

**Official Transcript of Proceedings**  
**NUCLEAR REGULATORY COMMISSION**

Title: 1997 All Agreement States Meeting  
Radiology Health Branch

Docket Number: (not applicable)

Location: Los Angeles, California

Date: Thursday, October 16, 1997

Work Order No.: NRC-1277 Pages 1-264

NOTE: The Table of Contents is not accurate. The individual page numbers are different from the original document and no longer match the Table of Contents because of the conversion to PDF.

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UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

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1997 ALL AGREEMENT STATES MEETING

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RADIOLOGY HEALTH BRANCH

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THURSDAY

OCTOBER 16, 1997

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LOS ANGELES CALIFORNIA

+ + + + +

The meeting was held at The Westin Hotel, Los Angeles Airport, Los Angeles, California, at 9:00 a.m., Francis X. Cameron, Facilitator, presiding.

PANEL MEMBERS:

- DON FLATER Indiana
- RONNIE WASCOM Lousiana
- MIKE BRODERICK Oklahoma
- STAN MARSHALL Nevada
- MIKE MOBLEY Tennessee
- DAVID SNELLINGS Arkansas
- AUBREY GODWIN Arizona
- JOHN ERICKSON Washington
- RICHARD RATLIFF Texas

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1	PANEL MEMBERS: (CONT.)	
2	PAUL EASTVOLD	Illinois
3	ROLAND FLETCHER	Maryland
4	DIANE TAFFT	New Hampshire
5	AARON PADGETT	North Carolina
6	JAY HYLAND	Maine
7	BOB HALLOWAY	Massachusetts
8	BOB GOFF	Missouri
9	BOB QUILLIN	Colorado
10	ED BAILEY	California
11	ROGER SUPPES	Ohio
12	STUART LEVIN	Pennsylvania
13	VICK COOPER	Kansas
14	KIRK WHATLEY	Alabama
15	TOM HILL	Georgia
16	ALICE ROGERS	Texas
17	BILL PACETTI	Florida
18	KEN WANGLER	North Dakota
19	BILL SINCLAIR	Utah
20	RAY PARIS	Oregon
21	VICKIE JEFFS	Kentucky
22	MAX BATAVIA	South Carolina
23	BRIAN HEARTY	Nebraska
24		
25		

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

(9:00 a.m.)

MR. BAILEY: I believe this is a new record for us; we're starting before time. We had a couple of challenges for you, having an hour to register -- and I see most of you managed to do that in an hour -- but the biggest challenge was finding places to sit without your name tags, and I think most of you found that.

Chairman Jackson, I'd like to, on the behalf of Governor Pete Wilson who I met with last night, and Kim Bell Shay, the Director of the Department of Health Services, welcome all of you to California. But particularly I'd like to welcome you to California on behalf of the Radiologic Health Branch and the two contract counties that perform inspections for us: San Diego and L.A. It gives us an excellent opportunity to have our staff attend these meetings.

We've tried to arrange some pretty weather, and I heard some comments yesterday that some of you were really hacked off it was 90 degrees and you'd left and it was freezing wherever you'd come from. We tried to arrange good weather; however, we have got an earthquake scheduled and there will be a few forest fires -- somebody mentioned they saw some flying in. We'll only have a

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1 small El Nino torrential rain followed by mudslides. So  
2 you know, we'll work with that.

3 I wish somebody from NRC would take the  
4 message back to Mel Knapp that there is a place to hold a  
5 meeting in California and --

6 (Laughter)

7 -- and we found it. And actually, Bob  
8 Thunderbird found it and owe our credit or blame or  
9 whatever you want to call it, to Bob for finding it.

10 But then he and I quickly got out of the  
11 business and Cathy Waring is the one that you all should  
12 thank when you all thank people for getting this meeting  
13 set up and all. Cathy has done just an outstanding job,  
14 and if she hadn't had the interference from Bob and me she  
15 could have done a much better job.

16 I think \$79 a night is a fair price for the  
17 rooms here. Mine has a bedroom and a living room, and  
18 outside the bedroom there's a patio with a sauna, or a hot  
19 tub. But I didn't bring a bathing suit so I won't be able  
20 to use it.

21 Just a few words about the setups. If you  
22 notice -- Cathy knows me well -- the meeting room is  
23 directly across from the bar; that's convenient. And past  
24 the bar is the restrooms if you happen to need those. If

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1 you have anything that you need while you're here, please  
2 get in touch with somebody on the California staff.

3           And I'd like to recognize them because they  
4 probably don't get recognized. Everybody from California,  
5 I would appreciate it if you'd stand up so people know who  
6 you are and people can --

7           (Applause.)

8           Looking at where we are in this regulatory  
9 business now -- I think there was somebody that wrote, "it  
10 was the worst of all times and the best of all times". I  
11 don't remember who wrote it or why they wrote it or  
12 anything like that, but that's sort of the way I feel  
13 about what we're doing now.

14           The worst of all times is, we can't seem,  
15 after almost 20 years, to get a low level waste site in  
16 this country. We're approaching the 20th anniversary of  
17 the Low Level Radioactive Waste Policy Act, and we're the  
18 only state that's licensed to site -- and we haven't got  
19 it open in case you haven't heard. We've run into a few  
20 snags.

21           But we really need someone to step forward and  
22 take a leadership role and get this done. Twenty years is  
23 an awful long time to dig a hole in the ground, and I'm  
24 hoping that as we go forward we can accomplish this.

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1 Well, last night I was talking to Carl  
2 Paperiello and we were talking a little bit about the  
3 relationship between the Agreement States and the NRC and  
4 how, up until last year when Mommy and Daddy finally cut  
5 the purse strings, the Agreement States were really like  
6 the children of the NRC -- here's your money, now you do  
7 what I tell you to, and so forth.

8 I think this meeting shows that the states can  
9 -- have grown up a little bit. They can even find money  
10 to get to a meeting. When we took the poll, there was  
11 like half the states weren't sure, but I think we've got a  
12 decent turnout here.

13 The training, I think many of us are playing  
14 NRC's cutoff of training into something good for us. I  
15 know in California we went to the legislature and said,  
16 that bad old Federal Government did it to us again; they  
17 cut off our training. And they said, well we're going to  
18 have to help you.

19 And I think I heard somebody else -- Aubrey, I  
20 believe -- was it you? Somebody else was telling me that  
21 they had essentially done the same thing; that they'd gone  
22 in and gotten training money, which allowed them to go to  
23 other kinds of meetings that they might not have been able  
24 to.

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1 I think that we're also in an exciting time.  
2 Some of you are aware that NRC and DOE are beginning  
3 pilots on external regulation of DOE. Mike Mobley was  
4 amazed to hear that anyone would want to do that. And  
5 we've been meeting. One of the sites chosen is Lawrence  
6 Berkeley National Lab, and the State of California, as an  
7 Agreement State is participating fully in those  
8 deliberations.

9 They've been going on for about a month now.  
10 We've had I think, four or five conference calls of about  
11 two hours each. We met yesterday. It's a very ambitious  
12 schedule planned of about four weeks on-site between now  
13 and the end of January. So it's going to be a real  
14 interesting exercise -- particularly since Lawrence  
15 Berkeley Lab is about 90 percent accelerated. And it will  
16 be, I think, some new experiences for NRC, and it will  
17 certainly be new experiences for California as an  
18 Agreement State, to begin to work on regulating DOE.

19 I invite any of you, anytime you're here, if  
20 you need anything please get in touch with me or Cathy,  
21 hopefully, or some of our staff. Again, welcome to  
22 California and I hope the meeting turns out to be  
23 productive and beneficial to you. Thank you.

24 MR. QUILLIN: Thank you, Ed. I think we  
25 should all express our appreciation to Ed and his staff,

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1 to the work they've done in putting this meeting together  
2 here in Los Angeles. I've been on the periphery of some  
3 of those issues and I understand some of the problems they  
4 face. But I think we all should recognize the effort that  
5 they've put into this meeting.

6           Second, I appreciate the states who have made  
7 the effort to be here today for this meeting. I know as  
8 Ed said, that when we did the survey last year, about half  
9 the states said they couldn't make it, and I think we have  
10 a very good representation of states here this year.

11           This meeting represents in large part, those  
12 topics that the states wanted addressed. We asked for  
13 topics to be suggested; we got responses; we mixed,  
14 matched, collated and put together the agenda which is  
15 before you today. So this is the result of input from the  
16 states.

17           I appreciate the cooperation that the NRC has  
18 put into this new process of an agenda and a meeting. I  
19 appreciate the work that Chip and Lloyd in particular,  
20 did, in coordinating and developing the Federal aspect of  
21 the agenda.

22           This morning I'd like to say, this is our  
23 meeting, it's a states meeting, it's an NRC meeting, and  
24 let's not just bring up problems, let's try to bring up  
25 solutions to problems. And these solutions should be

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1 based upon our mutual experiences and our viewpoints and  
2 how we can get the job done.

3           We're existing in a new era of government  
4 which is everchanging. I've experienced it personally in  
5 the past year myself. We'll just continue to do the best  
6 we can -- within the resources we have, obviously -- to  
7 protect public health and the environment.

8           But we must learn new ways of doing these jobs  
9 -- new paradigms. Let's use this meeting to try to  
10 develop those paradigms of how we can solve the problems  
11 of today and tomorrow.

12           Next, I'd like to introduce the Chairman of  
13 the U.S. Nuclear Regulatory Commission, Dr. Shirley Ann  
14 Jackson. Dr. Jackson has had a distinguished career,  
15 academically and professionally. Her degrees are from MIT  
16 in physics. In her career she has been involved in  
17 advanced physics research. She's served on various  
18 business and professional boards and is now Chairman of  
19 the U.S. NRC.

20           I can spend more time in talking about her  
21 career, but I think you would probably be more interested  
22 in hearing from her than from me, and so I welcome Dr.  
23 Jackson to the meeting, and look forward to her comments.

24           DR. JACKSON: Good morning. Let me welcome  
25 all of you to this meeting, particularly the

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1 representatives from the Agreement States. But I also  
2 would like to greet all of my colleagues and friends from  
3 NRC and recognize their presence, but particularly Mr.  
4 Dick Bangart, who directs our Agreement State's program.

5 I'm very delighted to have the opportunity to  
6 address your annual meeting. It's interesting. When I  
7 was on the elevator this morning, and then when I was  
8 walking into the room, I was asked several times, well did  
9 you get here okay? And I thought about it for a minutes  
10 and I said well, if I didn't, I did an awfully good job of  
11 putting myself back together.

12 (Laughter.)

13 Now of course, that's before I go out and melt  
14 in the afternoon heat. Before I begin discussing various  
15 issues, I would like to recognize a few individuals who  
16 have been instrumental in making the agreement state  
17 program such a success. I've already acknowledged Mr.  
18 Bangart, but I also would like to recognize the current  
19 chairman of the Organization of Agreement States, Mr.  
20 Robert Quillin of the State of Colorado.

21 Mr. Quillin has been a very effective chairman  
22 of the organization, and we at the NRC greatly appreciate  
23 his efforts in sponsoring and planning this annual  
24 meeting; as well as Mr. Edgar Bailey, head of the

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1 California Agreement State program, and his staff who so  
2 graciously hosted this meeting this year.

3           And finally, I would like to recognize Mr.  
4 Roland Fletcher of the State of Maryland who will be the  
5 new chairman of the Organization of Agreement States  
6 beginning in January, and I look forward to working with  
7 Mr. Fletcher in the coming year.

8           As you know, the NRC has a strong -- in spite  
9 of changes -- an active interest in the Agreement State  
10 program. In fact, I was pleased to sign an agreement on  
11 March the 10th with the Commonwealth of Massachusetts,  
12 making it the 30th Agreement State. The Commonwealth now  
13 has regulatory authority over more than 400 licensees, and  
14 so we welcome Massachusetts to the Agreement State  
15 program.

16           I would like to begin today with a brief  
17 discussion of NRC strategic planning as well an overview  
18 of how the Agreement State program fits within the NRC  
19 strategic direction.

20           I will then discuss two recent NRC commission  
21 decisions regarding radiological criteria for  
22 decommission, and potassium iodide stockpiling, as well as  
23 several other interests of current commission focus, both  
24 internal and external, including the re-authorization of  
25 CERCLA, the revision of 10 CFR Part 35 -- which you'll be

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1 talking more about in this meeting -- options for  
2 disposition of surplus weapons grade plutonium, and  
3 external regulation by the NRC of DOE nuclear facilities.

4           As many of you are aware, shortly after I took  
5 over as chairman of the NRC I initiated an agency-wide  
6 strategic assessment and re-baselining; a project that  
7 basically consists of four phases.

8           The first phase was completed in April of 1996  
9 and consisted of the detailed, introspective look at what  
10 we do and why we do it; and that is, finding the match-up  
11 between NRC foundational documents such as the Atomic  
12 Energy Act and the Energy Reorganization Act, and the  
13 methods we use to implement those directives, down to the  
14 level of specific activity.

15           The second phase was the development of  
16 overall direction-setting issues -- now known as DSIs --  
17 and the publication of issue papers, including preliminary  
18 commission views for each issue. An important aspect of  
19 this phase was allowing stakeholders and members of the  
20 public to review the information and to comment on the  
21 issues before the commission made its final decision.

22           The Agreement States had a significant role in  
23 this part of the process. In addition to providing  
24 substantial written comments, Agreement States also  
25 participated in the three stakeholder conferences that

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1 were held to give the public an opportunity for oral  
2 comment as well as face-to-face interaction with agency  
3 representatives.

4           These exchanges were extremely valuable in  
5 gaining a better understanding of each other's  
6 perspectives and concerns, and this phase was completed in  
7 August of 1996.

8           Phase 3 involved the development of a  
9 strategic plan which sets the long-term direction and  
10 goals for the agency, incorporates the DSI policy  
11 decisions of the commission, and is linked with the agency  
12 budget process. The strategic plan itself is dynamic in  
13 the sense that it is updated and will be updated as the  
14 mission of the agency changes or there are new elements to  
15 that mission.

16           And in keeping with the Government Performance  
17 and Results Act, or GPRA, the strategic plan will be  
18 reviewed annually and updated every three years. Phase 3  
19 was completed just last month with the submission of our  
20 strategic plan to vice president Gore and to the Congress.

21           The fourth and final phase which is underway,  
22 involves the implementation of the strategic plan and the  
23 DSI decisions. At this stage, the strategic planning and  
24 re-baselining moves from being a special, one-time effort,  
25 to a way of conducting business. This phase will involve

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1 developing a performance plan -- which in fact has been  
2 done -- integration of the strategic plan and the  
3 performance plan with the budget process, and performance  
4 monitoring.

5           And this is being done through implementation  
6 beginning this fall, as we speak, of a new program and  
7 budget planning process, undergirded by these plans. It  
8 will involve the development of operating plans by the  
9 different units of NRC down to a very fundamental level,  
10 as well as systematic, in-process program reviews and  
11 budget audits.

12           As most of you are aware, DSI-4 focused on  
13 Agreement State issues. Through the decision of the  
14 commission on that DSI as well as through other  
15 mechanisms, the commission has provided the NRC staff with  
16 Agreement State program direction, and has required that  
17 the staff submit any policy-related issues to the  
18 commission for approval.

19           During the past few years, the commission has  
20 approved a number of significant changes and initiatives  
21 that represent the maturity of the Agreement State  
22 programs and that acknowledge the collective, national  
23 efforts among Agreement States and the NRC to regulate the  
24 use of nuclear materials.

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1           These program revisions include: use of the  
2 IMPEP program to evaluate both NRC regional programs and  
3 Agreement State programs using teams comprised of both NRC  
4 and Agreement State staff; publication of the final  
5 statement of principles and policy for Agreement State  
6 programs and the final policy statement on adequacy and  
7 compatibility of Agreement State programs; use of joint  
8 NRC and Agreement State working groups on projects such as  
9 the revision to Part 35; and the control and  
10 accountability of devices.

11           Agreement State review will draft NRC  
12 rulemaking plans that affect the Agreement States before  
13 commission approval, and finally, development and use of  
14 the nuclear materials events database. Clearly, the  
15 Agreement State's contributions to the formulation of  
16 these program revisions have led and will continue to  
17 lead, to their successful implementation.

18           On behalf of the commission, I want to express  
19 appreciation for those important contributions made by the  
20 Agreement States. While future changes to the Agreement  
21 State program may be as rapid, we hope, or as frequent as  
22 during the past few years, continuing modifications may be  
23 necessary to further improve the program and to address  
24 the evolving, technical, societal, political and economic  
25 environments in which we live and work.

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1 I now would like to address two issues on  
2 which the commission has recently issued decisions. On  
3 July 21st of this year the commission issued an amendment  
4 to its regulations to establish acceptable radiation  
5 levels at the point when the nuclear facility is  
6 permanently shut down, the license terminated, and the  
7 site released to other uses.

8 Under this regulation -- commonly referred to  
9 as the License Termination Rule -- a site can be released  
10 either for unrestricted use, in which case it could be  
11 used for any purpose, or restricted use, in which it could  
12 not be used for certain purposes such as residential  
13 housing. To be specific, a site may be released for  
14 unrestricted use if the radiation dose to an individual  
15 from residual, on-site contamination will be as far below  
16 25 millirem per year as is reasonable achievable.

17 Alternatively, a site may be removed for  
18 restricted use provided that the dose from on-site,  
19 residual contamination is as low as reasonably achievable,  
20 and that legally enforceable, institutional controls such  
21 as deed restrictions, will ensure that the resulting dose  
22 to an individual does not exceed 25 millirem per year.

23 In addition, if a site is released for  
24 restricted use the licensee must provide financial  
25 arrangements to allow an independent third party to assume

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1 and carry out responsibilities for any necessary control  
2 and maintenance of the site. Provisions are also included  
3 in the regulation that would limit the radiation dose to  
4 an individual in the unlikely event that institutional  
5 controls failed.

6           An additional provision in the regulation for  
7 restricted use requires the licensee to seek advice from  
8 individuals and institutions in the community who may be  
9 affected by the decommissioning, on whether the provisions  
10 for institutional controls proposed by the licensee, will  
11 provide reasonable assurance that the radiation dose from  
12 any remaining contamination will not exceed 25 millirems  
13 per year, will be enforceable, and will not impose undue  
14 burden.

15           I also should mention for completeness that  
16 because the commission was concerned about certain sites  
17 presenting unique decommissioning problems, the commission  
18 included other provisions in the License Termination Rule  
19 that would allow in very rare instances, for a site to be  
20 decommissioned under alternate criteria.

21           The commission would review proposals to use  
22 these alternate criteria -- the commission itself -- and  
23 the ALARA principle maintaining doses as low as reasonably  
24 achievable, would still be applied. The commission  
25 expects the alternate criteria would be used only rarely.

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1 I'm elaborating these standards because the  
2 commission believes that they ensure protection of public  
3 health and safety and the environment. In addition, the  
4 regulations are consistent with the relevant  
5 recommendations of both national and international bodies  
6 tasked with developing radiation protection guidance. The  
7 new regulations consider risk, cost benefit, and socio-  
8 economic standards while providing the needed flexibility  
9 to accommodate site-specific conditions.

10 Let me move on. In 1995 the White House  
11 issued Presidential Decision Directive 39 entitled, U.S.  
12 Policy on Counter-Terrorism. It directed Federal agencies  
13 to take a number of measures to reduce vulnerability to  
14 the potential terrorist's use of nuclear, biological, and  
15 chemical weapons. An inter-agency group which was chaired  
16 by the Federal Emergency Management Agency, FEMA, and  
17 included NRC representatives, presented a report to the  
18 President that was approved for distribution in May of  
19 this year.

20 The report recommended that the Federal  
21 Government purchase and stockpile chemical nerve gas  
22 antidotes, vaccines for anthrax, antibiotics, potassium  
23 iodide, and other medicines for use by the general public  
24 in the event of a terrorist attack. The Federal  
25 Government is planning to put into place three national

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1 stockpiles of medical supplies that include potassium  
2 iodide, or KI.

3           Additionally, there will be 26 metropolitan  
4 strike teams, each with the option to have a full set of  
5 medical supplies that will include potassium iodide.  
6 Currently, there are four locations nationwide with  
7 medical stockpiles including potassium iodide; thus the  
8 size and number of locations of Federal stockpiles are  
9 expected to increase.

