred. It's not a very good slide, but this is his roof and it kind

1 of blew the whole vent duct thing apart, just -- it was a pretty severe
2 explosion, happened over the weekend, nobody really heard it or saw it,
3 but it definitely happened and that's what really got the impetus going.

4 We're finally into Act IV, the landlord was apparently going
5 to have to pay clean-up costs and he pleaded his case to us, he had just
6 purchased the property and it was a pretty onerous thing for him to have
7 to undertake, and all of a sudden EPA came in to the rescue again.

8 In fact the EPA person that was involved with the first
9 clean-up knew about this or heard about it and came, got on his horse
10 and drove down there and EPA got an eviction notice or whatever, a
11 declaration that allowed them to go in and do their clean up.

12 We have a few slides -- next slide -- of their clean-up in
13 progress. They simply went in and gutted the whole place. They
14 packaged up everything. They took all the hoods apart. They put
15 everything into drums -- next slide. The whole place is completely
16 cleaned, stripped. There's only a few drums remaining that have to go
17 out for burial.

18 There are criminal charges pending against Dr. Ahmed and
19 we're still concerned that there might be materials in his home. We've
20 yet to get search warrants to go into his home to see if he's stockpiled
21 any of these things there, but fortunately for the State of California,
22 EPA did this under their Super Fund authority, and I think the costs are
23 in the neighborhood of a million dollars right now for this clean-up,
24 the second clean-up.

25

1 We talked about the need for Super Fund at least for some
2 sort of funding from NRC to help us with these types of situations and
3 I'm sure thankful that we had EPA to help us. Thank you.

4 MR. CAMERON: Thank you very much, Don. Anybody have any
5 questions for Don or comments about his experiences with Dr. Ahmed?
6 Aaron?

7 MR. BAILEY: Let me tell you one thing, I have told the
8 license reviewers anybody who signs a license with Dr. Ahmed on it or
9 issues a license to Dr. Ahmed that would be the basis for termination of
10 their employment.

11 [Laughter.]

12 MR. BAILEY: I haven't put it in writing.

13 MR. PADGETT: North Carolina has it's share of bad actors
14 too. We have our Dr. Bhatt and other things like this, but one of the
15 things that strikes me that comes back and haunts us from time to time
16 is what's our culpability when we license someone like this, someone
17 that we know is a bad actor, and yet you license him to go into somebody
18 else's building and set up shop and bring all this radioactive material
19 in there?

20 I know it's the owner of the building, it's his
21 responsibility to keep hazardous material out and so forth as much as he
22 can know to do so, but what's the culpability of -- what's the
23 responsibility of the agency in that?

24 One of the things that we're doing, it's just a minor little
25 thing, to try to help in that area is we are now requiring any time

1 somebody comes in for a license, and they do not own the building, we
2 require that they go and get an affidavit from the building owner that
3 he knows that radioactive material is going to be used in his facility
4 and he has no objection to that.

5 SPEAKER: That sounds like a very good idea.

6 MR. PADGETT: There's another thing that we're doing too.
7 It doesn't directly relate to this case, but it relates to some of our
8 earlier cases. We in North Carolina, and if you look, you'll probably
9 find you're in the same boat, we restrict it to licensing persons. A
10 person when you go look at it is somebody like you and I who can prove
11 we exist, have two feet and walk around or whatever, and also any
12 creature of the law that is a person, and that's specifically defined in
13 the state statutes what a person is there.

14 What we found in the past is that, you know, we had our Dr.
15 Bhatt or Dr. Ahmed or whoever come in and say, "Hey, I'm X, Y, Z
16 Corporation and I want a license." We said, "That's wonderful. Here's
17 you license Mr. X, Y, Z Corporation.

18 And what we found out was that X, Y, Z Corporation didn't
19 exist. It was just something that the person decided he wanted to be.
20 We licensed something that was not a person in the State of North
21 Carolina, so we had licensed something that we legally could not
22 license, and when it hit the fan, we had nobody to go against because we
23 licensed a nonentity.

24 So now we require when we license somebody that they go down
25 to the secretary of state's office and provide us -- get a certificate

1 showing that they have registered with the state to do business in North
2 Carolina and that they are a person and therefore we can legally license
3 them.

4 SPEAKER: He was registered by the way. I did check.
5 Toward the end here he changed his name to Centrium, whatever that meant
6 I really don't understand, but you're right if they are registered by
7 the secretary of state, then we can license them.

8 MR. CAMERON: Ruth?

9 MS. McBURNEY: We also do similar type things on checking or
10 making the applicant if they do not own the property get an affidavit
11 from the owner. That wasn't my comment, but my question was, was this
12 latest issuance of a license prior to having financial security
13 requirements.

14 BUNN: Yes, it was. I'm pretty sure we didn't -- the
15 license was expired in '93 and that was a seven-year license so we
16 didn't have financial surety at that time.

17 MS. McBURNEY: It sort of point out the need for that. Also
18 one of the things that we can do is look at the applicant's compliance
19 history as part of that application as well when issuing a new license.

20 MR. CAMERON: Okay. Let's go to Ed and then over to Dave.

21 MR. BAILEY: Talking about financial security, I think Dr.
22 Ahmed and another Dr. Beets that we had are prime examples of facilities
23 that might not have been required to post financial security or would
24 dip down below it, but they're certainly a prime candidate when you've
25 got one owner facility and to my way of thinking we haven't done it yet,

1 is those are the people that really need to be posting financial
2 security because those are the ones that we've gotten really burned on.

3 Exxon has not burned us yet. Westinghouse -- the large
4 corporation can go under, but these one man operations are the ones that
5 when they die or whatever and leave it to the wife or the widow it's a
6 real problem to get them cleaned up and we've paid \$18,000 or something
7 to clean-up another facility where a man just had a rental radium
8 business so these are the ones that I think we need to look at when NRC
9 starts fiddling with the financial security rule, do something inventive
10 and figure out how we get a hold of those.

11 MR. CAMERON: Thanks, Ed. Let's go to Dave.

12 MR. SNELLING: That was my question. What recourse did you
13 have, did your agency have in this case if EPA hadn't stepped in? Out
14 of your pocket?

15 SPEAKER: Yes.

16 MR. BAILEY: That's probably what would have happened.
17 After the explosion he went in and took out a lot of the materials that
18 were there, the wallboard and stuff, and he had it actually in a
19 dumpster in the back, and it was contaminated back there. We got some
20 samples from that that showed, yes, he in fact, did have contaminated
21 material.

22 They actually went through this dumpster sampling for
23 radioactivity and for hazardous materials because Don didn't mention it,
24 there was a great deal of suspicion that this person was -- he certainly
25

1 had the potential to make explosive devices, and there was some concern
2 that he was in fact, doing it.

3 He tried to accuse Cass and Barbara of going after him on
4 religious grounds. That he was Hindu or Muslim or whatever, but anyway,
5 he was being discriminated against because of his religion. That held
6 up the lawyers for a little while taking action.

7 MR. CAMERON: Okay. Kirk?

8 MR. WHATLEY: Just to emphasize what Ed said about a small
9 company, about this time last year, we got a call in our office from a
10 company in Mobile from a landlord who was concerned primarily that the
11 person who was leasing the facility and had not paid his rent in several
12 months, and happened to be one of our licensees involved in industrial
13 radiography.

14 Some of our staff went down and got the building opened up
15 and found I believe, Jim, I think 23 iridium cameras, plus a old cobalt
16 60 camera, had sources in it, that this guy had gone off and left, and
17 he went back home, didn't take his stuff with him.

18 We fooled around here for months trying to find a way to get
19 rid of that. It was going to cost a whole lot of money to have that
20 disposed of and we didn't have EPA to step in. We did have SPEC and Mr.
21 McSherry stepped in, thank goodness. It's not only Mad Scientists like
22 Don talking about it, it could be a gauge in a plant somewhere. What do
23 you do considering the cost of disposal, it turned out to be a lot
24 cheaper for this guy to walk off and leave it, and he never suffered any
25 consequences at all, except he went out of business.

1 MR. CAMERON: All right. Thanks. Let's go to Joe and then
2 to Steve.

3 MR. KING: We face the same problems in Illinois. The firms
4 that posted surety weren't the ones that were causing us problems. It
5 was the widows ending up with the husbands old sources. We had several
6 instances of that. There's one a widow had about 20 sources and we had
7 to take care of it.

8 So we go down to the legislature and say we need some money
9 to do this and they say "Well, don't you require surety? It's in your
10 authorization in your statute." We say "Yeah, but we don't really want
11 to do that." "Well, don't keep coming down here to us hitting us up for
12 this money."

13 That's why we went to this \$300 for two years for all of our
14 licensees and it's in a fund just to take care of these situations in
15 the future. It's a cost of doing business with radioactive materials,
16 and that's the way we're dealing with it in Illinois.

17 MR. CAMERON: Thanks for telling us about that. Steve.

18 MR. GAVITT: Actually, I was just going to ask Joe that same
19 questions. We're in the process of putting together a fee proposal and
20 we looked at Illinois and others and noticed you had that in there and
21 just wanted to ask how that was working?

22 MR. KING: The people are accepting it. The general
23 licensees were just billed though and that fee applies to the general
24 licensees as well, so I have seen a couple of letters. We did warn
25 them, but people usually until they get a bill and so I suspect we'll

1 get more letters, but so far it is working and people have accepted it
2 and they realize it's just for two years and we hope that we'll never
3 have to go back to them. So, so far so good.

4 MR. CAMERON: Thank you. Thanks Don. Those are well
5 designed slides by the way. Let's see if we can get Alice in. Go
6 ahead, Alice, you're on.

7 ALICE ROGERS: My name is Alice Rogers. I'm the section
8 manager of the underground control and radioactive waste section of the
9 Texas Natural Resource Conservation Commission. The TNRCC as you all
10 know is the major environmental agency in the State of Texas.

11 We are an agreement state for waste disposal only. We do
12 air. We do water. We do dam safety. We do public drinking water and
13 release to water, so you kind of get the picture of what we do.

14 I wanted to talk to you today out of a little bit of a
15 selfish reason. I want to try to reduce some phone calls that come to
16 the TNRCC and also to try to help reduce maybe some phone calls that
17 come to the TDH too.

18 I want to tell you first what I'm not talking about. I'm
19 not talking about radioactive waste storage and processing, but what I
20 am talking about is radioactive waste disposal. That's important
21 because we have disposal only and TDH has storage and processing and I
22 don't work for them and I can't speak for them.

23 To describe the problem, there are in Texas as you know a
24 number of RCRA landfills or commercial landfills. There are also about
25 100 municipal solid waste landfills and we often receive calls, and the

1 basic question is, can facility X take this very low level radioactive
2 waste, why?

3 Let me explain a little bit about how waste disposal, low
4 level radioactive waste disposal in Texas is set up. Our statute says
5 that a commercial facility can only be run by a state entity. Last week
6 my commission unanimously denied a license to our state entity.

7 What I'm going to tell you and this is the basic -- you
8 know, they tell you when you organize a speech, tell them what you're
9 going to them, tell them, and then tell them what you told them.

10 My main thing I'm trying to say is Texas does not have a
11 licensed radioactive waste disposal site. Some very low level
12 radioactive wastes that are exempt by rule in Texas can be disposed of
13 at these facilities, but if there exempt by rule, there's no
14 manifesting, there's no tracking, there's no nothing.

15 An example is NRC recently put up their BTP on electric arc
16 furnace dust contaminated with cesium. The TDH put that into a rule as
17 an exemption so electric arc furnace dust that meets certain criteria,
18 contaminated with cesium, can go to these facilities. Now electric arc
19 furnace dusts that contaminated with low levels of Americium cannot
20 because it's not in the rule.

21 Because we don't have any licensed low level radioactive
22 waste disposal facilities, there's not a regulatory disposal presence at
23 these facilities and so the two enforcement tools that State of Texas
24 use which come out of the solid waste disposal acts is first of all,
25

1 these permits all say no radioactive waste may be disposed of at this
2 facility.

3 Then the second thing or the way that that's determined is
4 if the waste comes in with low level radioactive waste manifest for
5 disposal, it needs to be rejected. The second thing is there are
6 radiation detectors at all these facilities.

7 They're typically set a twice background. Our procedures
8 for that have developed as these permits have developed so the waste
9 analysis plans are a little bit different but there are for all these
10 facilities some kind of radiation detector.

11 If the bells go off, the facility needs to do a little bit
12 more work to determine if they can accept it or if it's an incident and
13 they need to call the department of health and report it as unauthorized
14 receipt of waste.

15 To answer the question can facility X take waste Y for
16 disposal, the generators wherever they are need to properly classify
17 their waste. It's their liability and it's their waste. They need to
18 do this in accordance with applicable rules in the state where the waste
19 is generated.

20 We look to the NRC to make sure that those classification
21 rules are consistent and compatible from state to state. There are some
22 quirks from state to state, but when the waste comes to the Texas state
23 line, it doesn't magically get reclassified. It's the generators
24 responsibility and so whatever they say it is, that's the way it comes
25 into the state.

1 We don't have any jurisdictions in other states so if the
2 want to dilute the waste, we can't enforce that. We can say "No, no,
3 no, you can't be doing that." The state where that happens needs to be
4 the state or the NRC needs to be the one enforcing that.

5 I think most importantly where you see this waste
6 classification issue coming up or facilities that want to say under the
7 NRC's rule 40.13(a) for source material that because their waste is
8 below .05 percent of uranium or thorium that it's exempt. Well, NRC has
9 a policy, not a rule, that if this was a licensed material and it's a
10 waste that falls below that percentage, it's still a waste. It needs to
11 go to a low level radioactive waste disposal facility. We don't do that
12 interpretation that way in Texas, but again classification should happen
13 in the state the waste is at and it doesn't get reclassified at our
14 state line.

15 Another issues that's come up pretty often is in Texas can a
16 facility go through the equivalent of the NRC's 20.002 alternative
17 disposal approval. The short answer is sure, on site. The rule in
18 Texas says the licensee can dispose of this alternately on site, but
19 that's not allow for commercial facilities because low level radioactive
20 waste has to be disposed of at a state facility, and at 20.2002 approval
21 doesn't reclassify the waste, it just allows it to be disposed of in a
22 different way.

23 What I want you to remember is there is no commercial, low
24 level radioactive waste disposal facility in Texas. That's it.
25

1 MR. CAMERON: That's good. I guess I would just try to put
2 an issue in context that the NRC is dealing with related to what Alice
3 was talking about and it is reflected best in a situation in a site in
4 Pennsylvania called the METCOA site that was an NRC license site.

5 The licensee went bankrupt, I guess. EPA declared it to be
6 a Super Fund site. The clean-up is going on. There is a whole bunch of
7 material. I think about 10 truckloads of contaminated soils, I think,
8 that is an unimportant quantity under the NRC regs in 40.13(a).

9 There's a number of other sites on our SDMP program that
10 also have these same types of materials so the question we got from the
11 people at that site is we want to ship all of this down to a facility,
12 RCRA facility in Texas. It's a waste control specialist facility down
13 there.

14 So the Commission is grappling with the issue now of is
15 there any requirement for an NRC review for the transfer and disposal of
16 these unimportant quantities, and this also not only comes up in the
17 waste disposal area, but in the recycle area.

18 We have a facility that wants to take unimportant quantities
19 contaminated slag and use it to make cement, I think, or concrete
20 something like that. So the question arises what's the NRC rule in
21 dealing with these unimportant quantities and indeed the NRC role under
22 some reading of the regulations may be different for recycle than it is
23 for disposal even though disposal may be a more benign issue than the
24 recycle issue in terms of public health and safety.

25

1 That issue is before the Commission now for a decision.
2 What's in front of the Commission is a memo from my boss, the office of
3 the general counsel of the agency, raising some of these policy issues
4 and I think you can see what the policy issues are is that -- should you
5 just allow this stuff to be shipped for disposal without taking a look
6 at it in some way, and of course, there's economic issues involved here
7 in terms of the competing waste disposal sites around the country in
8 terms of how much they charge for disposal.

9 I think it's an issue that's going to keep coming up in many
10 different guises and one possibility besides these individual problems
11 facing the NRC now is that there be some rule making to try to address
12 this issue, perhaps not to redefine what an unimportant quantity is
13 because from what I know those were set based on common defense and
14 security reasons rather than public health and safety reasons.

15 So that's what going on at the Commission and it could have
16 fairly, you know, large implications for all of us. Any questions?

17 MR. GODWIN: Just a comment. First of all, Arizona does not
18 have a low level radioactive waste disposal site and I want that to be
19 real clear, but what we get is the question about the stuff that various
20 clean-up operations want to bring in and dispose of in Arizona and the
21 issue becomes, "Well, it's clean you know, but I would like for you to
22 certify that it's clean so we can go ahead and do this." Now I've never
23 had anybody come to me that had clean stuff and asked that questions.
24 It's always somebody who has a question about what they have that asks
25 that question.

1 The real issue turns out to be how well did you sample and
2 what kind of laboratory results do you have and they say a good
3 laboratory. These are usually solid waste. We tell them they've got to
4 follow the statistically valid random sampling method I guess MARSM, and
5 we tell them that they've got to have a laboratory that runs a good QC
6 program. We don't not accept the EPA drinking water laboratories for
7 solid waste stuff.

8 There's a lot of difference in counting a sample of water
9 for Alpha and Beta and counting soil for Alpha and Beta. We have thrown
10 out virtually every laboratory that came in. They really do not do a
11 good job. There's a really crying need for a CQ in our laboratories,
12 and that's where the real problem is. We don't have a low level waste
13 disposal site for NORM or for AEA materials, either one. I appreciate
14 all the offers, but we just don't want your business.

15 MR. CAMERON: Thanks for making that clear, Aubrey. Joe and
16 then Roland.

17 MR. KING: Illinois also does not have a licensed low level
18 waste site, but I do have before me a request from a contractor for the
19 DOE wanting to send some stuff to an incinerator in my state that has
20 some contamination with radioactive material, I know DOE has gone to the
21 E-5 Committee of the conference and they've got a generic ALARA analysis
22 and because you will see a lot more of these requests, so this issue is
23 very important.

24 Chip mentioned this person that had -- we had a person that
25 had DU sand and he was going to make these containers and that was a

1 mess because his whole -- he was going to sell it to the WIPP project,
2 had it all -- he took it as waste though from another company.

3 He thought well this is great because he takes this product,
4 makes money off it and he turns around and sells it to the federal
5 government as a reinforced container and overpack for the WIPP project.
6 It didn't work out and boy were we shocked, yeah.

7 It didn't work out and this firm did not trigger the
8 financial surety so even though he had all this sand, but it was so low
9 concentration and most of it was below five picocuries per gram and we
10 did detailed analysis and again because it was licensed you had to
11 dispose of it as licensed radioactive waste.

12 That's such an important decision what NRC is looking at
13 right now because that's the way we've always done that. Once it was
14 licensed you can't just get it below .05 percent and say "Hey, it's no
15 longer licensed." That's what we were stuck with.

16 What we finally came up with was using the alternative
17 disposal methodology. He did a performance assessment analysis, ran
18 RES/RAD and all of that and proved that at that concentration there was
19 no harmful effect so we did allow that to be disposed of. It wasn't
20 waste at that point. It was sent. It was sent someplace. I think it
21 went to a permitted RCRA site. This is happening all the time and
22 you'll be facing this more and more.

23 MR. CAMERON: I guess there would be a lot of interest if
24 the Commission decides that they want to -- whatever they do on this
25 short term fix that they decide that there's a long term fix needed to

1 these types of situations. It think that the agreement states will need
2 to have you closely involved in this. Roland?

3 MR. FLETCHER: Maryland also does not have a licensed waste
4 disposal site. My fear is that as this problem continues to go on and
5 on and on all of us will have licensed waste disposal sites whether we
6 like it or not.

7 I just wanted you to clarify, you used an interesting term,
8 the "unimportant quantity." I want to make sure that we all understand
9 what that means.

10 MR. CAMERON: It is time for the lunch break, and I am the
11 facilitator.

12 [Laughter.]

13 MR. CAMERON: Perhaps one of the technical staff can --
14 maybe the prototype for the Godzilla movie for the doctor from the NRC,
15 Dr. Don Cool --

16 [Laughter.]

17 MR. CAMERON: There is a provision in Part 40, okay,
18 basically if it's below .05 percent it's treated -- historically has
19 been treated as an unimportant quantity and that was based on
20 unimportant in terms of common defense and security and it could be, you
21 know, freely transferred.

22 For example, disposal is not mentioned directly in the rule
23 as an exception to this, but there's a questions of whether it could be
24 implied and there's also the theory that Joe talked about that if it was
25 licensed, then there's a Part 20 control on that.

1 Does anybody from NRC want to provide a better explanation
2 of that than I just did?

3 MR. FEENEY: I think unimportant quantity --

4 MR. CAMERON: You've got to be at a microphone, John. This
5 is John from New Jersey.

6 MR. FEENEY: I think the unimportant quantity means that you
7 can have what would qualify as source materials, but you can only have
8 only have up to 10 pounds at any one time and in a year you can have no
9 more than I believe 150 pounds.

10 SPEAKER: It still counts as source material.

11 SPEAKER: No, that's not true.

12 MR. CAMERON: I'm not sure about that. We'll get you a
13 better explanation on that, Roland. Jay. I guess the easiest way is if
14 anybody does have a licensed low level waste disposal site, they would
15 just go on record here.

16 MR. HYLAND: Jay Hyland. State of Maine. We also do not
17 have a --

18 [Laughter.]

19 MR. HYLAND: But we do have a compact with the fine State of
20 Texas so this is a question for Alice. What is the TNRCC doing with
21 regards to a site? What's the Next move.

22 ALICE ROGERS: Well, that's the call for the Texas low level
23 radioactive waste disposal authority who was our license applicant until
24 last week. Their statute says that they are suppose to start looking
25 for another site within the 400 square mile box in Hudspeth county, but

1 they are not currently funded by the legislature to do that and so I
2 think that they will be waiting until the legislative session which
3 begins in mid-January and will be over in late May of next year, this
4 coming January, to make that decision.

5 MR. CAMERON: Thanks, Alice. Kirk.

6 MR. WHATLEY: Just to comment on Joe's comment. Material
7 that does not require a license to possess and use can require a license
8 to dispose. Give you an example. magnesium thorium alloys can contain
9 up to 4 percent thorium and be exempt from all the rules regarding
10 everything about them except one thing. You can't reprocess it.

11 The Army has worlds of this stuff that's used with heat
12 shields and helicopters and planes and so on and they sell this as scrap
13 and are not obligated to tell anybody what it is. There's no
14 requirement for transfer, to notify them or whatever.

15 If a company gets that and processes it, then that waste,
16 which might be only a bare fraction of the amount that's in the parts
17 themselves, is material that requires to be disposed of at a licensed
18 radioactive landfill, and we're dealing with a real situation with that
19 right now.

20 You can throw the 4 percent thorium anywhere you want to and
21 get rid of it, but you can't throw the stuff that's only an extreme
22 small fraction of that except in one place and that's a radioactive
23 landfill. It doesn't make a whole lot of sense.

24 MR. CAMERON: Okay. Ed.

25

1 MR. BAILEY: Okay. Just since everybody's making
2 announcements, I wanted to announce that California does have a licensed
3 low level radioactive waste site. If we can just get it out of it
4 owner's hands.

5 [Laughter.]

6 MR. CAMERON: Thanks. Alice, any final comments on this?

7 ALICE ROGERS: Just to remind everybody that Congress is
8 going to look at the low level radioactive waste disposal policy act
9 beginning next session and we all need to think about what we think
10 about waste disposal because we will be asked as professionals.

11 MR. CAMERON: The buffet that they had yesterday is set up.
12 It's going to be running to 1:15 so why don't we be back at say 20 after
13 1:00 and I think we'll pick up some time in the afternoon.

14 [Whereupon, the meeting was recessed, to resume at 1:20
15 p.m., this same day.]

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A F T E R N O O N S E S S I O N

[1:20 p.m.]

1
2
3 MR. CAMERON: We're going to start the afternoon session and
4 we're going to lead off with the compatibility discussion. It's
5 compatibility. How is the staff directive being implemented. We have
6 Tom Hill and Paul Lohaus and then we have a special presentation that I
7 just found out about by someone from, Dr. Ahmed, who is going to be --

8 [Laughter.]

9 MR. CAMERON: -- talking about recommended changes to the
10 State of California licensing process. All right. We can hardly wait
11 for that and I guess I'll turn it over to Tom.

12 MR. HILL: Thank you, Chip. I think I state my bottom line,
13 Terry and the agreement states meeting yesterday just about got my point
14 across on compatibility and addressed it, but I'll stick with what I've
15 got here.

16 Also like others this week I learned how well Roland could
17 delegate since I didn't volunteer to give this. I was surprised, too.
18 With that being my disclaimer, I assume no responsibility for the
19 quality or the content of this topic.

20 The title of this presentation is compatibility. How is the
21 staff directive being implement. The staff directive referred to is
22 management directive entitled adequacy and compatibility of agreement
23 states' program directive 5.9 and its associated handbook, 5.9.

24 As the title of the directive implies, you cannot talk about
25 compatibility without talking about adequacy. This is true particularly

1 when the rule is not required for compatibility, but carries a health
2 and safety designation.

3 Let's first review the policy statement and it's objectives.
4 The policy statement says, "It is the policy of the United States
5 Nuclear Regulatory Commission to evaluate agreement state programs
6 established pursuant to Section 274 of the Atomic Energy Act of 1954, as
7 amended, for adequacy to protect public health and safety and
8 compatibility within NRC's regulatory program."

9 There are three objectives. The first objective to
10 establish the process NRC staff will follow to determine when a proposed
11 or filed Commission regulation or program element should be adopted as
12 the legally binding requirement of an agreement state and whether
13 adoption is required for the purpose of compatibility or health and
14 safety as set out in the policy statement on adequacy and compatibility
15 of agreement state programs.

16 The second objective, to identify Commission regulations and
17 program elements that must be implemented as legally binding
18 requirements by an agreement state to maintain a program that is
19 adequate to protect public health and safety and is compatible with the
20 NRC's regulatory program.

21 The third objective, to describe how NRC staff should apply
22 provision of the policy statement to current and future agreement state
23 regulations and program elements.

24 You all should be asleep by now. That was designed for you
25 to be asleep by now at this point.

1 Management handbook 5.9 describes the criteria and the
2 process that will be used to determine the compatibility and health and
3 safety components of NRC regulations and program elements that an
4 agreement should adopt as an adequate and compatible program.

5 Part 2 of the handbook, categorization criteria, paragraph
6 5, health and safety states, and I quote:

7 "An NRC program element that is not required for
8 compatibility and could result directly in an exposure to an individual
9 in excess of the basic radiation protection standards in category A if
10 it's essential objectives are not adopted by an agreement state is
11 identified as having particular health and safety significance." Long
12 sentence.

13 As stated in Section 9, Part 35, Federal Register notice,
14 the category A designation means the requirement is a basic radiation
15 protection standard or deals with related definitions, signs, labels or
16 terms necessary for a common understand of radiation protection
17 principles.

18 While serving on the steering committee for the revision of
19 Part 35, I have had the opportunity to observe the implementation of the
20 third objective as it relates to applying the provisions of the policy
21 statement to future regulations.

22 The chart of the compatibility category designations was
23 provided to the rule writing group and the steering committee by
24 representatives of the office of state programs. I did not have the
25

1 opportunity to observe the implementation of handbook 5.9 process for
2 determining the compatibility designations for each section of the rule.

3 I did however serve or participate in a conference call with
4 members of the rule writing group and the steering committee at which an
5 attempt was made to respond to concerns raised by David Walter, the
6 agreement states member of the rule writing group.

7 In the last publication of the chart of the compatibility
8 category designations dated July the 29th, I did not see any changes
9 that resulted from the conference call. Now there may have been some
10 and I just missed them.

11 Before we go any further, this is for Kathy's benefit, in an
12 e-mail she sent me the other day -- I want to say that on the whole the
13 revised Part 35 is a good rule. Sure, there may be some tweaking that
14 could be done here or that, but that can be said for every rule. Is
15 that okay, Kathy? Is that what you wanted?

16 [Laughter.]

17 MR. HILL: I wrote that before the e-mail. The problem I
18 have with the proposed revision to Part 35 is what is not published in
19 the Federal Register. When I took handbook 5.9 and applied the criteria
20 to sections of the proposed rule, I did not always reach the same
21 conclusion as NRC.

22 This was particularly true with some of the sections
23 designated as category D, but with health and safety significance. In
24 some instances I agreed with NRC's conclusion, but was my rationale the
25 same as NRC's rationale? I do not know.

1 I expect that my understanding of the essential objective of
2 the rule or section was the same as NRC's for those of which I agreed
3 with NRC's position. Likewise, I expect that my interpretation of the
4 essential objective of the rule differed from that of NRC on those that
5 I did not agree with.

6 So what is missing from the Federal Register notice? Well,
7 it is the NRC interpretation of the essential objective of the rule or
8 section. Without knowing that, it is difficult to comment on the
9 compatibility category designations of new or revised rules.

10 One example that I choose, recordkeeping was mentioned here
11 yesterday, could be another one, take any one that you want. In Part 35
12 rule 35.27 outlines those actions the licensee is to take if the
13 licensee allows someone to use radioactive material under the
14 supervision of another.

15 Two of the specific requirements of 35.27 include requiring
16 the supervised individual to follow the instructions of their supervisor
17 and requiring the licensee to establish, implement and maintain a policy
18 for all supervised individuals that the request clarification is needed.
19 I failed to see that the essential objective of this rule meets category
20 A. A basic radiation protection standard, exposure limit et cetera or
21 how it deals with related definitions, signs, labels or terms necessary
22 for common understanding of radiation protection principles.

23 Why do I believe this is important? Particularly with the
24 category D rules with health and safety significance, category D rules
25 are those rules not required for purposes of compatibility. If however

1 the category D rule is necessary for health and safety prospective,
2 we're required to adopt the rule or it's essential objective or risk
3 having our programs found not adequate to protect health and safety
4 during IMPEP.

5 There appears to me to be a significant increase in the
6 rules in the proposed revision to Part 35 that are designated as having
7 health and safety significance. If this is the wave of the future, then
8 we need NRC interpretation of the essential objective, what was the
9 rationale, otherwise it's going to be difficult to provide feedback.
10 Thank you.

11 MR. CAMERON: Okay. Thanks, Tom. Obviously we're going to
12 be talking a lot about Part 35 tomorrow and specific compatibility
13 designations. I think it's useful that you used that as an example of
14 two generic problems, I think.

15 One is we really need to provide a better rationale in the
16 Federal Register about why we designated something a particular category
17 and look at the objective of the rule. I think that's very useful and
18 maybe we can talk a little bit about that generic issue after Paul is
19 done and open up questions for both of you, is that okay?

20 MR. HILL: Fine with me.

21 MR. CAMERON: Okay. Paul.

22 MR. LOHAUS: Thank you, Chip. In preparing for my
23 presentation today, I thought about the panel I was on last year with
24 Roland Fletcher and if you recall, I came in with about 20 view graphs
25 and probably about six or seven points on each view graph and worked

1 through the presentation and really didn't use all of the material that
2 was there.

3 Roland got up put a single view graph with maybe four points
4 and what I've tried to do this year is use my best efforts to be
5 compatible.

6 [Laughter.]

7 MR. LOHAUS: With that, let me start. Turn on the view
8 graph and really I'd like to start and answer Roland's question and that
9 is how is the staff directive being implemented. I think my answer is I
10 think it's working well. I think the objectives are being achieved.
11 Can we do better, yes, and there are some areas for improvements.

12 Now as with compatibility, you do need to have some
13 flexibility to deal with local conditions and what I've done is I
14 actually have a second view graph, so I'm going to use a little
15 flexibility here.

16 What I've tried to do here is highlight what I think are
17 some of the key points and these come out of both the policy statement
18 -- there's a new policy statement on compatibility and also the
19 management directive and I really don't want to talk to each one of
20 those, but I want to talk about a few of them and go into a little more
21 detail.

22 I want to go down to the third bullet and Tom talked through
23 that and that is that when you look at the policy and you look at the
24 implementing procedures, it talks about both compatibility and health
25

1 and safety. When you look at the development of the policy from a
2 historical prospective, the initial focus was on compatibility.

3 As you'll recall the working group that was set up and we're
4 fortunate today because we have three, actually four, members of the
5 working group in addition to myself, Roland Fletcher, Aubrey Godwin, and
6 also Richard Woodruff served on that working group.

7 The basic charge to that group was to take a look at the
8 program elements and address them from a compatibility standpoint and
9 really adequacy and health and safety were somewhat off limits because
10 the thought was that that was really addressed within the program and
11 the principal elements that -- licensing, inspection and enforcement
12 were the basic ingredients of a state program.

13 What the working group found is as they worked through
14 compatibility, and you all recognize it, the rules that are required for
15 compatibility, each of those rules have a health and safety component to
16 them, but as the working group worked through compatibility and the
17 definition of the compatibility that was used is really a definition
18 that comes out to of the Act.

19 Tom touched on the principal parts of that. The radiation
20 protection standards and uniformity in those standards in the
21 definitions and scientific terms that we use, so we can communicate.

22 Those aspects that have significant transboundary
23 implications, transportation, seal source and device registration
24 certificates. We have assurance that there's good uniformity and
25 assurance across the nation.

1 The third category relates to the other areas where there's
2 need for consistency and when you look at the Act it talks about
3 eliminating conflicts, duplication and gaps in our programs and that's
4 really the third category. The first one as you know is A, the second
5 one is B and the third is C, and everything that falls out from that
6 then is not required for compatibility.

7 So the working group set on its task and as we worked
8 through and looked at the various rules in particular from the
9 compatibility standpoint what we found, and I think the one that really
10 stopped us was the radiator interlocks.

11 There's no real basis if you look at radiator interlocks,
12 it's not a radiation protection standard. It doesn't have significant
13 transboundary implications and it really doesn't seem to create a
14 conflict duplication although there may be a gap from a health and
15 safety standpoint.

16 The working group reasoned that this is an essential health
17 and safety issue that really should be addressed within state programs
18 and from that came the concept that we also need to include health and
19 safety, some of the areas that are important from a health and safety
20 standpoint should also be identified as essential objectives within the
21 rules or within a state program.

22 From that the working group developed a set of criteria and
23 tried to set a high threshold for those items. In other words, we
24 didn't want to have every rule identified as important from a health and
25

1 safety standpoint, but there were a few like the radiator interlocks
2 that were significant and should clearly be identified.

3 If you look at the initial breakout, there's about 1200
4 separate rules that the working group addressed and of that about 1
5 percent, about 130, were identified in the category D, not required for
6 compatibility, but important from a health and safety standpoint and
7 were identified with the health and safety significant category.

8 I also wanted to talk a little bit about the criteria. I
9 mentioned the working group did in working through this reach a
10 conclusion that they really needed to document the basis for the
11 decision that the working group had made and also to try and provide
12 some criteria that those in the future could apply to go through a
13 similar process.

14 And really the criteria have two parts to them. One, it's a
15 process. A series of questions that are asked that take you through
16 from the A criteria on down through D and then when you reach D you ask
17 the question: "Is this of sufficient significance from a health and
18 safety standpoint, that it should be identified as a necessary
19 ingredient from a health and safety standpoint." And then the second is
20 there are specific criteria that were identified for making those
21 determinations.

22 I'll put my last chart up. Areas of improvement or where
23 can we do better. I think one, apply the criteria. I think many cases
24 the discussion that I've had, I keep finding myself saying "Let's go
25

1 back and look at management directive 5.9. Let's go through the
2 process. Let's apply the criteria."

3 The working group has set this up and I think we ought to
4 continue to use that, and as we gain more experience, we may want to
5 make some changes to those criteria or add to them, but I think we need
6 to go back and focus and apply those criteria.

7 The second document, the basis for the category assignment.
8 Tom has really brought that issue into focus and the Part 35 experience
9 very clearly identifies that. We need to provide a better statement of
10 the essential objectives of the requirement and also document the basis
11 for the determination that this is in fact a requirement that rises to
12 the level of being identified as having health and safety significance,
13 and this two failure test criteria may be providing a discussion of the
14 rationale that the staff has gone through in reaching that conclusion --
15 will help provide a more meaningful basis for comment and also help
16 better document the thinking and basis for that determination.

17 Agreement state participation, Terry Frazee -- I wanted to
18 thank Terry, he basically gave the talk yesterday. If you recall, in
19 September of '97 we published a whole set of proposed revisions to the
20 B-7 tables and then in August we made some refinements based on some
21 staff experience and we republished those and provide those to the
22 agreement states for review and comment.

23 Those were finalized in late September and after they were
24 finalized we did receive two comments from the states, but we had not
25 received comments on the earlier package we had made available in

1 September and the comments that we received in response to the August
2 package were actually received after we had prepared the final package.

3 I think agreement state participation is really essential,
4 it's very important. It's necessary at an early time and there may be
5 some things we can do to help insure that there is greater
6 participation.

7 I think as you'll recall in the rule making process Don and
8 his people have documented this, we try and identify the essential
9 objective and try to provide that at an early time including the
10 compatibility aspects for review and comment and we'll continue to do
11 that.

12 But maybe to help in terms of the workload, when we send out
13 a series of charts -- there's a lot of work to go through those -- one
14 thought is that OAF may be identify an individual or individuals that
15 serve as sort as a watchdog or a standing committee that would look at
16 proposed changes and if they see something that's out of line, like
17 Terry mentioned -- Tom mentioned, a recordkeeping requirement that's
18 identified as a health and safety requirement, doesn't make sense. How
19 come? Flag that for some broader review by other states.

20 Another thought as Tom and I were talking though in
21 preparing for today a good suggestion that Tom offered, we have the
22 suggested state regulation working groups, there's chairs for each of
23 those groups.

24 Another possibility maybe that those chairs who have
25 familiarity with the regulations, a good understanding of the technical

1 needs in those areas, maybe they can serve as a mechanism to take a look
2 at the early proposals and look at the assignment and if they see
3 something that's not really in line, flag that and provide that for
4 broader review by a larger number of states.

5 But there may be some things we can do that can help
6 facilitate this, but I think the agreement state participation is really
7 essential. It's reflected in the policy, and it will help insure that
8 later on when these rules are final, that we don't have questions coming
9 up about compatibility and hopefully it will make our job easier. Thank
10 you.

11 MR. CAMERON: Thanks a lot, Paul. We do, I think, all
12 remember the slides that you had from Los Angeles.

13 [Laughter.]

14 MR. CAMERON: These were great. Paul came up with a couple
15 of suggestions for how we might keep a closer eye on what's going to be
16 an ongoing process of compatibility designations, and I guess I would
17 open it up to everybody for other comments on that and also comments on
18 the general issue that Tom flagged about how well are we doing in terms
19 of documenting and explaining the application of new policy. Roland?

20 MR. FLETCHER: I was thinking -- I like the idea of perhaps
21 having an OAS designate to kind of remind everyone, but I'd like to see
22 that become a two-way street because there are lots and lots of
23 documents with lots and lots of dates, and I know that the NRC has a
24 very functional Web page. I know that there's very extensive use of
25 e-mail.

1 There's some documents, whether we like it or not, that are
2 a whole lot more important than others and I would like perhaps to see
3 some kind of a flashing red light when the comment period is within its
4 last couple of weeks or something to say "Hey, guys, you know, the time
5 is going away."

6 I realize the date is in the package somewhere when it first
7 goes out, but believe me no one is not commenting because they don't
8 care. It's because there are so many other things in the pipeline that
9 it just slips off the table, so if we can have sort of a two-way street,
10 whereby we get a further alert from the NRC and at the same time we've
11 designated someone to watch, I think the problem might go away.

12 MR. CAMERON: Paul, any comment on Roland's statement or
13 suggestion?

14 MR. LOHAUS: I think it's an excellent suggestion and I
15 think we can do that. We do use the homepage a lot and there's way that
16 I think we can flag items of importance or new items and we can also do
17 that through the announcements server as well. So I think that's an
18 excellent idea as well.

19 MR. CAMERON: Okay. Other comments? I think -- Terry?

20 MR. FRAZEE: One of the things that bothered me was just the
21 massive volume. It was a huge document to go through. If it's possible
22 to break it down into smaller segments by chapter or section, that would
23 be a little more helpful so we could get a change to go through one and
24 then a month later, okay, we're getting stuck with another one to do,
25

1 but at least smaller things are easier for me to tackle than a huge
2 document.

3 I mean, I really was put off by just the -- I could not read
4 it electronically, but that's a different story, but one was just the
5 size of it. I'd rather do 20 fires, short, small fires that than try
6 and work on one huge one.

7 MR. LOHAUS: Thank you. I think we can address that, too
8 and it may be that the package we published in September and the one in
9 August were really still maybe catching up and hopefully in the future
10 there will be smaller increments, but we can certainly deal with that
11 and hope in that respect.

12 MR. CAMERON: Jake.

13 MR. HALLISEY: I've heard a number of ideas on what we can
14 do to improve our input to the compatibility issue, but I don't know
15 that as an organization we resolved what we are going to do.

16 There's been the options that we just try and do a better
17 job. There's been the options of designating the conference chair of
18 the working group that's doing the parallel rule making. We could form
19 a standing committee and charge that committee with compatibility review
20 of new rules, but to me it's an extremely important issue because I
21 don't like to develop regs I don't have to.

22 I just would like to see some resolution of what we are
23 going to do to address the issue rather than through out idea.

24 MR. CAMERON: Okay. Do you want to say something? No,
25 Cheryl?

1 CHERYL ROGERS: First of all, Cheryl Rogers, Nebraska.
2 Thanks for explaining what the health and safety designation for
3 compatibility D was because I didn't understand that at all and I didn't
4 have time to read that thick package.

5 My suggestion for dealing with the information overload
6 along Roland's lines is there some way of mapping out what's coming over
7 a six-month, nine-month, year period so you kind of -- maybe you won't
8 hit the data exactly, but you would kind of have an idea of where to
9 assign your resources?

10 MR. CAMERON: I'd like to hear Paul's comments on that
11 because there are rule making plans that are in the pipeline that will
12 eventually go out as draft plans to the states for comment. There are
13 proposed rules, final rules, how do we do that now, Paul?

14 MR. LOHAUS: My reaction would be let us explore that. We
15 do have documents that are prepared that identify rule making actions
16 and the broader schedule in terms of the time frames that they're
17 anticipating and maybe what we can do is you know, either provide that
18 document or a subset of that document with rules that are of key
19 interest to you in the time frames that they're coming.

20 What I've found is initially when we revised the management
21 directive, our thought was that most rules would have what's called a
22 rule making plan stage, and that's really a conceptual stage where the
23 basic ideas of what's important in addressing in that rule are
24 identified and also the essential objectives in the compatibility, and
25

1 that would be made available at an early time for your review and
2 comment.

3 And then the next stage would be the proposed rule, but I
4 think what's happening on some of the rules is with schedule and
5 significance and in terms of importance of the rule, we're really going
6 right into proposed rule making space and it's sort of accelerating and
7 you're not having the opportunity to deal with the issues at the rule
8 making plan stage.

9 We will take the issue back and I think there may be a
10 document or documents that we can share that can provide that
11 information. Don or Trish, I don't know if you want to maybe comment
12 here as well?

13 MR. COOL: A couple of comments. This is Don Cool. There
14 are at least three that I can think of different things that float
15 around at various levels. There's the formal regulatory agenda. It's
16 published in the Federal Register, everyone can pull that off. We can
17 make copies available. It probably wouldn't have the kind of useful
18 information that would help you specifically schedule when a given
19 package was coming out.

20 Second item, quite possibly much more useful is the
21 semi-annual rule making activity plan. We go to the Commission every
22 six months updating the overall plans and that includes things which are
23 in pending categories, being developed categories, has depending on the
24 level of detail, some scheduling dates where we project them.
25

1 I think we would have to explore because I don't know right
2 off of the top of my head whether that becomes a public document or not.
3 It may well end up being available and we could make that available to
4 you. That could well do it. You then have the individual rule making
5 plans. Of course, by then it's a little too late because when those pop
6 out they have individual clocks associated with them.

7 Within my division and I'm responsible for the rule makings
8 and the material arena, we have our own internal tracking system. That,
9 as it's configured for us contains a lot of predecisional stuff because
10 it has comments about individual bits and pieces and who has to be
11 touched next and in some cases some of the dirty laundry about who we've
12 got to get and who don't have to get.

13 We'd have to think some more about whether or not there was
14 a way to scrub something like that, but let me suggest Paul that we
15 would look and see if that rule making activity plan that goes to the
16 Commission is available. I am told it is available, and then try to get
17 you all copies of that and take a look and see whether that gives you a
18 little more information about all the things that are in the hopper and
19 roughly when they are -- that may go along ways towards solving your
20 problem.

21 MR. CAMERON: Okay. I think that might solve one of the
22 problems. Going back to Jake's comment and perhaps Roland wants to talk
23 about this, there were a couple of suggestions that Paul through out and
24 I guess the idea is what the most effective one. Roland.

25

1 MR. FLETCHER: Well, I was thinking from the OAS prospective
2 that perhaps the best thing to do at this point is to put the
3 responsibility on the OAS executive committee and from there make a
4 determination or a recommendation on either an individual on the
5 committee to fulfill this role from the chairman, the chair elect or
6 past chair or secretary or solicit state individuals who might be
7 willing to fulfill this role. But I would take the responsibility for
8 following through as Jake has indicated on the OAS executive committee.

9 MR. CAMERON: SO this is an action item for the OAS
10 executive committee? Okay. We have some cards over here, but Tom, did
11 you want to say something?

12 MR. HILL: I was going to respond to Jay's comment as far as
13 the SR council chairs following up on it. That would require an
14 additional charge being given to those council chairs and the approval
15 of the board before that could take place.

16 SPEAKER: What about T-mail?

17 MR. HILL: I don't have access to T-mail thank goodness.

18 MR. CAMERON: The comment from the audience was what?

19 SPEAKER: T-mail.

20 MR. CAMERON: E-mail?

21 SPEAKER: T-mail. It's conference specific.

22 MR. CAMERON: All right. Kirk, you want to say something.

23 MR. WHATLEY: Roland, regarding your comment, I would hope
24 that you know if it is given over to the OAS executive committee, I
25 would still like to have the opportunity to comment on these things. I

1 don't see very many comments. I do read a lot of the stuff, not all of
2 the stuff, but if I had a comment, I would like to have the opportunity
3 to send it in particularly with Part 35.

4 I may be the only one here who has a lot of different ideas.
5 I certainly disagree with Tom in his opening statement that he made
6 today about Part 35 and a lot of things regarding compatibility matters
7 I disagree with, but I'm not sure to what degree this executive
8 committee can speak for me. I want to reserve that right to comment on
9 that myself. I just ask that continue to be done.

10 MR. FLETCHER: I was not making the recommendation that the
11 OAS speak to the executive committee speak for all of the agreement
12 states. What I was saying we need a mechanism to alert us when
13 something is due and I think that should be at least initially the
14 function of the OAS to find those things, to be on the alert for those
15 things and notify the states "You've only got 10 days in order to
16 comment." I was not suggesting that the OAS make the comments for you.

17 MR. CAMERON: This is all one part of the problem and David
18 may be is going to say something about the other part of the problem,
19 but the other part of the problem being is that the NRC has to make sure
20 that it in a user friendly way as Terry points out clearly explains what
21 the compatibility designations for a particular item are going to be.
22 David?

23 WALTER: One of the things that I want to make clear to all
24 of the agreement state staff members and it's become very evident to me
25

1 in working on the working group for Part 35 with the NRC that when you
2 make you comments, numbers count.

3 If you send in one letter from your state that represents
4 the thoughts of everybody on your staff, you've shorted yourself by
5 however many staff members had thoughts, and you need to have those
6 individuals send in a letter as well because when you take a look at the
7 things that we got on Part 35 with the only difference being the
8 signature, and it's the exact same letter from 400-and-some-odd people,
9 it counts 400-and-some-odd different times. We need to consider that
10 first.

11 Secondly, I want to make sure that all the staff members
12 realize that the entire rule is up for comment. If you see something
13 and it may pain some of us, including me sometimes to say that
14 occasionally, the NRC has some good rules. We need to let them know
15 that because if we don't, and somebody else out there sees it and thinks
16 it attacking them directly, and says a comment against it, we haven't at
17 least evened it out and that means that that part of the rule is subject
18 to being dropped. If you see something good, let them know about it.
19 If everybody on your staff see something good or bad, let everybody send
20 a separate letter.

21 MR. CAMERON: Yeah, we're going to get into Part 35 tomorrow
22 obviously, but just take David's comment a little further.

23 The transcripts from the Part 35 workshops are available and
24 if you want to take the time to look through those, you'll see what
25 other people have been saying about the particular provisions in Part 35

1 so if you just looked at the rule and you were going to send a comment
2 in, you might not anticipate something that could become very important
3 so there is an early warning system in the transcripts, but of course,
4 that's a lot of work to go through too.

5 MR. PARIS: This is Ray Paris from Oregon. When I was on
6 the board of directors for the conference, I developed a parallel
7 process rule making and I laid out step by step flow chart and if I
8 could suggest that the chair look at that and follow-up on that parallel
9 rule process, that gets it at the very infancy state of rule development
10 and it goes back to the SR council chair who then designates another
11 person, they will forward that to the appropriate committee and that can
12 come back. I think the process is there, we're just not using it. So I
13 encourage the chair of the conference to dust that off and implement
14 that.

15 MR. CAMERON: Okay. Why don't you put that one on the
16 record.

17 MR. COLLINS: Steve Collins, CRCPD chair. The chair did
18 address that issue at the last board meeting and advised all the council
19 chairs particularly the one for the SR group, to bring it to the
20 attention of their different people to be much more timely in the
21 development of the model rules and to follow the parallel rule making
22 process as much as they could.

23 MR. CAMERON: Jake, do you feel a little bit better about
24 the fact that some recommendations might be followed up on or do you
25 still have some --

1 MR. JACOBI: It's fine. My concern wasn't that somehow
2 somebody is going to write a stance on compatibility and we're all going
3 to say thank you very much, it's just to make sure that there is at
4 least one response to each issue and however the committee wants to do
5 it, that's fine with me, although I'd suggest they e-mail the response
6 out to everybody because some friends I have around the country, we
7 e-mail comments to the NRC back and forth and it's nice to be able to
8 cut and paste in this electronic age and say "Me, too."

9 MR. CAMERON: Paul, do you have any other issues you want to
10 raise with the agreement states, any information you need?

11 MR. LOHAUS: No. I think it's been a good discussion and a
12 lot of good ideas. I thank everybody.

13 MR. CAMERON: Okay. Thanks to Tom and Paul.

14 [Applause.]

15 MR. CAMERON: We're going to go through a series of reports
16 from NRC teams, workings groups and committees. One is going to be
17 incident response and Sam Pettijohn is going to do that for us. The
18 next is terrorism threat, John Davidson is here to talk about that. The
19 last one is nuclear byproduct material risk review, Trish will handle
20 that one. Since they're all separate topics really, we'll go to each
21 person after their presentation for questions and comments. Sam?

22 MR. PETTIJOHN: As you can see on your schedule and as you
23 saw earlier this is actually Tom McKenna's presentation and he asked me
24 when I was getting read to lead if I would mind bringing his slides for
25

1 him and that he wasn't sure that he wasn't going to be able to make. I
2 should have taken that as a hint that he was not going to make it.

3 The other reason I did it, Tom -- I had spent the last two
4 years prior to coming back to our group in IAEA and he told me he'd help
5 me change --

6 [Laughter.]

7 MR. PETTIJOHN: I am in the same group as the NRC operations
8 center and I have had a number of discussion about how the operations
9 center responds to materials events primarily because i was one of the
10 few people within AEOD who had worked int he material area for a long
11 time.

12 AEOD which runs the operations center is mostly made up of
13 reactor staff and a lot of their experience has involved responding to
14 reactor events, but as you know if the last several years, there's been
15 an increase in the response to material events.

16 What this brief presentation I have is about is to give you
17 information on a self-assessment group that is looking at how the
18 operations center essentially responds to nuclear material events.

19 It's very brief. It's basically three main points I want to
20 make. One is just to kind of briefly say what it is they're doing.
21 They have shared -- there is a report that is coming out -- and they've
22 shared some of their recommendations and thought process, what they're
23 thinking about in terms of the report and then some general information
24 that they just wanted to get out to the states.
25

1 Basically self-assessments means that someone identifies
2 something is wrong and of course, they're going to try to find out how
3 to improve it. The main point here is there will be a report that will
4 be made available to the agreement states for peer review. I want to
5 put Tom's name back on it. If you have any comments if you would, if
6 you would send them to Tom McKenna at his e-mail address there. Also
7 there are handouts on the table there with the slides.

8 Basically, they wanted to find out what was wrong and try to
9 improve it. There are issues that have come up in terms of whether all
10 the things that are reported to the operations center should in fact be
11 reported. You know in the materials area in terms of what's been asked
12 to be reported are things that would require immediate notification --
13 there are things which the materials licensees would be required to
14 report to the state immediately. Those are the event that asked to be
15 called into the operations center.

16 One of the questions is whether or not those are in fact the
17 things that should be called in. They're questions about whether or not
18 NRC responds correctly to material events. These are all things that
19 everybody has talked about from time to time.

20 These are just other recommendations that had to do with how
21 to improve things and I guess the obvious thing you come up with is
22 maybe you ought to do more exercises and see if we're really capturing
23 what happens in a material exercise versus a reactor exercise and so
24 these things appear to be pretty much on the right track. Of course,
25 looking at better coordination with the states in terms of training.

1 Then basically said okay let's just talk about some things
2 that we know that we really do for the states and these are things you
3 probably may not agree with, so I said "Okay, Tom. I'll say that but
4 they may not agree with all those things."

5 Basically though the operations center looks at this
6 actually as a facility that can help coordinate events in various way,
7 responses to events either by contacting additional agencies, setting up
8 fly-bys for DOE and so forth.

9 Also, providing some interfaces, when necessary, with the
10 public -- I don't know if you buy off on that added credibility
11 statement or not, but I think you get the main point.

12 Now, there was one bit of information -- I say that always
13 in a presentation there should be at least one absolute fact or
14 substance that you should get out of it, and so, I was glad to see that
15 it says, okay, factually, NRC -- I said, well, they may not always agree
16 with this either, but NRC says, well, we have participated in these
17 events, and one of these was discussed this morning, and I said, Tom, I
18 don't remember hearing the NRC participating in the North Carolina
19 event, but he said that, well, yes, we did, but we helped set up the DOE
20 fly-by.

21 But the main point he did tell me, though, to emphasize --
22 and this is a serious point -- is that -- ask that, in calling, making a
23 request to the NRC and calling the operations center, please call the
24 operations center and not someone that you know, and we do know of a
25 case where that actually has happened on a couple of occasions, in which

1 a person was called and the call went on their voice mail and they were
2 out until the next Monday, I believe.

3 So, that is one main point that I was asked to emphasize,
4 and that concludes my presentation.

5 MR. CAMERON: Okay. This appears to be a fairly important
6 area for state input. So, I hope we take advantage of that, and I think
7 Aaron has a clarification on the Moses Cone?

8 MR. PADGETT: Yes. This is Aaron Padgett, North Carolina.
9 The NRC did participate in the Moses Cone incident. You
10 supplied an on-site coordinator, Chuck Hosey, out of Atlanta. You
11 supplied a public relations person, and this wasn't just Monday through
12 Friday.

13 Whenever this -- we got started in the actual search, it was
14 somewhat late in the week, Thursday morning, if I remember right, and we
15 went through the weekend, and these folks were there through the weekend
16 with us, and so, the NRC was very involved in that Moses Cone response,
17 and again, we had some concerns about it, we did not want it to spin out
18 of control, and it did not.

19 So, we were pleased, very pleased with the way that came
20 down.

21 MR. CAMERON: Sam, you may be a little bit too optimistic in
22 sitting down back there just yet, but can you give the states an idea, a
23 timeframe when they might be asked to comment on the draft report?
24
25

1 MR. PETTIJOHN: They're expecting the draft to be out in the
2 first of the calendar year, around January, and so, around that
3 timeframe is when we expect comments.

4 MR. CAMERON: Okay.

5 MR. PETTIJOHN: I went through this pretty fast, but I
6 understand it's a very important area and a lot of interest is in this
7 area.

8 MR. CAMERON: Okay. Great. We're going to go to Roland and
9 others, but it seems that maybe Sam can carry back some comments now
10 that they should take into account in preparing the draft report, and
11 you also have Tom McKenna's e-mail address.

12 Roland?

13 MR. FLETCHER: Roland Fletcher, Maryland.

14 I was wondering -- we recently, earlier this month,
15 participated in an incident response exercise involving a radioactive
16 materials transportation accident. It was set up by DOE. In fact,
17 initially, it was set up by DOE through one of our counties, without
18 even coming to the state level.