10           Potassium iodide from these resources could be  
11 used as a protective measure for the general public in the  
12 event of a nuclear accident at a commercial, nuclear power  
13 plant. In June of this year the commission modified its  
14 position regarding the use of potassium iodide as a  
15 protective measure.

16           The principle aspects of the revised policy  
17 are: first, the recognition of availability of KI  
18 nationally as part of the Federal stockpiles of medicinal  
19 supplies for nuclear, biological, and chemical threats;  
20 and second, the commission endorsement of the Federal  
21 Radiological Preparedness Coordinating Committee, the  
22 FRPCC, recommendations to continue the present policy of  
23 stockpiling KI for emergency workers and institutionalized  
24 persons, and to leave to the states the decision to use KI  
25 for the general public.

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1           This policy recognizes the central role of the  
2 states in protecting public health and safety. Under the  
3 revised position, potassium iodide would be available to  
4 any state for any type of radiological emergency at any  
5 time. If a state wishes to have its source of potassium  
6 iodide close at hand for use in a possible nuclear reactor  
7 accident, the Federal Government will fund the purchase if  
8 requested.

9           The interested state and/or local government  
10 will be responsible for maintenance, distribution, and any  
11 subsequent costs. NRC licensees will, as part of their  
12 emergency response plan, discuss this matter with the  
13 state and local government representatives who make  
14 decisions on protective measures for potential  
15 emergencies.

16           The best technical information indicates that  
17 proper evacuation and in-place sheltering of the general  
18 public are the preferred protective actions for severe  
19 accidents at nuclear facilities. The pre-distribution and  
20 use of KI can be a useful supplement to enhance the  
21 effectiveness of evacuation or in-place shelter.

22           However, the state -- or in some cases, the  
23 local government -- is ultimately responsible for the  
24 protection of its citizens. Therefore the decision for  
25 multiple stockpiling and use of potassium iodide as a

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1 protective measure for the general public is left to the  
2 discretion of state and local government. And my  
3 understanding is that currently three states -- Tennessee,  
4 Alabama, Maine -- include in their emergency planning, the  
5 use of potassium iodide as a protective measure for the  
6 general public.

7           When finalized by the FRPCC, the proposed new  
8 Federal policy will be published in the *Federal Register*.  
9 The NRC is working with FEMA to prepare the final policy  
10 statement and to develop implementation details. I expect  
11 this effort to be completed in the near future.

12           The next several areas of discussion are  
13 issues on which commission action is currently underway,  
14 or have recently become areas of commission focus. The  
15 first such issue is the Congressional action currently  
16 being discussed to re-authorize the Comprehensive,  
17 Environmental Response Compensation and Liability Act of  
18 1980, or CERCLA.

19           CERCLA re-authorization legislation is of  
20 great importance to the commission because of its  
21 potential applicability to the cleanup of residual  
22 radioactivity resulting from materials under NRC  
23 jurisdiction. The commission is concerned with CERCLA re-  
24 authorization because it may make statutory-specific,  
25 residual risk standards applicable to the cleanup of

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1 radioactive material without designating an NRC rule in  
2 selecting or applying those clean-up standards.

3           Given the NRC expertise in regulating  
4 commercial uses of radioactive material, the commission  
5 believes such an emission would be inappropriate. More  
6 importantly, statutory standards may differ from the  
7 cleanup standards that were properly established in NRC  
8 rulemaking, and might require different cleanup actions  
9 than what the NRC and the Agreement States find to be  
10 necessary.

11           The commission has submitted draft legislative  
12 language to the Congress that would resolve many of these  
13 concerns. In brief, the commission has requested that any  
14 CERCLA re-authorization would provide that any remedial or  
15 cleanup action, when applied to source byproducts or  
16 special nuclear materials falling under NRC or Agreement  
17 State jurisdiction, would be considered protective of  
18 public health and safety and the environment if it  
19 complies with applicable NRC or Agreement State  
20 regulations.

21           That is, a remedial action that complies with  
22 the commission or Agreement State regulations would  
23 automatically certify CERCLA requirements for remediation  
24 and control. The commission is fully aware that the re-

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1 authorization of CERCLA could have a significant impact on  
2 the NRC Agreement State program.

3           If the ability of a Agreement State to require  
4 cleanup at sites containing radioactive material is made  
5 subject to a determination by EPA, this has the potential  
6 of creating duplicative requirements and findings, and  
7 significant coordination problems between the NRC and the  
8 EPA, and could raise questions regarding the continued  
9 viability of the Agreement State program and the authority  
10 of Agreement States over Atomic Energy Act material and  
11 sites under their jurisdiction. The commission intends to  
12 continue to pursue this issue with the Congress.

13           Let me talk about Part 35 revision. The  
14 revision of the NRC medical regulatory program is a  
15 planned activity designed to focus on developing specific  
16 improvements in the regulations governing the medical use  
17 of byproduct material. During the past four years the NRC  
18 has examined in detail, the issues surrounding its medical  
19 use program.

20           This process started before my time, in 1993,  
21 with an internal, senior management review. It was  
22 continued during my time with the 1996 independent,  
23 external review by the National Academy of Sciences, the  
24 Institute of Medicine, and culminated in decisions on this

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1 issue by the commission as part of the NRC strategic  
2 assessment and re-baselining discussed earlier.

3           In particular, medical oversight was addressed  
4 in DSI-7, Materials and Medical Oversight. The  
5 commission's decision on DSI-7 reaffirmed NRC's medical,  
6 regulatory role. In a subsequent staff requirements  
7 memorandum, the commission directed the staff to submit a  
8 plan for revising Part 35, associated guidance documents,  
9 and as necessary, the commission's 1979 Medical Policy  
10 Statement.

11           Under the program approved by the commission,  
12 the staff is considering how Part 35 can be restructured  
13 into a risk-informed, more performance-based regulation;  
14 that is, now to focus regulatory oversight on those  
15 activities that posed the highest risk, and how to impose  
16 less prescriptive requirements in these areas --  
17 requirements that are commensurate with the risk.

18           Additional staff efforts include addressing  
19 how best to capture, not only safety significant events  
20 but also presursor events, evaluating the quality  
21 management program provisions to focus on requirements  
22 essential for patient safety, and considering the  
23 viability of using or referencing available industry  
24 guidance and standards.

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1           Representative of the Organization of  
2 Agreement States and the conference of Radiation Control  
3 program directors have been involved since the early  
4 stages, from participation in the NRC Part 35 working  
5 group and steering group. Two states, Alabama and Ohio,  
6 each have had a representative actively participating in  
7 the working group, and a State of Georgia management  
8 representative is participating in the steering group.

9           These groups have identified five major  
10 regulatory issues, developed alternatives for each issue,  
11 and identified pros and cons for each alternative. The  
12 issues include: first, the quality management program;  
13 second, radiation safety committees; third, training and  
14 experience; fourth, patient notification; and fifth, the  
15 threshold for reportable events.

16           In addition, the groups have identified  
17 alternative recommendations for revisions of the 1979  
18 medical policy statement of the NRC. These issues were  
19 the focus of last month's meeting between the NRC and the  
20 advisory committee on the medical use of isotopes. They  
21 also will serve as the basis for discussions in two  
22 upcoming public meetings to be held in Philadelphia on  
23 October 28th to 30th, and in Chicago on November 12th to  
24 14th, to solicit early comment on the Part 35 revision.

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1           The commission has asked the staff to do this  
2 rulemaking on an expediting basis. The NRC has also met  
3 with a number of medical professional organizations and  
4 more meetings are scheduled. I would also note for your  
5 information that a mini-workshop on this topic is  
6 scheduled at this meeting on Saturday morning.

7           The working group and steering group will be  
8 developing the proposed rule and associated guidance, and  
9 expect to complete their efforts by May of next year. The  
10 NRC plans to conduct two additional public meetings in the  
11 summer of 1998 during the public comment period for the  
12 proposed rule. And the NRC has established a Web site via  
13 its technical conference forum to facilitate public input  
14 on an ongoing basis. The commission has directed the  
15 staff to complete the rulemaking process by June 30th of  
16 1999.

17           In January of this year the U.S. Department of  
18 Energy issued its record of decision for the storage and  
19 disposition of weapons-useable fissile materials. In that  
20 record of decision DOE stated that it has decided to  
21 implement a program for the safe and secure storage of  
22 such material, including plutonium and highly enriched  
23 uranium, and it announced a strategy for the disposition  
24 of surplus weapons-useable plutonium.

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1           DOE plans to pursue a dual track approach as  
2 you know, for plutonium disposition which would include  
3 immobilizing surplus plutonium with high-level radioactive  
4 waste in a glass or ceramic material for direct disposal  
5 in a geologic repository, and burning some of the surplus  
6 plutonium as mixed oxide fuel in existing, domestic,  
7 commercial reactors before its disposal as a spent reactor  
8 fuel in a geologic repository.

9           The NRC has a direct interest in this program  
10 because it impacts at least three areas that NRC  
11 regulates: commercial nuclear power reactors, fuel cycle  
12 facilities, and the high-level radioactive waste geologic  
13 repository. We've been actively evaluating the proposed  
14 plutonium disposition alternatives since the DOE record of  
15 decision was issued.

16           Shortly after issuing that decision, the DOE  
17 briefed the full commission on its plan for plutonium  
18 disposition. In March and earlier in February of this  
19 year, the NRC sponsored two technical seminars, both open  
20 to the public, involving nuclear industry representatives,  
21 foreign representatives -- both of whom made presentations  
22 on the fabrication of MOX fuel and its use in commercial  
23 reactors.

24           In July of this year the DOE issued a program  
25 acquisition strategy for selecting private sector

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1 organizations to assist in implementing the MOX fuel  
2 alternative. And the services in the proposed strategy  
3 would include designing, constructing, modifying,  
4 licensing, and operating a fuel fabrication facility,  
5 supplying nuclear fuel for commercial reactors, and  
6 ultimately, obviously, the decontamination and  
7 decommissioning of any facility.

8           This would be a one-time use of MOX fuel to  
9 dispose of existing weapons grade plutonium but would not  
10 involve reprocessing. Successful implementation of this  
11 approach would require the full spectrum of irradiation  
12 services needed to burn MOX fuel, and it would need the  
13 Federal, state, and local environmental permits for all  
14 aspects of the program.

15           The acquisition strategy also states that the  
16 U.S. could pursue the use of Canadian CANDU reactors if  
17 there were international agreements reached among the  
18 Russian Federation, Canada, and the United States for  
19 implementing this aspect of the disposition.

20           There are technical, financial, and political  
21 questions that remain. In the U.S., industry  
22 representatives have expressed reservations about the size  
23 and duration of the investment necessary for commercial,  
24 nuclear power companies to invest in the MOX program,  
25 particularly if there were unforeseen circumstances that

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1 prompted DOE to cancel the programs. And certain U.S.  
2 public interest groups have asked that the Federal  
3 Government set minimum standards of safety for the  
4 performance of commercial entities to be selected to  
5 participate in the MOX program.

6 In August, at the Argon National Labs, DOE  
7 officials met with Nuclear Utility representatives and  
8 others to focus on these issues. And again, on September  
9 17th, the Department of Energy briefed the commission  
10 itself on its updates to its overall strategy, including  
11 its acquisition strategy for MOX fuel fabrication and  
12 irradiation services, and its plans for negotiating a  
13 binding agreement with the Russians.

14 The commission recognizes fully the importance  
15 of this program, both for the U.S. and nations around the  
16 world, and it tends to carry out our mission, particularly  
17 focused on public health and safety, but in a way that  
18 avoids undue delays and costs.

19 Let me turn to external regulation of DOE.  
20 You've heard a little about it so that will shorten what I  
21 have to say. By longstanding tradition and statutory  
22 direction, a primary mission of the U.S. DOE has been  
23 nuclear weapons production as well as the development of  
24 commercial and naval nuclear reactors and the conduct of  
25 energy-related research.

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1           With the end of the Cold War certain elements  
2 of that mission have shifted. The fundamental mission  
3 elements of the Department have remained, but  
4 approximately half of DOE's nuclear budget is now devoted  
5 to three activities: materials management,  
6 decommissioning and cleanup, and waste management.

7           Through decommission, DOE expects to decrease  
8 the number of its existing nuclear facilities from 600 to  
9 200 over a decade. The self-regulation by DOE and its  
10 predecessors of all aspects of safety at nuclear  
11 facilities -- with the primary exception of environmental  
12 protection -- has existed since the original Atomic Energy  
13 Act.

14           In 1994, legislation was introduced in the  
15 U.S. House of Representatives that would have subjected  
16 new DOE facilities to immediate external regulations. DOE  
17 created in January of '95, an advisory committee, that in  
18 the end recommended in its report, that essentially all  
19 aspects of nuclear safety at DOE nuclear facilities should  
20 be externally regulated, and a working group set up by the  
21 Secretary of Energy later provided recommendations that  
22 the NRC should be the external, nuclear safety regulatory,  
23 and that the transition to external regulation should  
24 proceed in phases.

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1           The commission as part of the strategic  
2 assessment and re-baselining, in September addressed  
3 various options for the NRC position on this issue, and  
4 after considering public comments as well as the DOE's  
5 December 1996 decision, the commission endorsed having the  
6 NRC assume that regulatory oversight, contingent upon our  
7 receiving adequate resources and having a clear  
8 delineation of authority that we will exercise over these  
9 facilities.

10           The commission directed the NRC staff to  
11 convene a high-level task force and working group to  
12 identify, in conjunction with DOE, the policy and  
13 regulatory issues needing analysis and resolution. And  
14 Dr. Paperiello here, in fact, heads the working group for  
15 NRC.

16           At a meeting in June, Secretary of Energy,  
17 Pena, and I agreed on a pilot program which the commission  
18 has endorsed as a basis to pursue NRC regulation of DOE  
19 facilities. And we're in the process of preparing a  
20 memorandum of understanding to establish the framework for  
21 the pilot program.

22           Even so, the pilot is beginning to get  
23 underway as you've been told, and it's intended to  
24 simulate NRC regulation of a selected set of DOE nuclear  
25 facilities over a 2-year period in order to help both

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1 agencies gain experiences related to NRC external  
2 regulation.

3           It will provide an opportunity to develop  
4 actual data on costs and benefits, and it will allow NRC  
5 to test regulatory concepts, performing the facility  
6 oversight functions that it believes would be appropriate.  
7 Two pilot facilities have been selected -- one of which  
8 you've been told is the Lawrence Berkeley Laboratory. The  
9 other is the Radiochemical Engineering Development Center  
10 at the Oakridge National Laboratory.

11           After six to ten pilots have been conducted,  
12 the NRC and DOE will determine whether to seek legislation  
13 to end the NRC's statutory authority to regulate  
14 individual DOE facilities or classes of facilities. There  
15 are a number of issues to be addressed which include the  
16 form of the regulatory process; whether we're talking  
17 about licensing, certification, consultation, or some  
18 other process.

19           Who is to be regulated, DOE or its  
20 contractors? What safety criteria should apply? What the  
21 role is of other stakeholders and regulatory entities,  
22 including the Agreement States; safeguard and security;  
23 and how best to effect the transition to external  
24 regulation?

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1           As we proceed, our primary goal is to remain  
2 rigorous in ensuring public and environmental protection  
3 on a cost-justified basis, and to ensure that whatever  
4 steps we take toward phased-in DOE oversight, do not  
5 compromise our ability to ensure adequate protection of  
6 public health and safety within the scope of our current  
7 mission.

8           In closing, I would like to reiterate my  
9 appreciation for the important contributions that  
10 Agreement States have made and continue to make, to these  
11 NRC program revisions, and to the NRC strategic direction  
12 as a whole. The past few years have brought dramatic  
13 changes to the Federal Government in terms of the focus on  
14 identifying roles and measuring results, as well as cost  
15 consciousness.

16           As a result it has become imperative, at the  
17 NRC and elsewhere, that we're able to articulate a  
18 detailed strategy of operation based on a vision, the  
19 nexus between that strategy and our authorized functions,  
20 and the justification for the resources needed to  
21 accomplish that strategy.

22           This emphasis surely is changing the way we do  
23 business, but I believe in the end it will make us both  
24 more efficient and more effective as regulators. In  
25 reviewing with you the series of issues -- and I know I've

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1 gone over my time but I thought it was very important -- I  
2 hope I've given you a greater appreciation for our  
3 perspective, and I hope that you will continue to work  
4 closely with the NRC so that we can continue to pursue  
5 this strategic vision in a responsible and an effective  
6 manner.

7 I thank you for your attention. I'm happy to  
8 entertain questions if there's time. I will remain until  
9 the break, and if you can catch me at that time, I'm happy  
10 to answer any questions you might pose. Thank you.

11 MR. QUILLIN: Are there any questions for Dr.  
12 Jackson? Steve Collins.

13 MR. COLLINS: I'm Steve Collins from Illinois,  
14 Board Chairman Jackson. You stated that the CERCLA re-  
15 authorization -- NRC has sent some recommended statutory  
16 language for that?

17 DR. JACKSON: That's correct.

18 MR. COLLINS: I checked with your staff here.  
19 Apparently that recommended language has not yet been  
20 distributed to the Agreement States?

21 DR. JACKSON: That may be true and it may be  
22 an oversight, so we can take care of that.

23 MR. COLLINS: I think possibly if we look at  
24 it and we really like it, states that choose to do so  
25 might contact their delegations and provide what's --

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1 DR. JACKSON: Okay, thank you. I'll see to  
2 that. Thank you very much. Any other questions?

3 MR. PADGETT: Yes, Dr. Jackson, Aaron Padgett,  
4 North Carolina. More a comment than a question, and it  
5 ties right in with what Steve Collins has said. I'll use  
6 as an example, recently a commissioner was appointed to  
7 the Nuclear Regulatory Commission, and as part of that  
8 this body became very active in getting that person  
9 appointed.

10 I use as an example, the appointment had to  
11 clear a subcommittee chaired by a Senator from North  
12 Carolina, and I know I was contacted and I wrote a letter  
13 that other people signed who know the Senator real well,  
14 and most likely the appointment would have gone out of  
15 subcommittee anyway, but that certainly helped.

16 The only point I'm making is that if properly  
17 used, this organization carries a lot of clout. I'm not  
18 sure that we're utilizing the clout that we have to do the  
19 things from a legislative point of view that we could do.

20 DR. JACKSON: Right. I thank you for that  
21 comment and I don't disagree with your presentation of  
22 what happened in the case of that particular appointment.  
23 I think that it's important when you have meetings like  
24 this, not only to focus on specific issues such as IMPEP  
25 programs and so on, but to perhaps spend more time to talk

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1 about how, in fact, the NRC and the Agreement States can  
2 be mutually reinforcing, particularly as we evolve from  
3 what I think one of the earlier speakers called a  
4 parent/child relationship, to a partnership.

5           But in response to the particular issue about  
6 whether or not the Agreement States had had the  
7 opportunity to see the proposed legislative language, you  
8 know, when you're sitting in Washington and there are  
9 deliberations going on in the Congress, you have to  
10 understand that there are times when rules have to made  
11 and one does not necessarily have to do the full  
12 circulation that some people would like to see of  
13 something that needs to get to the Hill within an hour.

14           But I take the suggestion under advisement and  
15 we'll see what we can do. Any other questions? Thank  
16 you.

17           MR. QUILLIN: Chip?

18           FACILITATOR CAMERON: Thank you, Bob, and I'd  
19 just like to thank Dr. Jackson again for giving the  
20 Keynote for us today. She's been a catalyst for  
21 fundamental changes at the Nuclear Regulatory Commission  
22 and we all appreciate her dynamic leadership style there.

23           Let me add my welcome to all of you to the  
24 meeting. My name is Chip Cameron and I'm pleased to serve  
25 as the Facilitator for the next three days. I think the

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1 program committee has put together an interesting and  
2 comprehensive program for you, and I'm going to try to  
3 assist you in having a productive meeting over the next  
4 few days.

5           You'll note that there's more problem-solving  
6 sessions I think, on this year's agenda perhaps, then  
7 there's been in the past, because we really wanted to try  
8 to look at some real problems that the Agreement States  
9 face out there in the regulatory world, and to try to  
10 share information and experiences on how best to solve  
11 those.

12           Our format is going to involve a series of  
13 short presentations on various issues, followed by an  
14 opportunity for discussion by all of you. I'll try to  
15 keep us on schedule, make sure that the discussion is  
16 relevant and focused, and ensure that everyone has an  
17 equal opportunity to participate in the discussion.

18           Now, for those of you who have done a lot of  
19 these meetings, usually you know that we have name tags in  
20 front of you for purposes, not only of identification, but  
21 also to signal the facilitator for when someone like to  
22 talk so you don't have to have your hand up all the time.  
23 That's one of the few details we missed; we don't have any  
24 name tags as you can see. So if you'll just raise your  
25 hand or spill your glass or water in front of you or

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1 something like that. Give me an idea that you want to  
2 talk and I'll try to keep track of you.

3           And as the people who have asked questions so  
4 far have done, please state your name before you say  
5 whatever you have to say so that the transcriber has that  
6 and he'll be able to match up the names with the states  
7 later on. And also, for all of you in the audience,  
8 please state your name.

9           We do have a flipchart of sorts back here that  
10 I'm going to use to keep track of issues that may not fit  
11 into the current discussion but that we want to come back  
12 to. And it serves another purpose, too. You'll see that  
13 this is an eye chart for Ed Bailey in case he spends too  
14 much time over at the cocktail lounge. We pull this down  
15 and use that to test him, and I think we'll do that at  
16 6:30 today after the cash bar on the agenda.

17           And in terms of the agenda, it's pretty  
18 straightforward. We're going to begin with Dick Bangart  
19 who's going to give us a state of the program message.  
20 Note that there is an Agreement State business meeting  
21 today. It's the first part of a 2-part business meeting  
22 that starts at 3:30 today. The second part is Saturday at  
23 2:30, and at 4:30 on Saturday Bob Quillin is going to  
24 report out on the Agreement State business meeting. It  
25 will be in this room.

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1           As I mentioned, there's a cash bar today for  
2 everybody to get together and talk at 5:30, and as Dr.  
3 Jackson mentioned, we are going to do a mini-workshop on  
4 the Part 35 rulemaking on Saturday morning. Now this --  
5 there will be several members of the public in attendance  
6 on Saturday, and it should be an exciting and enjoyable  
7 session, but I will be going out to the audience at that  
8 time to comment on the various issues that we've been  
9 discussing. So just anticipate that, and I would just ask  
10 you to relax and speak your mind.

11           Perhaps the best thing to do at this point  
12 before we go to Dick Bangart, is to start with Don Flater  
13 and just have an introduction of the person and the state  
14 that they represent. Don, would you lead off for us?

15           MR. FLATER: Don Flater, State of Iowa.

16           MR. WASCOM: Ronnie Wascom, State of  
17 Louisiana.

18           MR. BRODERICK: Mike Broderick, Oklahoma.

19           MR. MARSHALL: Dan Marshall, Nevada.

20           MR. MOBLEY: Mike Mobley, Tennessee.

21           MR. SNELLINGS: David Snellings, Arkansas.

22           MR. GODWIN: Aubrey Godwin, Arizona.

23           MR. ERICKSON: John Erickson, Washington.

24           MR. RATLIFF: Richard Ratliff, Texas.

25           MR. FLETCHER: Roland Fletcher, Maryland.

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1 MS. TAFFT: Diane Tafft, New Hampshire.

2 MR. PADGETT: Aaron Padgett, North Carolina.

3 MR. HYLAND: Jay Hyland, State of Maine.

4 MR. HALLOWAY: Bob Halloway, the Commonwealth  
5 of Massachusetts.

6 MR. GOFF: Bob Goff, State of Mississippi.

7 MR. QUILLIN: Bob Quillin, Colorado.

8 MR. SUPPES: Roger Suppes, Ohio.

9 MR. LEVIN: Stuart Levin, Commonwealth of  
10 Pennsylvania.

11 MR. COOPER: Vick Cooper, Kansas.

12 MR. WHATLEY: Kirk Whatley, Alabama.

13 MR. HILL: Tom Hill from Georgia.

14 MS. ROGERS: Alice Rogers, Texas.

15 MR. PACETTI: Bill Pacetti, Florida.

16 MR. WANGLER: Ken Wangler from North Dakota.

17 MR. SINCLAIR: Bill Sinclair, Utah.

18 MR. PARIS: Ray Paris, Oregon.

19 MS. JEFFS: Vickie Jeffs, Commonwealth of  
20 Kentucky and the first Agreement State.

21 MR. BATAVIA: Max Batavia, South Carolina.

22 MR. HEARTY: Brian Hearty, Nebraska.

23 FACILITATOR CAMERON: Okay, thank all of you.

24 Are there any housekeeping questions? Okay, Bob's

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1 suggesting that we go out into the audience for any  
2 Agreement States that aren't up here.

3 UNIDENTIFIED: That's right.

4 FACILITATOR CAMERON: All right. Anybody else  
5 that isn't up here? California, Ed Bailey. And Ken  
6 Weaver's out there from Colorado. We would ask those  
7 states that aren't up here to come up and join us, okay,  
8 for the discussions. And I'd like to ask everybody to  
9 introduce themselves but I think we'd better get on with  
10 this.

11 Let me just find out if there are any  
12 questions about the agenda, format, anything like that.  
13 Any suggestions? All right, Dick, are you ready to talk  
14 about the program?

15 MR. BANGART: Good morning everybody. I think  
16 it's clear already it's going have to change the name of  
17 the program to the Agreement State and Commonwealth  
18 program. There are Commonwealths now.

19 This morning I will share my perspectives on  
20 the current status of some of the major elements of the  
21 Agreement State program, and similar to last year I'll  
22 attempt to forecast some NRC actions that you can expect  
23 during the upcoming year.

24 To address my views I'll request that you  
25 follow a figurative presentation halfway with me, that

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1 first goes through a gateway to an overarching issue that  
2 some of you have identified as a concern. That issue is  
3 the difference in the perception between NRC and Agreement  
4 States about the flexibility of the program, that as we  
5 know, has undergone significant revision since 1993.

6 As mentioned by the chairman in her remarks,  
7 the major elements of this basically re-engineered program  
8 were jointly developed by Agreement States and NRC, and  
9 most are currently in the process of being implemented  
10 with the exception of limited funding for certain  
11 Agreement State travel and training.

12 During the development of these program  
13 changes I periodically received expressions of concern  
14 about apparent increasing prescriptiveness and associated  
15 lack of flexibility in the program. My stock reply to  
16 those expressions of concern was that they would disappear  
17 after all the changes to the program were in place.

18 I would also state that if the revised program  
19 were to be assessed broadly, and although there might be  
20 isolated elements where there was less flexibility, that  
21 on balance a clear feature of the program would be  
22 increased flexibility for Agreement States.

23 But since most of the revisions are in place  
24 and since the expressions of concern have still continued,  
25 I recognize that addressing the question broadly probably

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1 has at least limited value, or at least needs to be  
2 complemented by an additional evaluation.

3           One addition valid approach for examination is  
4 to look at each major element of the newly revised program  
5 and make individual determinations about the associated  
6 flexibility. I've done this in my own mind, I'll share my  
7 thoughts with you, and I invite your comments at any time  
8 during the meeting.

9           As we follow this figurative path, let's first  
10 examine the flexibility associated with the IMPEP program  
11 reviews as they are used to determine adequacy and  
12 compatibility under the new policy. The emphasis on  
13 performance for the five common indicators, together with  
14 the broader perspectives added by the management review  
15 board process, contribute importantly to the greater  
16 amount of flexibility associated with these five common  
17 indicators.

18           Non-common indicators, however, if assessed  
19 fairly, probably have a flexibility mix associated with  
20 them. Compatibility of regulations is one part of the  
21 non-common indicator legislation and regulations. Before  
22 I explicitly discuss the flexibility for this non-common  
23 indicator I plan to digress for just a second to discuss  
24 the term, compatibility of regulations itself, because

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1 even the use of that term under the new policy is really a  
2 misnomer.

3           Compatibility is now assessed on whether there  
4 are significant and disruptive, conflicts, gaps, or  
5 duplications that exist when an Agreement State program is  
6 compared to NRC's program, or for that matter, when an  
7 Agreement State program is compared to the collective  
8 national materials program that the chairman addressed.

9           Certainly with this criterion for the  
10 compatibility determination in place, an Agreement State  
11 program that is not compatible should be a rare occurrence  
12 in the future. Your specific regulations will continue to  
13 be reviewed as they are promulgated, but the results of  
14 the evaluation will be a determination of whether or not  
15 your rule is consistent with the compatibility category  
16 designations established by the new adequacy and  
17 compatibility policy.

18           Having some rules that are different from the  
19 category designation to the new policy could conceivably  
20 have no impact on the overall program compatibility  
21 determination. Because of this, together with the fact  
22 that any type of legally binding requirement like a  
23 license condition, is considered sufficient to satisfy the  
24 policy need for an equivalent regulation, flexibility is  
25 probably at a maximum in this area of the new program.

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1           As far as what to expect from NRC on the  
2 review of regulations, we believe that it's good news for  
3 everybody. The new policy, our revised implementing  
4 procedures, and our new tracking system will assure that  
5 all reviews of your regulations will be complete by the  
6 date you request or by a revised negotiated due date when  
7 we're unable to meet your originally requested date.

8           These procedures will also assure that all  
9 reviews will be fully documented using the same format in  
10 each case, and these procedures will assure that NRC will  
11 provide you only substantive comments on your regulations.

12           For example, even for the most restrictive  
13 compatibility categories, categories A and B, the policy  
14 calls for the requirement in the Agreement State Rule to  
15 be the same as the requirement in the NRC's Rule. For the  
16 most part no mention is made of the need to use the same  
17 or exact wording as is in the NRC Rule.

18           The standard for compatibility category C  
19 regulation is even less rigorous and calls for the  
20 Agreement State requirement to have the same essential  
21 objective as NRC's Rule. So when a Rule review of an  
22 Agreement State regulation is conducted by OSP staff, I  
23 ask them to review your Rule or your legally binding  
24 requirement from the perspective of a licensee.

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1           If a licensee would have to do nothing  
2 different from what is required by the NRC rule, then the  
3 Agreement State rule is the same. If a licensee would  
4 have to do at least as much as the NRC Rule requires, or  
5 if the Agreement State rule uses an alternate mechanism to  
6 achieve the same level of safety, then the Agreement State  
7 Rule meets the same essential objective as the NRC Rule.  
8 Agreement States should receive significantly fewer NRC  
9 comments on rules than in past years.

10           The other non-common indicators, especially  
11 sealed source and device reviews and the regulation of low  
12 level radioactive disposal, are quite different I think,  
13 when examined with the question of Agreement State  
14 flexibility in mind.

15           The findings for these non-common indicators  
16 are usually heavily weighted by the technical depth and  
17 technical quality of licensing reviews conducted within  
18 the Agreement State programs. These are the most  
19 technically specialized program areas and they are often  
20 reviewed by NRC technical specialists from the program  
21 office, NMSS.

22           I think as you know, NRC has invested large  
23 amounts of resources over the years to develop our review  
24 capability in these specialized areas. And the NRC staff  
25 members have received recognition on a national level, and

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1 sometimes even on an international level, for their  
2 technical expertise in these specialized areas.

3           So based on the depth of this experience and  
4 the licensing review complexity, the criteria for IMPEP  
5 findings in these particular, non-common indicator areas  
6 are more detailed, and thus contribute to what is viewed  
7 as a more prescriptive review approach.

8           So I think it's correct to conclude that when  
9 compared to the common indicators, Agreement States indeed  
10 are more limited in the flexibility they receive for these  
11 two non-common indicators especially. NRC's primary  
12 intent however, is not to limit flexibility. Our primary  
13 intent is to recommend that Agreement States take  
14 advantage of the tremendous leverage they can gain by  
15 applying the results of the NRC expertise and experience  
16 to their own licensing efforts.

17           I also believe that concerns about apparent  
18 NRC prescriptiveness in these areas should diminish with  
19 time, however, because the detailed, technical guidance  
20 for these non-common indicators will eventually become  
21 guidance that we can all embrace. This will happen  
22 increasingly because the guidance will be developed  
23 jointly, and even now in essentially all program areas,  
24 Agreement States are being provided opportunities to

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1 comment at the very early stages in the development of  
2 regulatory positions and guidance.

3           The next stepping stone on the path we are  
4 following is incidence response. This is another area  
5 where NRC actions have at least an appearance of impacting  
6 Agreement State flexibility. For the most significant  
7 events that require response by an Agreement State or by  
8 NRC, the states certainly may be high in terms of  
9 potential public health and safety impacts, and in terms  
10 of assuring that public confidence in all our programs is  
11 maintained at a high level.

12           For these most significant events NRC wants to  
13 doubly assure that an Agreement State is aware of the  
14 technical assistance NRC can provide to the state,  
15 including the facilitation of DOE support that can take  
16 the form of radiological surveys and radiological  
17 assistance teams.

18           We know incident response decisions require  
19 technical judgments and sometimes those judgments and  
20 decisions must be based on sketchy information.  
21 Management studies have repeatedly shown that decision  
22 based on input from several, knowledgeable, discussion  
23 participants are often better than those decisions made by  
24 small groups or those decisions that are made in  
25 isolation.

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1           So because of these benefits I think you can  
2 expect that NRC will continue to actively seek information  
3 about the most significant events and Agreement State  
4 responses to these events.

5           These NRC actions are not entirely dissimilar  
6 to NRC Headquarters' role in communicating with the  
7 regional offices when an NRC licensee reports a  
8 significant event that requires an NRC regional response.  
9 In both cases NRC Headquarters is exercising not only an  
10 oversight function but also a support function with the  
11 objective of increasing the probability that the response  
12 to the event will be adequate to protect public health and  
13 safety, and the public will view that response as being  
14 sufficient to properly address the involved hazards.

15           This may appear as overly intrusive on the  
16 surface, or appear as if NRC is attempting to limit  
17 Agreement State flexibility in responding to events.  
18 Again, the intent, however, is just the opposite. Input  
19 to you based on NRC's assessment of the event, based on  
20 NRC's experience in perhaps similar situations, and NRC's  
21 offer of resources in the form of technical assistance,  
22 are actually tools that you can use to consider options in  
23 responding to an incident that might not otherwise be  
24 viable alternatives for considerations.

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1           Somewhat related to event responses, event  
2 reporting to NRC. You know that even reporting to NRC is  
3 now mandatory for Agreement States under the new Adequacy  
4 and Compatibility Policy. While mandatory reporting may  
5 understandably be construed as reducing flexibility, I  
6 think we'll all agree that we are less effective  
7 regulators if our ability to assess trends and identify  
8 generic safety issues is hampered by an incomplete  
9 database.

10           While the reporting of events is now  
11 mandatory, NRC recognizes that reporting of information to  
12 the Nuclear Materials Event Database System, or NMED, is  
13 still not as user-friendly as it should be, and in some  
14 cases an actual obstacle still exists.

15           We know for example, that different versions  
16 of Microsoft Access are not compatible. So if you  
17 experience any difficulties in using the Windows version  
18 of NMED, or if you choose not to use NMED for any reason,  
19 please use any convenient method to provide the event  
20 information to us on a monthly basis.

21           Our contractor will enter the information you  
22 provide into the NMED system if you provide it to us in  
23 any form. Pat Larkins is the expert on the NMED system  
24 and event reporting in my office. She's here. I've asked  
25 her to be here so that she can address and discuss with

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1 you any problems that you may be having relating to event  
2 reporting.

3           As we approach the end of this presentation  
4 pathway journey, I will identify one additional action  
5 that you can expect from NRC -- or at least certain of you  
6 can expect from NRC in the upcoming year -- a recent case  
7 in Massachusetts.

8           We've assessed the comments and frustrations  
9 expressed by Massachusetts as their program was being  
10 reviewed and we've completed an in-house, informal,  
11 lessons-learned evaluation of the Massachusetts  
12 experience. We think that we can do better in future  
13 program reviews.

14           Our revised procedure that is currently under  
15 development and that will be circulated to you for  
16 comment, indicates NRC will conduct a thorough review of  
17 your initial, and hopefully complete, submittals. We will  
18 identify issues that are in need of resolution, and unless  
19 there are major program revisions, our subsequent review  
20 efforts will focus on the resolution of those issues that  
21 were previously identified.

22           We will not conduct a de novo review of your  
23 entire program each time you make another submittal. This  
24 will avoid the incremental and sometimes last minute

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1 identification of new issues that contributed to some of  
2 the delays in the Massachusetts case.

3           Now, as we exit this discussion pathway, I can  
4 say with certainty that Agreement States will continue to  
5 have opportunities to interact with a broad segment of NRC  
6 employees, both within regions and within Headquarters.  
7 This interaction will occur as IMPEP continues and as  
8 opportunities increase for joint NRC and Agreement State  
9 development of materials, program, policy, and technical  
10 guidance.

11           Our program effectiveness and efficiency needs  
12 dictate that NRC continue to support our joint efforts to  
13 establish a national materials program that is  
14 collectively implemented by the Agreement States and NRC.  
15 You've heard me say that; the chairman said that this  
16 morning. I believe the best interests of the NRC, the  
17 best interests of Agreement State, and the best interests  
18 of the public will be well served by continuation of these  
19 joint efforts.

20           Thank you for your time. Chip, if there's  
21 time I'll take comments or questions.

22           FACILITATOR CAMERON: Sure. Let's revisit the  
23 statement that you made at the beginning about concerns  
24 about flexibility. Given what he said in his  
25 presentation, does anybody have a statement of concern

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1 still, on flexibility, and if you do, do you have a  
2 suggestion on how the NRC might provide more flexibility?

3 Mike, were you going to address that  
4 particular issue of flexibility? Anybody with concerns on  
5 flexibility around the table, before we go to Mike? I  
6 guess you put the flexibility concern to rest. But let's  
7 go to Mike for a question.

8 MR. MOBLEY: Yes. Don't go away. I guess I  
9 can have a quick statement on flexibility. Mike Mobley  
10 from Tennessee. I feel that there is indeed, more  
11 flexibility, having gone through the impact process. I  
12 thought it was very different, very much of an  
13 improvement, and I'll have further to say on that maybe  
14 later.

15 I'm a little concerned though, in terms of  
16 hearing the national materials program statement, the  
17 discussion on CERCLA earlier today. The comment was made  
18 regarding CERCLA and Atomic Energy Act materials. States  
19 regulate more than Atomic Energy Act materials. If you're  
20 going to have a national materials program you've got to  
21 address all radioactive materials or you don't have a  
22 national materials program.

23 In some of your statements you talked about  
24 the event report, NMED system and everything, and one of  
25 the things that I, and I think a number of others have

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1 insisted on and I don't think it's being addressed, is  
2 that if we're going to have a national materials program  
3 we're going to have an event reporting system for  
4 radiation incidents -- radiation events or whatever -- it  
5 ought to report on all radiation incidents, all radiation  
6 events.

7           And we in the states deal with much more than  
8 just the AEA regulating materials. And I think that we're  
9 doing -- I think we're doing a terrible injustice to  
10 Congress -- I don't care what Congress said in their  
11 requirements -- but I think we're doing a terrible  
12 injustice to Congress when we report that we had this many  
13 events regarding radioactive materials, when in reality  
14 that's not the case.

15           These events that they are hearing about are  
16 only the AEA radioactive materials and they're not hearing  
17 about the non-AEA radioactive materials and/or the non-AEA  
18 radiation events.

19           We have to -- you know, you talk flexibility  
20 and I think that flexibility certainly -- I see some more  
21 flexibility in terms of the NRC looking at the Agreement  
22 States, but I still don't see a lot of flexibility for the  
23 NRC saying, yes there are other radioactive materials,  
24 there are other radiation things out there, and somehow

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1 maybe we should, as a footnote at least, capture that in  
2 our reporting on AEA incidents and events.

3           And that's my comment and I have a question.  
4 I didn't understand exactly your statement on incident  
5 response. I guess -- we have a lot of incidents. Some of  
6 them are significant enough that we have a considerable  
7 interaction with the NRC. There's always been the  
8 expression that if you need resources we have them. There  
9 have been a few cases in which we've requested those  
10 resources and they've been provided.