19 When I informed Dick Bangart, they hadn't informed him
20 either. So, is there anything that is being done to try to improve the
21 coordination for -- if we can't get exercises properly communicated, I'm
22 worried about incidents.

23 MR. CAMERON: Sam probably doesn't have a comment on that,
24 but I think that it's something the NRC should pay attention to.

25 Well, let's go out here and then we'll go to Aaron.

1 McNEES: I'm Jim McNees with Alabama.

2 My question, for clarification, is what happens when there
3 is no known licensee?

4 As far as the media notification, they asked us to call the
5 ops center if the licensee is required to notify within 24 hours. If
6 the licensee is required to notify within 30 days, we're now to put it
7 on NMED, to notify them that way, but if there is no licensee, then no
8 one is required to ever notify, and that case appears to non-addressed.

9 It wasn't that long ago that we found the end of a moisture
10 density gauge. Americium and virilium and a cesium source, I believe,
11 were both in it. No, it was just a cesium source out of the end of a
12 moisture density gauge cam into Birmingham, Alabama, on the back of a
13 gondola full of scrap metal, but there is no licensee, there's no idea
14 who put it out there.

15 What's the policy, or shouldn't the policy address
16 notifications when there is no known licensee?

17 MR. CAMERON: I guess -- two questions. Does anybody have
18 some thoughts on that, and secondly, Sam, is that the type of thing that
19 would be appropriate for this particular report to address? Will it get
20 into that type of detail?

21 MR. PETTIJOHN: Yes, I can actually respond to that, because
22 a lot of, you know, what is reported to the agreement state has to do
23 with the collection system that I'm part of, which is part of collecting
24 information from the nuclear material events database, and for NRC
25 licensees or non-licensees, we treat the event -- if the requirement

1 meets -- the amount of material lost is the amount that exceeds the
2 limits in Part 20, we treat it as a licensee even though it's actually a
3 non-licensee, and that's what we -- we've typically done that for the
4 last -- about last 20 years, and I know I did briefly -- Jim and I kind
5 of talked about that a little bit.

6 It's very confusing, there's nothing very definitive on
7 that, but we do get a number of reports that come into the NRC from
8 common carriers, sometimes scrap metal facilities, sometimes members of
9 the public that actually call into the operations center, and they're
10 non-licensees, and so, we were expecting that the agreement states would
11 treat that similarly, in a similar manner.

12 MR. CAMERON: Okay. Thanks, Sam, and I have to apologize to
13 Aubry, because he was part of this panel, and I just blanked that out,
14 and I'm sure that he has some good words for us, and we'll go to all the
15 cards, but let's have Aubry speak first.

16 Thanks, Aubry.

17 MR. GODWIN: That's all right. Don't worry about it.

18 The state portion really is covered pretty much on the
19 handout. On page two of the handout, there's two slides that talks
20 about how this initiative is going to affect the states.

21 I did ask for comments from states. I got a bunch, and it
22 pretty well matches what you see here. I'd just like to give a few
23 comments on that.

24 One of the comments was that they wanted more participation
25 in exercises. It's nice if you've seen some of the people you're going

1 to be dealing with in a real emergency a day or two before that. You
2 just get a little better feel about it.

3 Doesn't mean we can't deal with you when you walk in cold
4 off the street, but it sure is a lot easier to work with, and I think
5 that really works both ways. The people at the NRC feel a little bit
6 better when they come into an area where they've been before.

7 Second area has to do with actually how the role of the NRC
8 will be when they're working in an agreement state.

9 I think we generally understand that pretty clearly, but
10 sometimes people who do not work with agreement states routinely do no
11 have a good feeling for that and it might be good to have some of these
12 exercises to give them a chance to participate and understand the
13 differences in roles.

14 The one area that really elicited most of the comments was,
15 whenever we have an incidence where we do a real good job of reporting
16 it to the NRC and to the operations office and all of a sudden, within
17 about 30 minutes, I'm getting a call from a local newspaper saying
18 what's this incident NRC is talking about on the internet.

19 Several states had a problem where they had gone -- made a
20 report and operations had hit it on the internet and, sure enough, some
21 sharp reporter has called in -- has picked it up off the internet and is
22 now calling you for information, and usually, it's early on in an
23 incident, whenever you're still dealing with what I like to call the
24 rumor phase.

25

1 The first reports generally are 80-percent wrong. It's
2 after you get into it you really begin to get the meat of it. So, you
3 really would like not to go press-wise until after you have a little bit
4 of confirmation of what's really happening out there.

5 It was pointed out to me pretty early on, when I brought
6 this issue up to the group, that we really have 24 hours to get the
7 reports into NRC.

8 Simple suggestions:

9 Number one, wait 24 hours.

10 Suggestion number two, do it in writing. Then you don't
11 have a problem with mis-translating or -- they can't understand the
12 Arizona accent very well sometimes up there. So, you've got to get it
13 right.

14 Just do a quick type-up job, run it through the spell-check,
15 do all those little kind of things, think about it, gives you a chance
16 to really stop and make sure you're covering everything, too, really
17 helps you. Then you can send in a report.

18 Then, when they call back, you know what the press is
19 looking at and you're looking at and it's okey-dokey. Well, maybe it's
20 not okey-dokey, but it's a whole lot better.

21 Now, remember, if you need aid or assistance, don't wait 24
22 hours for it. That's a different issue altogether. You're not going in
23 with filing these incident reports at that time. You're asking for
24 help. You go in asking for help and you handle it a little differently.
25

1 Just be sure you don't go through an operations officer that will want
2 to put it on the internet when you make that aid request.

3 A couple of other issues that are coming up:

4 There is a question that needs to be -- and it probably is
5 well resolved and I'm just not aware of it. When a licensee has a
6 safeguards-type problem, the similar issue is how do they keep that from
7 hitting the internet, and that's an internal NRC issue.

8 Where we get into it, if we do a situation where it's gone
9 criminal, sometimes, as you heard on some of these other reports, you
10 really don't want publicity just yet. You want to release the publicity
11 in a way that will most likely help you catch the individual involved if
12 it's a criminal activity.

13 Those issues, the criminal issues, I'm not sure exactly how
14 we're going to deal with that, but that is one of the issues that we do
15 need to address in these reporting things.

16 You need to understand, this whole reporting system was
17 encouraged by Congress as a part of their things in trying to make the
18 Nuclear Regulatory Commission, starting back at the AEC level, to be a
19 more open operation, and so, the basic operations of the NRC are to have
20 everything in the public record wherever possible. So, you have to
21 really justify why not you're not making a public record.

22 Criminal activity would be one of those areas where you'd
23 need to look at.

24
25

1 The report, the last version I saw of it, should indicate
2 some of the cost by states, in major incidents, are equal to that of the
3 NRC.

4 The specific example was the Mexican rebar incident.
5 Actually, I think you find the cost by states was more than the NRC, but
6 I didn't have any data to get into the report at that time.

7 But it is important, I think, when this report comes out,
8 that it does reflect the fact that the states have a monetary vested
9 interest in instant reporting and handling.

10 MR. CAMERON: Okay. That's great, Aubry. That was a vital
11 part of this effort. And let's go to Aaron and then to Ken and to Dave,
12 and then we'll go out to the gentleman from Alabama.

13 Aaron?

14 MR. PADGETT: Just some general comments, for what they're
15 worth.

16 Number one, I dislike dealing with the ops center. I really
17 just don't like dealing with the ops center.

18 Why is that? Well, it may be all my problem, but based on
19 my experiences over the years, I just simply dislike dealing with the
20 ops center. I would much prefer to pick up the phone or send an e-mail
21 to somebody like our region representative, somebody who has health
22 physics background and you can talk with, you know, from that
23 perspective and he understands what you're saying and you understand
24 what he's saying.
25

1 I'm not quite sure how to overcome that. I've had many
2 years experience dealing with the ops center, because before I got --
3 came over to the state, I was in the nuclear power end of it for many
4 years and the ops center was, you know, what we dealt with, and again,
5 that was different, didn't really mind it then, but in the role I'm in
6 now, I dislike dealing with the ops center.

7 Point number two -- and again, remember, all of this may be
8 my problem, 100 percent of it. None of it may be the problem on the
9 other end.

10 But number two, there seems to be a Chernobyl mentality in
11 the ops center, and again, this may be all my problem, but it seems to
12 me that, if that's going to be our mechanism for getting incidents and
13 events and other things like this out to the NRC world, then somehow we
14 have to get past this Chernobyl -- what I call the Chernobyl mentality
15 there.

16 You know, the world isn't going to blow up as a result of
17 most of these incidents and events that we're involved in. Most of them
18 are fairly low-key, minor things, and maybe there need to be some -- and
19 you've probably already done it, and again, this may be all 100-percent
20 me, but it seems to me we need some exercises and other things like this
21 where the ops center is dealing with these small, minor events and not
22 the fact that we just melted down a reactor, and -- just some general
23 comments that I have, but on my experience dealing with the ops center,
24 I just dislike it, prefer not to.
25

1 So, as a customer, if I had an alternate choice, I'd take
2 it.

3 MR. CAMERON: And Aaron, you provided some little bit of
4 flavor as to why you don't like to deal with them by talking about the
5 sort of Chernobyl attitude. Is there anything in terms of with an eye
6 towards whether anything can be changed -- is there anything else you'd
7 like to say about why you don't -- in addition to what you have already
8 said?

9 MR. PADGETT: I've made my points.

10 MR. CAMERON: Okay. Fine.

11 Do you want to respond -- or not respond but say something
12 on that, Sam?

13 MR. PETTIJOHN: Well, yes. The reason I did is because I
14 was one of the people, initially, several years ago, when we were -- had
15 some input into changing -- working with Office of State Programs and
16 recommending that all material events are reported to the operations
17 center rather than through the -- our SAOs, regional agreement state
18 offices, and the reason for that -- at the time, the office director, Ed
19 Jordan, recommended that primarily because we found, in some cases, that
20 events were reported to regions and someone was either away from their
21 office and other things happened, and there were several events that
22 happened like that in which no one found out about it until maybe the
23 weekend.

24 That was initially the impetus for looking at reporting it,
25 since it had worked well for reactors.

1 Now, the other part of the statements I agree with, and I
2 think people within AEOD have been aware of this, and particularly in
3 the operations center, that they are learning to deal with material
4 events differently than they do with reactor events, and part of the
5 self-assessment is to start to address just those issues and including
6 some additional training and increasing exercises, and so, that's been a
7 topic that's been going around for a good while.

8 So, I think you will see some improvement in that area.

9 MR. CAMERON: We'll go to -- I think Aaron may have a
10 followup, and I'd like to get Aubry's views, but is this issue that
11 Aaron brought up -- is that something that is specifically flagged in
12 the report?

13 MR. PETTIJOHN: It is definitely flagged in the report in
14 that -- you know, trying to, one, look at better coordination with the
15 states, additional exercises, having reality introduced into the
16 exercises.

17 MR. CAMERON: And perhaps a different -- I don't know --
18 attitude is sort of at the bottom of your things.

19 Aubry, do you have any comment on Aaron's point?

20 MR. GODWIN: Well, we've always looked at that as just the
21 mechanics for reporting and did not expect any real conversation on
22 health physics, because we understand that's not where you get that.

23 If we want to talk about the health physics of the stuff and
24 actually, you know, doing the job and things like that, we go to our
25 regional rep or we talk to somebody else that we know.

1 I can understand his feeling, because you ask them many
2 questions, you really don't get any answers. They got to get somebody
3 else and call you back.

4 MR. CAMERON: Okay. Thanks, Aubry, and thanks, Sam, and
5 let's go to Ken and then over to Dave.

6 MR. WANGLER: Just by coincidence, we had an incident last
7 week, and it was called into the ops center right away. It involved a
8 routine maintenance on a weapon up at the Minot Air Force Base and
9 something leaked and they weren't sure what it was, and they're still
10 not saying it, as far as I know, but you know, I don't that I agree with
11 waiting 24 hours to call it in.

12 To me, it seems like, when you're going to get surprised,
13 it's better to be surprised from the bottom up than from the top down,
14 and so, we felt like we should let NRC know immediately.

15 We had been alerted by the Division of Emergency Management.
16 Their information was very sketchy, but whatever they told us we just
17 kind of passed on up the line, and I don't think that the ops center
18 handled it all that badly.

19 I got a call from Dick Bangart about two hours after we
20 initially heard about it, and he asked some questions. I don't think it
21 got blown out of proportion.

22 I'm sure there was some concern because of the unknowns, but
23 I think it's important to provide some kind of a mechanism to get the
24 information in quick.

25

1 It's really embarrassing to be at the top and hear about
2 something from somebody who you don't know or who has no control over
3 it, as I'm sure all the managers like to hear things come from the
4 bottom up, knowing that somebody responsible has got some control over
5 it down at the field level.

6 So, that's my thoughts. I don't think it's a good idea to
7 wait to turn in information, and I guess I didn't have the problems with
8 the ops center that some people have had.

9 MR. CAMERON: Okay. Thanks for that different perspective.

10 Aubry, do you have anything on the 24-hour issue again?

11 MR. GODWIN: I think, you know, it's up to you to decide how
12 long you want to wait. You have up to 24 hours. We don't routinely
13 wait 24 hours, I might add, but you know, you play each one by how it's
14 developing as to when you get it in.

15 But we always have a written form to send in to them. We
16 always have something in writing to give them. We do not send it --
17 given them just the normal call-in. We feel that a written message to
18 them and then call up and ask if they've got if they've got any
19 questions about it is the best way to go. That seems to get the best
20 results. It gets distributed quickly.

21 They are very professional, but quite often, if you've got
22 information that you want to ask in the health physics-type nature,
23 they're going to refer you to somebody else.

24 MR. WANGLER: That's probably a good comment. We did fax
25 information in to them. They had something on a sheet of paper.

1 MR. GODWIN: Yes.

2 MR. CAMERON: Okay. Let's go to Dave and then to Eddie.
3 Dave?

4 MR. SNELLING: Yes. I kind of agree with what Aaron said.
5 It's a perception that I have when I've made some calls,
6 that if it doesn't deal with steam generator level or reactor coolant
7 pump, you know, that it takes kind of a -- and again, a perception -- it
8 takes kind of a second nature, and -- you know, because they are used to
9 dealing with and are attuned to dealing with the reactor problem, a
10 perception.

11 Recently, we got -- we sent in comments from another Federal
12 agency -- or for another Federal agency, FEMA, who was doing a strategic
13 review, and one of the issues was more Federal agency participation.

14 With what I see here and these recommendations, how will
15 this recommendation be coordinated with the FEMA effort on getting more
16 Federal agencies involved in these exercises, and what does that really
17 mean?

18 Does that mean that, you know, every year that we're going
19 to have an exercise in Arkansas, that there will be Federal agencies?
20 You know, I don't know if that's the right thing to do or not. I
21 sometimes doubt it.

22 But I think they should be more involved than they have been
23 in the past.

24 Also, Aubry mentioned that -- what does support mean,
25 support from the NRC? I really don't know what that means.

1 We had a little event Wednesday, and we reported it. It was
2 a stolen gauge.

3 We reported it, and then, all of a sudden, we were told to
4 call the FBI, that headquarters was going to call the FBI and we should
5 call the FBI regional office and get them involved, and this
6 coordination and such -- and I talked to John Davidson a while ago about
7 it and I told him I was going to bring this up.

8 So, maybe it's more appropriate later in the discussion, but
9 I have a real problem with getting -- with us getting the FBI involved,
10 because all of the sudden, I may be in the middle between a local law
11 enforcement agency like Little Rock police department and the FBI, and I
12 don't want to be there, that's not a place that we should be, and so, I
13 have a real concern about that.

14 Anyway, these are some of my comments.

15 MR. CAMERON: Good. Well, let's make sure that -- because
16 that type of happening may go on more in the terrorism area, let's maybe
17 defer that but talk specifically about that.

18 But go ahead, Aubry. You have a comment?

19 MR. GODWIN: That does bring up a point. It does take us
20 into the terrorism area, and we ought to get to that soon, but the FBI
21 is the lead agency on terrorism, and so, anything that might touch upon
22 terrorism gets reported to the FBI.

23 Our local indications are that they won't supersede the
24 local jurisdiction until it's something pretty clear that it's
25 terrorism, but -- so, you shouldn't be involved in that.

1 But notifying them -- I believe we did receive some
2 information from NRC that those kind of incidents we should be reporting
3 to the FBI.

4 MR. SNELLING: And that was done, and we very well may not
5 be in the middle of it. The local office may not have responded. As of
6 last night, I didn't know, and I haven't talked to them today.

7 MR. CAMERON: Okay. Well, let's revisit that again when we
8 get to John.

9 Eddie?

10 MR. MANNEY: There were two purposes to my comment.

11 One was to follow up on Aaron's comment and to second what
12 he had to say about calling the ops center.

13 Dick Woodard, our regional agreement officer, the State of
14 Tennessee, and me, in particular, were absolutely incorrigible when that
15 process for calling the ops center was first instituted. We refused to
16 do it.

17 We picked up the phone and called Dick, if he was there,
18 talked to somebody else, talked to Trojanowski or Dave Collins or Doug
19 Collins or Chuck Hosey or whoever was there, you know, we talked to
20 them, because we knew we could get some intelligent information back
21 from them.

22 Our experience early on with the ops center was really,
23 really bad. It's gotten better since then.

24 The first few times we called them, we called just with a
25 verbal notification, and we got back questions that had no relevance

1 whatsoever to what we were reporting, incomprehensible questions
2 sometimes.

3 It got a little bit better. Later on, we finally decided
4 that the thing to do was don't call, fax, first of all, fax the
5 information to them, and it has gotten somewhat better.

6 I still would prefer, given the choice, to pick up the phone
7 and calling Dick or whoever is in Atlanta that we routinely deal with,
8 but we will, you know, try to cooperate with NRC on calling the ops
9 center, if that's what you really want, but you're probably going to get
10 faxes from us.

11 The second part of my comment related to Aubry's comment
12 about if you really needed help. How do you call the ops center and get
13 someone that's going to get you the help that you need without going
14 through what we used to always have to go through when you call the ops
15 center?

16 MR. GODWIN: I said don't call the ops center for help.
17 Call somebody you know outside the ops center.

18 MR. SNELLING: Okay. But now, we're being told, the handout
19 right here, to call the ops center if you need aid. I mean that's a
20 pretty straightforward request or instruction.

21 MR. CAMERON: Don't

22 MR. COOL: In fact, I would suggest that you can call the
23 ops center.

24 Don't say, necessarily, that you're reporting an event, but
25 the ops center serves as, if you will, almost a central nervous system,

1 and you can ask the operations officer to get the regional person, Dick
2 Woodard or whoever, and they can patch you right in, right then.

3 You can ask them to get the NMSS emergency officer. If
4 that's daylight hours and operational officers, that's me or one of my
5 folks immediately, and then we can bridge and we can immediately --
6 because we'll be able to talk your language, at least I hope, most of
7 the time, be able to understand and then be able to get to the right
8 kinds of folks and do that.

9 The ops center serves as a good way to get everybody on that
10 circuit, so you're calling to them, and I would suggest you could go
11 ahead and ask, say I'd like you to get me the regional person so that we
12 can do this in order to be able to facilitate that, because that's what
13 we're trying to do with the operations center, also.

14 We use them as our ability to get all the right people
15 together quickly and efficiently.

16 MR. SNELLING: Sounds good, Don. Thanks.

17 MR. CAMERON: Okay.

18 Let's go to Alabama, and then we'll come back up here.

19 McNEES: Jim McNees. I wanted to add a third suggestion
20 that has worked for us, because we had a problem previously, when we
21 would send something to the ops center, and shortly, therefore, they
22 would put out a PN, and then it would be -- the media would be calling.

23 When you prepare your fax, your summaries to fax to the ops
24 center about the event and this statement, this is preliminary
25 information, not for public disclosure until authenticated, and the last

1 time, they -- of course, they honored that till the -- they give you the
2 next day to authenticate it, and by then you can get everybody else on
3 board before it goes to the -- out on the internet.

4 MR. CAMERON: Okay. Thanks for that information.

5 MR. PADGETT: During the Greensboro event, the Moses Cone
6 event, ops center played a very important role in communication with the
7 world, and we had a couple of phone conversations set up on a daily
8 basis, and we had folks plugging in from all over the United States into
9 that and were kept to speed as to what was happening, what was being
10 done, getting their input into other ideas, you know, that might be
11 done, things like this.

12 So, the ops center played a very vital and important role
13 during that time, a very helpful thing.

14 So, not everything about the ops center is negative.

15 So, I did want to come back with that. It doesn't change my
16 earlier comments, though.

17 [Laughter.]

18 MR. CAMERON: Thanks, Aaron.

19 Before we go to John for the report on terrorism threat,
20 does Aubry or Sam have any final comments on this issue?

21 Aubry?

22 MR. GODWIN: Looks like we might need a good briefing on the
23 capabilities and how to use the ops center, might help for us. Might be
24 a good thing to have just a short discussion on that somewhere down the
25 line.

1 MR. CAMERON: Okay. How are we going to put that in to make
2 sure we get that? This is an action item for someone. Dick is going to
3 take care of it. Okay.

4 Sam, anything?

5 MR. PETTIJOHN: I've taken notes, but also, I think, when
6 the states get a chance to comment on the report, that would be a good
7 time to make all of these things known.

8 MR. CAMERON: And you may want to give this section of the
9 transcript --

10 MR. PETTIJOHN: Yes, I will.

11 MR. CAMERON: Okay. Because you know, that may help in
12 doing --

13 MR. PETTIJOHN: Yes. I encouraged Tom earlier -- I said,
14 Tom, make sure you come to this meeting and listen to all the comments.

15 [Laughter.]

16 MR. CAMERON: All right.

17 One last comment from Cheryl and maybe Richard and we'll
18 have John.

19 CHERYL ROGERS: I just wanted to make a comment about the
20 participate in more exercises. We had a mini-training -- Kansas, Iowa,
21 Missouri, Nebraska -- this summer on, I guess, trying to get a DOE RAP
22 team in and those kinds of things, and Tom McKenna was out there, and
23 what we were advocating -- or maybe I should just speak for Nebraska --
24 was we would like to see NRC show up more than the once every six years
25 with a team of 20, you know.

1 You know, a team of five, you know, every three years,
2 maybe, so that you have a little bit more interface and not that, you
3 know, feeling of being overwhelmed when the NRC shows up en masse.

4 So, that was kind of the focus of our comment, and you know,
5 you can say what you want to when the report comes out.

6 MR. CAMERON: Richard.

7 MR. RATLIFF: Yes. I just wanted to verify that we still
8 have the policy that the meeting is transcribed and so any comments made
9 here are official comments to NRC.

10 MR. CAMERON: Yes. I think that, as we do when we have a
11 workshop on a rule, those comments from that workshop are considered
12 official comments, and I hope it's the NRC's understanding that these
13 comments that come in on these specific areas should be treated as
14 comments.

15 MR. BANGART: We go over everything for action afterwards.

16 MR. CAMERON: Okay. The Office of State Programs goes over
17 the transcript after these meetings to see whether there's action items
18 for either state programs or anybody else in the agency.

19 Okay. John, do you want to come up and give your
20 presentation?

21 MR. DAVIDSON: Good afternoon. I'm John Davidson. I work
22 in NMSS. I've been at the NRC since 1977, and most of that time has
23 been spent dealing with threats to nuclear power plants, non-power
24 reactors, and fuel facilities that have weapons-useful material.
25

1 I really appreciate the opportunity to be here today, and
2 it's been very informative for me. During the past several years, it
3 seems like I have bumped more and more into the world of agreement
4 states and materials events.

5 As Aubry suggested, you're getting sentences that include
6 materials and criminal, you're getting situations where materials are
7 involved in threats, the threatened use of materials, and we have had a
8 lot of smuggling of materials.

9 So, I really appreciate the opportunity to come here today.

10 What I would like to do is tell you a little bit about the
11 NMSS threat assessment program, the purpose of it and how we do what we
12 do.

13 Probably more relevant to you all will be the second
14 tick-mark, the WMD, which is Federalese for weapons of mass destruction,
15 the revised Title 18 criminal code, and there are a large number of
16 activities ongoing at the Federal level that you probably should be
17 aware of, and then I'll close up very briefly with some incidents from
18 the last several years and the current assessments.

19 Our threat assessment program at NRC is focused on
20 supporting the information assessment team, which I'll go into, to
21 assure the continuing validity of the design basis threat.

22 This is a hypothetical threat that the power reactors and
23 category one fuel cycle facilities use to design their security systems,
24 and we also support Commission deliberations on safeguards issue.

25

1 An example of this would be the truck bomb threat, which
2 began back in 1983, when the Marine barracks was bombed, and it
3 culminated with the World Trade Center bombing, when we went in and
4 changed our regulations to require protection at power reactors against
5 vehicle bomb threats.

6 In order to do these things, we rely on intelligence
7 information and working with the intelligence agencies to a great
8 extent, and I'll go into a little bit more detail on those two aspects.

9 In 1975, when the NRC was created, if one of our facilities
10 was threatened, that threat would be reported to a Commissioner, a
11 Commissioner's assistant, an office director, or a staff member, and
12 each response to those threats was different.

13 So, they decided in 1976, in order to have a consistent and
14 a timely response to these threats, they would create the information
15 assessment team, and it's composed of headquarters and regional
16 personnel, we're on call 24 hours a day, my name is at the top of the
17 phone list maintained at the operations center.

18 We have the regional involvement, the Office of Nuclear
19 Reactor Regulation, and NMSS, and each of the three team components has
20 an area of expertise.

21 We deal primarily with FBI headquarters and the Department
22 of Energy, intelligence community, and we also work with DOE and the
23 national labs on credibility assessment, and this is primarily for
24 nuclear extortion threats, a threat to use a nuclear weapon, a
25

1 improvised nuclear weapon, attack on a facility, or a radiological
2 dispersal device.

3 We look to the regions to the regions to maintain contact
4 with the FBI field offices and the licensees, and Nuclear Reactor
5 Regulations provides us with the reactor expertise.

6 The incidence response center, the operations officers,
7 provide us with our communications, and as Don Cool was saying, we use
8 them to create conference calls, set up bridges, so that we can get the
9 people we need into the assessment process, and that could include the
10 emergency officer, depending on whether it's a materials event or a
11 reactor event.

12 Just a little bit about the intelligence traffic that we
13 use, the NRC is not a member of the intelligence community. So, we've
14 had to go out and --

15 [Laughter.]

16 MR. DAVIDSON: Didn't say intelligent. Okay.

17 So, we've had to go out and establish relationships with the
18 intelligence community to get some intelligence, and we deal with a
19 variety of material, and we use open source, unclassified, up through
20 top secret.

21 We also receive two kinds of intelligence -- raw
22 intelligence, which is a report that comes in from the field, and these
23 are primarily coming from the embassies around the world, and we also
24 receive what's called finished intelligence, with the analyses,
25 projections, and assessments that are put together by other agencies.

1 We also hard-wired into a computer-based intelligence
2 system. It's kind of like a classified internet that has a great deal
3 of terrorism and threat-related information on it.

4 The NRC participates in two advisory programs, a foreign and
5 a domestic. The foreign one is maintained by the Department of State.
6 The one that's more important to us, the FBI has a domestic advisory
7 system, and we routinely receive those advisories.

8 If the advisory has some applicability to a reactor,
9 non-power reactor, or a fuel cycle facility, the information assessment
10 team will draft an advisory and send it out through the regions to those
11 facilities, and we do rely quite a bit on unclassified information
12 sources. There is a lot of valuable information there.

13 Liaison with the intelligence community takes up quite a bit
14 of our time. The focus, again, is primarily terrorism. There isn't
15 much nuclear terrorism, thank goodness, and we've gone out and we've
16 established MOUs and letters of agreement with these agencies.

17 We participate in a number of inter-agency committees.
18 Probably most germane would be the Warning and Forecast Committee, which
19 meets monthly, and they try to project out through the next 90 days on
20 what they anticipate would be happening in the world of terrorism.

21 We participate in the Nuclear, Biological, and Chemical
22 Subcommittee and on the Information Handling Subcommittee, how does this
23 information get disseminated within the Federal community.

24 Our primary agencies -- FBI, CIA, Department of State,
25 Department of Energy -- recently, we've been very active with Customs,

1 too, because there's a heightened interest in exports and imports of
2 nuclear materials.