11           I don't see much change there. Am I missing  
12 something?

13           MR. BANGART: The reason for the comments in  
14 my remarks is that there have been several Agreement  
15 States that have expressed the need that we have to gather  
16 information about the response to events, as well as the  
17 need to offer assistance if indeed it's needed, has been  
18 found to be overly intrusive.

19           In fact, it has been stated that it inhibits  
20 the prompt response on the part of the Agreement State.  
21 In fact, we've interrupted people that they believe should  
22 actually be carrying out activities more directly related  
23 to the response. What I was trying to say, that this is  
24 -- should be viewed -- at least as I see it -- from an  
25 integrated standpoint. We have something that we can

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1 offer; we'd like to see a receptive audience to that offer  
2 of support from NRC.

3           And more importantly I wanted to say, that  
4 because the handling of response in a proper method is a  
5 significant enough issue that can impact all of our  
6 program if it doesn't happen right each time, that you  
7 can't expect that we're going to back off in terms of  
8 wanting to provide an offer of assistance, and in terms of  
9 wanting to seek information.

10           That's probably not going to happen. That was  
11 the point I was trying to make.

12           MR. MOBLEY: Okay. And we've probably been  
13 one of those states that say that at times, it does get a  
14 little -- I don't know intrusive as much as it's just  
15 bothersome that we've got a bunch of people calling us  
16 about an event when we're in the middle of responding to  
17 it, but now -- at least in Tennessee -- we have the  
18 resources where we can have somebody that deals with the  
19 Federal agencies that are calling while somebody's really  
20 working the incident.

21           But that's sort of -- you're now getting  
22 sanitized or second-hand information. You're no longer  
23 talking to the guy that's dealing with the incident.

24           MR. BANGART: Well, if there were a concern or  
25 we felt that information about support from us wasn't

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1 getting to the right person, we'd ask to talk to you. But  
2 I also want to say that we also have always said that if  
3 it's a choice between a matter of a proper response that's  
4 needed for safety and talking to NRC and providing  
5 information to us, always make the choice in terms of  
6 taking the action that's needed.

7 Tell us, we'll call you back when we have  
8 time. That might be 15 minutes or a half-hour; or you  
9 call us back in an hour or something and that's fine.

10 MR. MOBLEY: Thank you.

11 FACILITATOR CAMERON: We're going to go to  
12 Aubrey Godwin and then Steve Collins. Aubrey?

13 MR. GODWIN: Godwin of Arizona. Just one  
14 comment about this incident response. Now that we have  
15 all the players on the field, there's sometimes some  
16 difficulty in ascertaining exactly which one of you  
17 Federal guys we need to call. The lead agency for most  
18 events is not the NRC; it appears to be EPA.

19 MR. BANGART: That's true.

20 MR. GODWIN: And we do get a variety of  
21 responses from them -- some very good, I might add. And  
22 they also bring a lot of assets to it and sometimes we  
23 cross it over in one thing or another. But it would be  
24 really helpful if we had a little bit clearer thing.

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1           There's been an incident I noticed that you  
2 all have responded to and EPA got involved in, and I  
3 wasn't real sure who was running the show. So sometimes  
4 maybe we need a little clarification on that because  
5 offhand, when the event occurs, we don't really clearly  
6 know its licensed material. We're going to EPA now.

7           MR. BANGART: You're right. EPA clearly has  
8 led Federal responsibility in this case. That doesn't  
9 prevent NRC from offering assistance as appropriate. We  
10 can work with the EPA and work with the state.

11           There was a recent loss source tabletop  
12 exercise in region 1 that helped, I think, to sort out  
13 some of these roving responsibilities. Maybe we'll hear  
14 at least through come of the discussions, the benefits  
15 that resulted from that tabletop. I know that  
16 Commissioner Dykus recently wrote a memo that commended  
17 the staff for participating in that particular tabletop  
18 exercise, and thought that they should continue.

19           FACILITATOR CAMERON: Steve.

20           MR. COLLINS: Steve Collins from Illinois.  
21 Two items. The first one is, Aubrey, Illinois doesn't  
22 share your experience with that other agency. We haven't  
23 had a pleasant one yet.

24           The real item with regard to flexibility --  
25 and this is a real narrow, little, fine point with

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1 communications. NRC has been trying to get Illinois to --  
2 during off-hours in particular -- to contact the  
3 Operations Center when we have events. We reluctantly  
4 agreed to try that a couple of times. We've not been  
5 pleased either time.

6           First of all, when you contact those people  
7 the words tend to get distributed and broadcast widely. I  
8 mean, you give them initial notification -- hey, we've got  
9 something happening and we're trying to collect facts --  
10 and all of a sudden that's broadcast much wider than you  
11 want it to be at that point. That's the reason we would  
12 much rather wait a couple of hours or call our -- have our  
13 agents re-liaison, or Washington, D.C. folks that we know  
14 how they react to be paged, or something.

15           And the other little item is, is we've used  
16 your modern communications that NRC seems to be going  
17 towards and E-mailed them a message, and now we get this  
18 dictum back: can't send it to us by E-mail; it's got to  
19 be phone call or fax. Well we're going to continue E-  
20 mailing it. If you guys don't want it, that's fine.

21           MR. BANGART: We're continuing to work in-  
22 house on trying to make the reporting to the Headquarters'  
23 operations officer a more user-friendly process for  
24 Agreement States, including electronic communication of

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1 information and transmitting of factual information about  
2 events.

3           We're probably not able to change the methods  
4 that we use that result in early dissemination of  
5 preliminary information, however. That's the process that  
6 we have for handling notification of all events. It's the  
7 same for reactor events, it's the same for NRC licensee  
8 events that are reported to NRC. And it's clearly labeled  
9 as preliminary information -- the best information that's  
10 available at the time -- and that subsequent information  
11 may follow that will change the description of the event.

12           FACILITATOR CAMERON: I'd like to thank you  
13 all for continuing in the tradition of feistiness. It  
14 always shows that these meetings are -- let's go to Ray  
15 Paris and over to Alice Rogers, and I think Mike and  
16 David. And we are coming up on the break here, and  
17 Bangart keeps thinking he can walk away.

18           MR. PARIS: I'd just like to echo Mike's issue  
19 about using the NMED system for all reporting events. One  
20 in particular would be for Norm. He's a sleeping giant  
21 but he's coming to life, and it might be such that at  
22 least to look at that possibility of including those  
23 issues -- I'm not quite sure that he, you know, the  
24 language and the level of what you want to actually have  
25 those reported -- but at least to look at that and have

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1 that system, because the system is in place. Why not  
2 report all?

3 MR. BANGART: There's been different views and  
4 positions over the last few years -- at least since I've  
5 been in state programs. Initially there was a need for a  
6 system identified that would be able to handle all types  
7 of event reporting. Then no, the message changed that  
8 NMED didn't have to be able to capture that.

9 Then the message was that yes, we want to be  
10 able to have the capability to use it and put other event  
11 information in it. And now I think most recently it's  
12 shifted back again that no, the need is not as strong as  
13 originally envisioned and it can be focused more on AEA  
14 event reporting.

15 So I think this is clearly in the spirit of  
16 trying to resolve issues. This is an area we need to sit  
17 down again and look at NMED and event reporting and see  
18 whether we do or don't want to have it explicitly  
19 available to capture other events as well.

20 I think generally there's nothing inherent in  
21 the system that won't allow it to capture any and all  
22 types of events. We just need a clear message on what the  
23 objective needs to be and how the states want to use it.

24 MR. PARIS: Right, communication.

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1 MR. BANGART: What we have said is that -- I  
2 think in the past is that -- we don't have resources to  
3 devote to the QA, the QC of the non-AEA event information.  
4 It's there to use, but NRC probably isn't going to have  
5 the resource to be able to do the QA necessary to make  
6 sure it's in as good a shape as the AEA side.

7 FACILITATOR CAMERON: Dick, are you suggesting  
8 that in response to some of these comments that you are  
9 going to initiate it, a relook?

10 MR. BANGART: We will.

11 FACILITATOR CAMERON: Then that will be coming  
12 then. Alice.

13 MS. ROGERS: I'd like to also urge the NRC  
14 stress more firmly the importance of having CERCLA applied  
15 to all radioactive substances. We have the superfund site  
16 in Texas City which has Norm as well as low level reactive  
17 wastes as well as lots of chemical stuff, and establishing  
18 the ALARAs, and even getting EPA to realize that they  
19 probably really do need to look at the low level waste  
20 that's buried on-site has been very difficult.

21 My other comment is, I believe you said  
22 earlier that NRC has been doing joint development of  
23 technical guidance and policies with the Agreement States,  
24 and I'd just like to suggest that it's really hard for me  
25 to consider it joint development when we're given draft

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1 documents and 30 days to turn around comments, which in my  
2 agency is not long enough.

3           And I'd like to suggest two solutions to that  
4 problem. One is to give us at least 60 days, or secondly,  
5 perhaps to give us a list of the things that you're  
6 working on so we can work that into our work plans for the  
7 upcoming year. Because in some situations, getting  
8 meaningful comments on some of your comments is a big work  
9 item for my small staff.

10           MR. BANGART: We're going to be I think, in a  
11 much better position to be able to give you that kind of  
12 advance notice. And hopefully as our planning improves  
13 through the use of operating plans, looking at our planned  
14 accomplishments during the year that the chairman  
15 mentioned, we're going to have a better ability to  
16 identify those things well in advance and we'll start  
17 looking at our own various office operating plans and  
18 trying to flag things that we can notify Agreement States  
19 that this is likely to be coming to them for review during  
20 the year.

21           Sometimes we have deadlines imposed upon us  
22 from other, outside factors that don't allow us to always  
23 give you the 60 days that you recommended. So I can't  
24 make a firm commitment that in each and every case we'll  
25 be able to find the 60-day period to allow you to comment.

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1 But recognize that I think that's a reasonable goal and  
2 we'll work towards achieving it.

3 FACILITATOR CAMERON: Let's go to David and  
4 Mike.

5 MR. SNELLINGS: Dave Snellings, Arkansas.  
6 Just to relate an experience that we had and to back-up  
7 what Steve said, we had an event. We reported it into the  
8 Ops Center and very, very shortly -- and I wish I had kept  
9 track of time -- I got a call from the local newspaper.  
10 Now, how they got it I don't know, you know.

11 But they had the individual's names that we  
12 give to the Ops Center. They had all this information.  
13 Kind of caught me off-guard. Of course, I'm brand-new,  
14 but it did catch me off-guard as to how they got it and,  
15 you know, what was the mechanism that they got it -- how  
16 they got it? And then they were wanting more information.

17 And what we had was very, very preliminary at  
18 that point in time. But again, this information gets wide  
19 dissemination, whether on the Internet or how, I don't  
20 know.

21 FACILITATOR CAMERON: And Mike.

22 MR. MOBLEY: Yes, I just wanted to follow up  
23 on Steve's comments, and I hadn't thought about it until  
24 Steve brought it back to my attention. But one of the  
25 problems -- normally during working hours we have our

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1 contacts and we contact the NRC in Atlanta, EPA -- I mean,  
2 we just routinely now contact NRC in Atlanta and then we  
3 go about doing our business and somebody deals with all  
4 the resultant phone calls.

5           But when you're dealing off-hours, many times  
6 you're at home or in a phone booth -- I've run into a lot  
7 of phone booths, dealing with an incident -- and that's  
8 one phone number that you have. And if you're getting a  
9 bunch of calls from people wanting to know well, what's  
10 going on, what's happening -- and sometimes we get as many  
11 as three or four from different entities in the EPA  
12 regarding an incident -- that ties up that phone that you  
13 need desperately to deal with the people that are dealing  
14 with the actual event.

15           Somehow we need to work out this reporting  
16 thing so that it's nice to have all this support and if we  
17 need it we'll call for it, but having a bunch of people  
18 call me to find out what's going on is really difficult.  
19 And the reality is, off-hours normally EPA's the one  
20 that's -- I mean, I get calls from the Las Vegas Lab, the  
21 Atlanta EPA, the Headquarter's EPA, etc., etc., etc. --  
22 all of them wanting to know what's going on, and I'm  
23 trying to deal with the event from a phone booth or from  
24 home or wherever.

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1 MR. BANGART: That's clearly the kind of  
2 situation where you need to say that, I'll get back to you  
3 later because I need to do something that's more directly  
4 related to the response to the event.

5 But let me share with you a discussion that we  
6 had with some folks in our AEOD that has responsibility  
7 for having the Headquarters' Operations Officers take  
8 event information. And it was described that there was a  
9 reporting of an event at a power reactor, and the person  
10 from the plant who was calling the event information in  
11 was on the fire brigade.

12 The event was a fire, and the Headquarters'  
13 Operations are so well disciplined in their training that  
14 they demanded that that person stay on the phone and  
15 communicate with NRC rather than join the fire brigade  
16 team and help put out the fire. Now, you can argue  
17 whether that's in the best interests of safety or not, but  
18 that is an example of how well disciplined the  
19 Headquarters' Operations Officers are.

20 And that's the way they've historically been  
21 trained to get the information that they need to have  
22 available to respond to NRC management, indeed if in case  
23 NRC needs to gear up to have our own incident response  
24 organization put in place.

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1           So that's their starting point and we're  
2 trying to train them to recognize the difference between  
3 getting information from a nuclear power plant about an  
4 event that's in progress, as compared to getting  
5 information from a regulator in an Agreement State that  
6 isn't a licensee. So we're working on that.

7           FACILITATOR CAMERON: Okay. Final comment  
8 perhaps, from Pat Larkins.

9           MS. LARKINS: Yes. I'd like to address some  
10 of the questions that have come up. The first question I  
11 want to deal with is the one, how did the information get  
12 out in the public so soon?

13           When you report something to the Operations  
14 Center, every morning that information goes out over the  
15 Internet, and that is probably how the newspaper or  
16 whoever called you, got the information. But one of the  
17 things that we have put in the Event Reporting Handbook --  
18 and I hope you're aware of that -- is that when you're  
19 called about an event by your licensee, you have an  
20 additional 24 hours before you need to call us. So that  
21 gives you a little time before you call the Operations  
22 Center to find out what's going on before you start  
23 talking to us.

24           And the other one, Mr. Bangart talked about.  
25 We have been talking to the Operations Center folks about

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1 some of the things that we discussed here, and we hope  
2 that things will begin to change.

3 FACILITATOR CAMERON: Okay, thank you very  
4 much, Pat, and we anticipated that Pat might have answered  
5 a question that Tom had but apparently not. So let's  
6 finish up with Tom and that will be that.

7 MR. HILL: Tom Hill from Georgia. Just one  
8 comment on the NMED reporting system. It's my  
9 understanding -- and you know, I may not be understanding  
10 correctly -- but over the -- with the ebb and flow of  
11 reporting non-AEA material events, at one time we were  
12 asked to do it; then at one time as I understand, we were  
13 told there's no use in it, the contractor's not doing  
14 anything with the information anyway, so don't report it.

15 So I would speculate that, depending on how  
16 this goes depends on the dollars that go to the contractor  
17 in the future.

18 FACILITATOR CAMERON: Okay. Well, that may be  
19 something that's addressed at the re-look. I'd like to  
20 thank Dick also, for adding a new phrase, "presentation  
21 pathway journey" -- sort of the lexicon; that was good.  
22 And let's take a break and let's be back at five minutes  
23 to 11; that's a little bit over 15 minutes.

24 (Whereupon, the foregoing matter went off  
25 the record at 10:35 a.m. and went back on

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1 the record at 11:05 a.m.)

2 FACILITATOR CAMERON: We're going to begin  
3 with a session on IMPEP, and Kathy Schneider from the NRC  
4 is going to give us a context, and then Steve Collins from  
5 Illinois is going to lead you through a worksession on  
6 this.

7 So let's defer all comments until we get into  
8 Steve's session. I'll just let Kathy lead off and then  
9 we'll go to Steve. Right Steve, Kathy? Okay.

10 MS. SCHNEIDER: Thank you, Chip, and thank you  
11 also for not introducing me like you usually do on IMPEP.  
12 Anyway, it's good to be here with all of you again. My  
13 co-poster child has moved on to other things which is  
14 George Pangburn. I think you've been used to seeing  
15 George and I take turns speaking -- whoever draws the  
16 short straw.

17 I want to thank you again. What I'd like to  
18 do is sort of give you an update as to where we are and  
19 what's been happening in IMPEP this past year and some of  
20 the projections of some of the things that we see coming  
21 down the line. I have talked a little bit to Alice and  
22 hopefully we'll do a better job getting some of our stuff  
23 out so you have a longer period of time to comment.

24 My first slide is the results so far during  
25 the last fiscal year, and as I think you're all aware, we

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1 do IMPEP on fiscal and not calendar year. It was pointed  
2 out to me that we did miss Mississippi and I apologize.  
3 Mississippi was conducted in January of '97 and they were  
4 also found adequate and compatible. We still are awaiting  
5 the MRBs on two states -- New Mexico and New Hampshire --  
6 and we had one follow-up done in Nebraska.

7           The next slide. As we said in previous IMPEP  
8 discussions, we base the schedule for your next review on  
9 the performance. We've now done 17 states under IMPEP;  
10 between this year and next year we'll get the remaining  
11 13.

12           The draft this year, we sent the draft  
13 schedule out based on comments we had received to the  
14 states, and received a comment which hopefully enabled us  
15 to plan your time for your IMPEP. So we will be doing  
16 that too, on an annual basis as we work to establish the  
17 teams and set the schedule -- and we set a month's  
18 schedule -- that we also get it out to the states in time  
19 for you to feed back to us if you have things like  
20 legislative sessions, that we can work around that.

21           We do have the cadre of staff and team  
22 compositions available and we will be sending that out  
23 shortly. We were waiting for a few last-minute changes we  
24 had in the schedule.

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1           We've tried to, over the years, give you a  
2 schedule, kind of a projection, what the next four years  
3 look. As you're aware, IMPEPs are between two and four  
4 years, again depending on performance. The fiscal year  
5 which started in October, we already have some dates and  
6 times for the reviews. And then in '99, the year 2001.

7           The schedule doesn't reflect new Agreement  
8 States, it doesn't reflect any follow-ups that would be  
9 necessary under IMPEP.

10           The next slide. This year we are still  
11 continuing with our annual training for the IMPEP  
12 reviewers. We've conducted two; the first training we did  
13 when we started with our interim implementation back in  
14 '95. This will be our third training session.

15           We have about -- a third of the members will  
16 be new. I want to say that we had ten state people in our  
17 original cadre; of that ten, six have gone off and we have  
18 an additional, new, eight state people who will join. We  
19 also have some new NMSS people who will be participating  
20 for the first time. So about a third of our cadre -- and  
21 I believe it's about 35/36 people -- are going to be new.

22           We restructured the training a little bit so  
23 that we're doing a 2-day session. The first day is  
24 oriented in the morning for the new people, giving them  
25 orientation to the program; an afternoon session where

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1 everybody come together and we talk about issues and  
2 things that we all need to address; and then the next day  
3 we're going to be doing some team leadership sessions.

4           And we're kind of excited about this. So  
5 we'll stay tuned and I appreciate all the help, I want to  
6 say, for all those who had staff who participated --  
7 especially the ones who no longer will be part of the  
8 IMPEP team. It's been a joy working with the state  
9 participants in this process.

10           I'd like to go on to some of the new things  
11 that have occurred and where we are with the management  
12 directive. Management Directive 5.6 which deals with  
13 IMPEP, was revised to include the new policy statement on  
14 adequacy and compatibility, and include the guidance that  
15 we developed and field tested last year on the non-common  
16 indicators.

17           I'm afraid -- I think we were one of those who  
18 gave you a shorter period of time than you would have  
19 liked to comment on it. There was a 30-day period but we  
20 were under a deadline to get it to the commission.

21           We are awaiting publication right now; I was  
22 hoping they would be published and I could bring them  
23 copies with us. We will send them out to you with the  
24 cover from the Agreement States as soon as they're  
25 available.

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1           We've also prepared a *Federal Register* notice  
2 and it should be published -- again, a lot of things are  
3 coming together all at the same time -- it should be  
4 published, it's probably yesterday or today, which will  
5 put in place IMPEP as a final program; it will no longer  
6 be under interim implementation. And what that entailed  
7 is, we have rescinded the 1992 policy statement, since the  
8 policy statements on adequacy and compatibility are  
9 effective now.