3 We do have secure communications, secure telephones. We do
4 use the operations center a great deal, but we also have a capability to
5 operate off-line. As you know, in the operations center, everything is
6 recorded.

7 Okay. On this slide, I'd just like to point out, every six
8 months we go up to the Commission with a threat assessment, primarily
9 the threat, has the threat changed, is there any significant changes to
10 the threat, is there a threat to any of our licensees.

11 We maintain a list of all safeguards-related events
12 associated with NRC licensees, and we also track foreign events
13 involving nuclear materials and nuclear facilities overseas.

14 We do not include any byproduct incidences in this safeguard
15 summary event list.

16 Right now, there is a tremendous interest in nuclear and --
17 for people to get nuclear and radiological information. Everybody wants
18 to become an expert very quickly.

19 This was largely stimulated by presidential directive --
20 decision directive 39, which established the U.S. policy on
21 counter-terrorism.

22 Along those lines, the NRC and the DOE conduct a week-long
23 course three times a year for Federal agencies, and what we do there is
24 we give them basically an introduction to the nuclear fuel cycle, power
25 plant operations, nuclear weapons, smuggling, so that they could get

1 some very general information about nuclear materials, how they're used,
2 and what they can be used for.

3 We also are involved in training with the FBI. Last week,
4 we had an in-service training. At each of the 56 FBI field offices, an
5 agent is designated as the weapons of mass destruction coordinator.
6 Anything to do with chem, bio, or nuclear, he is the man that you want
7 to talk to, and they brought them all in, and we had NRC, FEMA, EPA,
8 DOE, DOD, the Public Health Service, and we all gave a brief training
9 session.

10 We also are working to put on our web page -- and I should
11 point out that 95 percent of what I do doesn't go anywhere near the
12 internet, but we have put some information on the -- we're going to put
13 some information on the web page so that the U.S. Customs, when they're
14 out there at the airport or at the port and they've got a shipment
15 either going out or coming in and they have some questions about it,
16 they can come into that web page and get a very general description of
17 what the export or import requirements are for that material.

18 Okay. This is the first foot that fell. That was revision
19 to Title 18 of the U.S. Criminal Code, and they inserted nuclear
20 byproduct material into the law, and what this did was it greatly
21 expanded the FBI's jurisdiction to enter into cases involving nuclear
22 byproduct material. Here is the definition of nuclear byproduct
23 material, and I've also included the definition of weapons of mass
24 destruction.

25

1 This does not mean that the FBI is going to become involved
2 in every theft of material that's occurred, but the potential does exist
3 for them to open a preliminary investigation.

4 We sent out an information notice to our licensees, and
5 working with Rosetta, we also sent out a notice to the agreement states.
6 I have a copy of the information notice. If you didn't get one, we can
7 get some copies made.

8 I should point out, the FBI, given new jurisdiction, along
9 with some other things that I'll brief in just a minute, is very
10 proactive, but they're very uneducated about nuclear and radiological
11 materials, so that they'll call me up and they'll say, well, how many
12 sources are out there 50 curies or greater, and I'll say I don't know,
13 and they say, what, you don't know, why don't you know that, or they'll
14 say does so-and-so have a license, and I'll say, well, that's an
15 agreement state, and there will be a big silence there.

16 They don't understand a lot of the basic things that we take
17 for granted, and they don't understand that density gauges are stolen or
18 lost.

19 We have been, about once a year, giving them a data dump on
20 lost, stolen, missing sources. They didn't really have an appreciation
21 for the quantities of incidents that are occurring out there.

22 So, the FBI is at the bottom of the learning curve.

23 Okay. This individual was posing as an author at a
24 university, and he wanted to borrow their license, he was doing some
25 research, and he used it to order some sodium and cadmium and carbon-14.

1 He took delivery of the first shipment. The second shipment
2 was delivered. The radiation safety officer -- someone saw it and said
3 you've got to take it to the radiation safety officer, and one thing led
4 to another, and they found out what he was doing, and this was the first
5 indictment and prosecution under that revised Title 18, Section 831,
6 five years.

7 The reason why they went after this guy -- I don't know for
8 sure, but I would say, one, they had a good case, and when you go after
9 a prosecution under a new law, you want to have a high rate of success,
10 and secondly, he had been involved in some other illegal activities. He
11 had stolen some documents from the Folger Library in Washington, D.C.

12 Okay. I mentioned weapons of mass destruction. This is, I
13 guess, the community position on weapons of mass destruction.

14 Across the bottom, you have likelihood that it will occur,
15 and at the top, you have consequences, worst consequences, nuclear
16 weapon, improved nuclear device. Then, down here, you have
17 radioisotopes, and I think, from the previous presentation and
18 discussion, you know, we've all commented and were aware of the fact
19 that the NRC has concentrated a lot of attention on nuclear power plants
20 and that only now are materials getting this additional attention.

21 So, you have radioisotopes down here as more likely to
22 occur. Then you have chem-bio.

23 The Federal Government is in pretty good shape in responding
24 to these types of threats. DOD and DOE have spent a lot of money and a
25 lot of resources in trying to address this type of a threat.

1 They're not in such good shape when it comes to chem-bio,
2 but they are working very hard and spending a lot of money to try to
3 address these types of threats.

4 In addition to the revision to the criminal code, in 1998,
5 May of this year, the presidential decision directive 62, protection
6 against unconventional threats of the homeland and Americans overseas,
7 this means weapons of mass destruction, and there's a lot of money and
8 there's a lot of attention being given to this topic.

9 The other two also tie into these activities, and what's
10 happened is the Federal response plan, there's a new annex to that, the
11 terrorism annex. The FBI has put out a contingency planning document
12 for use by their 56 field offices, so that they will have a contingency
13 plan for nuclear facilities in their jurisdiction. Their focus right
14 now is on the Department of Energy facilities, and then they'll probably
15 go to power and non-power reactors and the fuel cycle facilities.

16 Just within the past several weeks, there has been a
17 National Domestic Preparedness Office established in the Department of
18 Justice. There is a Commission on Infrastructure, and there is also a
19 plan, a terrorism and technology plan, that's being developed.

20 This probably would impact you the most, because they're
21 going to concentrate on first responders at the state level here, your
22 police, your fire departments, your haz-mat units.

23 And of course, being the Federal Government, we have a lot
24 of new working groups. The NRC does participate in most of these.

25

1 Again, you're going to have your first responders -- these
2 people are going to focus on your first responders.

3 Preventing nuclear materials from coming into the country,
4 illegal nuclear materials coming into the country -- this, again, is
5 being headed up by Customs, and we're working with them.

6 And as you can see -- let me point out here, contingency
7 planning. These recent efforts under the PDDs have created some
8 inconsistencies between the Federal radiological emergency response
9 plan, the Federal response plan, and some of these other plans that are
10 being created currently.

11 So, we're working, as a part of this working group, to try
12 to resolve those inconsistencies on who does what, when, and how.

13 Okay. Real quickly, I have a handout up here of these
14 incidents.

15 These are some of the domestic incidents that have occurred
16 since 1993, and I don't know if this means that materials are being used
17 in a malicious criminal way more now or that we're more sensitive to
18 them and they're being reported better or what, but I do have a handout
19 that lists these.

20 And we did have an incident reported up in Long Island where
21 they were going to try to kill someone with radium-226.

22 Overseas, as is usually the case, it's worse. In 1993, in
23 Moscow, an individual was actually killed using a cobalt source, and
24 this is probably the closest we've come to nuclear terrorism. The
25

1 Chechen rebels, when they were at war with the Russians, said that we're
2 going to detonate a radiological dispersal device in Moscow.

3 They did send a cesium-137 source in a pig, buried it in a
4 public park in Moscow, and then called the tv crew, and the tv crew came
5 out and filmed digging it up. The Chechens said we have more of these
6 things and, you know, we're going to rain destruction on your company.
7 It never happened.

8 But it highlights the political instabilities and the ethnic
9 conflicts around the world, not just in the former Soviet Union but in
10 Bosnia, Kosovo, and places like that, where you have these ethnic
11 rivalries. You add on top of that Muslim-Christian conflicts, again in
12 Bosnia, in Kosovo, in Serbia. So, it's a concern.

13 And most recently, this year, down in Colombia, we've had
14 some thefts of radioactive material, some iridium and americium,
15 beryllium.

16 And this all unclassified information, open source
17 information.

18 Okay. Currently, probably the four groups that are on the
19 screen right now -- one is the Aum Shinrikyo. These were the people in
20 Tokyo that had the cyanide attack on the subway and killed several
21 people. It turns out that they are also heavily involved in biological
22 weapons.

23 You may remember the head of this group is kind of a chubby
24 middle-aged man, long hair, blind, and you say, now, what is this guy's
25

1 story? Well, it turns out that the Aum Shinrikyo is a very
2 well-financed group, it's an international group.

3 It's reconstituting itself now, since the crackdown when the
4 cyanide attack occurred. They have -- it's been reported that they have
5 tried to obtain nuclear material from Russia, from sources in Russia,
6 not from the Russian government, and this was the first legitimate
7 chemical attack that we had.

8 Islamic extremists -- the big name there right now is Usamel
9 Benladen. He's a rich Saudi prince. He's currently living in
10 Afghanistan, or he's reported to be living in Afghanistan. He recently
11 declared war on the United States.

12 He has operatives in this country. One was arrested in
13 Texas and extradited to New York. Another one is in Germany. We're
14 trying to get him extradited to New York, also.

15 The Chechen nationalists, while the war in Chechnia has died
16 down, this points out again the ethnic rivalries and also the religious
17 rivalries that can be used, that can be of concern.

18 Domestically, everybody knows about the militias. They have
19 demonstrated an interest in biological weapons, and they've obtained
20 biological samples. So, they're a concern primarily for the Federal
21 Government and specifically for the FBI and the ATF.

22 So, that concludes my presentation. I'd be glad to answer
23 any questions if we have time.

24 MR. CAMERON: John, thanks. That was very interesting and
25 very informative.

1 Aubry Godwin has something to say here, and while he's
2 talking, I want you to think about -- do you have any advice for Dave
3 here in terms of his dilemma about sometimes being caught between the
4 FBI and the local enforcement people, and let's go to Aubry.

5 MR. GODWIN: John didn't mention it, but there's a part of
6 this program you should be aware of.

7 There was funding for the training of the local emergency
8 responders in developing emergency plans for the hundred largest cities
9 in the country.

10 They bypassed the state, they bypassed the country, and went
11 straight to the cities, as a part of this forming up these local
12 committees with various and sundry groups on them to develop the plan,
13 do the training, the defense department's doing the training currently,
14 and as a part of the last step, they get about 200 to 300 thousand to
15 buy equipment, and they have sort of an approved list, if you would, of
16 equipment.

17 Radiation instruments on that list, potassium iodide is on
18 that list, and they typically go through and just, you know, choose
19 something off the list and buy it. We found that Phoenix, for example,
20 bought a couple thousand doses of potassium iodide, and they asked,
21 well, when are you going to give it? Well, they were going to talk to
22 us about that.

23 In Arizona, we have formed up a state terrorism group, but
24 we're trying to coordinate it, because we have three cities that are
25

1 involved -- four cities, I'm sorry -- three of them in one county, so
2 one county gets 900,000, one county gets 300,000.

3 So, do be aware of the formation of these committees. I
4 suggest you participate on them. It gives you a change to get very
5 close with the FBI and your police agencies, and whenever you start
6 reporting these events, you don't have to worry near as much about this
7 being between agencies.

8 MR. DAVIDSON: I would just add, too, maybe I was being a
9 little kind when I said inconsistencies, because some of these agencies
10 have taken these presidential decision directives in hand and just run
11 off in their own directions, and they have not recognized or they have
12 failed to recognize the procedures in place, the Federal radiological
13 emergency response plan, and established programs for responding to
14 radiological crises.

15 So, you are -- you're going to have a lot of people involved
16 that weren't previously involved, and you are also going to have people
17 taking this as a license to steal.

18 About being between local law and the FBI, that's probably
19 the second worst place to be. The worst place to be is between the FBI
20 and a news conference.

21 [Laughter.]

22 MR. CAMERON: Thanks, John.

23 Let's go to Virgil, and then we'll go to Don.

24 MR. AUTRY: Well, Don Bunn had his mad doctor. I had Stuart
25 Adelman, too. I'm glad you all caught him. He caused some real

1 problems in South Carolina many years ago, abandoned sources, ripped off
2 a bunch of doctors at our Baptist Hospital.

3 He was the RSO. He should have been checked out more
4 thoroughly, but we believed his credentials. But he was a real, real
5 character. So, we're glad to see that he finally got his due there.

6 If he comes back to South Carolina, he's in trouble, so we
7 appreciate it.

8 MR. CAMERON: All right.

9 Don.

10 MR. PETTIJOHN: Well, I let Ed confess that Stu Adelman
11 used to work for us.

12 [Laughter.]

13 MR. PETTIJOHN: He came with impeccable credentials. He was
14 a graduate of Oxford. But anyway, I didn't come up here to talk about
15 Mr. Adelman, Dr. Adelman.

16 The Customs, at one time, had monitoring on the border,
17 monitoring trucks coming in, vehicles. They set that up, and I believe
18 it happened after the Mexican steel incident, and for some reason, NRC
19 -- at one time, they were maintaining these monitors or they were
20 keeping them operational, and for some reason, they stopped, and we
21 tried to encourage Customs to re-install them, but I haven't heard that
22 they have.

23 Is there monitors at the border coming in now?

24 MR. DAVIDSON: I can't address that question. I just don't
25 know. I know that they have a limited monitoring capability. I know

1 they're spending a lot of money buying monitors for the former Soviet
2 Union, but I'm just not aware of what they have in place at our borders
3 and ports.

4 MR. CAMERON: I think Joe and Richard may have some
5 information on that.

6 Joe, you were going to address that comment? Okay. And
7 then we'll go to Richard.

8 MR. KLINGER: Yes. Working on the orphaned source program,
9 I know that EPA is working with Customs now, because they're using these
10 little chirper devices that I think are sniffers and stuff for drugs and
11 stuff, but they're also detectors, and they're finding orphaned sources
12 that way, and so, these are being broadly distributed through Customs,
13 and Customs is being provided some training. So, we'll see more and
14 more of sources showing up that way, but Customs is being provided with
15 monitoring equipment now.

16 MR. CAMERON: Okay. Thanks, Richard.

17 MR. RATLIFF: They've turned all the equipment that they had
18 from the Juarez incident, because they just didn't like to use it. It
19 was bulky. They were using portable monitors and micro-R meters, but
20 the other instruments, we do get a lot of calls from them when they have
21 questions.

22 MR. CAMERON: Okay.

23 Now we're going to go to either a representative of the
24 Illinois agreement state of the program or the chair of the CRCPD.

25 [Laughter.]

1 MR. CAMERON: What is it? Public Citizen?

2 MR. COLLINS: Steve Collins from Illinois.

3 We would like to know specifically if anybody is
4 coordinating -- anybody from the NRC or part of our normal emergency
5 response groups is coordinating with Department of Justice on all of
6 this and exactly what is NRC's role in this latest thing where the
7 cities are being contacted directly?

8 Some of the big cities may not know as much as they should
9 about the state capabilities that are already there, because we just
10 finished having representatives participate in a table-top exercise, and
11 they kept saying when are we going to get this, when are we going to get
12 this, and we kept saying we've already got it, it's in place, it's
13 trained, all you've got to do is call this number.

14 So, I mean there needs to be some more coordination, and
15 apparently no one's doing it with Department of Justice.

16 So, the question is who is?

17 MR. CAMERON: John?

18 MR. DAVIDSON: Tom McKenna has been attending some of these
19 working group meetings.

20 I'll be honest with you. The NRC is playing catch-up,
21 because there's so many initiatives underway right now, and the fact
22 that the Federal radiological emergency response plan has not been
23 recognized in any of these efforts has put us behind the eight-ball on
24 some of these initiatives.

25

1 So, I would say Tom McKenna is the person who is working to
2 coordinate on some of these working groups, the first responder training
3 and the contingency planning.

4 MR. CAMERON: Okay.

5 Let's go to Ed, and let's try to get Trish in before the
6 break on the risk review.

7 Ed?

8 MR. BAILEY: Just a couple of questions.

9 With our mentioning Dr. Ahmed and some of the other people
10 that we know of, because of the nuclear thing, are you now creating a
11 crazies file for -- I mean we had the guy who called you all and said
12 that he had a fuel rod from one of the reactors and so forth and
13 obviously was slightly deranged, and we have some other people who
14 called in kooky things, who could either go do something kooky or cause
15 a problem by saying that they were doing it. That's the first question.

16 Is there coordination with DEA? DEA, we have worked with on
17 a couple of occasions, because they -- in busting clandestine drug labs,
18 there is often radioactive materials associated with those, and their
19 instructions are to seal off the area and get help, and it seems they
20 would be one that could be looked at.

21 And I would like to emphasize just what I happened to
22 overhear on an airplane coming back from Washington. There was a fire
23 chief sitting across the aisle who had just been to one of these DOD
24 training sessions, and as he talked to the young lady sitting beside
25 him, the greatest threat in the United States, what he got out of this,

1 was that somebody was going to spew radiation all over everything, and
2 he was concerned that his firemen were going to go in there and die
3 before they could get to the scene.

4 Los Angeles had one of these exercises. No one from the
5 state was involved at all, and you're right, they see it as making money
6 and empire-building.

7 Unfortunately, certain Federal agencies, who I don't think
8 are represented here, like to throw money at programs, and so, they'll
9 buy meters and everything else from people just to get them on their
10 side.

11 MR. DAVIDSON: The information assessment team is primarily
12 there to act as a filter, so that if somebody calls up and says I've got
13 a fuel rod or I'm going to do this or that, it's my job to deal with
14 that information, and I can do that in a number of different ways, and
15 the reasons are also involved. In every region, there are people that
16 are designated as IAT members.

17 But one way or the other, we will follow up on that
18 information. I can go to the FBI about it. I can go to the Department
19 of Energy. I can go to Lawrence Livermore Laboratories. So, my job is,
20 you know, regardless of how kooky it sounds, I have to respond to it.

21 So, if I get the report, something will happen. You know,
22 it won't just be forgotten. I have to do something with that
23 information.

24 MR. BAILEY: I think whoever it was at NRC called us.

25 MR. DAVIDSON: Could have been.

1 MR. BAILEY: And because -- and asked us to respond to it,
2 since it was in an agreement --

3 MR. DAVIDSON: In cases where something shows up in a state
4 -- and I know that Livermore has called me, and they say I need a point
5 of contact in California -- I will give them your name and telephone
6 number, and in the in-service training last week with the FBI, I gave
7 them that information.

8 I said, you know, here are the states, and these people
9 license these materials, and here's the points of contact in every one
10 of them.

11 MR. BAILEY: Good.

12 MR. CAMERON: Is there any value -- you mentioned that the
13 FBI was low on the learning curve. Is there any value to doing some
14 sort of a joint NRC, agreement state, FBI workshop on any of these
15 issues? I mean I don't know if there is or not.

16 MR. DAVIDSON: Perhaps at some point in time. I think,
17 right now, that their plate is so full and they're so busy that I'm not
18 sure we could --

19 MR. CAMERON: Not ready yet.

20 MR. DAVIDSON: -- work them into the schedule.

21 MR. CAMERON: Okay.

22 One last comment from Aubry, and Trish, can you come up and
23 do your presentation? Thank you.

24 Aubry.

25

1 MR. GODWIN: A part of dealing with this -- the FBI is going
2 to want to make this a criminal matter as soon as they can if you get a
3 real event.

4 Again, it's good to have that relationship already built up,
5 because things will proceed differently whenever you make it criminal,
6 and so, you really need to get that together.

7 I would suggest maybe we should hit up the FBI for
8 sponsoring something like this.

9 MR. DAVIDSON: I would just add, too, that, in reporting
10 these incidents, it's a tough call, because you don't want an
11 overreaction, you want to avoid that, but if it is an actual criminal
12 event, you would want to get the police or the FBI involved as quickly
13 as possible for, you know, initiating the investigation and preserve
14 evidence, preserve the crime scene.

15 MR. CAMERON: Okay. Thank you. And we have just a real
16 quick comment from Ed.

17 MR. SNELLING: Yes. Next week, i'm going to go see the
18 local FBI people. You know, I think that's what we should do, is make
19 that first contact, and let them know who we are and what we can do,
20 etcetera.

21 MR. CAMERON: Start building that relationship. That's
22 good.

23 We're going to go to Trish now for risk review, and we will
24 get out of here at a decent time tonight. We still have a lot of work
25 to do.

1 Trish.

2 MS. HOLAHAN: I'll talk fast.

3 I'm Trish Holahan from the NRC.

4 By the way, I mentioned this morning that there weren't
5 overheads for the talk this morning. They are now here, and I left
6 those outside. So, anybody who wants one -- and there are also slides
7 for this afternoon's talk. So, I hope -- I believe they were all handed
8 out.

9 So, if not, there should be plenty of copies around.

10 I just wanted to give you a status report of where we are on
11 the nuclear byproduct material risk review and sort of walk through a
12 little bit of what the charter was.

13 We do have an NRC agreement state working group. Dennis
14 Serig, in my group, is the chair, and Nancy Doherty from the State of
15 Colorado is on the working group.

16 Okay. Again, here is just the -- the goals of the risk
17 review were to identify and document a technical basis for a
18 risk-informed approach to the regulation of byproduct material and then
19 to develop plans for a graded approach to nuclear byproduct material
20 regulation based on the risk information.

21 The scope -- next slide, please, Cathy -- was -- it covers
22 11(e)(2) material and, in terms of NRC regulations, covers everything in
23 Part 30 to 36 and Part 39.

24

25

1 Okay. The approach was to use a systematic evaluation of
2 material systems which fall within the scope. We are using contractor
3 support for it. The contractor we're using is Scientech.

4 We have divided this up into 40 different systems, and they
5 were defined as broadly as necessary to identify the real world risks
6 associated with them. So, it was to encompass the range of normal use
7 of the material all the way to the public perception during and after an
8 event.

9 It's an iterative process and includes, first of all, a
10 multi-dimensional characterization of risk, and this was to allow a
11 ranking of systems in terms of low, medium, or high risk, and it was to
12 consider factors such as occupational and public dose, both in normal
13 and accident situations, and then look at the probability and
14 consequence of events to include contamination clean-up where possible.

15 Secondly, it was to use qualitative and, to the extent
16 possible, quantitative tools to identify and evaluate the risks
17 associated with these systems and then develop an analytical risk
18 ranking model.

19 Third was to identify and evaluate the existing and
20 potential technical approaches and regulatory approaches for addressing
21 these risks, and then, finally, integrating the risk ranking model with
22 the different approaches into a model for a graded approach to
23 regulation, including both licensing and inspection approaches, so not
24 necessarily just looking at different ways of licensing but also
25 different approaches for inspection within that.

1 So, that was the charter of the group which was set into
2 place in August of '97.

3 So, we've been going just a little bit over a year now.

4 We have received a draft contractor report in the middle of
5 last month, and as I mentioned, it looked at 40 systems. It used a
6 diamentry analysis approach in looking at barriers and regulatory
7 options.

8 The draft report is currently under review by the entire
9 working group. It's a very large document, and so, they're still
10 looking through it, and then the working group is going to develop
11 recommendations and next steps for consideration by the Commission.

12 There are three sort of pieces that they will be using to
13 start their -- to focus their recommendations on -- first of all, the
14 contractor report, and then, secondly, they developed a survey of NRC
15 and agreement state licensing and inspection personnel, and it was sent
16 out, I believe, to all the agreement states, and the purpose of this was
17 really to confirm and augment the information gathered by the contractor
18 and to assist in the development of a graded approach.

19 We got a very good response rate. We got 19 NRC respondents
20 and 22 agreement state responses from a number of different states, and
21 types of questions focused on typical doses, the typical events or
22 frequencies, perceptions of safety, materials and quantities typical to
23 various systems, the existence and value of various barriers currently
24 in existence, and the value of particularly regulatory options, as I
25 say, recognizing that there are limitations to the survey, but it is

1 another piece of information to feed into the working group
2 recommendations and sort of reflects a perception of experienced
3 licensing and inspection personnel.

4 Next slide?

5 Another of the pieces is a draft document on regulatory and
6 other support for barriers and administrative controls under the current
7 regulatory regimes that are intended to limit doses associated with
8 nuclear byproduct materials, and this includes everything from, for
9 example, such as the Part 20 regulations, other barriers that are in
10 place, good health physics practices.

11 It was developed in large part by one of the members of the
12 working group, and we are hoping to get that reviewed by other staff.

13 At this point, we're now developing an outline for the
14 review group report, and we are committed to providing something to the
15 -- the recommendations to the Commission in December of this year.

16 So, that's sort of really the highlights of where we are and
17 where we're going, and I tried to catch up.

18 MR. CAMERON: Questions on this? This also may be relevant
19 to the Part 35 discussion tomorrow, as you'll probably hear, but
20 questions on this, and one question, Trish, how do you think this will
21 ultimately be used by the Commission?

22 MS. HOLAHAN: Well, I think the Commission is interested in
23 looking at the proposed approaches to any potential changes to the
24 licensing approaches that we currently are using, and I think that was
25

1 one of the items identified in the SRM on the GL, is to look at the
2 approaches that could be used.

3 MR. CAMERON: Okay. Thank you.

4 Steve.

5 MR. COLLINS: Steve Collins from Illinois.

6 Some of us, in looking and trying to complete that
7 questionnaire, got the idea that the questions were vague enough and the
8 answers such that you could draw any kind of conclusion you possibly
9 wanted to from the answers that you could get.

10 Is it possible that a draft of the report and conclusions
11 could be circulated to the states that submitted information to see if
12 they think the conclusions drawn from the data in any way match what
13 they were thinking when they answered the questions?

14 MS. HOLAHAN: Well, as I mentioned, we are, at this point,
15 looking at the next steps and the recommendations that we would provide
16 to the Commission.

17 As part of that, this is being considered as one of the
18 possible next steps, is actually publish the report as a draft for
19 comment.

20 So, certainly, if you think that would be a good idea, we'd
21 appreciate your input on that.

22 MR. CAMERON: And maybe we'll -- people around the table,
23 would you like to get a look at that draft report?

24 [Chorus of yeses.]
25

1 MR. CAMERON: Okay. I think you have a pretty good sense
2 that the agreement states think it would be a good idea for them to take
3 a look at it.

4 MS. HOLAHAN: And again, the survey was meant to be used as
5 one piece, not on its own.

6 MR. CAMERON: Aaron.

7 MR. PADGETT: During the time of the Moses Cone event, we
8 were stretched out, had everybody in Greensboro -- I think I was the
9 only person in the office that Friday afternoon.

10 I got a call from the region down in Atlanta, and it seems
11 that, at a Department of Labor job training corps center out in western
12 North Carolina, a couple of their teenagers had gotten into a tritium
13 sign or two and broken the tritium signs and played with the stuff
14 around the dorms and done all kinds of things that 16-to-18-year-old
15 wayward young men might do.

16 Now, they asked us if we could respond, and I told them that
17 we were kind of stretched out right then, and so, we did not respond,
18 but they did.

19 Not only did folks come out of Atlanta -- and oh, by the
20 way, they were a lot closer to this portion of North Carolina than we
21 were in Raleigh just because of the way the state is shaped there, but
22 they also brought people from DOE out of Oak Ridge, brought lots of
23 equipment.

24 I don't know what the cost of the response was but probably
25 -- my guess would be somewhere between a quarter-of-a-million and

1 half-a-million dollars between the response and the cleanup that they
2 did and this kind of thing, and I notice that we're, you know, looking
3 at risk from a regulatory point of view, and I wonder, how do we factor
4 in risk in a situation like this?

5 Now, we're fortunate that this did not turn into a public
6 relations thing, you know, it wasn't all over the news, so we didn't
7 have that driving it.

8 Yet, we still spent probably somewhere in the
9 quarter-of-a-million, half-a-million-dollar, you know, range amount of
10 money for something that is supposedly very, very low-risk that we can
11 generally license and turn loose, and somehow I'm having real difficulty
12 with how we're going to proceed on.

13 MS. HOLAHAN: That goes with what John had mentioned this
14 morning on their events, I think, in New Jersey.

15 As I mentioned, we're looking at both normal and accident
16 use and then also, where they can, the contamination costs and the other
17 risks.

18 One of the things that is very difficult to get a handle on
19 is the public perception of risk and at what point do you actually
20 factor that into a regulatory risk.