10           This is some of your food for thought for your  
11 next session. Some of the changes that occurred to the  
12 management directive that we'll be operating under.

13           One is to the evaluation criteria for the  
14 response to incidents, because it's now required to report  
15 the criteria for "satisfactory" and "satisfactory with  
16 recommendations for improvement" have been changed so that  
17 a state will get a "satisfactory with recommendations for  
18 improvement" if they have missed sending several other  
19 reports to NRC.

20           We now have the six non-common performance  
21 indicators, the description and the evaluation criteria in  
22 the revised management directive. And these six are  
23 listed here. The last two on page 7 are applicable to the  
24 regional offices and not the Agreement States.

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1           For the legislation and program elements  
2 required for compatibility, this is the session that was  
3 changed to reflect the policy statement on adequacy and  
4 compatibility.

5           You still need a statutory basis for your  
6 program, you need legally binding requirements, and I've  
7 just given the references to the management directive on  
8 adequacy and compatibility and the internal procedure as  
9 for compatibility categories and for reviewing state  
10 regulations.

11           A 3-year timeframe for adoption of regulations  
12 and a 6-month timeframe for adoption of other program  
13 elements needed.

14           That's all the stuff that basically was in the  
15 policy statement. We're going to be using these various  
16 management directives and internal procedures for looking  
17 at your regulations, as Dick was discussing earlier, to  
18 determine whether you've met the central element for the  
19 various compatibility categories.

20           That information then, will feed into the  
21 management review board when they make the determination  
22 on the program. So some of the stuff that will be done in  
23 support of IMPEP will be done outside of the actual on-  
24 site time as the ongoing process, and one of the reasons  
25 that our new system for tracking regulations is so

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1 important. But we fed that in and we set up the  
2 evaluation criteria.

3 I believe that was in the proposal everybody  
4 got to look at, and we really did not receive any comments  
5 on that area, so there's no change from what you saw when  
6 we were asking for comments.

7 Another change to the management directive --  
8 and this is a change from what you saw in the draft  
9 revision -- was to the sealed source and device  
10 performance indicator.

11 And one of the areas where we did receive a  
12 number of comments was for states who had the authority to  
13 perform sealed source and device evaluations but didn't  
14 have a program because they didn't have any active sealed  
15 source and device sheets under review. We have revised  
16 the management directive to reflect that we'll be looking  
17 for a commitment from the state to have a program in place  
18 if they are going to start performing evaluations. And  
19 that was a change from what was sent out in the draft.

20 The second is a more clear definition of what  
21 NRC was looking for. We've had several terms used. We  
22 had a technical quality assurance audit, we also had an  
23 independent audit. Dick talked about some of the  
24 descriptiveness. We tried to get a clearer definition as  
25 to what we're looking for when we look for a second review

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1 of the sealed source and device sheet before it's issued,  
2 and that's included in the revised management directive.

3 A new program this year. One of the things we  
4 discovered when we did our interim implementation was --

5 MR. MOBLEY: Kathy?

6 MS. SCHNEIDER: Yes sir?

7 MR. MOBLEY: This is Mike. Are you  
8 entertaining questions as you go?

9 MS. SCHNEIDER: I think we were going to hold  
10 the questions and then cover it in Steve's session.

11 MR. MOBLEY: Okay.

12 MS. SCHNEIDER: He's going to make me write up  
13 there on the overheads so I'll still be available.

14 We have put into place -- one of the comments  
15 we had during the interim implementation of IMPEP was that  
16 four years was a long time to go without having a visit  
17 from the NRC. We went to the commission and got feedback  
18 and we developed a procedure which went out to the states,  
19 we got your feedback and we issued a procedure for our  
20 annual meetings with Agreement States in between IMPEP  
21 reviews.

22 We're beginning that program this year. I  
23 have listed in the bullet, all those states who are  
24 scheduled for an annual meeting. The team will consist of  
25 your Agreement State officer and your new term called -- I

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1 mean the regional state agreements officer and the  
2 Agreement States project officer who will be a staff  
3 member out of Office of State Programs.

4           Those people are listed in the B.8 procedure  
5 and that -- both B.8 and B.7 -- no, it should be B.7 which  
6 is the procedure on regulation reviews, then the D.24  
7 procedure -- did recently go out as an all Agreement  
8 State's letter on the 2nd of October, so I would expect  
9 you to have them in your office or should soon have them.

10           Just to cover some of the points again, that  
11 were in the procedure for annual meetings. We'll talk  
12 about such items as your previous IMPEP review findings;  
13 any internal audits the state might have performed, and  
14 the schedule for the next IMPEP review; strengths and  
15 weakness of your program; status of the program, including  
16 various things that have a tendency to change with time  
17 such as your legislative or staffing; status of referred  
18 allegations from NRC; your compatibility of your  
19 regulations; and the NMED reporting that we'll be looking  
20 at.

21           I wanted to give you an idea of some of the  
22 things you should be expecting out of the IMPEP from a  
23 policy standpoint and procedures. We have completed the  
24 "Identification of Good Practices". We're finishing the  
25 internal concurrence within the agency and we expect to

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1 get that out shortly to you. It covers the period from  
2 the last one.

3           We also put together a document of  
4 recommendations. We had some feedback from some of the  
5 states and the regions that they would like to see, from a  
6 lessons learned standpoint, what some of the areas where  
7 people were having weaknesses. So we did that; anyplace  
8 where there was a recommendation that occurred in more  
9 than one state we've listed those in a generic fashion.

10           I also point out that all our Agreement State  
11 reports are being posted on the Home Page -- LSP's Home  
12 Page -- which is not the most user-friendly device at this  
13 point in time. But you can also pull down individual  
14 state's reports when the final report is issued.

15           One of our big ticket items this year will be  
16 -- although we've just reviewed Management Directive 5.6 -  
17 - the commission has directed us to develop guidance with  
18 the management review board so that a state could do a  
19 self-audit under the guidelines that the management review  
20 board have, and arrive at a determination using the new  
21 policy statement.

22           We're due to have that to the commission on  
23 January 30th. We are going to be sending it out for  
24 comments to the states, so that will be one of the things  
25 that we will be sending out for comment to you.

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1 Another thing I don't have marked here that  
2 will be coming out shortly -- and I'm glad Steve is going  
3 to be here to gather information -- is we'll be sending  
4 out the questionnaire to the Agreement States and the  
5 regions who are impacted by the questionnaire we use under  
6 IMPEP, to see if there's some enhancements.

7 We've revised the questionnaire to reflect  
8 again, the new policy statement and the changes we've made  
9 to Management Directive 5.6.

10 Last slide, Steve. When we briefed the  
11 commission last year, one of the things that the  
12 commission directed us to do is to look at our timeliness,  
13 and we've been focusing on this, this year. So we owe a  
14 report back to the commission this January on status of  
15 Agreement States and the improvements we've made in the  
16 timeliness of getting the reports out.

17 Hopefully, we are doing a better job in  
18 getting these out to the states so that you have this  
19 document for you and for the uses you need; if you need to  
20 get more staff or more funding, and things like that.

21 And the other area where we're going to  
22 probably spend time this year and you'll be seeing  
23 procedures coming out of the office for comment, is the  
24 notebook that we've been using training people. We had a  
25 lot of internal procedures for the various indicators and

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1 the overall program. We will be finalizing those but it  
2 will, again, be sent out for your comment and we'll feed  
3 those back in. So that hopefully we'll have a more useful  
4 product that we're all dealing with.

5 That's about all I had, hopefully, to lay you  
6 kind of a background for Steve's session.

7 FACILITATOR CAMERON: Okay good. Thanks,  
8 Kathy. Steve is going to start us out on an interactive  
9 session here, and any questions that we have that relate  
10 to Kathy, Kathy will be here to answer those, too. So,  
11 Steve.

12 MR. COLLINS: At least from Illinois'  
13 perspective, IMPEP is a substantial improvement over the  
14 previous evaluation process that intended to be an audit  
15 rather than a management review; or at least that was the  
16 perspective a lot of us had when there were so many  
17 numbers, and so much data, and so much looking at files,  
18 and less talking about how we get things done and does it  
19 get done.

20 What this particular session is about is, can  
21 IMPEP be improved? And now is the time for the states to  
22 give their perspective. I'm asking for your input in the  
23 order of the following identified steps. And it's  
24 basically if you take the chronological order of steps you

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1 go through in an IMPEP process, that's the order that I  
2 had picked out and used here.

3 I had 75 copies of some notes that I handed  
4 out. There should have been a sheet with printing on the  
5 front and back that had each one of these steps on it.  
6 The steps are: the questionnaire, the inspection  
7 accompaniments; on-site review team and the interactions  
8 with them; the draft report; the management review board  
9 meeting; the final report; and then one that's not in  
10 order but added on because it doesn't get covered anywhere  
11 else -- is Agreement State input into the criteria used as  
12 a part of IMPEP evaluations.

13 Now, just before we get started with that  
14 particular process, Mike, does your question fit within  
15 any one of those? Or your comments?

16 MR. MOBLEY: I don't think so. It's --

17 MR. COLLINS: We'll let you start, then.

18 MR. MOBLEY: Okay. It's a very specific  
19 question. Mike Mobley from Tennessee. And the question  
20 is about the SS&D program. Is the NRC's SS&D program  
21 reviewed by IMPEP? It would seem that if the state's  
22 program is reviewed by IMPEP that the NRC's program should  
23 be reviewed also. Might be just a normal evaluation of  
24 this program.

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1 MR. COLLINS: Not yet, Don. I haven't  
2 recognized you.

3 (Laughter.)

4 Under item 7.d. on the very back of the page  
5 there, you'll notice a very detailed and specific  
6 recommendation that Illinois has put in for that.

7 MR. MOBLEY: I didn't read far enough, Steve.

8 FACILITATOR CAMERON: You might want to  
9 mention that Don is going to be talking about the device  
10 program, too.

11 MR. COLLINS: Tomorrow.

12 FACILITATOR CAMERON: Tomorrow.

13 MR. COLLINS: Right. And just so you'll know  
14 before you make a comment so you can address it if you  
15 wish, even though we're getting out of order a little bit  
16 here, a review team of experienced -- this is Agreement  
17 State input into the criteria used as part of evaluations,  
18 item d.

19 "A review team of experienced Agreement State  
20 personnel and one experienced NRC staff" -- parallel to  
21 the way it's done now when it's going the other way --  
22 "should review the NRC's SS&D program. The review could  
23 identify practices that may benefit the Agreement States  
24 would provide independent review of that portion of the

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1 NRC's program for which some experienced Agreement State  
2 personnel are uniquely qualified."

3 DR. COOL: Don Cool from NRC. Actually, I  
4 welcome the suggestion to have that review done. We have  
5 used the IMPEP criteria that we use on the reviews for the  
6 states and done an internal review of the SS&D program;  
7 that in fact wasn't done last fall. We had one of our  
8 folks go through who was not a regular part of the program  
9 and do the equivalent of an IMPEP review. But that's an  
10 internal audit, much like you would do an internal audit.

11 And standing back, from a program standpoint I  
12 think it would be an excellent idea to do an IMPEP on that  
13 particular piece of the program. And in fact, I'm working  
14 with the regions to conduct an IMPEP of the rest of my  
15 materials program in a manner similar to the way that we  
16 look at the regions.

17 So conceptually, I've got no difficulty with  
18 it as long as we can sort out the arrangements and timing  
19 schedule of it. So I'm perfectly willing to try and work  
20 with you, and I actually have no objection at all. That's  
21 very similar to a number of the things that the commission  
22 is doing in its excellence arena.

23 And in fact, this might be one of the things  
24 that we might want to take back and propose to the  
25 commission in the next cycle that it goes through in terms

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1 of its program plan. You heard the commission talk this  
2 morning about a strategic plan. Undergirding that are a  
3 series of performance plans and then a whole series of  
4 activities.

5           One of the other areas that was looked at with  
6 strategic assessment was regulatory excellence: what can  
7 we do to improve our quality? And we identified a number  
8 of things in the first blush that they wanted to look at  
9 in terms of excellence. This might well constitute a good  
10 suggestion for the next round so that we can get into a  
11 budget planning cycle which maybe would be a year or so  
12 from that, just so that we can establish the resources and  
13 the scheduling.

14           MR. COLLINS: Okay, let's go back to the  
15 chronological order now. The first step that any of us  
16 usually get involved in IMPEP is the questionnaire.  
17 Illinois has put down some items on each one of these to  
18 try to stimulate your thinking to get us started on each  
19 one of these.

20           We found the use of E-mail was very effective.  
21 We would like to see the increased use of E-mail  
22 communication to facilitate the timeliness of  
23 communication with the questionnaire and its answers back  
24 and forth. We were able to agree on a word processing and  
25 we E-mailed stuff back and forth and we were able to end

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1 up with a really good looking questionnaire that we both  
2 had electronically on both ends.

3           It saves Kathy a lot of time and it -- well,  
4 both Kathys. These two Kathys were the ones that were  
5 working on it for Illinois and it saved a lot of time. So  
6 that's not just for NRC but for the states. But if you  
7 can increase your use of E-mail it will make the  
8 questionnaire process go much quicker.

9           The other one is -- and NRC has already done  
10 this. I didn't know that until someone got a printed copy  
11 of this -- allow response to questions, as appropriate, to  
12 be "no change since the last review", or "only the  
13 following changes have occurred". Instead of giving a  
14 complete description of something just identify  
15 differences.

16           Okay, any other Agreement State suggestion on  
17 how we can improve IMPEP in the area of the questionnaire?  
18 Don Bond, California.

19           MR. BOND: I'm Don Bond from California and I  
20 just have a simple question at this time. Regarding this  
21 annual meeting that you plan to hold, is that going to  
22 involve a questionnaire? Because a questionnaire does  
23 take considerable time for us to pull it together, and  
24 we're thinking that perhaps we wouldn't want to get

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1 involved in more questionnaire development for the annual  
2 meeting which was just thrown out.

3 MS. SCHNEIDER: There's no questionnaire  
4 involved in that.

5 MR. COLLINS: Matter of fact, Don, you may be  
6 disappointed that, I understand the NRC state program  
7 management has limited the amount of time that the  
8 regional state person can spend on that, to about one day  
9 or a day-and-a-half. He's not going to be allowed enough  
10 time that you may want to communicate, that you may end up  
11 regretting that they limited it so much. That  
12 possibility.

13 (Laughter.)

14 Kathy Schneider's response there for the  
15 recorder, was that the questionnaire would not be needed  
16 for the annual review. Dick Bangart.

17 MR. BANGART: Just to clarify management's  
18 position on this, we have wanted -- our objective is to  
19 keep the single meeting to a day or one-day length so that  
20 it's less burdensome on both NRC staff and the Agreement  
21 State staff, and that's one of the reasons why there's no  
22 questionnaire involved.

23 But if there's a need for follow-up  
24 discussions, follow-up interaction, that's the point once  
25 each year, where those also can be identified, as well as

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1 confirming that the schedule for the next IMPEP review is  
2 appropriate.

3           So it's not precluded, but the intent was to  
4 not make the 1-day meeting the in-between year visit where  
5 it's a mini-program review. It's meant to identify issues  
6 and see if there is indeed, need for further action, or  
7 hopefully in most cases, no further action and just the  
8 exchange of communication will suffice.

9           MR. COLLINS: Thank you. Roland Fletcher from  
10 Maryland.

11           MR. FLETCHER: Roland Fletcher, Maryland.  
12 What kind of pre-annual meeting communication will there  
13 be so that in order to maximize use of time, both parties  
14 will be prepared?

15           MS. SCHNEIDER: In the procedure we just  
16 mailed out we have a -- we'll send you a letter. And the  
17 bullets I had on that one slide, it will indicates those  
18 are the areas we want to talk about. And that's it. The  
19 oral communication you'll hear from the regional state  
20 Agreement's officer who will contact you to make the  
21 arrangement.

22           MR. COLLINS: Ted Bailey from California.

23           MR. BAILEY: I think my question sort of flip-  
24 flops between one and two in the annual visit. In the  
25 past we sort of assumed that the graduation exercise for

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1 inspectors is when they're accompanied by NRC and there's  
2 a laying on of hands in true apostolic succession -- you  
3 know, we want to do this.

4 Will the practice continue of accompanying  
5 inspectors and will those be done only during the IMPEP  
6 review, or can they be scheduled and done in-between  
7 reviews?

8 MR. BANGART: Let me address the first point.  
9 The inspector accompaniments should not be viewed as the  
10 final blessing on a new inspector's ability conducting the  
11 inspections. I think clearly, without any question in my  
12 own mind, that's the responsibility for the Agreement  
13 State program to certify that inspectors are now in -- are  
14 qualified and fully trained to conduct inspections.

15 Our's hopefully, is just a confirmatory review  
16 through the evaluation -- overall evaluation process; that  
17 indeed supports your qualification of the inspectors.

18 I don't know that we've spent a lot of time  
19 addressing timing of inspector accompaniments as part of  
20 the IMPEP process, but clearly it should be done in a way  
21 that facilitates and recognizes competing priorities, and  
22 if it's more appropriate and more efficient to conduct  
23 those reviews throughout the year -- or those  
24 accompaniments throughout the years, in-between the formal  
25 IMPEP evaluations, that should be done that way. However

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1 you and your RSAO -- and if your team has already  
2 identified -- can work it out, I think is okay with us.

3 MS. SCHNEIDER: That saves some of the past  
4 progresses that we've had basically (inaudible) previous  
5 (inaudible). So we have talked about it in great detail  
6 when we put the (inaudible).

7 MR. COLLINS: Okay. Are there any more  
8 comments or suggestions for improvement of the  
9 questionnaire? Mike Mobley is first, from Tennessee.

10 MR. MOBLEY: I just want to make a general  
11 observation. My staff was ecstatic over the shortness of  
12 the questionnaire versus the previous questionnaire. But  
13 once we got into the actual review we found that we  
14 generally were pulling out all that old information  
15 anyway, and it was our suggestion that maybe that should  
16 just be on the questionnaire.

17 I mean, if we're going to have to produce the  
18 information anyway during the review, then we should just  
19 go ahead and do that up-front as part of the  
20 questionnaire. And I can't -- I don't remember now, exact  
21 specifics on that -- but there were some points that Bill  
22 might want to --

23 MR. PACETTI: Bill Pacetti from Florida. I  
24 was on the review team that went to Tennessee and New  
25 Hampshire, and that's one of the things I noticed. Once

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1 we got there we started asking questions like, can I have  
2 a list of all your inspections for the last two years, or  
3 all your pending licensing actions, or all your  
4 enforcement actions?

5 We spent a lot of time waiting to get that and  
6 they spent a lot of time pulling it together, so maybe  
7 some set things like that could become part of the  
8 questionnaire again.

9 MR. MOBLEY: I think it would enhance the  
10 process if we knew that was coming up-front and we would  
11 just have it prepared and ready or have it provided  
12 earlier on so they could come in and say, well of these  
13 inspections you've done in the last two years, we want to  
14 see this one, this one, and this one, instead of us having  
15 to dig all that up after they get there.

16 MR. COLLINS: The Illinois experience on that  
17 was, I think that Kathy Schneider communicated with Kathy  
18 Allen that the first day when we get there, these are  
19 additional items of information we're going to need. And  
20 we had at least a workweek or a little more to actually  
21 get those things together. It wasn't on the questionnaire  
22 and we prefer not to see it there, but it was a list of  
23 things that will be needed when we show up.

24 MS. SCHNEIDER: If I can get another shot. I  
25 think I mentioned the questionnaires going back out. One

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1 of the things we took into account was Mike's comment  
2 after the Tennessee review and I've had some of the teams  
3 and the team leaders over this past year, give me a list  
4 of things that we'd like to have the state pull together  
5 and have on-site and ready.

6           That's going to be attached to the  
7 questionnaire I'm going to be sending out to you guys for  
8 comment. One of them is like your organizational charts.  
9 I think under the old questionnaire we asked you to submit  
10 it to us. We didn't; we usually ask for that when we get  
11 on-site. So there will be one page that has several of  
12 the listings and some of the computer printouts that we  
13 ask you when we get there, so you'll know that that's  
14 coming and you can just keep that tear-off sheet.

15           So you'll be seeing it, and please, we'll  
16 welcome any comments on what we missed or didn't include  
17 in that.