21 MR. CAMERON: And will the report deal with situations such
22 as that and perception?

23 MS. HOLAHAN: It will try to address the perception issue.

24 MR. CAMERON: Okay. Thank you.

25 Anybody else, before we move on to the break?

1 Okay.

2 Roland.

3 MR. FLETCHER: Just a reminder for those of you who have not
4 signed one of the cards. Please do so. We'd like to get them in the
5 mail today.

6 MR. CAMERON: Okay. And if Walter House is here from DOE,
7 could he see me, please? And let's come back at five minutes to four.
8 That will give you a little bit of time to stretch out.

9 [Recess.]

10 MR. CAMERON: We're going to go into the final push here,
11 and I think we will be done by 5:30, even though we're behind schedule.

12 Unfortunately, we -- Walter House from DOE I don't think has
13 been able to join us. So, we don't have that particular session.

14 We do have a panel, NRC's role in annual agreement states
15 meeting planning and other related subjects. One of the subjects Dick
16 Bangart wants to talk about is employee protection. It's not a related
17 subject to agreement state planning, but -- yes, during the meetings,
18 right, protection of NRC employees.

19 And we have Roland and we're lucky to have Will Hutchison
20 from our Office of Investigations here to join Roland for a presentation
21 on information-sharing.

22 So, let's get going with Bill Belanger.

23 This is our sister agency, and we've all heard about this,
24 the mean stepsisters.

25

1 This agency now has two representatives here, although
2 neither one is in the room.

3 [Laughter.]

4 MR. CAMERON: And we want to compliment you on your
5 graciousness back there from EPA with which you've taken all of our
6 good-natured kidding. There may be a germ of truth in this, but we're
7 just waiting for your colleague.

8 Bill, you're on.

9 [Laughter.]

10 MR. CAMERON: And this is going to be about a 1997 lost
11 source exercise, and we've already heard some compliments from the State
12 of California to EPA for helping out with not a lost source but that
13 particular event there.

14 What's better for you? Do you want to stand there? You can
15 go to the podium.

16 MR. BELANGER: It doesn't make any difference. If everybody
17 can hear me fine, I'll just stand here.

18 MR. CAMERON: All right.

19 MR. BELANGER: I really don't -- what I thought I'd do -- I
20 came up this morning from Philadelphia. I'm a Region III Philadelphia
21 EPA employee, not a headquarters guy, which automatically lends some
22 semblance of rationality to this presentation.

23 [Laughter.]

24 MR. CAMERON: We were all thinking that, but we didn't want
25 to say it.

1 MR. BELANGER: And no, I'm not going to discuss the
2 differences between EPA and NRC on clean-up standards. So, we don't
3 have to deal with that.

4 But what I will tell you about is an exercise that came off
5 just about this time last year. It came up this morning.

6 I was figuring on getting here before the 2:15 scheduled
7 start of the talk. It was getting to be about 1:30. I was hitting the
8 New Hampshire border. I figured I was going to be a little bit late.
9 It turned out I wasn't.

10 I think what I'll do is I'll start from the end and work
11 toward the beginning of the speech, and that way, I'll finish about
12 3:30.

13 MR. CAMERON: That sounds like the EPA approach.

14 [Laughter.]

15 MR. BELANGER: But there was one thing that was late today.
16 I ordered about 100 copies of this document, which summarizes the lost
17 source exercise for everybody here, and that was late getting to my
18 office. So, it's not here for you today.

19 So, what I'll do is I'll mail them out to people from the
20 attendance list after I get back, so everybody will get a copy.

21 Just so you know, this is document NUREG-1634 and also has
22 an EPA number on it, EPA -- our numbers are always longer than theirs
23 for some reason -- 903K98002, which means it was the second one we did
24 in 1997.

25

1 Anyway, it's an interesting document, because I think it's
2 the only one that came out in 1997 that's co-authored between EPA and
3 NRC, and that kind of gives you the spirit of the lost source exercise,
4 and what I'll do is I'll go over the exercise, but I want to preface it
5 a little bit with both some of the things leading up to it and some of
6 the fallout that's occurred afterwards, and then I'll kind of describe
7 the scenario for you and give you an idea how it operated.

8 I see some people, Roland, John Keeny from New Jersey, were
9 there at the exercise. Of course, it was in Pennsylvania. We had a
10 number of people from Pennsylvania there. Also, people from Nuclear
11 Regulatory Commission participated in the exercise.

12 The RAP team from Brookhaven participated, and even the
13 Defense Nuclear Weapons School from Albuquerque, New Mexico,
14 participated.

15 So, we had kind of a wide range of both Federal -- and we
16 had four states involved. Delaware was there, New Jersey, Pennsylvania,
17 Maryland.

18 We had one county government. We had a landfill operator
19 there, and PECO energy, Philadelphia Electric, the former Philadelphia
20 Electric, lent us the space to have the exercise.

21 By way of preface, this whole thing started when we were
22 responding to an incident in landfill in Pennsylvania. There was a
23 political brouhaha because some radio-iodine had shown up at the scales
24 at a landfill, no big deal.

25

1 The local -- a local realtor around this landfill decided he
2 wanted to shut the landfill down because he owned land in that area and
3 he really wanted to build houses on that land and he wanted the prices
4 to be somewhat higher for those houses.

5 So, he started a citizens blitz to shut the landfill down
6 based on this illegal dumping of radioactive material. The State of
7 Pennsylvania requested EPA and NRC to come up to a public meeting.

8 We're sitting at a dinner just before the public meeting and
9 Dave Chuaga and I, from Region I, NRC, thinking to ourselves, gee whiz,
10 here we are at one of these many incidents where we're dealing with
11 either scrap-yards, landfills, and we're exercising nuclear power plants
12 all the time, every two years, we never exercise one of these materials
13 situations. It just doesn't happen.

14 And there and then we decided wouldn't it be nice to put
15 together an exercise?

16 Things developed from there. We had originally thought of
17 maybe 10 or 20 people sitting around a table. It got big. It wound up
18 being 108 people.

19 But the upshot of the exercise was that we found out some
20 things we didn't know about how the various Federal agencies, the
21 states, the local governments, could work together, and that's kind of
22 one of the highlights I wanted to pass on to you, is what we found out
23 and also, back on the back end of this exercise, we developed some new
24 ways of looking at the question that came up a little earlier this
25 afternoon.

1 What happens when a material source shows up someplace in
2 commerce or it's lost and we don't know who the licensee is?

3 Well, that is the specific question this exercise addressed,
4 because as you know, Federal radiological emergency response plan makes
5 EPA the lead Federal agency in that situation when you ask us for
6 assistance under the FERP.

7 If you don't ask us for assistance as states, then we're out
8 of the ball-game. Okay. So, we're still lending you assistance.

9 If it's a serious situation, we do have the ability to
10 respond on our own, very unlikely that that would happen. So, we're
11 there to assist you.

12 What has happened in the aftermath is that some of the
13 concepts that originally came about in this exercise, especially with
14 regard to Superfund and the national contingency plan -- there's another
15 plan out there, we've heard of several today.

16 That national contingency plan turns out to be useful in
17 this situation, and as of now, most of EPA is responding, or the way
18 this document tells you we responded during the exercise.

19 NRC, Nuclear Regulatory Commission, is plugged into this.
20 When you call their operations center, if you call them with a situation
21 that appears to be under the FERP and EPA responsibility, then you can
22 expect them to be calling EPA, and it might be invisible to you that
23 there is a transfer of this lead Federal agency to the proper Federal
24 agency.
25

1 Everything will be coordinated. You can do one-stop
2 shopping.

3 There's also the possibility that -- okay, a landfill alarm
4 goes off. What happens if the landfill operator calls 911, gets a local
5 haz-mat team involved, and the local haz-mat team -- now, that haz-mat
6 team is keyed to oil spills, to hazardous materials spills.

7 They're going to call a place called the National Response
8 Center, which we call NRC, and it makes for an incredible amount of
9 confusion, because there's this other NRC sitting back here, but they
10 will call the National Response Center, which is run by EPA and the
11 Coast Guard, and that National Response Center is geared to oil spills,
12 to haz-mat spills.

13 What's going to happen if it hits the National Response
14 Center, again, the call will go through the NRC ops center and probably,
15 almost certainly, to one of you people, if it's in your state.

16 So, you'll see a situation where the loop will get closed.
17 It's not going to be something where I'm going to give you even a phone
18 number for the National Response Center, because your call to the ops
19 center is fine. There's no reason why you should change your way of
20 doing business.

21 So, let me go over the scenario and how things worked, and
22 anybody who was here who wants to -- who was there, wants to comment on
23 it, John or Roland or anybody in the room, please feel free, because I
24 might tell you about everything that was cogent here.

25

1 Let's see. I think I'm down to 15 minutes going the other
2 way.

3 Basically, we simulated a source showing up at a landfill in
4 a trash truck.

5 [Laughter from other room.]

6 MR. BELANGER: It wasn't that funny, was it?

7 The source was an iridium source, approximately -- let's
8 see, we picked a 100-cure iridium source unshielded. Somebody had
9 cranked it out of a camera. Okay. And so, what naturally happened is
10 most of the landfills, at least in my part of the country, now have
11 alarms at the scales.

12 The alarm went off long before the truck even approached the
13 scale, and so, one of the things we set up in a scenario is that they
14 had the wrong truck on the scale, and the people at the landfill, of
15 course, have their survey meters and the survey meters are going
16 bonkers.

17 They have indeterminate readings, and so, of course, we had
18 everybody around a table just like this, and the landfill operator was
19 over there, the county was over there, State of Pennsylvania was over
20 there, Nuclear Regulatory Commission was there, EPA was there, DOE was
21 there -- excuse me -- and so, we just moved the flow around the table,
22 and of course, the landfill operator, at first -- we gave them data that
23 we deliberately structured that they would not know what to do with it,
24 and all they knew was that they had a high-radiation situation.

25

1 Their response -- well, they would normally -- this
2 particular landfill operator is fairly sophisticated. They would
3 normally call both county and state.

4 First responder, in this case, we structured it so it would
5 be county haz-mat team.

6 County haz-mat team -- well, we did a little research ahead
7 of time. They do have a set of radiation survey equipment, basically
8 CDV-700 stuff, and so, it's not particular sensitive.

9 Their turn-back point is when they get to twice background.
10 As soon as they know that there is something that's radioactive there,
11 they turn back. Other haz-mat teams might do differently, but this
12 particular team -- and then they would call the state.

13 Well, of course, the turn-back point with an exposed source,
14 even with the shielding the trash provided -- you know, they put it in
15 the middle of the truck, roughly 600 pounds per cubic yard is the
16 density of the trash in the truck, so we used micro-shield to, you know,
17 give us realistic numbers on what the gamma fields were going to be.

18 Well, the county teams -- their survey meters hit twice
19 background about two blocks away, and that was their turn-back point.
20 Now, there's a challenge to the county teams.

21 What about all these people that are inside your turn-back
22 point, and what are you going to do about the traffic on the road in
23 front of the landfill?

24 We gave them a big Mack in a 36-by-36, your landfill is
25 about 300 feet in from the road, several trucks lined up waiting at the

1 scales, people milling around, and we have -- the county teams aren't
2 going to go within two blocks.

3 Okay. What do you guys do? Of course, the answer is call
4 the State.

5 States were given a much more detailed map. They figured
6 their turn-back would be something like 50 MR per hour, and so, they
7 were able to identify, first of all, that it was not the truck that was
8 sitting at the scales that was the problem, it was one several trucks
9 back in line, and now, okay, State of Pennsylvania -- different states
10 have different capabilities.

11 We structured this so that some states would have no big
12 deal. Okay, unshielded iridium source, 100-curie, on a trash truck --
13 some states can take care of that by themselves, no problem. Other
14 states would not have the capability to deal with this kind of a
15 situation.

16 We tried to pick a middle-of-the-road situation that, you
17 know, maybe about half the states would be able to deal with it, able
18 half the states wouldn't, perhaps enough -- just enough -- you tell me
19 whether or not, that kind of a situation, you would call in the Feds for
20 assistance.

21 But Pennsylvania, as a courtesy to us, called in for
22 assistance, for Federal assistance. So, we had a call for Federal
23 assistance which basically happened when the State figured out what the
24 source was.
25

1 Now, okay, what is this Federal assistance that the State
2 called for? That's really what we're getting into in this exercise,
3 because what we have is, first of all, who does the state call?

4 They know that the source is in a trash truck. They're
5 pretty sure that it's an iridium source. They know it's a high enough
6 curie content that, you know, it's got to be licensed. It's not going
7 to be a radium source, because it's just not that big.

8 So, what's going to be happening here is they know that it's
9 probably -- and Pennsylvania happens to have spectrometers, they can
10 identify the iridium pretty easily. So, they may have had an exact idea
11 of what the isotope was, or they may have just had a suspicion it was
12 licensed material.

13 But in any case, how do you know who the licensee is when
14 it's in the middle of a trash truck? Obviously, that's not something
15 that you can determine.

16 So, maybe we have a situation where we don't know who the
17 licensee is now and we're going to know later. Maybe we'll never know.

18 But we were depending on the State having some feel for the
19 FERP and that EPA was a -- probably the agency who was going to have to
20 deal with it, and we kind of gave them their head, okay, who are you
21 going to call, and they decided, well, we'll call both EPA and NRC.

22 Now, here's the interesting thing about the way this
23 scenario worked.

24 The Feds came in, and it was a unified Federal team, not
25 several Federal agencies that were there to assist the State, each in

1 their own way, some of them taking over, some of them laying back and
2 saying, well, we can't really do anything, and you know, various things
3 that you might expect.

4 What actually happened -- first of all, when we were doing
5 the research behind this, we found out that, under this situation, under
6 this scenario, where you have licensed radioactive material, licensable
7 or licensed -- call it Atomic Energy Act material, call it byproduct
8 material, because that's what we're dealing with, is byproduct material.

9 For many years, people have thought that EPA Superfund could
10 not deal with that, and many people within EPA, including our Superfund
11 headquarters, did not think we could deal with that.

12 When we were researching this, we found out that somebody
13 had not read a piece of the regulation and that, in fact, the only thing
14 we're prohibited from dealing with with Superfund is things that are
15 regulated under Section 170 of the NRC regulations, which is basically
16 nuclear power plants, Price Anderson protection, and uranium mill
17 tailings covered under the Uranium Mill Tailings Control Act, because
18 those are two cases where Federal funding has already been provided for
19 the cleanups.

20 So, Superfund has those particularly excluded just to keep
21 duplicate Federal funding of cleanups from happening here.

22 Other than that, the National Contingency Plan, which
23 Superfund operates under, we can fund a cleanup for loose radioactive
24 material even though it is byproduct material.

25

1 Now, that wouldn't apply to special nuclear material, but it
2 does apply to both source and byproduct.

3 Well, anyway, the whole point is, okay, now you've got the
4 National Contingency Plan working for you, and that unleashes a whole
5 new piece of Superfund. That piece of Superfund is the Superfund
6 on-scene coordinators, OSCs.

7 Now, when you read the FERP, you hear about on-scene
8 commander. The on-scene coordinator is very similar except he's a
9 career employee with that as his job title. That's not a temporary job
10 for him.

11 And his qualifications -- first of all, he has what's called
12 a warrant, and that doesn't mean he's going to get arrested.

13 That means he's a contracting officer and he has the ability
14 to spend Federal funds on his own signature. He does need a contracting
15 officer to go out and get bulldozers running, he does not need a
16 contracting officer to hire, let's say, a broker to send off rad waste
17 to a site. He can do that on his own signature, makes him a very useful
18 person.

19 He's also got some training in organizing a response and
20 running a response. He's not a radiation expert. He may know a little
21 bit about radiation. He might have had a day of training. But he's got
22 some authorities that are very useful to you and are very useful to me.

23 Now, my role -- I am the EPA radiation guy in Region III in
24 Philadelphia. My role -- I actually have a role, and it shows up in
25 this National Contingency Plan. It's called scientific support

1 coordinator. I tell him what we need him to do, and then he goes and
2 does it.

3 But -- now, this is not just an EPA response here. Wait a
4 minute. We're talking about EPA, but what about these other Federal
5 agencies?

6 Well, one of the things that he's trained to do is to
7 organize a response team, and that response team will come from whatever
8 resources are available to him or her.

9 That response team, in this case, consisted of the Nuclear
10 Regulatory Commission, because hey, we have, first of all, Pennsylvania,
11 a non-agreement state. We needed some expertise in dealing with this
12 particular kind of source. Well, why not get the guys that license it?
13 They know something about it.

14 Now, we also had the situation that the source needed
15 recovering. Well, the people that are trained to do that are the RAP
16 team. RAP team came in, and now they did their thing but as a part of a
17 unified Federal team.

18 And what finally got set up here was something called --
19 I'll remember in a second what it's called -- a unified command.

20 Unified command involves all of the principals. The OSC,
21 the on-scene coordinator -- his only responsibility is to organize that
22 team, not to dictate to it.

23 So, when we had all these people sitting around the table,
24 who were the principles on the unified command team? Anybody give me a
25

1 guess? Or who wasn't on it? Your guess as to who wasn't on it is
2 exactly correct, because nobody sitting around the table wasn't on it.

3 The unified command team included the landfill operators,
4 because they knew the landfill. They knew that -- we knew we were going
5 to have to drive that truck into the landfill and park it for a while.
6 We made the source hot enough so it was impractical to put a temporary
7 license on and go back out on the street.

8 So, okay, landfill operator, you got to be on the team,
9 because you've got to tell us where we can put this truck on your
10 landfill, on your property.

11 County, you, by now, have evacuated people or at least
12 you've blocked off a road in front of this landfill. You've got to be
13 on the team, because we've got to have you working with us on protecting
14 the public per your evacuation that you've already done.

15 State -- of course we need the State on that unified command
16 team. They know the situation in the state. They know the
17 peculiarities of the state. They have a lot of expertise that they can
18 lend to the situation. State's on the unified command team.

19 EPA, of course, and Nuclear Regulatory Commission and DOE
20 all on a single unified command.

21 So, nobody is dictating anything to anybody. Nobody is
22 overriding state authority.

23 The other thing that's very interesting on that -- you look
24 at the authorities of that OSC under the National Contingency Plan --
25

1 has anybody ever got into a situation where the politicians are telling
2 you what to do? All right.

3 And you've got a spill there and you're trying to clean it
4 up and you're trying to protect the public as best you can, and this
5 politician is sticking his nose in and telling you you're not doing it
6 right, you're either being too conservative or you're not being
7 conservative enough or something.

8 Well, the nice thing about this National Contingency Plan is
9 that you get some immunity. Believe it or not, that OSC, who is just a
10 grunt employee working in one of our regional offices, he out-ranks
11 Carol Browner when he's on a site.

12 She does not have the legal authority to tell him what to do
13 or what not do. She can remove him and put somebody else on, but the
14 nice thing about it is that he does not have to worry about the
15 political influences.

16 He can use this National Response Plan, the National
17 Contingency Plan -- that's his tool, and he has an incredible authority
18 not just to back up his own opinions, but if you, the State, have some
19 particular -- you know, your best conclusion as to what needs to be done
20 with this source is -- and these are the proper protective limits for
21 the general public and, you know, this is what we need to do about it --
22 he has the authority to prevent that politician from coming in and
23 overruling you, because on the site, his word is law, or her word is
24 law. We have female OSCs, too.

25

1 So, it's a very interesting thing to have available to you,
2 and that's what this lost source exercise is all about, and we're going
3 to send copies around. You can read the description of it.

4 I'll put a bonus in. We'll have some pictures, because one
5 of the things we did in the exercise -- the first day was dedicated to,
6 okay, you've got this truck. What are you going to do with it? How are
7 you going to immediately stabilize it? How are you going to protect the
8 public in the short term, in the couple hours to a day timeframe?

9 We had a second half to the exercise. The second half --
10 let me tell you about what they did first. To protect the public,
11 basically, it was just a matter of driving the truck onto the landfill.

12 The general idea was either use the natural contours of the
13 land or use a bulldozer to dig a trench and drive the truck into it so
14 there would be natural shielding, so that we would not have a
15 high-radiation situation, the high-radiation area would be a limited
16 area around the truck, so we could re-open the landfill, get it back
17 into operation, because after all, closing a landfill -- that, in
18 itself, is a public health problem. You just don't want to have that
19 trash piling up. It may be worse than the radiation problem.

20 So, the initial day, the idea was, okay, let's just get this
21 thing into a safe situation, leave it in the truck, and that was how the
22 day ended.

23 The team decided that that was the best way to deal with it.

24 We came back a month later, and in fact, it was just about
25 this time. It was October 20th of 1997. So, it was just a couple days

1 ago, a year ago, and now the team has a new assignment. The assignment
2 -- and it's still the same people.

3 The assignment is to recover the source, and for this
4 assignment, what we did, we broke the team off, and we had the source
5 recovery team -- the source recovery team included Department of Energy,
6 including Nuclear Regulatory Commission -- Mark Roberts actually put on
7 a suit and he was out there with -- you know, with DOE guys.

8 Anybody want to say that's uncharacteristic of NRC? I don't
9 think so.

10 They've got some really, really good people there, and so,
11 the -- Mark Roberts was out there, the EPA guys were in there, and they
12 actually, first of all, put together a team, this unified command, to
13 decide what the strategy would be for recovering the source.

14 How are we actually going to make this happen, physically,
15 and the strategy was something that I think anyone here in the room
16 would come up with, and that is lay out a big tarp, drive the truck
17 slowly over the tarp and empty the truck, and then go in from the top
18 and see if we can see the camera, see if we can see the source, and
19 recovery it that way, and that's exactly what we did.

20 So, the command team was in the room strategizing how do we
21 recover the source? They spent a couple of hours, and then they came
22 back out. They had a very, very well-defined plan, and they came out of
23 a side room into a press conference, and we had, unbeknownst to them,
24 set the whole thing up so that we would have them going up to a stage
25

1 and being on the spotlight and the members of the press were out there
2 -- Roland, you were member of the press, weren't you?

3 MR. FLETCHER: No, I was a agitator.

4 MR. BELANGER: Yes. Asking all of the embarrassing
5 questions we could possibly think of. How are you guys going to protect
6 us? And so, we put the command team through some realism.

7 Then we had some lunch, and after lunch, we had -- I
8 anticipated what the command team was going to do, and we had a real
9 simulated source recovery. So, we actually had guys in the suits, and
10 DOE brought down the teletectors, and we had a tarp out there with green
11 trash bags blown up with air, weighted down with water balloons, and
12 that was our simulated trash.

13 We had one of the big packer trucks on-site so it would look
14 very realistic. They wanted to hide behind a dumpster full of dirt, so
15 we brought a dumpster over that they could go behind for shielding, and
16 we had what amounted to a real source recovery.

17 We had a dummy source there. We had a dummy camera. NRC
18 brought down a dummy camera and dummy source, and so, really what wound
19 up was that we had a successful source recovery, they got it into a
20 shield.

21 All of the Federal agencies worked together as a unit, with
22 the state, with the county, with the landfill. Nobody got their egos
23 bruised, and somehow, it seems to be -- the people who were involved in
24 this thing now are involved in rewriting EPA's radiation emergency
25 response plan. We're in that process now. This seems to be the model.

1 You'll find things actually happening along those lines when
2 you get into a situation. We had one last week in Philadelphia where a
3 radium source showed up at a New Jersey landfill.

4 So, we're now in this mode where that is how we respond to
5 sources where the licensee is unknown, and you'll be seeing it coming
6 out as a draft EPA response plan sometime soon, but I just -- I'll give
7 you kind of a preview that that's the way things seem to be going now.

8 Any questions?

9 MR. CAMERON: Roland.

10 MR. FLETCHER: Well, just a comment.

11 Just to elaborate on what Bill said, I didn't quite know
12 what to expect when I went to Coatesville, Pennsylvania, for this
13 exercise, but everything -- the actual sourcerecovery was very
14 realistic, done the way we would expect it to be done in real life, but
15 the press conference and the briefings of all of the agencies, where no
16 agency was trying to outshine the other, that, in and of itself, was a
17 revelation, particularly with DOD there and the Defense Special Weapons
18 Agency, who merged very well with the other agencies.

19 It was, to me, I think, a pioneering effort that I hope will
20 continue.

21 MR. BELANGER: One of the things we did with this book --
22 and you'll see it when you get it -- is we gave you the entire scenario.
23 Anybody who wants to do this again, it's there and you can do it. You
24 don't have to get very creative at all.

25 MR. CAMERON: How about other questions around the table?

1 Do I understand that this has only been done in the
2 mid-Atlantic region?

3 MR. BELANGER: This is it. This is the only one.

4 MR. CAMERON: So, that might be something that could be
5 valuable in other places, I guess.

6 George, do you have a comment, George Pangborn?

7 PANGBORN: Actually, I had a chance to participate in this,
8 and it was a particularly useful exercise, and it was useful for the
9 very reason that Aubry brought out a few moments ago, because about two
10 weeks later, we had an incident where we needed inter-agency
11 coordination on a quick basis, and we had established relationships with
12 people.

13 We were able to pick up the phone and knew who we were
14 dealing with. It was very useful.

15 I think, you know, overall, the scenario planning that EPA
16 and some of the NRC Region I staff did was realistic and gave us an
17 opportunity to sort of test out these relationships, and I still haven't
18 gotten even with Roland for his role as an agitator, but we're working
19 on it.

20 MR. CAMERON: All right. Thanks, George.

21 Yes, Richard.

22 MR. RATLIFF: It's kind of encouraging, too, because EPA
23 came down to Texas a couple of weeks ago, and they had what they call
24 western roundup, where they had an exercise where they brought in their
25 labs from Alabama and from Nevada, and it worked really well to see

1 where procedures didn't work, where procedures did work, and I think the
2 one thing we learned, like talking about the on-scene commander, wasn't
3 from the government to help us, he was the government and he was in
4 charge, but we worked that out with them.

5 It was a new, different type of a situation to work with.

6 MR. CAMERON: Thanks, Richard.

7 Anybody else?

8 Okay. Well, Bill, than you for driving up from Philadelphia
9 to talk to us, and I guess this is a success story that's document in
10 the NUREG.

11 MR. BELANGER: Yes, and I'll be getting copies -- I'll get
12 the attendance list from Roland, so we'll send copies to everybody.

13 MR. CAMERON: Okay. Thank you very much.

14 [Applause.]

15 MR. CAMERON: Okay. On this panel -- I don't know how Dick
16 and Diane -- are you going to go in order?

17 MR. FLETCHER: Did we ask for Walter House one more time?

18 MR. CAMERON: Roland, go ahead.

19 MR. FLETCHER: I said did we check to see if Walter House
20 was in the house one more time?

21 MR. CAMERON: Is Walter House here?

22 [No response.]

23 MR. CAMERON: Okay. We'll keep asking that until tomorrow
24 at noon.

25 Okay. This is Dick Bangart, NRC.

1 MR. BANGART: The objective for the session, as I understand
2 it, is that we can perhaps learn from the last two meetings in Los
3 Angeles and here in New Hampshire and, in terms of the planning and
4 organizing, perhaps, because of this experience, become more effective
5 and efficient for future meetings.

6 We can share information for Richard and those in Texas who
7 are hosting the next meeting and others who may host future meetings
8 beyond next year, and in addressing this subject, one of the things that
9 we can do to improve the efficiency and effectiveness is to better
10 define what NRC's support role will be in future meetings, as well.

11 At the outset, I'd like to say that, when the decision was
12 made three years ago to have agreement states assume lead responsibility
13 for the planning, the organizing, the conduct of the meeting, NRC, I
14 think, from the outset, supported that decision and thought it was the
15 appropriate one.

16 If you step back and look at the forest instead of the
17 trees, it probably doesn't make much common sense for the NRC to be
18 planning, organizing, and conducting your meeting.

19 So, I think experience has shown, from the Los Angeles
20 meeting and this meeting, that the effectiveness of the communications
21 has improved perhaps an order of magnitude, and at no point in the last
22 two meetings has any -- at any time the discussions turned into
23 battlefields between NRC and the agreement states.

24

25

1 We've all been addressing issues, problems, areas that we
2 need to address in a collective sense that has, I think, added a much
3 more constructive atmosphere to the entire meeting.

4 When the decision was made, NRC's role then became, as we
5 saw it, to provide support to the executive committee of the OAS in the
6 planning effort and to the state that was hosting the meeting.

7 So, we went into basically a reactive or ad hoc mode, and
8 when requested, we tried to respond, if it was an area that we could
9 respond with some support in, and the things I've listed on this slide
10 show the things that we actually did before you assumed this
11 responsibility, but they've continued, and these are the kinds of things
12 we do that help you communicate with our agency a little more
13 efficiently, and they don't cost us any money out of our pocket, they
14 just cost people's time.

15 But the OAS executive committee, the host state
16 representative can come to OSP, and we can kind of serve as a clearing
17 house for NRC, and when you ask for agenda item recommendations, they
18 come to us and we farm the request out to other offices and we give you
19 a central set of recommendations back.

20 Once you decide on some subset of those to be included on
21 the agenda, then again we go out to those offices that provided the
22 input and identify presenters.

23 When Roland needed some abstracts or preliminary material
24 about what the talks were going to cover, we again coordinated that
25 effort and were able to give one response to Roland.

1 Also, if you decide to ask a -- or request a commissioner to
2 deliver a keynote or a talk or another member of NRC management to
3 deliver a presentation on any particular subject, we can check that
4 person's schedule to see if they're available, we can make some discreet
5 inquiries to make sure they'd like to receive such a request. So, that
6 will help guide you in that respect.

7 Now, the things that we can provide that might cost some
8 money -- I've lost the slide, so I'll just talk.

9 We can provide to you, I think, with a fair degree of
10 assurance that we will continue to provide support to the meeting in
11 terms of attendance of NRC staff at about the same level that we have
12 over the last few years, and my best guess is, from year to year, that's
13 been in the order of 15 to 20 people a year.

14 We are undergoing cutbacks in our budget, as you know,
15 cutbacks in staff, but the travel cuts are not likely to be so severe,
16 as I envision them over the next few years, that we won't be able to
17 sustain that level of attendance.

18 I'll ask Chip to say whether he believes that he can
19 continue to offer facilitator services, but I think that he probably is
20 going to shake his head, at least tentatively.

21 MR. CAMERON: Yes, no, but if that's what the will of the
22 group is, I think our office would be glad to support that, and I know I
23 would enjoy doing it.

24 MR. BANGART: At this meeting, we were asked to provide
25 financial support to pay for the cost of transcription. We were able to

1 do that. We were also able to pay for the costs of the audio equipment
2 that's in the room.

3 I think that we can make a commitment that we'll be able to
4 continue to do that, if requested, again, for at least the near-term
5 future years.

6 We also can offer -- and I've checked this with the EDO's
7 office -- the use of the NRC auditorium, if you would choose to have a
8 meeting at White Flint in Rockville so that you could be closer to NRC
9 officials that you might want to interact with for any particular
10 reason.

11 We also could provide administrative support if you needed
12 it. We could help and have helped prepare things like tent cards, that
13 kind of thing.

14 We could, if you didn't have any other recourse, even
15 provide somebody to help at a registration desk, for example.

16 But it would help us in our planning efforts to know if
17 those are to be things that are likely be -- you'll be requesting from
18 us for support year after year, because once we know that, then we can
19 include them in our budgeting process, and these aren't big-ticket
20 items, but what used to be small items in prior years aren't now
21 necessarily as much down in the noise as they used to be, and we're
22 anticipating that, depending on the hotel, depending on the city, the
23 union relationship in terms of the services or contracts that they have,
24 that the total amount of dollars we're talking about to provide the --
25

1 funding the costs of these kind of services probably would be no more
2 than three to five thousand dollars a year.

3 So, we can budget for that and, I think, come up with that
4 kind of money.

5 So, that's kind of where we stand and what we can offer, if
6 requested, for future meetings, and let me now turn it over to Diane to
7 talk about the experience in planning this meeting.

8 MS. TEFFT: Thank you, Dick.

9 I was glad to hear what Dick Bangart had to say in his
10 comments.

11 I think we all agree that these meetings are beneficial. I
12 think we have a lot of -- you know, it does present a forum for
13 discussion, and the lessons learned we all take back to our programs,
14 whether we're NRC or the state. It provides an opportunity for keeping
15 us current on rules and policy.

16 So, what I'm saying is I think it benefits NRC as much as it
17 does the agreement states. I can't imagine one of these meetings
18 without NRC here nor can I imagine one where the agreement states aren't
19 at an NRC meeting.

20 So, I think what we want to agree upon today is how we will
21 continue and who is expected to do what, and I think that's sort of what
22 Dick just said, too, and the fact that NRC can't fund us to the meeting,
23 I think that's something that's already set.

24

25

1 Whether we agree with this or not is something else, but I
2 don't think that should exclude NRC from sharing, maybe, in the cost and
3 the planning of the meetings.

4 We hear a lot about partnerships, and I think this is an
5 area where we really need to be partners and the planning and paying for
6 and holding these meetings, and that's what I would like to see.

7 I think this year's meeting was run quite different from
8 last year's in L.A., and Ed's going to talk about that in a minute.

9 Early on, I knew that the State of New Hampshire was not
10 going to pick up the cost for this meeting, and so, my philosophy in
11 planning it was that all costs would be assumed by the people who
12 attended the meeting.

13 There were a lot of unknowns initially when I started
14 planning.

15 For example, the meeting rooms that we are in are on a
16 sliding-scale based on room nights taken at the hotel, and the cost for
17 these meeting rooms, by the way, could go all the way up to almost
18 \$2,000.

19 So, you had to have X number of people staying Y number of
20 nights to get the meeting rooms for free, which the good news is we did.
21 We met all our expectations and more.

22 The audio equipment, which Dick Bangart just talked about,
23 is an expense, and that was close to \$1,000 for what you see here.

24

25

1 Now, we were very lucky here, because the audio and visual
2 equipment is contracted out, but we did -- we were able to bargain with
3 them and bring our own visual aids.

4 So, my staff is running the visual aids, and this is our
5 equipment and Bob Hallisey's equipment, and that saved us a lot of cost.
6 We did have to rent a screen and some other things to go with it.

7 So, I had to make some decisions early on, like what are we
8 going to do and how are we going to run this meeting, and then, coffee
9 breaks, were we going to have a reception -- these are questions I was
10 getting asked.

11 So, I went ahead and said, all right, we are going to have
12 -- we're going to fund the morning coffee break, and somehow we'll do
13 it, and I think we should have some sort of reception, because I figured
14 it really did enhance the meeting quality.

15 I think these are things we need to talk about, though,
16 because I went ahead and assumed that the majority of people would say
17 okay, let's do that.

18 I then took some numbers of people I thought would be
19 attending, I divided all this out, and I came up with, at first, not
20 knowing anything -- taking all those costs into account -- that we would
21 probably have to charge about \$25 registration fee per person attending
22 to take care of the costs.

23 We're looking at, total cost, about 26, 27 hundred dollars.
24 That's what it was.

25

1 Well, we got lucky. Thank you to some sponsors -- and these
2 are people who we -- that helped us with the New England Rad Health
3 Committee meeting, with the local Health Physics Society annual meeting,
4 and here we had the New England Rad Health Committee that offered to
5 sponsor a coffee break.

6 We had three vendors that said we -- that agreed, if they
7 could set a table up with some of their wares, they would help us out.

8 So, we did collect some additional monies for that.

9 So, you figure, roughly, we had 100 people here, at \$10 a
10 head, you're looking at \$1,000, and we had expenses of about \$2,700 or
11 \$2,600.

12 NRC graciously picked up the audio equipment for another
13 thousand.

14 So, we managed to cover the cost of this meeting based on
15 the people attending and with the help of the sponsors.

16 I just want to ask -- I did hear some discussion about
17 registration fees, and I do want to ask for just a show of hands. How
18 many people in this room will be able to get their registration fee
19 reimbursed?

20 [Show of hands.]

21 MS. TEFFT: Okay. The majority of people, this is not an
22 issue.

23 Part of the issue was in collecting it and figuring out --
24 the OAS is not an organization. It does not have a tax number. So, I
25

1 couldn't have an account just for this, couldn't figure out how to
2 collect checks.

3 So, we did it the best way we could, to have you make the
4 check out to me, with a receipt, have somebody else dealing with the
5 money, that was keeping track, keeping me honest, and it all clears out,
6 but -- so we might need to think about these things as you're collecting
7 dollars.

8 In the end, I think we need to discuss things like do we
9 want to have registration fees and what is an amount that is going to
10 meet the expenses in Texas, and I don't know how Richard's going to run
11 things next year.

12 Is this something we can do and something we want to do?

13 What do we want to have? What are your expectations?

14 Do you want to have a bare bones meeting, no coffee, no
15 reception, nothing, just come, meet, and take care of whatever hotel
16 expenses you have to with your registration fee? I don't know. I mean
17 I just went ahead and assumed that we'd have a few little extras here.

18 And we definitely need to know who's going to do what, and I
19 think we learned a lot this year, but even as Dick said, you know, what
20 do you want us to do? This needs to all be discussed, because early on,
21 you really don't know who's doing what or if anybody is doing anything.
22 So, you have to assume that nobody's doing anything and we're going to
23 take it on and meet the cost.

24 So, these are things that I'd like to hear somebody talk
25 about, too.

1 Ed?

2 MR. BAILEY: Well, Diane, if you think things were unsettled
3 this year, you should have had that first year's meeting.

4 We could have done a lot of things better had we had a
5 little more lead time in planning. For instance, we could have
6 negotiated some better treatment by the hotel.

7 But remember, last year, we were still getting responses
8 like over half the people weren't sure they were going to be able to
9 come to the meeting. So, we contracted for only 50 people a night, and
10 we talked to NRC, and NRC really bailed us out, essentially, on that
11 meeting as far as attendance, and they've done it again this year, both
12 in providing actual numbers of bodies to the meeting and speakers.

13 We did take a little different tack. Last year, I guess, at
14 the last moment, it was decided to have a transcript, and NRC picked up
15 the transcript last year. We picked up the AV.

16 Now, it was alluded to what the union contract or the mafia
17 contract at the hotel entails, but in L.A. and in most large California
18 cities, there is very tight control. If you remember, we had people
19 running in and doing it and so forth.

20 So, we actually spent over \$1,600 on the AV equipment.

21 In addition to that, we did have to pay a room rental fee,
22 because we didn't have a large enough meeting to even begin to get into
23 the free room category. The room rent cost us about \$2,500.

24 We did not have a registration fee, but then, later on in
25 the week, we went and begged -- what was it, two dollars from you? I've

1 forgotten, two or three dollars, and we put together a sort of halfway
2 reception.

3 So, there were a lot of things that were done at the last
4 moment there.

5 Diane has alluded to some of the things that we need to
6 decide.

7 I think one of the things that we need to look at is, if
8 we're going to continue to have this meeting in October, which I presume
9 we will, is trying not to have it interfere with Halloween.

10 Now, I mean that sounds very trivial, but I know one person
11 who has not attended the meeting at least twice because of Halloween,
12 and I know some people are leaving earlier than they really planned
13 because they're going back for Halloween. So, we probably need to look
14 at that.

15 For those of you who haven't hosted one of these meetings,
16 I'd like to point out that I feel that they're very, very beneficial.

17 I see most of you all two or three times a year, but my
18 staff doesn't see you maybe once in a lifetime. They don't get the
19 opportunity to go out of state to attend meetings like this or -- you
20 know, a small percentage of them do.

21 So, I think it is terribly important that states be able to
22 host these meetings and have them in locations where they can have large
23 percentages of their staff attend. Many of us are under constraints of
24 out-of-state travel, and so, this is an opportunity.

25

1 Another issue that I think we need to face up to, sort of
2 one of the rules that was established last year, was that we would have
3 the meeting so that, essentially, people stayed over Saturday night, and
4 as I get older, I enjoy less and less being away from home on the
5 weekends.

6 So, I think we really need to look at whether we have this
7 meeting extend to Saturday so that people will get the lower airfare.

8 We have a provision -- and maybe you do -- that if we have a
9 meeting that ends on Friday and we can show that it's cheaper to stay
10 over, you know, till Sunday or whatever we want to, that we can do that
11 and the State will pick up the hotel or whatever.

12 So, I think we need to look at that as a possible -- see if
13 it's still a problem with people on getting airline tickets.

14 Now, I don't have an over-Saturday-night stay, and from the
15 west coast here, it was like -- how much was it Don? Yours was 350,
16 mine was 420 or something.

17 So, I'm wondering if these airline tickets are really as big
18 an issue as they used to be if you buy them far enough in advance and if
19 you don't get a fully refundable ticket.

20 We had a policy that we had to get fully refundable tickets
21 until we pointed out to people that, hey, for \$50, even if you don't use
22 it, you can change it.

23 It's not refundable, but it can be changed, and you know,
24 one trip at \$1,800, which is one of the staff members had to pay for a
25

1 trip to Washington the other day because it was fully refundable,
2 compared to \$400, I think we need to look into that.

3 I think, as Diane mentioned, we have to decide what we want
4 as the flavor of the meeting. This is certainly an excellent site as
5 far as I'm concerned, very beautiful, much prettier than downtown L.A.,
6 but L.A. had a few thing that are not around here. So, there
7 trade-offs.

8 So, anyway, I would encourage any of you who haven't hosted
9 a meeting to get your name out there, and I really particularly want
10 North Dakota to do it, because I've never been to North Dakota, and
11 that's probably the only -- in this job, which has been wonderful to me,
12 I've gotten to go to almost every state in the United States. I added
13 Vermont this year, with this trip. So, I enjoy going to these different
14 places.

15 So, if we can get North Dakota to host the meeting one year,
16 I'll be sure and attend.

17 MR. CAMERON: I was going to suggest that we try to maybe
18 take these in blocks in terms of getting the what-else-should NRC do out
19 of the way and then talk about -- we have the amenities issue that Diane
20 brought up, the Saturday night, the registration issue, but Roland, how
21 do you want to do it?

22 MR. FLETCHER: Exactly what you just said. I do want to
23 comment, first, on Dick's comments, and we certainly recognize and
24 appreciate what support we have received from NRC for this meeting.
25

1 I would recommend -- and I was glad to see the things that
2 you itemized, but I would recommend very strongly that these things be
3 reiterated to the host sooner.

4 You mentioned many times, when we ask for it, when we ask
5 for it. If there is already -- if there are already items that NRC
6 knows it will provide, let the host know now, so that that's less that
7 they have to be concerned about.

8 I remember conversations Diane and I had when we didn't know
9 what we were going to do about audio-visual and we didn't know what the
10 situation was, and I'm talking June and July.

11 So, it makes it a lot easier for planning for the host if at
12 least those things are out of the way, and that's something less than
13 has to be -- you know, of concern.

14 Then, if something comes up that's outside of those things
15 that we might need support, those things we can ask for, but those
16 things that are already predetermined, I think, you know, we should know
17 that.

18 MR. BANGART: So, you would like us to just plan to provide
19 for transcription and audio-visual costs on a year-after-year basis.

20 MR. FLETCHER: Yes.

21 MR. BANGART: Okay.

22 MR. CAMERON: Okay. All right. Let's go to Aaron. We're
23 on NRC.

24

25

1 MR. PADGETT: Yes. In addition to those, Dick, what else
2 did you say that the NRC would provide? I know you did mention staff
3 support by attendance.

4 MR. BANGART: We can offer the White Flint auditorium as a
5 place for the location. For example, if Maryland wants to host, he can
6 host it at Inner Harbor or he could possibly consider using the facility
7 in White Flint.

8 MR. FLETCHER: You don't want me to make that decision.

9 [Laughter.]

10 MR. PADGETT: Well, looking at it, at least from my
11 perspective, the meetings are equally beneficial to the NRC as they are
12 to the states. What about either providing the room, someplace other
13 than White Flint, for the meeting itself or at least picking up a
14 portion of the support for the room, meeting room itself, someplace
15 other than White Flint?

16 MR. BANGART: I can explore that. That's not one I've
17 discussed in advance of this meeting, so I haven't got that one checked
18 out yet. But I can see whether that's a possibility.

19 MR. PADGETT: My preference would be for you to look into
20 that, to see what you all can do there.

21 MR. BANGART: We'll do that.

22 MR. CAMERON: Okay. Diane.

23 MS. TEFFT: Yes. Just a comment on White Flint. From my
24 perspective, it's a lot more expensive for me to go to Washington to
25 stay there when some of the room rates, the per diem, which we based

1 this on, are 68, 73 dollars in other places. So, my out-of-state travel
2 would be higher to go to White Flint.

3 MR. CAMERON: Okay. That's a good point to keep in mind.

4 Other comments on what the NRC could try to provide?

5 Richard?

6 MR. RATLIFF: I'm wondering, Dick, if you could also check
7 on just the -- for future meetings -- we'll be in Austin next year, but
8 if there's a regional office in the area, can they provide meeting rooms
9 or support, things like that, from your NRC regions?

10 MR. BANGART: And the host state in that kind of scenario
11 would then -- would still be the state within which NRC's regional
12 office is located?

13 MR. RATLIFF: I think that's an option we could look at.

14 MR. BANGART: Yes. Okay. We can look into that, as well.

15 MR. CAMERON: All right. These are good suggestions.

16 MR. BANGART: But again, this is just support that the OAS
17 would be asking from NRC.

18 MR. CAMERON: Any other suggestions for Dick on NRC
19 provision?

20 Ed.

21 MR. BAILEY: From my viewpoint, I certainly want to identify
22 speakers and presenters as something we definitely want to -- or I want
23 to continue to get from NRC as we have in the past.

24 MR. CAMERON: Let's assume that all of the things that Dick
25 put up on his view-graph, that the NRC will continue to provide those.

1 Roland.

2 MR. FLETCHER: One more thing. When we were able to have a
3 designated point of contact, Rosetta did a tremendous job in assisting
4 us.

5 The earlier, you know, we can have someone specifically
6 designated that, when something comes up, we can call and deal with, the
7 better, and -- to help coordinate staff, coordinate presentations,
8 etcetera, pass information back and forth, both between the chair and
9 the host state. That's very beneficial.

10 MR. CAMERON: Okay. Great.

11 How about the -- what I call the amenities issue? Diane
12 presented it as do you want to have a bare-bones meeting, and by this,
13 it's the coffee, the reception. Anything else that you would put into
14 that category, Diane?

15 MS. TEFFT: Not really, but those are the things --

16 MR. CAMERON: The music that we had.

17 [Laughter.]

18 MS. TEFFT: That was free.

19 MR. CAMERON: Anybody have any comments on that? I mean,
20 just from a facilitator's point of view, I think that all those things
21 help the dynamics, and in fact, I think it's good to have perhaps more
22 time on your breaks, actually, to be able to talk to one another instead
23 of being rushed, and I'll have some comments on that at some point, but
24 -- Don, do you want to -- go ahead.

25

1 MR. PETTIJOHN: Well, I just wanted to add that last year's
2 meeting was handled primarily by a person on our staff who was a
3 certified meeting planner. She'd been through some orientation about
4 this. It was very helpful. She set up a lot of meetings for us.

5 She knew the ins and outs, how to squeeze the last little
6 donut out of the mafia contract, and I don't know how to, you know,
7 suggest this, but if you have someone on your staff that likes these
8 kind of things, I would encourage them -- she's no longer with us, so we
9 miss her.

10 MR. CAMERON: Yes, she did a great job.

11 Dick.

12 MR. BANGART: We have had a fair amount of experience
13 through one of our staff members doing that very same thing, and I'm
14 sure, in terms of administrative support, that she can help with those
15 kind of contractual arrangements, also.

16 MR. CAMERON: Okay. That's another item that the NRC can
17 help with.

18 Aubry?

19 MR. GODWIN: Just a word of caution on the amenities. I
20 think we need to stay away from having a licensee suddenly start
21 sponsoring a bunch of social events. If, suddenly, the whole thing
22 becomes licensee-sponsored social events and everything, it will give us
23 all problems, I believe.

24 MR. CAMERON: Let's go to that. That's an important issue
25 for discussion. Let's go to that.

1 Diane?

2 MS. TEFFT: Yes. Before I address that, I just want to say,
3 you know, the discussion we're having about somebody help planning, the
4 real issue is cost, and these things add a lot of cost to your meeting.
5 Coffee breaks are not cheap, even if you're just having coffee, and
6 neither are receptions.

7 So, it would -- you're going to have to decide how you're
8 going to fund that, and you're talking a lot of money.

9 About the licensees, I was concerned about that with a
10 couple of them. They said they do this at the Health Physics Society
11 meeting, they do this at the New England Rad Health Committee meetings.

12 They didn't -- they saw, by sponsoring something, they
13 weren't offering anyone, NRC or the state or whoever licenses them,
14 anything different than they're offering anybody else. So, I didn't
15 pursue it, but it may be something that you wish to talk about.

16 It's never been an issue at any of the other meetings that
17 we host here in New England.

18 MR. GODWIN: Some of these may not have been licensees.
19 These are instrument salesmen, which may or may not have been a
20 licensee, but I'm looking at licensee sponsoring things. There are
21 occasions when licensees want to sponsor events like this.

22 MR. CAMERON: Go ahead, Ed.

23 MR. BAILEY: I guess I've always looked at that a little
24 differently, and back when the conference was doing some of that, that
25 when a state hosts a group from across the nation, it is often to the

1 benefit, particularly, of your licensees if they can come and meet the
2 people they've been talking to on the phone, and I feel that it's
3 another reason for a state to have a meeting in the state.

4 In fact, one time, there was a proposal to allow vendors
5 from the state wherever the meeting was held to be the people that would
6 be there, and they would pay some fee for being there, and that would be
7 used to defer the cost of the meeting.

8 Another way to go is to perhaps try to get other
9 professional organizations, such as HPS or AAPM or whatever, to do the
10 same thing, and in actuality, it's for the same reason, it's for the
11 interaction with the people.

12 MR. CAMERON: Okay. Thanks, Ed.

13 I guess that that's a caution to just keep in mind. It
14 doesn't seem like anybody is saying -- I guess this is a question. Is
15 there anybody who feels so strongly about this issue that they would not
16 attend meetings? And let's go to Bob.

17 MR. HALLISEY: Two things -- and one was the comment that Ed
18 just made.

19 There is a definite benefit to the licensees and people, not
20 only to the state people, when you have the meeting in your particular
21 area.

22 But the second issue is, considering the number of people
23 that indicated the opportunity to re-collect their registration fee,
24 you're not going to see \$10 again. So, I think you need to think
25 seriously about a bottom-line amount and start at 25 or 30 for your next

1 meeting and work your way up, and then you can say that will help defray
2 a lot of these expenses and you're not going begging to do these things.

3 MR. CAMERON: Thanks, Bob.

4 Aaron?

5 MR. PADGETT: In North Carolina, there are several boards
6 right now that have come under a great deal of criticism and fire in the
7 newspaper for just the type thing we're talking about, spending money at
8 meetings like this for groups such as us when we are the regulator and
9 they are being regulated.

10 I have real heartburn with allowing a licensee, any portion
11 of the regulated community, coming in and picking up the tab with this
12 meeting. I think we are setting ourselves up for some potential
13 problems.

14 We're a small enough group and it's nationwide, it may never
15 become a problem, but I think the potential exists, and so, I think we
16 ought to flee from that. That's just one opinion. I just don't think
17 it's a good idea.

18 Surely we can afford to pay for our own coffee, or we should
19 forego the coffee.

20 MR. CAMERON: Well, this is connected to the registration
21 fee, as Bob pointed out, and I think most of the people around the table
22 said that they could be reimbursed for a -- registration, and Bob mentioned
23 the amount of \$25.

24 I don't know -- I guess the first thing is do people -- who
25 objects to registration fee, particularly if it -- knowing that it's

1 going to help perhaps mitigate this issue of licensees picking up the
2 tab for coffee or whatever, and should there be a -- is there a
3 recommended limit or amount that we should be talking about here.

4 Eddie, do you have a comment on that?

5 MR. MANNEY: In Tennessee, our financial people will pay the
6 registration fee as long as it's something that's indicated in writing
7 that's a part of the cost of the conference.

8 I don't recall, in this particular case, whether that's the
9 case or not. If it was, then I'll be able to get my money back, and if
10 it wasn't, then I won't. That's why I didn't raise my hand a while ago.
11 I wasn't sure.

12 I don't mind paying that registration fee, even though I
13 don't drink the coffee, but I don't mind being a part of that.

14 With regard to the airline fare question a while ago, I'd
15 like to comment on that, too.

16 I, too, am one who really doesn't enjoy spending a lot of
17 time away from home on weekends, and once our financial people agree to
18 send somebody -- we've had some problems sending people to meetings for
19 the last few years. Usually, they will go for at least one person at a
20 meeting.

21 Once they agree to that, it doesn't matter about the airfare
22 too much. Most of the time it's not that high anyway. If the
23 opportunity presents itself of these Saturday night super-saver things,
24 they will take advantage of that.

25

1 If the meeting is going to be held Tuesday, Wednesday,
2 Thursday, there's not much opportunity for them to do that. It's not a
3 requirement.

4 MR. CAMERON: Okay. Let's finish off the registration and
5 see other views on the Saturday night deal. Does anybody have -- just
6 ultimately opposed to having a token registration fee?

7 [No response.]

8 MR. CAMERON: And does \$25 sound like that would probably be
9 a pretty fair amount? Of course, I think Ratliff is going to, what, be
10 \$1,000 or something?

11 MR. RATLIFF: Right. Everything's big in Texas. I think,
12 if we can just cover -- Diane's done a great job, but we have Health
13 Physics Society, as well, that's supported us a lot, and it's not
14 industry. I disagree with Aaron on that.

15 At that conference we have every year, the South Texas
16 Chapter Health Physics Society has their vendors meeting, they're the
17 ones with the vendors, and it really does give a good interaction.

18 A meeting like this might or might not, but I think there's
19 multiple ways to get funding that our ethics commission has said is
20 fine, there are certain things you can't do, and you just have to use
21 common sense.

22 MR. PADGETT: I think the amount you have to be careful
23 setting right now, because we don't know what the registration fee is
24 going to need to pay for.

25

1 It may need to pay for 10 bucks, for 20 bucks of coffee. It
2 also may need to pay a couple thousand dollars for a room. We don't
3 know what the NRC -- a meeting room like this. So, setting an amount
4 would be dangerous at this point.

5 Just one comment on that. We have not had any problem, when
6 it's a group like the Health Physics Society, and we pay a portion of
7 that. The criticism has come in when it is a group of regulators, like
8 this meeting, and then the regulated community is paying for it.

9 MR. CAMERON: I don't think that Aaron's caution or Aubry's
10 caution applies to the groups you were talking about.

11 Okay. Diane?

12 MS. TEFFT: Just a last comment to say that I think, too, it
13 is dependent, like you said, on what you're going to have, and maybe, if
14 we just show Richard that we're willing to pay \$30 or whatever, he can
15 work with that.

16 The other catch is, you know, you've got to get the
17 information out early. I only think we have the response to this
18 meeting that we had because we kept starting -- Roland had his agenda
19 early. We sent the stuff out in the spring.

20 I had the stuff at the annual conference meeting. So,
21 people knew then kind of what they were facing, and if we could do that
22 every year, I think you're going to get a good attendance.

23 MR. CAMERON: I think the record should note that not only
24 -- there's so many issues, including agenda, that depend on advance
25 planning, so I think that that's a good idea, overall.

1 How crucial is the Saturday -- is having it on a Saturday
2 night in terms of people's travel budgets?

3 Roland?

4 MR. FLETCHER: Well, I did a non-scientific, non-statistical
5 survey at the CRCPD meeting asking that exact question, because it had
6 come up, and at that time, out of maybe about 15 responses, only seven
7 or eight states said they still had -- you know, their finance offices
8 still wanted to use that to reduce airline fares.

9 I think the requirement is dwindling. I think, in most
10 states, that is no longer a consideration. So, I think, based upon the
11 feedback that I had talking to people, that that may be a requirement
12 that's going away. But at the time we were doing it, we were -- you
13 know, there was enough who needed it that we felt we might preclude
14 someone from attending if we didn't have it.

15 MR. CAMERON: Now, I take it that, if there needs to be a
16 business reason to stay on that Saturday, that I suppose that the states
17 that could only get the funding if they were going to take advantage of
18 that Saturday night fare, I suppose that you could have the main portion
19 of the meeting Wednesday, Thursday, and Friday, or whatever, but have
20 some type of a special session or discussion group for those states that
21 need to be over on Saturday.

22 I mean it wouldn't be necessarily trumping anything up. I
23 mean you could do something useful. I mean that's another contingency
24 to think about.

25

1 MR. BAILEY: As suspicious as we are, we would stay if there
2 was going to be this second group of people meeting.

3 [Laughter.]

4 MR. CAMERON: I'm sorry. Bad idea.

5 Just a representative from Joe's Mowing Service here.

6 Joe, what do you have to say?

7 MR. DUNDULIS: What I found, since Rhode Island has a lot of
8 -- since it's a very small state and there's almost no such thing as
9 in-state overnight travel --

10 [Laughter.]