18           MR. COLLINS: Aubrey Godwin is next.

19           MR. GODWIN: Godwin from Arizona. Nobody said  
20 anything about the timeliness of it and how much time we  
21 had. I'd like some response from the people that have  
22 been through it. Did you have enough time, was it too  
23 short? That's sort of an important thing when you get  
24 questionnaires.

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1 MR. WANGLER: Aubrey, this is Ken Wangler from  
2 North Dakota. We had sufficient time. I think we had  
3 three weeks, perhaps; something like that.

4 MS. TAFFT: This is Diane Taft, New  
5 Hampshire. I think it depends a lot on the time of year  
6 that the questionnaire arrives and when your review is,  
7 because our questionnaire came in July and most of the  
8 staff was out. It was a holiday and we did not make the  
9 month deadline in response because of that. And so maybe  
10 if it was winter or something, we would have done better.

11 MR. COLLINS: Anyone else wish to comment,  
12 make some suggestions on the questionnaire? Alice?

13 MS. ROGERS: Regarding that stuff that --

14 MR. COLLINS: Name -- Alice Rogers.

15 MS. ROGERS: I'm Alice Rogers from Texas.  
16 Regarding the things that -- the list of things that  
17 Kathy's saying she would like to have available on-site,  
18 it would also be good to know if NRC intends to keep those  
19 things or not. For instance, copies of our regulations  
20 are about this thick and are hardbound and are published  
21 by West Publishing Company. And that's fine, we'll get  
22 you a copy, but we need to know so we can have time to  
23 order you your own.

24 MR. WANGLER: Ken Wangler from North Dakota.  
25 I guess I have a little bit of a question on this item

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1 "b." where it says you can answer questions by saying, "no  
2 change since the last review" or "only the following  
3 changes have occurred".

4           That's fine if you completed your  
5 questionnaire in full last time, but what happens when you  
6 get several IMPEP sessions down the road? You end up with  
7 kind of the same program that we currently have with some  
8 of these license amendments. You know, you're on  
9 amendment 25 and so you need to go through all 25  
10 amendments to see where you're currently at.

11           And I could see where that would be a problem  
12 with answering questions simply by saying, "no change  
13 since the last questionnaire". And I guess one suggestion  
14 I might have in trying to solve this or resolve this, is  
15 that if you're using electronic answering to the  
16 questionnaires it's not that difficult to block and copy  
17 your last answers and complete the questionnaire in full.  
18 And then the questionnaire is full and complete when  
19 you're finished.

20           MR. COLLINS: Any others on the questionnaire?  
21 Okay, the second item: accompanied inspections. And we  
22 have one comment on that already, from Illinois. The  
23 states should not be judged against Chapter 2800; adequacy  
24 is the standard that we should be judged against, and it

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1 should be based on the Agreement State's own regulations,  
2 licensed conditions, policies, and procedures.

3           So when NRC accompanies your inspectors they  
4 shouldn't be, well that's not what it says in Chapter  
5 2800. Some of us say, we don't care; that's not the  
6 standard. Mike Mobley.

7           MR. MOBLEY: Mike Mobley from Tennessee.  
8 Steve, I want to echo that because it's one of the  
9 specific things that we had a big surprise in Tennessee.  
10 It had to do with the -- and I assume it's Chapter 2800  
11 because I'm like you; I don't even know what that is.

12           You know, we have our process in place and we  
13 were asked about our reciprocity inspections, and we had  
14 in a previous review, they made an issue of reciprocity  
15 inspections and we had said -- I believe we had indicated  
16 we would do absolutely ten percent of all entries into the  
17 state. That was our own goal.

18           And I believe that at the point in time of our  
19 review, IMPEP review, we had actually done something like  
20 50 percent. But then they drug out this NRC document that  
21 said you had to do 100 percent of radiography, reciprocity  
22 notifications --

23           MR. COLLINS: For licensees.

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1           MR. MOBLEY:  -- all this kind of stuff, you  
2 know.  And that was great; that was the NRC's stuff but  
3 that wasn't Tennessee's stuff.

4           DR. COOL:  That's item 7.a. and 7.b. on the  
5 second page.

6           MR. MOBLEY:  Okay.  I understand.  I need to  
7 read ahead here, Steve.

8           MR. COLLINS:  I'm saying, it's going to be  
9 reinforced more --

10          MR. MOBLEY:  Okay.  But I mean, we need to  
11 know exactly whether it is NRC standards -- not standards,  
12 but NRC guidance that we're meeting here, or is it the  
13 Tennessee program that we're dealing with.  In my  
14 perspective, here in Tennessee it's the Tennessee program.

15          MS. SCHNEIDER:  Since you're going to give all  
16 these to me and I should understand what you're saying,  
17 when you're saying not to be judged against 2800, you're  
18 not talking about the frequency for the inspections,  
19 you're talking about the conduction on the inspections, is  
20 that correct?  Or are you talking about pulling that all  
21 together?

22          MR. COLLINS:  Item number 2 is the  
23 accompaniment to the inspection itself, not the policy  
24 decision on frequency.  That's item 7.a. and b.  We'll do  
25 that later.

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1 MS. SCHNEIDER: Okay, okay.

2 MR. COLLINS: Aubrey Godwin.

3 MR. GODWIN: Aubrey Godwin. There's a couple  
4 of good things in 2800 people ought to look at that talks  
5 about training characteristics and things like that, that  
6 people really ought to take a hard look at in 2800.

7 Secondly, I feel very strongly that the  
8 conduct of the inspection part, not all the associated,  
9 bureaucratic filing and stuff like that that's in 2800,  
10 but the adequacy in how to conduct and what you look for  
11 in inspections should be followed. And I'm not sure that  
12 your comment fully captures that.

13 I think that there ought to be some sort of  
14 continuity state-to-state, particularly in industrial  
15 radiography and things like that. We ought to be looking  
16 for pretty much the same thing from state-to-state. I  
17 would think we need to revise your comment a little bit to  
18 recognize more clearly, that the adequacy and the general  
19 subject matter is what we're looking at in 2800, but the  
20 other stuff about how to file reports and give reports to  
21 who and things like that, is just inappropriate totally.

22 MR. COLLINS: Well, Illinois. And it's my  
23 understanding every state is supposed to have taken some  
24 beginning point, such as Chapter 2800, and develop its own  
25 set of inspection policies and procedures.

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1           And we've done that and we want to be judged  
2 against that. It's most extracted from 2800 and modified  
3 where it's better, of course. But that's our point. But  
4 I agree with you totally that 2800 does have some really  
5 good stuff in it.

6           Ed Bailey.

7           MR. BAILEY: Bailey from California. I don't  
8 know if this is really the place or the frequency is the  
9 place, but on the HDRs -- and I guess it may relate to the  
10 temporary frequencies that are established periodically --  
11 we took a look at the HDR inspections that we had done and  
12 decided that we didn't think they needed to be inspected  
13 as frequently as NRC said they did.

14           And as best I remember, we acknowledged that  
15 during the review and that was pretty much accepted,  
16 wasn't it Don? Or am I letting the cat out of the bag?

17           MR. COLLINS: Well, it's on item 7.a., the  
18 last sentence -- as my example of -- we're going to get to  
19 that. Basically, Illinois didn't have hardly any comments  
20 in this area because all but one of our inspectors has ten  
21 year's experience and we don't have any problems or  
22 issues. Some of the other states maybe you do. Are there  
23 any more comments or suggestions in the area of inspection  
24 accompaniments?

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1           MR. HEARTY: Brian Hearty, State of Nebraska.  
2 We have had a review within the last year and several new  
3 inspectors. We felt that, you know, when the NRC was out  
4 doing our inspection accompaniments, they didn't have 2800  
5 open. They were using their experience doing performance-  
6 based, making sure we hit the health and safety issues. I  
7 felt that that's how they did their inspection  
8 accompaniments and I thought it was very helpful to us.

9           MR. COLLINS: Very good. Roland.

10          MR. FLETCHER: Roland Fletcher, Maryland. I  
11 guess in this area the only concern I have -- we did have  
12 a not too good performance in one of our inspectors during  
13 the accompanied inspection, and I guess a concern with the  
14 comments in general seem to be interpreted describing the  
15 whole program. And I think that's where we've got to be  
16 very careful how these comments are written.

17                 I think it's since been resolved, but  
18 initially the response seems to be that there was a -- you  
19 know, there may have been a training problem with the  
20 whole program and it just turned out that one inspector  
21 essentially, froze and did not follow through the way he  
22 should have.

23          MR. COLLINS: Diane Tafft.

24          MS. TAFFT: Diane Tafft, New Hampshire. Just  
25 the question: do the inspectors, 100 percent of the

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1 inspectors for the regulator IMPEP, go out with  
2 accompaniments for every state? I mean, even though we're  
3 a small state, that was a question we had. We only have  
4 two or three people. The response we got is yes, they do  
5 100 percent of all inspectors in every state. Is that  
6 really true?

7 MR. COLLINS: In every state, yes, but not  
8 during every review.

9 MS. TAFFT: Well, that was it. I mean, the  
10 fact that we have only a few we thought, well maybe you  
11 should just do one or two, you know. Just wondered.

12 MR. COLLINS: We have seven inspectors; three  
13 of them were accompanied the last time. Certainly the  
14 newest inspector was.

15 MS. SCHNEIDER: There's no requirement that we  
16 go out with all inspectors. We do look at the new  
17 inspectors and I think there -- it's nothing written down.  
18 I do think some of the team leaders try and go out with  
19 people every couple of years. We did that under the old  
20 policy statement. It may be something we need to look at  
21 and give our review teams more guidance.

22 There's no way we can do all inspectors. How  
23 many do you have. Well, we can keep Jack Horner there  
24 for, you know, a couple of months, but we don't do 100  
25 percent.

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1 MR. BAILEY: Yes, I think all of our  
2 inspectors have been accompanied within the last two  
3 review periods except the brand-new ones, and normally we  
4 have begged off on any inspector that we didn't think was  
5 fully qualified to do independent inspections at the time  
6 of the review -- for whatever reason.

7 Don, is that --

8 MR. BOND: Yes.

9 MR. COLLINS: Mike Mobley.

10 MR. MOBLEY: I just want to make a comment. I  
11 think that we have worked with the individual that was  
12 going to do the accompaniments to try to make sure that  
13 they saw the people that we thought needed the  
14 accompaniment, as well as anybody that they particularly  
15 wanted to target, as well as even facilities that they  
16 wanted to target for the accompaniments.

17 And also, I want to make a comment about this.  
18 This is one of -- to me -- one of the strongest parts of  
19 our reviews under IMPEP as well as under the previous  
20 program. We've always had a really positive experience.  
21 I can remember -- and people may not remember Ernie Resner  
22 -- but I had one of the most positive experiences I've  
23 ever had with an NRC individual with him, going out on an  
24 accompaniment with me. I still remember that.

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1           And it's always, I think -- as far as I know  
2 in Tennessee, we've always had very positive  
3 accompaniments. Even when deficiencies are found, that's  
4 used as a thing for that inspector to grow as well as for  
5 the program to develop or work out.

6           MR. COLLINS: Any other comments or  
7 suggestions on this area?

8           MR. PADGETT: Aaron Padgett, North Carolina.  
9 I would just like to support Mike Mobley's comments.  
10 That's been our experience also. The accompaniments have  
11 been very positive; good exchange; good feedback.

12           MR. COLLINS: Okay. On-site review team and  
13 interactions with them. "Each team member should be  
14 experienced in the area assigned to review and trained to  
15 resolve potential issues while on-site."

16           We had a little bit of experience there. One  
17 of the team members asked a lot of the right questions,  
18 took really good notes, but then didn't go back to the  
19 individual who had actually done the work, to try to  
20 resolve all of those before they got back to their home  
21 base, and ended up putting all of these comments without  
22 answers in the draft report.

23           Well we then, since the draft report is a  
24 public record, we felt like we had to respond to them and  
25 got them into the public record. So we basically said,

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1 got to make sure that the training is provided so that  
2 these individuals, if they have questions, resolve as many  
3 of these issues as they can while they're there, to talk  
4 to the people person-to-person.

5           And the second item is, we would request NRC  
6 provide guidance to the state -- and this can be verbal,  
7 ahead of time -- on the space and equipment needs for the  
8 number of team members that are going to be present when  
9 they come.

10           Kathy Allen asked the question and found out  
11 beforehand, but there's actually no real guidance in the  
12 procedure, I don't think, that tells the planner, the team  
13 leader, let them know how many's coming and how much they  
14 need -- how many phone lines or computer hook-ups or  
15 whatever.

16           MS. SCHNEIDER: We do have some of the  
17 (inaudible) use them for training, but they're supposed to  
18 contact the state (inaudible).

19           MR. COLLINS: Okay. Any other suggestions or  
20 comments on the on-site review team and interactions with  
21 them? Don Bond, California.

22           MR. BOND: Thank you. I've been a member of  
23 the IMPEP review team for two years now and I'd like to  
24 start out by saying it's been a very enlightening  
25 experience and I've gained a lot by it. I've gone out to

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1 different states -- two states -- and every time I've come  
2 back with more information that helps our program. So I  
3 feel it's a positive move and I'd like to see it continue.

4           As a member of the team I have a few comments  
5 here -- I hope Kathy will agree. One thing is, this does  
6 involves quite a bit of time on the part of an Agreement  
7 State person to come out, to go through the review, to  
8 gather the data, to prepare the report, to go back to  
9 answer questions from the team leader over and over again  
10 about different issues that aren't clear.

11           Once a draft gets circulated there are more  
12 questions you're answering. It takes a lot of time. Is  
13 there any consideration for, you know, like a pro bono  
14 arrangement where the NRC says, okay you've spent -- your  
15 personnel have spent, you know, a certain amount of time  
16 with us; now we're going to grant you some training slots,  
17 or something in return.

18           (Laughter and applause.)

19           Okay. The other point -- I'll just leave that  
20 for a later comment if you want, but please put it down.

21           MR. COLLINS: It was unanimous.

22           MR. BOND: The other point I'd like to make,  
23 as a team member I've found that my needs aren't being  
24 satisfied with equipment. I bring along a laptop which is  
25 State of California issued; doesn't match the software,

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1 whatever, that the other team members are using. I think  
2 at the very least the coordinator ought to supply you with  
3 tools that you can go out and do your job with.

4           And this would not mean imposing on the state  
5 where you're going, to use their equipment, but just give  
6 us the necessary tools with the software, with the  
7 boilerplate already there, so we don't have to re-invent  
8 the wheel every time we do a report. So I'd like to see  
9 us have that.

10           MR. COLLINS: You would also trade whiter and  
11 pink team and red team involvement for training time  
12 probably too, wouldn't you?

13           MR. BOND: I would rather what?

14           MR. COLLINS: Trade time for state people  
15 developing guidance documents for NRC and for licenses.

16           MR. BOND: Oh, well that's up to Mr. Bailey to  
17 ask for the world. I'll just --

18           (Laughter.)

19           I'll keep it simple. I had the pleasure of  
20 working with the team leader, who's here in the room, and  
21 I'll give you his name -- Mr. Horner. He has a very good  
22 system for gathering the boilerplate and putting the  
23 information in that we need, and I'd like to see you, you  
24 know, use as much of that as possible.

25           So that's -- thank you.

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1           MR. COLLINS: Any other comments on the on-  
2 site review team and interactions? Alice.

3           MS. ROGERS: Alice Rogers with Texas. It  
4 would be real good to know if you all expect each and  
5 every staff member and each and every contractor to be  
6 available during the entire review or not. We had some  
7 difficulties with our contractor who works for Richard  
8 Ratliff from the Department of Health being on emergency  
9 response duty during the week that the review team was at  
10 our shop.

11           MR. COLLINS: Any additional ones? Okay,  
12 moving along: the draft report. We would like to see a  
13 description of how concerns will be addressed and resolved  
14 -- possibly in a cover letter or in guidance to the team  
15 members or something. We would like to see clearly  
16 specified that the state -- or if it's a region being  
17 evaluated -- must fully address every report item if the  
18 respondent desires its views to be in the public record.

19           That draft report is going to go into the  
20 public record and if it says something that you don't  
21 disagree with -- normally our response was, oh it's no big  
22 deal; we'll just ignore it. But then when we found no,  
23 that's all going to be in the public record, then we're  
24 going to address every single thing in there that we have

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1 any minor disagreement with. So that needs to be fully  
2 known to everybody.

3 We would like to see the recommendations and  
4 comments that are in the draft report limited to  
5 significant observations. We might have quite a bit of  
6 discussion on whether it's significant or not. And we  
7 would like to discuss that before it gets into the draft  
8 report.

9 When statements are made during exit meetings  
10 that certain items will not be in the report, then these  
11 statements should not end up in the report. That's enough  
12 said about that, I think.

13 Do not include a long list of questions in the  
14 report. If there's a long list of detailed questions such  
15 as specific ones regarding sealed source and device  
16 reviews or something, I think those detailed kinds of  
17 questions can be separated from the report and put in an  
18 attachment or something that doesn't actually get in the  
19 report. It's technical stuff that you need answers to but  
20 they're not really at the level where they should clutter  
21 up the report and make it twice as long as it would  
22 otherwise be.

23 Are there any more comments and suggestions on  
24 the draft report? Mike was first.

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1           MR. MOBLEY: Mike Mobley from Tennessee. I'm  
2 sure that information regarding the process was all  
3 circulated and everything, but when I have something as a  
4 draft report I think it's a draft report and it's not  
5 published and circulated and everything. And so it's kind  
6 of a surprise to me to learn that it was published and  
7 circulated and everything.

8           I don't know whether it's that necessary or  
9 whatever, because it seems to me that some of the issues  
10 that you've identified here are just those kinds of things  
11 that the draft report process is supposed to be there to  
12 address. Do we have a draft-draft report or -- I mean,  
13 how do we really deal with that, or is this just the way  
14 it is?

15           I know in our internal audit process in the  
16 state, that we get a copy and we comment on that and it  
17 goes forward and it's not made public until the final  
18 report is made.

19           MR. COLLINS: It's my understanding that as a  
20 part of the government in the sunshine type of thing, that  
21 this is all open. As an attorney or -- Chip, would you  
22 like to --

23           FACILITATOR CAMERON: I would ask Hampton, my  
24 colleague back here --

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1 MR. COLLINS: Is it correct that the draft  
2 report is available and it basically has to be public and  
3 made public? We can't keep it in a, "not to be disclosed  
4 except for the direct parties involved" until it's a final  
5 report?

6 MR. NEWSOME: I don't think we've ever talked  
7 about that specifically, but I think before I answer that  
8 maybe I'd want to talk with --

9 MR. COLLINS: While I'm still doing all the  
10 talk we'll just ask you to look into it, and if it could  
11 be kept private until it's final, then it would be very  
12 good.

13 MR. MOBLEY: Or until it's the final draft.

14 MR. COLLINS: Would you identify yourself?

15 MR. MOBLEY: But if it -- you know, it's  
16 extremely a pre-decisional document that can be withheld  
17 under FOIA if it's not, you know, a final document.

18 MR. COLLINS: Identify yourself for the  
19 record, please.

20 MR. NEWSOME: It's Hampton Newsome from OGC,  
21 NRC. But as to this particular question, how we're  
22 treating these documents, you know, I have to talk to the  
23 staff.

24 MR. COLLINS: Okay, Richard and then Roland.

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1                   MR. RATLIFF: Yes, Richard Ratliff of Texas.  
2 I think the whole issue of the draft report really becomes  
3 critical for states when we're going through licensing  
4 issues. And NRC needs to be sensitive to timing and  
5 what's in it because speculation, other things that are  
6 hypothetical, that don't seem to cause NRC problems, can  
7 really cause the state a problem when you're in the middle  
8 of a licensing decision on a certain issue.

9                   And so I think those need to be really like  
10 you said, kept to a minimum and just, what are the  
11 specific details and the real specific problems.

12                   MR. FLETCHER: Roland Fletcher, Maryland.  
13 This becomes even more critical when you're dealing with  
14 certain specific licensees who are looking for any  
15 argument that might work at a court hearing, that would  
16 indicate that they are not being properly regulated.  
17 Because the NRC says, even though it's a draft in a public  
18 notice, that the state may have some staff training and  
19 staff education deficiencies.