11 MR. DUNDULIS: -- some of the state travel regulations have
12 real quirks, and they also have contracted with a, you know,
13 professional travel agent to book our travel.

14 The solution might be to have meetings in cities that are
15 served by Southwest Airlines, because what I've found out is -- I
16 believe Southwest is the only airline on all their markets that doesn't
17 -- Saturday night stay doesn't make any difference, and if you're going
18 to markets served by Southwest Airline, most of the other airlines
19 coming in will match it and you don't gain anything or lose anything by
20 not having the Saturday night stay.

21 So, maybe that's a solution, is to only have the meetings in
22 cities served by Southwest.

23 MR. CAMERON: Okay. I think that there are some
24 contingencies that we can use for planning, and I don't want to rush us
25 through this, but we do have a couple of presentations, and also, we did

1 ask Ara Tahmassian from -- he came out from San Francisco to present
2 some data to us, and he won't be here for the Part 35 thing tomorrow.
3 So, I wanted to make sure that we hear what he has to say.

4 We have Will Hutchison and Roland about information-sharing.
5 I think, for some reason, Dick still wants to talk about employee
6 protection, and we have Ed about the -- whatever the topic was going to
7 be, life-cycle.

8 So, can we -- Dick, do you want to do employee protection
9 quickly, and then we'll have Roland and Will talk about
10 information-sharing, and then we'll have Ara -- Ara, are you ready to --
11 you're okay. You're going to be with us, you know, the three hours we
12 have left of the meeting? Okay. Sounds good.

13 MR. BANGART: Just real quick, in 1992, the Energy
14 Reorganization Act was amended by adding Section 211 that established
15 some whistle-blower protections, and it basically says that employees
16 who provide safety information to their employers are protected from
17 discrimination by employment discharge or by establishment of what I'll
18 call punitive restrictions at work, and in that law, employer is defined
19 as an NRC licensee or an agreement state licensee, and those
20 requirements in Section 211 are reflected almost literally in our 37.47,
21 61.9, and 70.7, and for each of you at the table, there is a copy of 37
22 in front of you to remind you of what that says, and there has been some
23 discussion about compatibility category designations for one of -- for
24 our rules, and by some mechanism at the surface, at least, it appears
25 that this rule ended up in the wrong category, because it is identified

1 as a category D in the (b)(7) procedure, even though there's a
2 requirement under law for each of your licensees to provide this
3 protection.

4 NRDC, National Resources Defense Council, questioned the NRC
5 about this compatibility designation as they were corresponding with us
6 about issues related to Envirocare.

7 We looked at this and said it appeared to be a valid
8 concern. We did identify the concern to the Commission and that the
9 staff was going to evaluate the matter. The Commission directed us to
10 discuss this with you and to also seek input from the public.

11 So, you may remember that we sent you an all-agreement-state
12 letter in July that addressed this subject. We asked you whether you
13 had comments related to the possibility this might be changed to
14 category C or that it might be required as a matter of health and
15 safety. We also published a Federal Register notice that asked for the
16 same kind of comments on July 28th.

17 We only got one response to the all-agreement-state letter
18 from Illinois. They indicated that there was no justification for the
19 expenses associated with a category C designation, and they recommended
20 the retention of the category D.

21 The California chapter of the American College of Nuclear
22 Physicians didn't really understand the issue, but the bottom line was a
23 statement that compatibility at any level other than D is legally
24 inappropriate, unnecessary, and expensive to implement.

25

1 However, it does appear that -- where we stand today -- that
2 there is at least potential for a gap in our collective regulatory
3 framework, because agreement state licensees and agreement state
4 licensee employees may not be aware of this protection that's afforded
5 to them by the Energy Reorganization Act unless it's in your
6 regulations.

7 However, that may not be the case, because each of you, I
8 believe, to be compatible with NRC's regulations, post a notice to
9 employees.

10 The NRC notice to employees, about half of the text that's
11 on this document relates to whistle-blower protection and to these
12 various provisions in Section 211 that I'm talking about.

13 I don't know if your notice to employees have that same
14 language in it. If it does, however, the compatibility issue may not be
15 present.

16 So, one of the things I'd like to find out is how many of
17 you know with a fair degree of certainty that your notice that's
18 equivalent to ours does have these kind of provisions in it?

19 [Show of hands.]

20 MR. BANGART: Not many.

21 How many know that it doesn't?

22 MR. CAMERON: I think some people don't have any idea what's
23 in it. That's the problem.

24 [Laughter.]

25

1 MR. BANGART: Then, is it safe to assume that those who did
2 not raise their hands don't know one way or the other?

3 [Chorus of yeses.]

4 MR. BANGART: Okay. I will make sure that you get a
5 specific request, either verbally or in writing, to give us input,
6 because that's going to -- we have to get back to the Commission on
7 this, and this appears to be the key piece of information that we'll
8 need that will make or break the recommendation that we give to the
9 Commission on whether it's established as a category C or not.

10 The other point I want to make, quickly, is that we will,
11 within the next month or so, be writing this Commission paper.

12 So, if any of you have any comments that you'd like to
13 provide to us and have them, in turn, reflected in the paper, you've
14 still got a couple of weeks to get any additional comments in to us, if
15 you have them.

16 MR. CAMERON: Okay. Terry?

17 MR. FRAZEE: Dick, you may want to talk to OSHA about
18 whether or not that's acceptable. We have a licensee who I'll not name
19 -- we did have a whistle-blower kind of concern, and OSHA did come in
20 and look at it, and they are requiring this licensee to put up the OSHA
21 notice. They do not accept anything other than the OSHA notice.

22 Now, I can say ours is not as comprehensive -- or it's not
23 as big, as lengthy, as the NRC, so I would say we're probably one would
24 have to raise our hand that we don't have sufficient information in
25

1 there to be the equivalent, but the bottom line was they didn't care.
2 It wasn't sufficient for a state notice. It had to be the OSHA notice.

3 And if it's going to be that kind of a situation, you know,
4 it's like, hey, this is a general employee protection kind of provision,
5 it's not a radiation safety issue, you know, and we're charged with
6 dealing with radiation safety. So, you know, from my standpoint --

7 MR. BANGART: But Section 211 is specific to radiation
8 safety issues, and I have not been made aware of any conflicts between
9 OSHA provisions and our whistle-blower protection provisions.

10 MR. FRAZEE: My impression is that's allowing OSHA to get
11 into the act in terms of radiation-type concerns or complaints that are
12 in the radiation arena. It's not a radiation issue. It is a
13 whistle-blower, employee concern, employee protection.

14 MR. BANGART: The Department of Labor is involved in
15 resolving issues and providing the necessary actions that are afforded
16 to an employee who has been discriminated against. So, that's how we
17 interact with OSHA/DOL.

18 So, it turns out to be not only a violation of our
19 regulation, but the employee that's been discriminated against gets the
20 matter addressed through DOL.

21 MR. CAMERON: Will Hutchison is going to be talking with
22 Roland about information-sharing, but he also has quite a bit of
23 expertise in these fundamentals, and he may just want to offer something
24 on that when he gets up there.

25

1 MR. FRAZEE: Okay. And even when we have whistle-blower
2 protection laws, which we do, the issue, though, is the remedy is
3 through OSHA, not through our program. So, again, it's back to D.

4 MR. BANGART: Same way here.

5 MR. CAMERON: Okay. Let's go to Aubry and then to the State
6 of Illinois.

7 MR. GODWIN: I would submit to you that it is a health and
8 safety issue, because if you don't have provisions to protect your
9 whistle-blowers, you've chilled the opportunity -- even though they may
10 have protection through another agency, you've chilled the opportunity
11 to hear of a violation that may be a health-and-safety issue, and that's
12 why the NRC has it in theirs.

13 Granted, the ultimate recourse, as far as the money for the
14 employee is concerned, may be through the Department of Labor. You have
15 a responsibility to offer the protection and gather the data to support
16 that action through the -- to the Department of Labor.

17 So, I would submit to you that it probably is a
18 health-and-safety issue.

19 MR. CAMERON: Yes. I think I saw Will agreeing with that
20 statement back there.

21 Steve.

22 MR. COLLINS: Steve Collins, wearing both hats.

23 MR. CAMERON: Both hats.

24 MR. COLLINS: Both hats.

25

1 If you used out of the 1993 revision of Part 20's notice to
2 employees or if you use the 1994 version of the SSRCR's Part D for your
3 current version of your standards for protection and used the documents
4 that are recommended in there for your notice to employees sign, then
5 Kathy Schneider and I made sure all those provisions were in it, and you
6 could now vote with confidence that, if you used those, yes, you have
7 those provisions.

8 MR. CAMERON: Does everybody understand the documents that
9 Steve is talking about?

10 [Chorus of yeses.]

11 MR. CAMERON: Okay. That's a useful clarification.

12 Ken.

13 MR. WANGLER: My concern with using OSHA as the agency to
14 provide this protection is I don't know that OSHA is not much more
15 limited to the actual protection of the worker from being exposed to
16 things they shouldn't be exposed to, whereas if you have a release to
17 the environment, it may not affect worker safety right at the plant, and
18 I'm not sure how much OSHA covers it, then.

19 I mean does OSHA protect their job if it's not
20 health-and-safety-related to the worker at the plant? And so, I'm not
21 sure that OSHA would cover it in as broad an aspect as what NRC wants it
22 covered here.

23 MR. CAMERON: Yes. I think there's problems with this OSHA
24 issue.

25

1 Let's go on to the next topic, which is going to be sharing
2 of information, and Will Hutchison from our Office of Investigations is
3 here to address this with Roland Fletcher.

4 Roland, we'll turn it over to you.

5 MR. FLETCHER: We'll try to make this expeditious.

6 I want to talk about information-sharing and partnership.

7 You have received, I believe, over the last year a letter
8 that Rosetta has been trying to get the agreement states to concur on
9 dealing with information-sharing and whether or not the current policy
10 is -- the comments that the NRC staff made on the current policy are
11 agreed with with all of the agreement states.

12 I've gotten varying response, but for the most part, I've
13 gotten some verbal response but not a lot in writing.

14 But I took from the comments from last year's meeting and
15 those that I have received that there is some dissatisfaction and some
16 specific instances of dissatisfaction on the whole area -- the whole
17 arena of information-sharing, and it's not just information-sharing as
18 far as, you know, information being passed down through normal channels,
19 but it's incident-related, investigations that may be going on in your
20 state that you're not aware of or information that you don't really want
21 to get published just yet because you haven't told you boss and suddenly
22 it appears on the news.

23 Those kinds of things are the things that we were concerned
24 about.

25

1 So, I met with two -- the Office of Public Affairs, the
2 Office of Investigations, and the AEOD during one day in September to
3 discuss many of these issues, and I'm just going to cover some of that.

4 Now, to start it with the Commission briefing we had in
5 March, Chairman Jackson recommended -- when many of these things were
6 brought out, Chairman Jackson recommended that I meet with some of the
7 offices that control these information exchanges and find out what their
8 requirements were, what their restrictions were, if we were dissatisfied
9 with the way things were done, find out what they were operating under.

10 It took some time for us to actually get it done, but on
11 September 9th, I was able to meet with them.

12 When I met with Public Affairs, Bill Beecher, we had a long
13 discussion, and he admitted only a passing awareness of what an
14 agreement state was, which I don't know why that didn't surprise me, but
15 he did talk about the decision-making process, and one of the things
16 that he mentioned over and over again was he felt that the intent of
17 Congress, when the Energy Reorganization Act was put into effect, was
18 that nothing in the Nuclear Regulatory Commission was going to be
19 invisible.

20 There was some concern about the way the Atomic Energy
21 Commission had operated, and he felt that that was one of the strongest
22 messages that came from Congress, that nothing was going to be kept
23 under wraps in the Nuclear Regulatory Commission, and therefore, he felt
24 that it was necessary on occasion to overrule a state's preference in
25 getting information out in a timely basis.

1 But he deals primarily with press releases and more formal
2 information disseminations, and normally, the practice is to coordinate
3 with the states.

4 However, if there is -- if a state and his office either
5 mis-communicate -- and he gave a specific example that occurred in New
6 Jersey -- his office has the prerogative of publishing the information
7 anyway, and I don't think that's going to change.

8 What bothered me when I asked, well, is there something
9 written down that the agreement states can comment on, can give you some
10 suggestions, there was nothing. There was nothing written down, no
11 procedure.

12 He just kept remembering the fact that he was, you know, I
13 guess present at some of the hearings in the Energy Reorganization Act,
14 and he knew that's what Congress wanted, and you know, that's why the
15 policy was the way it was.

16 He did commit to being more aware of internal procedures
17 that states have to go through and including that through his staff in
18 future dealings. So, hopefully, that will mean some adjustment in the
19 future.

20 I next met with representatives of the Office of
21 Investigations, and I'm sure Will is going to follow up on some of that
22 meeting.

23 There again, the office operated under rules that protected
24 the integrity of an investigation, protected the integrity of
25 information that they had, and once again, I felt as though the value

1 that could be obtained from oftentimes coordinating or seeking information
2 from an agreement state, particularly if an investigation is going on
3 with a licensee that we are familiar with, was being missed.

4 I mentioned that when I was there, and I think there's going
5 to be at least some attention to that, but we'll deal with that a little
6 more.

7 I must say that the information that I received in both of
8 these visits was very valuable.

9 It did -- I think there were some instances where we
10 communicated to the point where there was an understanding that, within
11 a state, investigations also go on, with a state experience is gained
12 about how to accumulate evidence, how to keep your mouth shut, things of
13 that nature, and perhaps, as an outgrowth, some changes might be made,
14 but I look forward, either myself or Stan, to doing some followup visits
15 to see whether or not some of these things can come about.

16 Another thing that bothered me, however, is, once again,
17 nothing of this is written down in a regulation or a strict procedure,
18 and so, once again, it's a policy or practice that we're up against,
19 rather than a specific regulation.

20 As far as possible future actions -- and this is something
21 that I thought perhaps we could look at, at least -- I believe that the
22 Office of Investigations, Public Affairs, the Office of Communications,
23 and perhaps a few others, all are in the same situation.

24 They have little awareness of the agreement states. They
25 may hear about us every now and then, but they have little awareness of

1 who we are, what we do, and how vital we are to radiation safety across
2 this country, and we need to do something about that.

3 I don't know exactly, you know, what, perhaps some kind of a
4 workshop, but we need to do something about that, and I think, you know,
5 ideas need to come forward how we can get those offices more aware of
6 what we do, because they do control the information flow for the most
7 part, and oftentimes, information that comes out that we're not aware of
8 and should be is because they don't know who we are and who to get in
9 touch with. So, we need to take some action to get that done.

10 I do commend NRC staff -- at least this year, I felt that
11 we've made in-roads into offices like this that need to be made, but we
12 need to keep doing it, because they do change, you know, staff moves
13 around, information flows pretty heavily through these offices. So,
14 you've got to keep on. You know, the squeaky wheel gets the grease, and
15 we've got to keep on squeaking.

16 I would like to also challenge NRC to -- and I've spoken to
17 Dick Bangart many times on this. When agreement state information or
18 input is needed, can we get it from one point of contact at NRC rather
19 than seven or eight? Particularly as chair, there have been many
20 occasion where, you know, something was needed and I got seven or eight
21 calls on the same question.

22 So, I know that has improved, Dick has worked on it, and I
23 just challenge him to keep on working to funnel questions from other
24 parts of the staff through OSP so that we'll have a single point of
25 contact to deal with.

1 With that, I am going to turn it over to Will, who will
2 probably clarify all of the things that I just said.

3 MR. HUTCHISON: Thank you, Roland.

4 I'm not sure I'm going to be able to clarify everything you
5 said, Roland, but I would like to take this opportunity to at least let
6 you know what the Office of Investigation feels about this particular
7 area.

8 I had about four jokes. We obviously don't need my four
9 jokes, because we don't have time and you don't need to listen to my
10 jokes. Besides, most of you know me anyway and have heard them before.

11 I would dispute that the Office of Investigations doesn't
12 know much about the agreement states.

13 I was out to four separate sessions where we talked about
14 wrongdoing, and I think we hit every agreement state's folks and talked
15 to them in great detail about wrongdoing, and I thought it was a very
16 beneficial series of sessions, and I think that you may be right,
17 Roland, about the other offices. I can't speak to any of the other
18 offices. All I can talk about is the Office of Investigations.

19 And so, what I'd like to do, very briefly, is tell you a
20 little bit about not so much how we do our business but more why we do
21 our business the way we do it and at least give you, if I can, a better
22 clarification, a better idea of the rationale behind why we made the
23 decision to operate the way we operate for information.

24 We have made progress in this area. The first time this
25 ever came to my attention was when I went on this round-robin series of

1 sessions with the folks -- your folks, and it was your folks who brought
2 it to my attention, and I brought it back to the Office of
3 Investigations that there were some communication problems, and one of
4 the ones that I remember was hearing that you weren't getting the
5 information when a case involved you, and it wasn't even our
6 jurisdiction, but we turned it over to you. We weren't giving you
7 enough information. That didn't make any sense. I don't think that
8 should happen.

9 The one part of that that's probably not going to change is
10 when it involves a confidential source, and I'll talk a little about
11 that, but the information for you to pursue your own jurisdictional
12 investigation has got to come to you and it's got to come to you from us
13 in all the detail that we can possibly give it to you, and if that's not
14 happening, please coordinate with our office, and particularly the local
15 region field office director, and I'm sure that is going to be worked
16 out.

17 The impression is that we don't coordinate with the states
18 at all, and that's just not so.

19 To begin with, we've already put in writing that we'll
20 provide at the end of our investigation the synopsis of our
21 investigative efforts regardless if it involves an agreement state, and
22 if you so desire, we'll provide you a redacted copy of our final report
23 of investigation. That's one of the steps that's been taken.

24 There are others. I think our people are a little bit more
25 sensitive now than they have been in the past about these issues. I

1 think that, if you are talking to our folks in the field, I'm not sure
2 that you're not going to get the cooperation you desire just by talking
3 to them.

4 But we do have some areas that we -- our position is such
5 that it's not going to leave you with a good feeling after this meeting,
6 perhaps some of you. But I'd like to try to give you a little better
7 perspective of where we are and what we're doing, to put you in the
8 picture, to give you a little bit of an idea of why we made these
9 decisions to operate this way.

10 First of all, you all know what our mission is. We
11 investigate wrongdoing, and we investigate it for our licensees,
12 contractors to those licensees, and vendors.

13 The definition of wrongdoing is criminal activities, because
14 I don't know, right now, of any investigations we conduct that do not
15 have criminal sanctions -- that's a felony criminal offense -- under
16 161(b), (i), and (o), which is the section under which our criminal
17 sanctions link up to the Atomic Energy Act.

18 All of our investigators are 18.11 criminal investigators,
19 and in getting those investigators and deciding who we're going to use,
20 all of our qualifications and training, all of our standards in our
21 investigative procedures manual are based on the President's Council on
22 Integrity and Efficiency, which was put out basically for the IG
23 community but applies very, very well to a Federal investigative
24 community, in general.

25

1 We also use all of those qualifications and standards that
2 are used in accepted practice by all other Federal law enforcement
3 agencies like the FBI, DEA, ATF, Secret Service, etcetera.

4 We do about 200 -- we open about 200 investigations a year.
5 We close about 200.

6 I want to put this whole issue in a bit of a better
7 perspective for you, if I can.

8 Of these, we took a sort of an informal straw poll of our
9 own field office directors, and the way I understand it, last year,
10 we're talking about five or six cases in a year that we went into an
11 agreement state where we did not coordinate with that state for one
12 reason or another.

13 What are the reasons we coordinate?

14 We coordinate if we need information from the state, because
15 it may be very well, as Roland pointed out, that we see in the course of
16 the investigation that the state may have some good information about a
17 particular individual.

18 That's a perfect reason for us to coordinate with whatever
19 officials are necessary in the state to get that information to pursue
20 the case further.

21 It also may be we need cooperation on a search warrant, we
22 may need cooperation on serving subpoenas, we may need cooperation on
23 just finding witnesses.

24 In all of those reasons, there is no prohibition for our
25 agents to coordinate with state folks. It is left to their discretion

1 in the investigation whether or not this will happen unless certain
2 things exist, and the most important one is safety first.

3 Safety first has been our rule since I came over to the NRC
4 and always will be, and that means that, if there is an immediate public
5 health and safety situation that comes up in the course of an
6 investigator's activities and that involves whatever, the NRC, the
7 state, whatever comes to his attention, as soon as it is brought to his
8 attention, he brings it to the technical staff, and in the case of
9 agreement states, it is in writing that the agreement states will be
10 notified. That's in our investigative procedures manual, and I think
11 that's the way we've been operating all along.

12 So, once there is an immediate public safety issue, then the
13 integrity of the investigation is set aside for that safety issue, and
14 that's been going on for years. That's not something new. That's been
15 the 15 years I've been with the NRC.

16 The other reasons I mentioned to you. We would coordinate
17 if we needed assistance on an investigation.

18 But I need to say that the investigations we conduct are, of
19 necessity, the standard for criminal investigations.

20 We have to protect the investigation for a U.S. Attorney to
21 make a prosecutorial decision of whether to prosecute or not if it is a
22 substantiated case.

23 Now, granted, we only substantiate about 25 or 30 percent of
24 our cases. That's not a big figure when you look at other Federal law
25 enforcement agencies.

1 Seventy-five percent of our cases are unsubstantiated. That
2 means, in 75 percent of those cases, the people that we were examining,
3 that we were looking at in this highly intrusive process on their
4 rights, are exonerated.

5 That's one of the way we protect the integrity of the
6 investigation. That's one of the ways, under the PCIE, under the
7 President's Council on Integrity and Efficiency, that's called
8 professional -- due professional care.

9 In the investigation, you protect confidential sources.

10 In the investigation, you protect witnesses, you protect
11 suspects, because they're not guilty yet, this case hasn't been
12 substantiated, and so, the rule that we go by is we will take that due
13 professional care in whatever Federal investigation we are entered into,
14 and we use a simple rule that you have all heard of before, need to
15 know, limited access.

16 This isn't just applied to agreement states. This applies
17 across the board.

18 As an example, if I have a fellow agent who has a
19 confidential source and I need information from that source, I don't
20 interview the source, he does. I don't know the source's name. I don't
21 need to know the source's name.

22 In our investigations, we don't notify the EDO the details
23 of all our cases. We don't notify the Commission. We're now
24 investigating a group of cases that the Commission has been more or less
25 kept, partially, at least, out of the loop in this, because we went to

1 Department of Justice and, at the direct request of the Department of
2 Justice, we're not briefing anyone.

3 All of the cases that we do, whether they are substantiated
4 or unsubstantiated, have to be held to the standard to protect them for
5 future court action in a Federal court, and the decisions made are made,
6 in that sense, after we've completed the investigation, by Department of
7 Justice, and when we put those cases before them, they want to know that
8 we have limited the access of people who know about this case, limited
9 the access of people who know the details, because if we don't limit
10 that access, as anyone who is in the legal field will tell you, all
11 those people who have become involved now are potential witnesses in the
12 case, and all the documents that have transpired and all the
13 conversations become eligible to come under discovery, and so, you
14 constantly try to limit it from that perspective, also.

15 All of these things, what we're really boiling down to, both
16 -- and by the way, let me add one more. In the investigative community,
17 with out badge-carrying law enforcement types, we don't share all the
18 information, and they know that, I know it.

19 I don't expect people to share that information with me on a
20 criminal case, because I don't need to know all the information. I only
21 need to know what's necessary for the furtherance of the investigation,
22 and the best person to judge that, frankly, is the investigator who's
23 investigating the case.

24 It's his job to decide who needs to know and what
25 information needs to come to him, and I will guarantee you, if that

1 investigator, that agent thinks that he has information within an
2 agreement states that he needs in furtherance of his investigation, he
3 will ask.

4 So, we've pretty much got to that point where it is
5 something that we have chosen to do, a dual obligation that OI feels
6 necessary to protect not just the integrity of the investigation but
7 also and equally so the rights of the individuals involved in the
8 investigation, because we're out there just gathering information, and
9 what we're talking about is that very small number of cases where we
10 haven't already coordinated with you or we haven't discovered some
11 immediate public health and safety issue, and we are, for instance,
12 going into the state to interview a witness on an investigation where
13 the violation is Federal jurisdiction, and in those instances, we are
14 probably not going to notify you unless the agent feels it necessary.

15 Basically, unless there is an identified immediate safety
16 issue or information needed in order to complete an investigation, OI
17 has chosen to follow the practices of other Federal law enforcement
18 agencies, and we will wait until it is completed, until a conclusion has
19 been made and a report has been written, and at that point, we already
20 have it in writing that we will notify you by virtue of giving a copy of
21 the synopsis to the RSAO.

22 It will then go to your respective agreement states that
23 involve that state, and you can have a copy of the report in a redacted
24 version.

25 I think that's about it. Was that okay?

1 MR. CAMERON: Let me ask everyone around the table,
2 including Roland -- Will has pretty straightforwardly laid out what the
3 philosophy and policy is here.

4 Are there people around the table who have a problem with
5 the end result of this philosophy in terms of information-sharing and
6 understanding the rationale that Will put forward on it?

7 Are there any suggestions how we can alleviate your problems
8 with this without compromising the philosophy. I don't know if there
9 are.

10 Ken?

11 MR. WANGLER: I understand, you know, that you probably need
12 to keep some of the information confidential, but is it not even
13 acceptable just to let the state agency know that you're in there doing
14 an investigation? I mean is that so confidential, that you're there
15 just looking at this particular issue, even if you don't give out names
16 and all the particulars?

17 MR. HUTCHISON: Basically, what we've found in the past --
18 some of you may agree with me on this, because I think I've heard some
19 of you talking about the same issue.

20 What we have found in the past is that, by doing those kinds
21 of notifications -- and it's not just to agreement states, it's to
22 anyone outside the investigation -- it causes more questions, it causes
23 us to provide more answers because there's immediately 12 telephone
24 calls, and our agents are then distracted from what they're doing and
25 their focus is then put on answering questions of people they have

1 notified that they're in the area or that there is an investigation,
2 because now everyone wants to know, and it is merely our choice that,
3 along with all the rest of these things, that we don't -- we would let
4 our agents focus on what they need to focus on, and if we do need any
5 assistance whatsoever, as I said, we would then request it.

6 MR. CAMERON: Roland, do you have a comment on Ken's
7 remarks?

8 MR. FLETCHER: Well, it's kind of a follow-on, and I guess
9 one of the concerns, I know, that was expressed in Colorado last year --
10 it's not -- I understood everything that Will said, because this was
11 essentially what was said earlier.

12 It's not so much -- there are instances where you are in our
13 states and you are looking perhaps at a licensee that may have a license
14 with you and with us, and people notice.

15 So, they ask us what's going on with licensee X, and we
16 don't have any information, and just as your phone starts ringing, our
17 phones start ringing.

18 I realize that you've got a real, you know, tough and tight
19 situation, but I guess, you know, there seems to me there needs to be at
20 least one or two exceptions, perhaps, when the information is not -- you
21 know, is not so close hold that others don't find out about it and start
22 querying us.

23 MR. HUTCHISON: I guess I would submit that the answer to
24 that would be, unfortunately, that we would try to help you with
25 whatever was necessary once you started being asked those questions,

1 because the other option is to assume that everyone is going to always
2 find out, and I'm not sure that's acceptable.

3 MR. CAMERON: Bill.

4 MR. DUNDULIS: Is there ever a scenario where your
5 investigators might contact either local law enforcement or state police
6 as part of the investigation and, you know, the radiation program
7 wouldn't be made aware of those contacts?

8 MR. HUTCHISON: I can see where that could happen. I can
9 see where definitely that could happen, and for the same reason, and
10 unfortunately, I know what you are saying, is the state police then have
11 no restrictions on doing whatever they need to do and then you're
12 back-doored, and I understand that, and that was one of the concerns
13 that came up when we were doing the talks around the country on
14 wrongdoing, but I'm not sure what the answer is to that, because that
15 situation can come up, but what we tell those people when we go to them
16 -- and we would go to them in a situation like we're going to go in on a
17 search warrant and we need someone to stand at parade rest in front of a
18 door while we go inside, kind of thing, and we caution them, and we use
19 Federal agents as much as we can, U.S. Marshals and what have you, but
20 I'm sure those situations could happen. But mind you, we're talking
21 about -- we're only talking about five cases in a fiscal year, when
22 anything like that could have happened. That's -- I think, out of 30
23 agreement states, that's one. That's not a lot of possibilities for
24 that to happen.