20                   Now, the final report straightened that out  
21 but for the purposes of a hearing or purposes even, of  
22 making an impression, sometimes these kinds of statements  
23 work against you. And regardless of whether it's a draft  
24 or not you've got to take the time to straighten out the  
25 information, and that can be a time-consuming process.

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1 MR. COLLINS: Stan Marshall.

2 MR. MARSHALL: Marshall, Nevada. I'm  
3 currently reviewing a draft report from our recent IMPEP  
4 review, and I think -- I'll change this to a suggestion  
5 that the draft report come to maybe the program manager or  
6 the highest level of management involved with the  
7 closeout, instead of maybe to yet a higher level than was  
8 not involved.

9 I think sending it to me or the highest level  
10 in closeout might reduce some explanation time about the  
11 factual review. It's simply at this time, a factual  
12 review. I think NRC team will respond well and quickly to  
13 comments from me, but I've actually got another hoop to  
14 jump through because I've got to convince somebody that  
15 wasn't even there what might be even insignificantly  
16 incorrectly about the report.

17 I think I can gain probably, a couple of weeks  
18 if it came back to us, or at least those in the closeout.

19 MR. COLLINS: Ed.

20 MR. BAILEY: I think one of the problems with  
21 not having that draft report out there is that when you go  
22 to the management review board, that's when the final is  
23 put on the report. So it's a draft report as I understand  
24 it, until it goes to that board, and that board might say  
25 yes, we concur on the finding.

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1 I'm sensitive to the idea that certain things  
2 may creep into the draft report that can easily be  
3 explained away or something as a misunderstanding, and I  
4 don't know whether a preliminary draft would help or not.  
5 But having been liaison to some of the MRBs, I think it's  
6 very important -- or I felt it was important -- in  
7 reviewing it at the MRB level that you did hear some of  
8 these things that maybe got favorably resolved in favor of  
9 the state, rather than having everything already resolved  
10 when you go there and sort of rubber stamping.

11 MS. SCHNEIDER: Can I just for clarification -  
12 - this is Kathy Schneider -- just to make sure everyone  
13 understands the process. What we do is, we generate a  
14 draft report for comment which we didn't do previously  
15 under the old way of doing reviews, which is -- the whole  
16 system when we devised IMPEP was public, everything would  
17 be in the public document, open -- it goes out for  
18 comment.

19 It comes back, the teams look at the comments  
20 -- the actual comments. Some states also take at that  
21 time to actually address their recommendations or  
22 suggestions. The team then re-examines the report in  
23 light of what comments the state has made and issues what  
24 we call a proposed final, which goes to the management  
25 review board.

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1           The state gets a copy of that, and that's the  
2 copy that Ed's talking about. We do use that also as a  
3 mechanism -- the teams have used that as a mechanism -- to  
4 identify items that the team had one position, the state  
5 took another position.

6           So sometimes those proposed finals have things  
7 where we've pointed out the state had a different opinion,  
8 we tried to include -- excuse me, we include a copy of the  
9 state's response as part of that proposed final that  
10 again, goes into the public document room. And then the  
11 final report is the one where the MRB has taken a look at  
12 and made the final determination.

13           Just make sure we all understand the  
14 sequencing.

15           MR. COLLINS: Any more comments or suggestions  
16 on the draft report part of the process?

17           Okay, the next thing that you had after draft  
18 report is your MRB meeting. All in all, we really had a  
19 fun time at the MRB meetings; we didn't have any  
20 suggestions. As long as there's a dictionary handy so if  
21 somebody can look up what misanthrope and such words like  
22 that mean.

23           Does anyone have any comments or suggestions  
24 for the NRC regarding the MRB meeting? Mike Mobley.

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1           MR. MOBLEY: I made the suggestion -- it may  
2 already have been incorporated or whatever -- but when I  
3 went up to the MRB meeting I had no idea as to what to  
4 expect or how it was going to go down. I had kind of read  
5 about some of the others and I called Bill Spell in  
6 Louisiana, who I think actually did his by phone.

7           Number one, I would suggest to states that you  
8 go be there and be present, because it was a much better  
9 experience for me for that reason. But I think that it  
10 would have been a little bit more comfortable to me had I  
11 known a little bit more about how the process would go  
12 down and everything.

13           Now, it quickly became very straightforward or  
14 whatever, but it just would have been a little bit -- I  
15 would not have been totally in the dark as to how to  
16 expect the process to proceed.

17           MR. COLLINS: If you're not aware, there is  
18 the option for any one of these -- you can phone in and  
19 get connected to the bridge and listen in to an MRB  
20 meeting of anyone's. If someone is concerned and hasn't  
21 been there, you can do that to learn.

22           Richard Ratliff from Texas.

23           MR. RATLIFF: Yes. One thing on ours, we had  
24 an executive session where they went out of the room and  
25 made a decision. When our boards do that, the legal

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1 entities make a statement that no decision is to be made,  
2 no final decisions. But it appeared that a final decision  
3 was made in executive session, and that goes contrary to  
4 what we see in all rulemaking and all actions we take, and  
5 I think that needs to be clarified in how that works.

6 MR. COLLINS: Roland Fletcher?

7 MR. FLETCHER: Roland Fletcher, Maryland. I  
8 must say that in the MRBs that I participated in, and I  
9 think there have been three, I've been very positively  
10 impressed by the proceedings and some of the decisions  
11 that were adjusted, overturned, or however you wish to  
12 evaluate them.

13 Normally they went in favor of the states that  
14 had sent some comments in or had made some verbal  
15 comments. So I think the process of the MRB, with a few  
16 tweaks, can be one of the best parts of this whole  
17 exercise.

18 MR. COLLINS: Aubrey Godwin.

19 MR. GODWIN: Godwin, Arizona. Is the reason  
20 the draft is made public, is that to allow the general  
21 public to offer comments on it also? In other words,  
22 would we potentially have to respond to public comments  
23 before the MRB? Then I don't understand why it's made  
24 public.

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1 MR. COLLINS: As Kathy mentioned, the concept  
2 when we originally worked together in setting up the IMPEP  
3 review process was that it would be -- all the way through  
4 the process -- open, and that we would put everything into  
5 the public document room. That concept carried through to  
6 the fact that the MRB itself is open to the public;  
7 anybody can come that wants to.

8 So if you're going to have public openness --  
9 and openness is one of our principles of good regulation  
10 -- and that's where the concept of the need to have this  
11 an open process originated. So those were principles of  
12 good regulation established by the commission and openness  
13 was one of them. And this was in the spirit of that  
14 principle.

15 But if you're going to have the MRB meeting  
16 open, it doesn't make sense to not put the draft report in  
17 the public document room also. So anybody that has an  
18 interest in an individual Agreement State program review  
19 will have the draft report, the response from the state to  
20 the draft report, and the proposed final report that goes  
21 to the MRB as resources to use in preparing them to attend  
22 the meeting and observe in some meaningful way so they can  
23 understand what's going on.

24 That doesn't happen very often that a member  
25 of the public attend. But we did have some outside

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1 interest from the Texas review, but I think that's the  
2 only one to-date.

3 MR. BANGART: This will be a significant issue  
4 and a difficult one to reach some kind of conclusion about  
5 where if we choose to limit part of it and it does have  
6 some ripple effects associated with it, like do we make  
7 attendance by outside interested parties essentially  
8 meaningless because they won't have resource information.

9 MR. PADGETT: Aaron Padgett, North Carolina.  
10 I just have a question. I was notified of several of the  
11 MRBs but as I was sitting here I recollect that I haven't  
12 been notified in some time. And you know, we may be  
13 dropping the notifications in our own state, I don't know.  
14 But are the notifications still going out on, you know,  
15 who you call in, who you call, and so forth, to listen in  
16 on the MRBs?

17 MS. SCHNEIDER: We publish it through the  
18 publication of Public Notices. My name is down as a  
19 contact, so we've had people call in. We don't send  
20 individual notices. I think it's on the NRC's Home Page  
21 and there's a telephone number you can call if you want to  
22 see upcoming meetings.

23 So we haven't gone and given specific  
24 notification of every MRB. I believe during the pilot we  
25 were doing that, so that everybody who was involved in the

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1 pilot could sit in through all the MRBs for all the pilot  
2 participants.

3 I've had one or two calls but then, you know,  
4 I really haven't -- I think we've had a total of three  
5 members of the public attend through the whole two years  
6 at this point.

7 MR. COLLINS: Okay, we're going to try to  
8 finish this up in about five minutes. The next item is  
9 the final report. The only suggestion I have there is, in  
10 the transmittal letter or some other little brief  
11 correspondence, communicate to the state or the region  
12 that was reviewed, exactly what of substance has been  
13 changed in the final report that differs from the draft  
14 report, to make it a little easier to go in and look and  
15 see.

16 Are there any other comments? Ed Bailey.

17 MR. BAILEY: Bailey from California. I guess  
18 one of the things that sort of surprised me in the final  
19 report -- not the final report itself but in the cover  
20 letter to the final report, was the requirement to respond  
21 to the recommendations. And we're going to get around to  
22 it.

23 But I guess I found that a little -- you know,  
24 like when we go out and do an inspection and we cite them  
25 for violations and we make suggestions or recommendations,

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1 we don't normally hold them to committing to do something  
2 with the recommendation.

3 MR. COLLINS: Any other comments or  
4 suggestions regarding the final report? Roland Fletcher.

5 MR. FLETCHER: Just one thing, and I think my  
6 circumstance is a little unusual. It's kind of like, when  
7 is a final report not a final report. And that's when,  
8 you receive the final report and you think you know what's  
9 going to happen and then a few days before the final  
10 report you receive something else that changes one of the  
11 items of the final report but you don't have time to  
12 respond before the MRB.

13 I'm just bringing that up to let everybody  
14 know these things do happen. We've got to work so that  
15 they don't happen. My only question is, when something  
16 that's contributing to your IMPEP review is not apparently  
17 a part of the IMPEP review itself, do we need to look at  
18 another mechanism of dealing with it?

19 I'm talking specifically about regulations  
20 review for compatibility. In my situations my regulations  
21 were reviewed over about a 2-year period. I receive three  
22 letters indicating that certain items needed to be changed  
23 -- which we changed. And for all intents and purposes we  
24 believed that we were well on our way to receiving  
25 compatibility, which would have been wonderful.

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1           But then about four days before my IMPEP I  
2 received another letter which said that another review had  
3 taken place that overrides, and they found some things  
4 that even the first three reviews didn't find. So there  
5 was no way to get compatibility.

6           I'm only bringing this up to show that there  
7 are areas that still need some work, still need some  
8 evaluation, and hopefully we're looking to try to make  
9 sure the system works better.

10           MR. COLLINS: Actually, if you present a  
11 strong enough case at the MRB meeting itself, you can get  
12 a lot of those things ruled on. Even if the NRC staff  
13 didn't want the MRB to rule on them, necessarily. Okay.  
14 We've had some positive experience there.

15           Okay, next item: Agreement State input into  
16 the criteria used as part of evaluations. I think we've  
17 covered every one of these before. The first one -- and I  
18 know, Dick, you've heard it five or six times before.

19           "Required minimum inspection frequencies  
20 should be determined by cooperation of all parties,  
21 including agreement by a majority of the Agreement States,  
22 the NRC regions and the NRC Headquarters with each having  
23 one vote in the determination process." That's pretty  
24 specific.

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1           "Then, the NRC and Agreement States have  
2 flexibility to make changes for each agency's own  
3 jurisdiction without impacting the resource requirements  
4 of the others. The required minimum inspection frequency  
5 would be subject to review as needed with changes made  
6 only by approval of a majority of the regulatory agency  
7 parties." Probably should be.

8           For example, as mentioned earlier, the HDR  
9 minimum inspection frequency was set at one year by NRC,  
10 without any Agreement State input. Several of us have  
11 done enough inspections now that in our particular states  
12 we're not having many problems and we think that two years  
13 or three years may be adequate. Now, we can change that  
14 frequency when we do find a problem case or a particular  
15 device that's giving problems, where we need to go get to  
16 that particular one.

17           So once again, using the authorized and  
18 directed statutory provision of NRC cooperating with the  
19 states, we would like to see these inspections frequently  
20 jointly determined.

21           MR. MOBLEY: Do you want some "Amens"?

22           MR. COLLINS: Whatever is appropriate. And  
23 7.b. is, reciprocity inspection frequencies -- which has  
24 been mentioned -- should be determined in the same manner  
25 as recommended. We understand that we have a scale --

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1 some of them 100 percent, some of them 50 percent, some of  
2 them 30 percent, that sort of thing -- or 100 percent, 30  
3 percent. But we would like to have those jointly  
4 determined.

5 "Expectations for required training of staff  
6 should be clearly specified." We know that each state  
7 program is responsible for describing its own training and  
8 that sort of stuff, but there's felt to be a need for a  
9 little bit more clear specification of exactly what is it  
10 that NRC's looking for in this description.

11 And we think that that will all be answered by  
12 the training working group. We think their work product  
13 will resolve that for you. But it is an open item and we  
14 didn't want to leave it off the list. So the Agreement  
15 States are already working with you to resolve that one.

16 A review team -- we already mentioned this one  
17 -- a review team of experienced Agreement State personnel  
18 with one NRC experienced staff should review NRC's sealed  
19 source and device program. And I provide a reason for  
20 that.

21 And then the last one: determinations of  
22 compatibility, especially of that regulations, should be  
23 removed from the IMPEP process. Even though that  
24 particular process has worked for Illinois at the time,  
25 for some of the rest of us we would like to see the

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1 determination compatibility on specific regulations not be  
2 the IMPEP process but be separate.

3 I may have found one we don't agree on here.  
4 Don?

5 MR. BOND: Don Bond from California. In the  
6 interest of time I'll keep this brief. I found that  
7 reciprocity is being handled in a variety of ways by most  
8 of us in the room. And there's not one discrete way that  
9 we issue reciprocity.

10 I'll give you an example. There was a state  
11 that had issued 280 or so reciprocity authorizations. Now  
12 was I supposed to look for 140 inspections? No, because  
13 the state issued these authorizations every time the  
14 licensee came in, therefore we're only looking at ten  
15 different licensees maybe, that have received all these  
16 authorizations.

17 So we have to maybe sit down and get some  
18 information from all of us. How do we handle reciprocity?  
19 In California we issue an annual reciprocity  
20 authorization. It goes out once a year. It allows a  
21 person to come in and out as long as they notify us each  
22 time. And so therefore we have 50 or 60 licensees that  
23 come out frequently under this arrangement.

24 Other states do things differently, and if  
25 we're going to evaluate how the states are inspecting, at

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1 least we should have everything in the same order so we're  
2 not comparing apples to oranges and so forth.

3           Maybe that's a point for the questionnaire  
4 where you could ask the state to describe how they do  
5 reciprocity, how they handle the authorizations, and then  
6 that would be clarified later when we do our review.

7           MR. COLLINS: Aubrey Godwin.

8           MR. GODWIN: Godwin, Arizona. I would support  
9 your "b." regarding the determination of compatibility of  
10 regulations has probably been somewhat separate. But I do  
11 have a problem when you talk about other things. I think  
12 it's important that we know that devices and licensees  
13 that come out of Illinois are probably judged on pretty  
14 close to the same basis as they would be in our state.

15           So I would think that's an appropriate thing  
16 for IMPEP to look at. The quality of your licensee work  
17 is probably something that we all need done by IMPEP. The  
18 quality of your inspections is probably something that  
19 ought to be done. And I think that's important for us to  
20 have confidence in each other to recognize licenses and  
21 the reciprocal recognition. So I think it's important  
22 that those parts remain within IMPEP.

23           MR. COLLINS: We think those come under  
24 adequacy rather than compatibility; that's where the  
25 difference in the understanding --

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1           MR. GODWIN: Well, you know, it's sort of a  
2 little of both. As we talked about with the compatibility  
3 group you've got to smear the things from one to the  
4 other. But anyway, the regulations can probably be  
5 separated out, but it might be a good place to have a  
6 single letter where all the determinations were brought  
7 together; which is very handy to have a single letter you  
8 can take and forward to the governors and legislators and  
9 things like that. That's sometimes very handy to have.

10           Also, if you have deficiencies in a single  
11 letter you can wave in front of them showing what the  
12 problems are, if your legislators like the Federal  
13 Government; if they don't, hide it.

14           MR. COLLINS: Are there any other comments or  
15 suggestions for NRC on any of the IMPEP process?

16           MR. HEARTY: Brian Hearty, Nebraska. One of  
17 the things that Mr. Bangart had stated earlier was that  
18 one item of the annual meeting is to determine if the next  
19 scheduled IMPEP time period is appropriate. And I'm just  
20 wondering, isn't that date set by the MRB and could that  
21 timeframe be lengthened as well as shortened from an  
22 annual meeting?

23           MS. SCHNEIDER: Yes.

24           MR. COLLINS: Yes. Mike Mobley.

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1           MR. MOBLEY: This might not be necessarily for  
2 the NRC as much as the states; maybe it's a joint process.  
3 But one of the things that I think is very important to  
4 get out of the IMPEP review --or any review for that  
5 matter -- is to make sure that you, the program manager,  
6 is effectively utilizing that process to increase the  
7 program's stature within the state organization, improve  
8 the program within the state, etc., etc., etc.

9           And I just wonder, is there something that we  
10 could do to put together some ideas and concepts as to how  
11 managers might most effectively utilize the impact process  
12 within the state to do these kinds of things? I mean, to  
13 me the IMPEP review or the NRC review is not something I  
14 want to hide even when it's negative.

15           It's something that I've got in my hands, a  
16 tool to use to go to my management and say, hey I need  
17 help or assistance or whatever; or say that hey, this is  
18 great and wonderful, all that work we did five years ago  
19 is beginning to pay off; now I need some more help.

20           You know, I just wonder if there's not a  
21 little bit more than we can do here. This is something  
22 other than the direct IMPEP review process. I'll just  
23 throw it out as a suggestion.

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1 MR. COLLINS: The next chair -- they already  
2 asked -- may want to appoint you to head up a group to try  
3 to look into that; I'm not sure.

4 MR. MOBLEY: There's only 24 hours in a day,  
5 Steve. I have a couple of more comments. One is, I want  
6 to talk about the SS&D program at some point in time. I  
7 don't know whether it's appropriate here and we don't have  
8 time.

9 The second one is, I don't think the IMPEP  
10 process is a fantastic improvement over the previous  
11 process. It was just an extraordinarily exciting process  
12 for us to go through. Tremendous.

13 MR. COLLINS: We will find a time later in the  
14 program somewhere to talk about the SS&D program some  
15 more, and also, Aby Mosheni's presentation will be moved  
16 to a different place in the program somewhere, and Chip  
17 Cameron will tell in a minute when to be back from lunch,  
18 right after Ed Bailey gets finished.

19 MR. BAILEY: Yes, I would like that number  
20 five not to be necessarily unanimously agreed to. I think  
21 having the regs in the process is important, and if you're  
22 one of the states who didn't have the letter of the reg to  
23 adopt it when your review was done but went to the MRB and  
24 they looked at the circumstances and so forth and said,

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1 you've got a compatible program. I think it's extremely  
2 important for that to remain in IMPEP.

3 MR. COLLINS: Okay. Those notes should be  
4 annotated to reflect some states would like compatibility.

5 MR. BAILEY: Do you want to vote on that?  
6 Because I'm also concerned about that not being in there.

7 MR. COLLINS: Do you want it in?

8 MR. BAILEY: No, I don't want it -- no, I  
9 think it should be part of the review process.

10 MR. MOBLEY: I agree also. You may be losing,  
11 Steve.

12 MR. BANGART: Are you talking about regulation  
13 reviews or overall program compatibility? (Inaudible) I  
14 guess program compatibility. You're not talking about  
15 removing that from IMPEP, is that right? (inaudible)  
16 consistent with the new compatibility designation.

17 MR. COLLINS: The LMR's stance was  
18 communicated to you in writing; you have a copy of that.

19 (Laughter.)

20 MS. SCHNEIDER: I think it's important too --  
21 if I could just say one thing -- is that when this arose,  
22 this was before we had our new policy statement. So you  
23 know, some of the problems Roland had was really before we  
24 began, before the actual policy statement was issued to

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1 start implementing some of the provisions in the spirit of  
2 the new policy statement.