25 MR. CAMERON: Steve.

1 MR. COLLINS: Steve Collins from Illinois.

2 My concern is that you may have an agent out there making
3 the decisions on whether or not to involve the state on a
4 health-and-safety issue regarding radiation and that investigator
5 probably doesn't have any radiation safety training or basis to make
6 that decision.

7 MR. HUTCHISON: I agree with you 100 percent.

8 MR. COLLINS: Okay.

9 MR. HUTCHISON: I agree with you, and one of the ways we get
10 around that is that all of the allegations, before we ever go out on
11 them, go through an allegation review board. So, some of that is ironed
12 out, and that's a technical review, and we are at that review board, but
13 we're not the technicians, we're the agents, so we just sit back and let
14 the technical people tell us what is the problem here, and many times we
15 even bring technical people with us on an interview, especially of an
16 alleged, so that the first interview -- so we define the problem.

17 We define it not only from an investigative standpoint,
18 judging from the elements of proof of the crime, but also from a
19 technical standpoint, and what our agents do is -- they have been in the
20 office for like -- most of them -- 10 years or more now, and they have a
21 pretty good feel here of what's a problem, and if there's any inkling
22 whatsoever that they didn't see in all of that preparatory work, that's
23 where they immediately get on a telephone and call back and start
24 talking to the technical people back in the region and say what does
25 this mean, you know, is this a problem, serious problem, is this

1 immediate and so on, and so far, from the Federal standpoint -- because
2 it's exactly the same problem with our violations as it is with yours.

3 Our agents are out there, and they don't have the technical
4 expertise.

5 So, so far, we've managed to cope with that by good
6 preparation, good technical oversight.

7 MR. CAMERON: Richard Ratliff.

8 MR. RATLIFF: You know, we had a Texas Ranger on our staff
9 in the same type of situation, and he was successful when we let him do
10 his job. He didn't have to tell me what was going on, because he was
11 developing a case.

12 I think where we run into problems is not OI staff but other
13 NRC staff at headquarters or regions who take an allegation and may not
14 realize it's an agreement state or, even if they do, don't say -- they
15 don't give the person the information, call this person, or ask him, can
16 I give the agreement state person your name.

17 If that was done, I think most of our problems would go
18 away.

19 MR. CAMERON: Do people agree with Richard in terms of his
20 characterization of the problem, that that would make most of the
21 problems go away?

22 Roland?

23 MR. FLETCHER: Well, I did talk with -- I think it was Ed
24 Baker in AEOD -- about the situation with allegations, and he assured me
25

1 that they do all that they can to get the person who makes the
2 allegation to permit them to give their name.

3 They explain the fact that it will impair or impede the
4 investigation if the interviewer or the investigator can't talk with
5 them directly.

6 MR. RATLIFF: I think, Roland -- haven't most of the ones
7 we've had recently come into the regional office? They don't even go to
8 AEOD, and so, it's just a matter of training people just to ask these
9 questions, if it's obviously an agreement state, make those things known
10 so that they can refer it to us so we know where we're going or who
11 we're going to talk to, because I think what Will was saying, if it's
12 our investigation, we need to know where to start.

13 MR. CAMERON: Would this be one of the things that you'd
14 cover in the workshop that you proposed, Roland? I mean maybe it is a
15 good idea to have some more discussions on these types of things.

16 MR. FLETCHER: I would say yes, and as Richard indicated,
17 perhaps regional representatives need to be involved, too, if that's
18 what's happening.

19 MR. CAMERON: Maybe the big problem is not the problem with
20 OI.

21 MR. FLETCHER: No, not with five or six a year.

22 MR. CAMERON: All right. Well, let's go to Terry.

23 Terry?
24
25

1 MR. FRAZEE: My question has to do with the summary at the
2 end. When it's released and goes to the regional staff, who, in turn,
3 is supposed to give it to us, does it go anyplace else?

4 And the reason for the question is is there going to be
5 public release or is there a way for that -- there has been an
6 investigation, there has been a problem here, it's in your state,
7 getting through the grapevine some other way and getting to us before
8 we've received the official notice from you?

9 MR. HUTCHISON: I can tell you -- and I think Dick will back
10 me up -- I can tell you there shouldn't be, because when we do our
11 investigations, at the point where we would provide the copy to the RSAO
12 of the synopsis, we would also be providing that same report to the
13 Department of Justice, which is -- means it is exceptionally
14 confidential at that point, because they may go to grand jury, and at
15 the same time, simultaneously to the Office of Enforcement. At that
16 point, nothing has happened and no one should know about it.

17 MR. FRAZEE: So, it's not really a public --

18 MR. HUTCHISON: No.

19 MR. FRAZEE: -- report in any way.

20 MR. HUTCHISON: Not at all, not from our standpoint, no.

21 If I could address just one more issue, you mentioned,
22 Roland, about the things that we have not being exactly in writing.
23 Well, actually, there are a lot of them we do have in writing.

24

25

1 The part about safety first is absolute law, in writing in
2 several places, both in the NRC and for us. The part about reporting
3 safety at a very low threshold is in writing.

4 The synopsis to the agreement states and the redacted ROI is
5 in our investigative procedures manual. All of the information about
6 releasing information to law enforcement agencies at the state level and
7 local level is in writing in our investigative procedures manual.

8 How we deal with allegers and confidential sources and those
9 protections by which we made our decision to protect the investigation
10 are all in 8.8. The fact that we notify states when it is just an NRC
11 -- or just a state violation and not -- or it is a state violation and
12 not an NRC violation is in writing.

13 All of the qualifications, the independence, the due
14 professional care is in writing in the President's Council on Integrity
15 and Efficiency, and in addition to all of that, we have a DOJ MOU,
16 memorandum of understanding, in writing, which basically tells us that
17 the Department of Justice, on all of our cases that are substantiated,
18 has the first right of refusal, and that, too, is in writing, and so,
19 all of our cases have to be investigated to the standard of that
20 Department of Justice potential criminal prosecution, and with that,
21 folks, unless there's questions --

22 MR. CAMERON: Roland, one more?

23 MR. FLETCHER: Well, I just -- it's in writing. Is that
24 available to the states? I believe I asked that question when I was
25

1 there, you know, what was written down that I could take and send out to
2 the states.

3 MR. HUTCHISON: Roland, I think what the misunderstanding
4 was when you asked that question -- if you're asking about the
5 obligation to protect our cases and that decision that OI has made, that
6 decision is not in writing, but all of the surrounding information that
7 caused us to make that decision is in writing.

8 MR. CAMERON: Okay. Thank you very much, Will. That was a
9 useful discussion.

10 I know it's real late, and I'm going to let Ed ask his
11 question here.

12 MR. BAILEY: You touched on an issue. When NRC receives an
13 allegation that is outside their jurisdiction, I don't know why it has
14 to go into the formal allegation system.

15 When I get a call and it's in NRC's jurisdiction or
16 whatever, I provide them with a contact at the appropriate agency.

17 If it's a food and drug violation that they're complaining
18 about, I don't take that allegation and forward it to that other agency.
19 I tell the person who to contact at the appropriate agency.

20 MR. HUTCHISON: The fact is that I don't think that those
21 things take incredibly long. In fact, the ones I've had experience with
22 -- our allegation review boards -- it's usually at the headquarters
23 level, and our allegation review boards are done within a short period,
24 24 hours, and it's passed on.

25

1 It isn't a long and involved process. What we don't do --
2 and I think the reason for that is because we're not sure until it goes
3 to an allegation -- and I'm talking out of turn, because this isn't our
4 bailiwick, but I think from the technical staff, what they would say is
5 -- and I'm speaking for Ed Baker -- that until it has gone through our
6 allegation review board process, they're not quite sure what they've
7 got, and they just want to make sure.

8 MR. CAMERON: Okay. Dick Bangart may have more to be able
9 to tell you on this outside of the meeting.

10 Ara Tahmassian, who is the Radiation Safety Officer for the
11 University of California at San Francisco has some new data that he
12 gathered that I think is going to be relevant to the Part 35 rule.

13 He did come out from San Francisco to share this with us,
14 and I think the important thing is to know that he has the data. We
15 will put his address out there if you want to get in touch with him
16 about this, and I think that Ed -- this is painful to ask Ed to do this,
17 or all of you to do it. Perhaps we could start about 15 minutes early
18 tomorrow and have Ed do his presentation in the morning? It doesn't
19 have to be 8:15. We could start at 7:30.

20 Okay. Let's go to Ara.

21 MR. TAHMASSIAN: I've been asked to talk fast, so I'll try.

22 Thank you very much.

23 I guess I have to make the announcement up front for Don.
24 This study was fully funded by private donors named Dr. Ahmed.

25 [Laughter.]

1 MR. CAMERON: Well, thanks for coming out, Ara.

2 MR. TAHMASSIAN: But anyway, very briefly, the reason we
3 started with this study was, last year, when the NRC changed its
4 procedures and it allowed the release of the patient based on the
5 exposure criteria rather than an activity-based criteria, we were trying
6 to get Ed convinced, or the state, who changed the license -- at the
7 time, our license was tied to 50 millicurie as an upper limit of
8 release.

9 So, we started this study trying to gather enough
10 information to go to the state and justify it. By the time the study
11 was finished and we had the data, they had changed the requirement. So,
12 now we're going to publish it as a paper in the Journal of Nuclear
13 Medicine.

14 What we did is essentially take our in-patients -- these are
15 mainly -- not mainly -- all of them are thyroid carcinoma patients
16 ranging from about 75 to about 200 millicuries per patient, put them in
17 a private room with their own shower, bathroom, and amenities, and then
18 essentially attach film badges at various locations within the room,
19 have the patient stay in the room, they are restricted, they can't move
20 out of the room until such time that the exposure from the patient is 2
21 MR per hour or the total activity left in the body if we are calculating
22 the burden is 8 millicuries.

23 In other words, at that point, these patients were allowed
24 to go home unrestricted. They could have been treated at the onset as
25 outpatients.

1 So, those were the two criteria, primarily, that we used.

2 We have three medical centers, and therefore, we have three
3 different rooms, and we had to select a patient population from these.

4 The rooms are fairly similar. They are roughly about 11 by
5 about 13, you know, so dimension-wise, they're about 2 meters high,
6 floor to ceiling, typical, you know, hospital room.

7 So, at no point when you have -- you know, we sort of took
8 the enter of the bed as the axis and made all of the measurements from
9 there.

10 So, you know, when you look at the data, as I put the
11 numbers out there, and we say, from the headboard, approximately 1 meter
12 at the head or at the feet, it essentially is from the center of the bed
13 to the headboard and a film badge at the footboard and then 1 meter at
14 the sides and so on.

15 So, all of our measurements were based from the center of
16 the bed. That was sort of a starting point that we could make.

17 And then, in addition to the headboard, footboard, as I
18 said.

19 We were worried about one of the issues -- when we were
20 talking with the State, they were not very concerned about, you know,
21 somebody who has a very large house that they can isolate themselves.
22 In fact, they were concerned about a student in a dormitory. So, we
23 decided to look at this as a single room where it could be most similar
24 as a dormitory-type room.
25

1 We also included badges under the bed. We were also wanting
2 to get some idea of what the exposure under the bed might be, and from
3 that, we could sort of worry about, if this was a multi-unit housing,
4 what would happen under the ceiling in the other areas.

5 So, we had the badges set up in the rooms, and then we used
6 the formula which are given in Reg Guide 8.39 to calculate the predicted
7 exposure.

8 So, when you look at the numbers that we have and we talk
9 about predicted exposure, that was the basis. In other words, take the
10 formula -- we knew what the uptake percentages were, plug the uptake
11 percentages, and then just sort of work it from there.

12 If I can get this thing to work, we can go straight to some
13 of the numbers and then I can talk very quickly and briefly about some
14 of the contamination control measures.

15 I've included 15 of the patients in this one for obvious
16 reasons. It gets to be kind of difficult to stick a whole bunch of
17 numbers in there, but actually, we have 41 patient data; they are very
18 consistent. These are the worst case. These are the ones where the
19 numbers came out the highest.

20 So, if we start from patient number one, you know, ID
21 number, the uptake percentage was the diagnostic uptake which was
22 performed for each one of these patients.

23 Now, one of the interesting things is patient number eight
24 is the only patient we know where there was an 8-percent -- typically,
25 most of these patients are below 2 percent. That's one particular case.

1 Patient number nine, we had some questions regarding the
2 calculation. We think that we -- you know, that there was some error
3 made when they were actually doing the original scan. So, we used the
4 NRC's default value of 5, which is what the reg guide says.

5 But uptake is actual diagnostic uptake. Activity is the
6 actual activity administered, and as I said, they range from about 75
7 all the way down to 200 millicuries.

8 The exposure rate was actually the measured exposure rate at
9 the meter, and we typically measured between 45 and 60 minutes
10 post-exposure to allow the uptake to take place.

11 So, that's where we're looking in terms of the MR per hour.

12 T for time is the actual number of hours that the patient
13 was kept in the hospital, and we were making the six hourly measurements
14 -- I'm sorry -- every eight hours we were taking a measurement, until we
15 knew that the exposure rate had gone below 2 MR per hour so the patient
16 could be released.

17 So, that's actually the total number of hours that they were
18 there.

19 We did the first five patients with the ceiling. After we
20 had the results, we had a quick look at it, and because we already had
21 included two of the highest activities we have, which was about the 198,
22 199 millicuries, we stopped it.

23 Primarily, the physicist and the tech were not very happy
24 standing on a ladder and sticking a badge on the ceiling. It's about a
25 two-meter height. So, that's why we disconnected it.

1 That's why we have only, you know, five results for it.

2 Now, the floor is from, again, center of the bed to the
3 floor immediately under the patient, and the badge was located pretty
4 much at the center of the bed.

5 The sides, as I said -- in the actual measurements, we have,
6 you know, two badges on either side of the patient. We also put badges
7 actually at waist and also at the collar level.

8 So, the numbers that you see here are the worst case in
9 every one of them.

10 So, if we had four badges, say, to the left, you know, of
11 the patient and four badges to the right of the patient, two at waist
12 level and two at collar level, the number one -- the first number, say,
13 250, represents the highest reading that we actually got from the
14 patient, and if you look at these numbers, once we start getting to 150,
15 160 millicuries, we can see some numbers which are exceeding the 500 in
16 the raw data.

17 Now, don't forget that this has an occupancy factor of one.
18 From the time you actual administer the dose, these badges are there,
19 for entire duration of the time.

20 Now, we did stand for a while and actually we did -- we
21 looked at the patient, and what you look at is patients sort of sit up
22 in the bed. Obviously, the dynamics or the distances are going to
23 change. As they get out of the bed and sit in a sofa or in a chair to
24 watch TV, the dynamics again changes.

25

1 At a given time, we could not measure any distance greater
2 than four meters. So, the maximum farthest away the patient was sitting
3 actually in the chair in the room, watching TV, the badge which was the
4 farthest away would have been about a meter -- I'm sorry -- about four
5 meters, and the one which was closest would have been about 10, 15
6 centimeters.

7 So, again, these are with an occupancy factor of one, and
8 they are actually representing the worst case scenario.

9 Now, if you take these numbers, you know, out of those
10 numbers, again you take the worst cases and compare them with the
11 predicted exposures. In other words, if we were using the Reg Guide
12 8.39, we were assuming the standard values and we were sticking our
13 numbers in there and predicting what the exposure would be, in every
14 single case, we would be expecting a higher exposure by a significant
15 percentage.

16 So, the formula or the reg guide, if it's followed exactly
17 as it says, will over-estimate the predicted exposure, and there's a
18 margin of safety in there.

19 Even when you take the worst case scenario -- that is, you
20 assume you release the patient, you tell them that, you know -- because
21 don't forget, when we do the real life, it's more an occupancy factor of
22 about 25 to 50 percent, nobody is going to be sitting next to the
23 patient 24 hours a day, every day, you know, at a meter. So, the real
24 occupancy factor at that point is more like 25 percent or .25.
25

1 But let's assume that this is one of those scenarios that we
2 have told the patient to go home, we've given the instruction, and
3 patient won't follow, and if you were following the reg guide, in every
4 case you would have had a very nice safety margin.

5 And then, now, if you take these numbers and actually do the
6 correction for them and correct for the fact that this -- the occupancy
7 factor is no longer one but it's -- you know, it's actually a .5
8 occupancy factor, then you can see that, under normal conditions, if the
9 patient is stuck with, half the time, somebody being within a meter, the
10 likelihood of anyone getting greater than 500 millirem is very, very
11 low.

12 I mean even when you look at the floor, don't forget that,
13 in that -- when they're stuck in a room, the situation in the room
14 forces them to spend more time actually in the bed, because there are
15 two choices.

16 You either lie in the bed raised or sit in the chair, back
17 in the bed, and usually, if you've been in a hospital room, you know
18 that it's much more comfortable to be actually in the bed, to watch the
19 TV, to sit in a chair and watch the TV.

20 So, therefore, you know, the concern that we had that this
21 was somebody who may have been actually on the floor below would not
22 have created any problem, again, under the worst conditions, for a 200
23 -- or, you know, again, the difference between 194 and 200 isn't really
24 that much in terms of real activity, and as you can see, between -- you
25 know, 400, 450 would have been the total exposure to the individual.

1 Now, we are doing a followup of this where we have, you
2 know, actually got an approval from our Committee on Human Research,
3 which is the institutional review board, and now we're actually sending
4 the patients home with higher than 50-millicurie activity, but we are
5 giving them film badge, we are actually giving the family members film
6 badges, and we're putting badges within, you know, various locations
7 inside the house, at the house, you know, the kitchen, the bedroom wall,
8 and so on, and we're trying to -- we only have two results back so far,
9 and they pretty much follow this pattern. The corrected exposures are
10 very similar to what we actually see in this one.

11 Actually, if you go back and look at the correction factors
12 and you start looking at the numbers, the result is not surprising,
13 because when you are using the NUREG or the Reg Guide 8.39, for example,
14 it tells you to use 2.2 for the gamma constant.

15 Every patient we have measured has averaged 1.6 for a gamma
16 constant because of the attenuation.

17 Every patient -- if you look at the way that -- the reg
18 guide is assuming that you have a source of iodine sitting in there for
19 the entire duration.

20 Well, we know that, in a patient, it doesn't work like that.
21 It starts from the stomach, it moves into the thyroid, and it very
22 rapidly starts diluting, till you no longer have a source. You have
23 more of a line source.

24

25

1 So, in fact, if you start looking at the numbers, what is
2 predicted versus what is measured, it's almost -- I did a very, very
3 quick comparison.

4 If we were to use 2.2 versus what you are measuring, the
5 numbers turn out that 6.4 millirem per millicurie is the predicted dose
6 decay.

7 So, if you were to use the reg guide, you will get 6.4
8 millirem per millicurie dose to infinity. That's the total decay.

9 Actually, if then you went and you did the corrected numbers
10 and you actually plugged in the measured value, the measured exposure
11 from a patient at a meter, you will end up with 2.3. So, there's almost
12 a three-to-one ratio.

13 Anyway, that's what the results are. As I said, this is the
14 worst case set, but the total paper that we're sending to the journal
15 has roughly -- actually, it's 42 patient data. They are almost
16 identical in terms of a pattern.

17 We couldn't find any single patient where the exposure would
18 have exceeded.

19 We also did a very, very thorough, very sort of detailed
20 tracking of the contamination. I know that's one of the concerns, and I
21 know that, you know, that's one area that -- if you are going to release
22 a patient, the institution has to follow a certain set of procedures.

23 One of the things that we have as a requirement in our
24 institution is the fact that, you know, you do the calculation and let's
25

1 say I do the calculation and I determine that nobody is going to get
2 more than 250 millirem.

3 That doesn't mean that that patient is automatically
4 released. All it tells us in advance is that this patient may be
5 released.

6 We spent, on average, between 20 to 45 minutes, because I do
7 it myself, with each patient. We interview the patient. Can they
8 follow instructions? Are they suffering from incontinence? If so, you
9 know, do they wear Depends? And I know it sounds funny, but we go
10 through these things. I mean we have a long matrix. We sit down, we
11 talk to the patient.

12 Then you start telling patient, you know, when you are
13 eating fruit, don't bite into it, cut it into bite-size, pick up one
14 piece at a time.

15 That's one of the problems we had in the rooms, even with
16 the in-patient rooms.

17 Although we'd grab the waste and take it for decay, but
18 after a while, half-bitten, you know, sort of bits and pieces of bread
19 and apples and oranges gets to be very difficult to hold for decay.
20 Very quickly, you start running out of cold storage space.

21 So, that's where we started doing that. Even with the
22 in-patients, we do that.

23 You know, the laundry -- we spent some time talking to them
24 about the laundry and the separation of the linen and wash them
25 separately and do a --

1 MR. CAMERON: I wanted to give people an opportunity to just
2 ask you questions about methodology and data. So, if you could just
3 wrap up.

4 MR. TAHMASSIAN: Yes.

5 So, basically, you know, the contamination control -- and
6 once you start giving them these instructions, you will find out that,
7 very, very quickly, the amount of waste that ended up in the normal
8 trash sort of disappears.

9 One of the biggest things that you need to do is to start
10 educating the nuclear medicine community to actually get away from the
11 concept of disposal utensils. That was a very good idea when we had
12 in-patients, because you don't want to send them back to the kitchen,
13 but you know, when they are at home, you can tell them set aside, use a
14 pair of gloves, and if they don't have -- we actually give them a box of
15 gloves. You know, these latex disposal gloves. They're very cheap. We
16 give them a box and say, you know, somebody can put these on and wash
17 them.

18 Okay. Questions.

19 MR. CAMERON: Thank you very much, Ara.

20 How about questions about methodology, results?

21 MR. WANGLER: Now, the purpose of your study -- was it to
22 support Reg. Guide 8.39 and just say that it's conservative enough that
23 it should be followed, or are you disputing --

24 MR. TAHMASSIAN: No, we are supporting it.

25 MR. WANGLER: Okay.

1 MR. TAHMASSIAN: I mean we started originally the study to
2 try to see if we could convince the state to follow that. We didn't
3 know. I mean all we knew NRC had done it. But now what I'm doing is
4 supporting because I think there is enough data, actually real numbers,
5 and as I said, we skipped a lot of the methodology here just for time
6 purposes.

7 MR. WANGLER: So, you're just saying 8.39 is plenty
8 conservative that states should not have a problem using it.

9 MR. TAHMASSIAN: That's correct, yes.

10 MR. CAMERON: Great.

11 Other questions.

12 Aubry.

13 MR. GODWIN: Actually, I have two.

14 You really sort of waltzed over the contamination issue a
15 little bit, and I just wonder if the hospital is prepared to go to the
16 landfill and retrieve the diapers and all that the patient may send
17 there, because I see that as potential problem.

18 Secondly, no matter how good you tell grandma, you know,
19 don't have the kids over, if that one-month-old baby is in town, they're
20 probably going to come by, and it's going to be very hard to enforce,
21 and somebody with 100 millicuries of iodine could possibly get enough
22 into a baby to give them one 1 rad to the thyroid. In a young child,
23 that's a pretty hefty dose. That doubles the risk of thyroid cancer.

24 And I'm not sure that you're supported a reason to go to
25 those kind of doses yet, because I don't see the supporting look at

1 contamination spread and how you're going to control that well enough
2 yet.

3 MR. TAHMASSIAN: Well, the quick answer to that is we are --
4 based on the -- looking at about 152, you know, in-patients that we have
5 done and looking at where the contamination is, which is -- you know,
6 sort of, essentially, it's in the sink, it's in the toilet, it's on the
7 pillowcases, and it's on the bed linen, basically. This is where 90
8 percent of the contamination is, plus the food, all discarded items of
9 food and so on which have had the direct contact with the saliva.

10 So, if you start identifying this, it's going to be a lot
11 easier to control. As I said, we have done by, you know, sort of giving
12 them instructions. Will they follow 100 percent? They answer is no.
13 Will we still end up occasionally to have, you know, a waste end up in
14 regular trash and go to the landfill and we'll have to go track it down?
15 Probably yes.

16 As part of the second study, another thing that we're doing
17 is actually we're going back after 10 days and doing actual monitoring
18 of the various locations within the house to determine if there is
19 contamination.

20 MR. CAMERON: Okay.

21 Followup, Aubry?

22 MR. GODWIN: Well, I'm still concerned that you might have
23 -- a young child could get 1 REM from contamination from grandmother
24 when they're about a month old or less, coming by and seeing them, and
25

1 grandma is going to pick them up and not follow directions there just
2 for a few minutes.

3 MR. TAHMASSIAN: You mean from contamination or from the
4 direct exposure?

5 MR. GODWIN: From contamination. I don't think it's a
6 problem from direct exposure, never have, but I think it's contamination
7 potential just from the sweat that's on the skin and just playing with
8 the baby.

9 MR. TAHMASSIAN: Actually, if you do a series of skin swabs,
10 the rate of excretion through perspiration is extremely low. I mean I
11 forget what it is, but I know that it was in also the NRC supporting
12 documents.

13 MR. GODWIN: I'd like to show that, you know, we're not
14 going to get 1 REM to a child, because the World Health Organization is
15 recommending protective actions for children.

16 MR. TAHMASSIAN: That's a good point. I can look at that.
17 We haven't looked at in detail, but generally there has been low rate of
18 excretion from perspiration.

19 MR. PADGETT: This is kind of ancillary to the issue, but
20 another thing we found is that some of the hospitals want to use this to
21 release their patients to go have another procedure performed, and for
22 instance, this new lymphocintography, where they inject, and then they
23 say, okay, we inject, then we're going to release the patient, and
24 they're not really releasing the patient.

25

1 They're directing the patient to go to this medical facility
2 that does not have a license, do the lymphocintography, cut the thing
3 out, and so forth, under no controls, and so forth.

4 Now, as far as I know, we've shut that down in North
5 Carolina, because we have told them they have to have a license to
6 perform that, even though the patient, when he leaves the hospital, you
7 know, is within the allowable limit for release.

8 MR. TAHMASSIAN: Yes.

9 MR. PADGETT: But we've told the folks in the facility that
10 they were going to, you must have a license to perform this procedure.

11 MR. TAHMASSIAN: One of the things that we do is you have to
12 give them written instructions, and the instruction has to tell the
13 patient that, over the next X period of time -- and there's a sort of
14 formula you calculate that -- typically, it ends up to be three to four
15 weeks -- if you go to any hospital, hospitalized, emergency, and so on,
16 make sure you show a copy of this, so they know that you have had this
17 procedure done, because one of the concerns was what if they go for a
18 blood test and the blood ends up in the first aid, and that could have a
19 very high, you know, concentration.

20 So, if you insist on giving that instruction, that should
21 take care of it, in most cases.

22 MR. CAMERON: Okay. Thank you.

23 Last comment? David.

24 WALTER: Yes. David Walter, Alabama.

25

1 I'll be very interested to find out about the second study
2 that you're doing, because it does not have the controls that you have
3 the ability to put on in the hospital.

4 One of the things I'd like to also see that you have in
5 there is that they have taken down information of unexpected visitors
6 that do not have dosimetry, do not have -- including their ages, because
7 I'm -- as Aubry is, I'm very -- that's my main concern is that grandma's
8 gone home, oh, she got home, and the son or daughter brings the family
9 over to say hello, and instead of sending them down to the Holiday Inn
10 at the corner, she says, oh, I've got plenty of room, come on, stay
11 here.

12 So, I'll be very interested in getting that information.

13 MR. TAHMASSIAN: Okay. That one we don't have, but we can
14 add that to the questionnaire that they carry. We have a log that they
15 maintain, if they take a shower or whatever, that the badges are off.
16 So, we are keeping track of how many, but we can add that to it. It
17 would be fairly easy.

18 WALTER: I wouldn't be worried about the adults. I'd be
19 more worried about the children.

20 MR. TAHMASSIAN: Yes, that's a very good suggestion.

21 MR. CAMERON: Okay. Great. Maybe we can have a continuing
22 dialogue on this over the next, whatever, few months at better times.

23 Thank you, Ara, for presenting that.

24 MR. TAHMASSIAN: Thank you.
25

1 MR. CAMERON: And we're going to start at 8:15 tomorrow with
2 Ed Bailey. We have an exciting morning with Part 35, and we will finish
3 at 12, okay? So, don't worry about running over tomorrow on a travel
4 day.

5 [Whereupon, at 6:38 p.m., the meeting was recessed, to
6 reconvene at 8:15 a.m., Saturday, October 31, 1998.]

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