3 I mean, excuse me, it was final but we were  
4 getting the final procedures out. So I think maybe some  
5 of the problems you had aren't there now because we are  
6 doing -- not as a compatibility on regulations but  
7 compatibility on the program.

8 FACILITATOR CAMERON: I'd like to thank Steve  
9 and Kathy number 1 and Kathy number 2 for all of this.  
10 That was some great work. I would just ask one important  
11 question since we don't want to see these things go into  
12 the so-called black hole: is NRC going to take this and  
13 consider this for improvement of the IMPEP process at  
14 some time, and what's the process for doing that? Kathy  
15 or Dick?

16 MR. BANGART: We'll take the notes from the  
17 meeting and then we'll identify these issues and  
18 communicate via (inaudible) letter on those two issues  
19 that we're waiting for suggestions. And it may take some  
20 lead time (inaudible) to get (inaudible) too, but the  
21 training materials in order (inaudible) good  
22 recommendations, I think a lot them (inaudible).

23 FACILITATOR CAMERON: Good work. We did go  
24 over a little time over our time. Luckily we only have

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1 two events left: one is to pass out the KI pills and the  
2 second is the cash bar, so we will get back on schedule.

3 But seriously, we will move Aby's presentation  
4 to 3:30. Something I know we're all looking forward to is  
5 the DOE panel. Can we try to be back here at 1:30? That  
6 gives you an hour for lunch. And then we'll continue from  
7 there. Thank you.

8 (Whereupon, a brief luncheon recess was taken  
9 at 12:30 p.m.)

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

2 (1:36 p.m.)

3 FACILITATOR CAMERON: Our first session this  
4 afternoon is going to be the external regulation of the  
5 Department of Energy. And we have Carl Paperiello from  
6 the NRC who's going to talk about the NRC task force on  
7 the external regulation of DOE.

8 We had planned on having John Sung here from  
9 the Department of Energy but we have an able replacement  
10 who's going to at least answer questions, if not give a  
11 perhaps summary presentation; Jay Larson.

12 And we have Mike Mobley from the State of  
13 Tennessee. As all of you may know, Mike was on the  
14 Citizen's Advisory Committee that originally came up with  
15 recommendations on the external regulation of DOE, and I'm  
16 sure he'll give us the perspective on that.

17 Carl's going to talk from up here and I guess  
18 we can take questions after you talk, but it might be good  
19 to have sort of a panel discussion in a sense, too. Which  
20 means Jay, we would have you up at this mike, or you could  
21 join us up at the table.

22 Why don't we get started with Carl and then  
23 we'll figure it out.

24 DR. PAPERIELLO: Good afternoon. I happen to  
25 have been selected by the commission to head up the task

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1 force within the NRC, and that's sort of been my  
2 involvement in this. I'm going to cover some of the -- I  
3 think to bring everybody up to -- there's a lot of  
4 background.

5           The program that we have today is probably not  
6 where it was originally envisioned when people got started  
7 in this thing a couple of years ago. I'm going to look at  
8 some of the potential benefits. The MOU -- the MOU has  
9 been sent to the Secretary of Energy last week. This week  
10 I sent the MOU for the NRC; the commission has had an  
11 earlier version of it. I formally sent it to the EDO to  
12 be transmitted to the commission this week. What I'm  
13 hoping is that we're going to have this MOU signed in the  
14 next week or so.

15           I'll talk about the pilot program objectives,  
16 the types of facilities we're going to look at, the  
17 approach we're taking, stakeholder's role, the proposed  
18 pilots, and the status of our activities right now.

19           The practical matter is, DOE self-regulates  
20 since the Atomic Energy Act of 1946. Now, I was not  
21 around in the old days when the NRC/AEC split. And what  
22 went with the NRC and what stayed with DOE or its  
23 predecessors were determined by -- I guess there was a  
24 piece that the General Manager ran and something that

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1 somebody else ran, and so there's a lot of ancient history  
2 into this.

3           But the fact of the matter is, DOE self-  
4 regulates and based on the opinion of our attorneys, it's  
5 not a question of a decision. I mean, they can't turn  
6 around -- one of the things that -- we'll let you regulate  
7 something. There's going to have to be a law change to  
8 get us there.

9           And in fact, there is a specific prohibition  
10 in some appropriation in the early '80s to have any NRC  
11 involvement in defense nuclear activities. So there's  
12 some -- it's not one of these things that you can say,  
13 well let's just go and do it. We're going to need  
14 legislation. And whereas there is an interest on the  
15 Hill, it's not uniform in this area.

16           But in 1994 there was a proposal to require a  
17 study of external regulation. DOE -- it wasn't passed  
18 from my understanding -- but DOE on their own created an  
19 advisory committee on external regulation and they've made  
20 a recommendation that essentially all aspects of safety  
21 should be externally regulated, but they didn't identify  
22 who should do it.

23           Well, Secretary O'Leary accepted the report  
24 but then formed another group to make the recommendation  
25 on how to implement it and who should be the regulator.

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1 They recommended that the NRC be the regulator -- and I  
2 want to emphasize, nuclear regulator -- but part of this  
3 thing involves -- a whole process involves bringing in  
4 OSHA also as a regulator of DOE facilities of the non-  
5 nuclear activities.

6           And in fact, there has been a pilot conducted  
7 by OSHA at Argon National Laboratory. As part of the  
8 strategic assessment that the Commission undertook, one of  
9 the strategic issues was a position on regulating DOE.  
10 And the initial position of the commission is neutrality;  
11 essentially, neither for or against it but would consider  
12 if asked.

13           Public comments of the various options  
14 supported NRC oversight of DOE, and in December of '96  
15 Secretary O'Leary announced intent to seek legislation to  
16 transfer oversight to the NRC. Now you realize that in  
17 January she resigns and Secretary Pena takes over. And in  
18 fact, some of what has happened here is, some of the --  
19 many of the original players in this are no longer around.  
20 And so there's been some of the evolution of the thought  
21 process on what is going to be done is a result of the  
22 change of the people.

23           Anyway, in March of '97 the commission  
24 endorsed Secretary O'Leary's proposal and formed a task  
25 force, and I got a long SRM of all kinds of issues they

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1 wanted me to consider. Among one of the issues for  
2 example, is what would be our role in regulating  
3 accelerators? I know it's been a subject that has come up  
4 and down, but that was one of the questions they asked.

5           In June of '97, Secretary Pena and Chairman  
6 Jackson met and agreed to refocus the effort on a pilot  
7 program. Instead of moving forward with the task force  
8 recommendations on a lot of the other things, it's: let's  
9 have a pilot program.

10           So the focus has been since then, on  
11 developing an MOU, getting legislation for Congress to  
12 fund this activity -- which we did get -- and focus on a  
13 small set of facilities to learn something about how you  
14 might regulate. And the word that has been operable here  
15 is simulated regulation, although I have to admit there's  
16 been a lot of arguments about what simulated regulation  
17 means.

18           What are some of the benefits that we see from  
19 external regulation? Discipline and accountability;  
20 enhanced credibility and openness; stability and  
21 predictability; application of cost benefit. These are  
22 all expected to lead to enhanced safety, and they are  
23 outlined in the MOU.

24           The MOU focuses on a pilot program. It  
25 defines the objectives of the pilot program, it describes

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1 the scope, and it presents a stakeholder plan. It will  
2 run for a couple of years; it will involve a certain  
3 number of facilities.

4           The MOU does not select the facilities; it  
5 just develops the procedure on how the NRC and the DOE  
6 will interact with each other and how we together will  
7 approach other entities which we have lumped together,  
8 called stakeholders. And they are very extensive; not  
9 some of the ones I would have thought of when I first got  
10 started in this thing.

11           Talk about the scope of the pilot. Some of  
12 the limits we are not going to do. We are going to  
13 explicitly avoid defense program facilities. Now, you  
14 need to understand that in the DOE pilots when you talk  
15 about nuclear energy, energy research, and environmental  
16 management, you are talking about ways the Congress funds  
17 them.

18           So on a given site in a given geographical  
19 area, you will find these facilities co-mingled. So it's  
20 not like, well you know, Lawrence Livermore would be one  
21 of these. They might be getting money from these  
22 different areas. At one point we discussed a certain DOE  
23 reactor. It turns out that that particular reactor is  
24 completely surrounded by defense facilities, and it became  
25 a very difficult thing to put that into the pilot program.

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1           We're looking at doing three facilities in  
2 1998, and expanding it to six to ten facilities over the  
3 next three years -- essentially in '98, '99, and going  
4 into the year 2000. What are we going to try to do?  
5 We're going to try to pick facilities that are similar to  
6 NRC licensees, initially. We're going to pick facilities  
7 where NRC regulation will have value-added.

8           Now, this next one sort of contradicts the one  
9 before: facilities are more likely to meet NRC standards.  
10 You can say, well if they meet NRC standards there will be  
11 no value added. We're trying to optimize on this.

12           DOE very much does not want to coerce its  
13 facilities and is basically looking for volunteers;  
14 facilities that are willing to participate. And we're  
15 also looking for facilities that are likely to be around  
16 for a long period of time and not facilities that are in  
17 the process of shutting down.

18           We're going to put out a report and we're  
19 going to provide information. What was the value added?  
20 What would be the value added of an NRC regulation? What  
21 would be our regulatory approach? Now, what do I mean by  
22 that? You will recognize that in the case of the gaseous  
23 diffusion plants which we now regulate -- we decided and  
24 the Congress wrote the law but we've had interaction with

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1 them -- we've certified the plants. We didn't license  
2 them; they're certified.

3           What does that mean? Well, I'll tell you.  
4 From my viewpoint it looks an awful lot like a license,  
5 but the process is not a licensing activity, although  
6 there was opportunity for public interaction there was no  
7 opportunity for a public hearing. And so what you've  
8 really got from my viewpoint, is you've got a set of  
9 facilities that exist.

10           It's not like somebody applying for a license  
11 -- you'll deny the license and therefore nothing will  
12 happen. The fact of the matter is, if I have a facility  
13 like the gaseous diffusion plant that's up and operating  
14 and running, either you issue them -- do something to  
15 start regulation, or you don't regulate it. But it's not  
16 going to go away. It's going to continue and if it has to  
17 function it's going to function.

18           And so now, how do you get into a regulatory  
19 regime where you -- if in fact -- and you could ask, well  
20 why can't you license it? I don't know. Maybe it doesn't  
21 meet today's licensing criteria; which we suspect, may be  
22 in some cases. So we haven't, on this one, we have not  
23 defined what we're going to do but we recognize that we're  
24 going to have to look at different options.

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1 I've offered an option -- I've thought it back  
2 of my own line -- general license. That way I go from an  
3 unregulated to a regulated regime automatically; just  
4 covered by a general license. I'm not going to say we're  
5 going to do that, but it's some of the thoughts, you know.

6 How do you go from an unlicensed condition or  
7 an unregulated condition, to a regulated condition when  
8 frankly, in some cases perhaps, holding a license and  
9 going through an adjudicatory process to get there just  
10 doesn't make sense; that part of it. Some of it may be  
11 straightforward. I frankly, think there are facilities  
12 out there I could issue a license to. But that's things  
13 we're going to have to take a look at.

14 What are their status? If we're going to do  
15 this, somebody's going to ask, is this place safe or  
16 unsafe? And when you talk about that, I would define,  
17 what do you mean about safe? Are exposures reasonable; is  
18 the risk of an accident reasonable? Things like that.  
19 What will be the cost; the cost to both us as well as the  
20 DOE and the facility?

21 What are some of the alternative regulatory  
22 relationships? Who do we regulate? If a prime contractor  
23 like Lockheed Martin runs a place like INEL, do we issue a  
24 license to DOE, or do we issue a license to Lockheed  
25 Martin, or do we issue a license to both? Or what I said,

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1 I'll license the facility; whoever actually has control  
2 over operations, they're the licensee. I don't know. I  
3 mean, that's something you've got to work out.

4           And remember, since we've got a -- to do  
5 anything that really puts them under our jurisdiction,  
6 requires a law change. I have the freedom to get the law  
7 -- of course Congress has to buy into it -- we have  
8 freedom to change how we do business in the legislation.  
9 Identify issues for transitioning; how we actually make  
10 this happen. And I think we're going to find some  
11 problems that we didn't anticipate.

12           Identify the legislative and the regulatory  
13 changes. As I said, it is not a decision on the part of  
14 the NRC and DOE to say, okay NRC, you regulate. The  
15 gaseous diffusion plants were spelled out in the  
16 regulations. High level waste is spelled out in law --  
17 I'm sorry about gaseous, it's in law.

18           The regulation of TMI waste in Idaho, the dry  
19 waste storage, we will regulate. That's spelled out in  
20 law. So there's specific provisions in the law for  
21 activities that we now have ongoing. It's not a question  
22 of an agreement.

23           Evaluate stakeholder involvement. What will  
24 that involvement be? We will not interfere with ongoing  
25 safeguards and security programs. You know, we've got

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1 major sites with security forces and the like, around. We  
2 don't want to mess up that. And not interfere,  
3 essentially, don't step on the toes of the Defense Nuclear  
4 Safety Board and their activities.

5           This is the approach as it now stands, that  
6 we're going to be taking. It's going to be a joint  
7 assessment model. We and DOE and the facility operator  
8 are going to go in together and look at a facility.  
9 That's the mechanics. I call it the pre-licensing model.  
10 What would it take to license this facility if we were  
11 going to license it, establish a set of requirements?

12           And so therefore we're going in, we're not  
13 doing what the Defense Nuclear Safety Board does with a  
14 tiger team. I am not going into a facility with, these  
15 are my acceptance criteria. I keep pointing out to people  
16 -- the NRC has very few requirements in the regulations.  
17 Most of the requirements are established in the licensing  
18 process, not in the regulations.

19           And so before I go -- and that's why I call  
20 this a pre-licensing model. We are going to understand  
21 for a given facility, right now, what is being done to  
22 assure safety and map that on the facility's procedures  
23 and the existing DOE requirements, on toward our  
24 performance-based regulation. How do you meet Part 20?  
25 Part 19 deals with training. Nothing very specific; it

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1 just tells you where you have to be. For this facility,  
2 how do you get there?

3           What I will not do is turn around, take as a  
4 given that existing standard review plans and existing  
5 guidance documents are applicable for this facility.  
6 We're going to start with the approach that -- what is  
7 being done at this facility, what are their written  
8 procedures, and do they make sense?

9           Risk-informed, performance-based has been a  
10 truism in the agency for the last couple of years. We  
11 want to take that approach. That's why it's very much,  
12 you don't want us to do something that looks like an  
13 inspection using guidance that a given facility has never  
14 committed to and has never been operating under. What  
15 I'll be looking for is, do you have something that's  
16 equivalent in a given area?

17           And obviously, we'll look at their written  
18 information, we'll interview people much like we do right  
19 now. Criteria will be DOE requirements, our requirements,  
20 and national and state standards. What exist out there  
21 that would be an acceptance criteria for something?

22           We will look at accelerators during one of the  
23 pilots, and then we will put out a team report. And the  
24 schedule to complete the report, about two months after  
25 completion of the pilot.

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1 Stakeholder plan. The stakeholders are not  
2 just the people who live around the site in the state. We  
3 have Congressional committees that are interested -- we've  
4 already interacted with them; the Office of Management and  
5 Budget is interested. They want to know, how much is it  
6 going to cost?

7 Obviously, we're interacting with you, we're  
8 interacting with the Conference of Radiation Control  
9 Program Directors because not all the states that DOE  
10 facilities are located in are Agreement States. We have  
11 to coordinate with the EPA and OSHA. As I mentioned  
12 earlier, OSHA has done a pilot, and I know DOE is very  
13 interested in OSHA doing, on the non-nuclear side, what we  
14 are doing on the nuclear side.

15 The plan will be in the *Federal Register* and  
16 since we know a lot of people don't read the *Federal*  
17 *Register*, we're going to have a direct mailing. I don't  
18 know how many people we're going to notify but we're going  
19 to mail them the *Federal Register* notice.

20 For individual pilot facilities we plan on  
21 briefing the appropriate state regulators because there  
22 may be more people involved just than the Rad health  
23 departments. We will invite state representative to  
24 participate or observe, depending on the site -- much like  
25 what we do now. States are invited to accompany us on

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1 inspection. We have non-Agreement States -- for example,  
2 I understand New Jersey has people who accompany us on  
3 reactor inspections. So there's that.

4 I will say, in conversations with DOE we are  
5 not, for individual facilities, not trying to create new  
6 groups. What we're trying to do is use existing  
7 relationships that already exist. And what we know is  
8 that for most DOE facilities, there are some kind of  
9 relationships with the states, with interested parties in  
10 the area.

11 So we're going to try to use, to the greatest  
12 extent possible, existing relationships. And this is an  
13 issue that's big for DOE, is to coordinate with the Unions  
14 for each facility. And that is a big issue with DOE.

15 The pilots are in Lawrence Berkeley Laboratory  
16 here in California, and some of the activities they're  
17 involve in. We originally had a facility in Idaho for  
18 spent fuel storage, but as it turns out we are already  
19 doing a facility there for the TMI-2 fuel, and it turns  
20 out the other facility, although it will be called another  
21 facility, it will be so identical and so co-located and  
22 built to the identical standards, that it made no sense to  
23 deal with it. And so DOE is looking for another facility  
24 that looks something like this, and we hope to have it  
25 selected in another four to six weeks.

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1           And lastly, the Radiochemical Engineering  
2 Development Center in Tennessee -- that's an interesting  
3 facility. I did download information about that and got  
4 some from DOE off the Internet. It's two major buildings  
5 and they handle fairly large quantities of trans-uranic  
6 elements from plutonium all the way up, in glove boxes.  
7 So issues of shielding and a bunch of other facility  
8 issues are going to enter in, in that particular -- of an  
9 existing facility.

10           My experience with the gaseous diffusion  
11 plants, when you take over responsibility for a piece of  
12 real estate of a large building that was built in the  
13 fifties, and you start looking at what kind of standards  
14 were used, you find out you don't find a whole lot. And  
15 that's not meant to be negative, it was meant -- they used  
16 what was the best available at the time, but it isn't  
17 necessarily a standard that we created today for, you  
18 know, an operating nuclear reactor.

19           And as anybody that's been reading the record,  
20 is we've had a lot of -- one of the major issues for the  
21 Paduca gaseous diffusion plants is the seismic criteria.  
22 Paduca is within 200 miles or so of the New Madras Fault.  
23 I mean, so you're talking about a major earthquake zone,  
24 and when we looked at the actual construction, DOE found  
25 out it was built to a ground acceleration of about .15g --

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1 which is about a -- I don't know, somewhere between a 50  
2 and a 75-year return earthquake.

3           Which is -- DOE's standard today is 500 years  
4 and in fact, what we're trying to do is get the facility  
5 upgraded to -- working on getting it upgraded to a 250-  
6 year return earthquake. So it's a -- and I'm just saying,  
7 they're the kind of things I think we're going to find.  
8 It isn't anybody did anything wrong; that is -- I mean,  
9 we're decommissioning reactors today.

10           The Big Rock Point, 35 years ago. It wasn't  
11 built to the standards that reactors are built today. The  
12 piping was not nuclear grade piping; it was commercial  
13 grade piping. So I'm saying, it's not a bad thing but  
14 it's one of these things that you're going -- now, how are  
15 you going to work it into today's, you know, today's  
16 criteria? So anyway, they are the facilities we're going  
17 to be doing. And that's going to be an interesting case.

18           As I mentioned earlier, the MOU has gone up to  
19 the Secretary of Energy. I got a fax on that yesterday  
20 with a copy of the transmittal memo. I sent before I came  
21 here -- actually, late last week or early this week -- I  
22 sent the MOU up to the commission through the EDO. I  
23 don't know whether it's left the EDO's office.

24           There are additional facilities to look at for  
25 the fiscal '99. We intend to begin -- in fact, we had a

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1 meeting here earlier this week on Wednesday, with both DOE  
2 folks and Berkeley and the people in the State of  
3 California, to build the workplan for Berkeley. So we're  
4 ready to go as soon as the ink is dry on the MOU.

5 We expect to start gathering information for  
6 the second pilot in January -- start putting together a  
7 work plan for that. And then the third pilot will be a  
8 function of whatever DOE's schedule is for the facility  
9 that they pick.

10 Mike, do you have something to say? You're  
11 never at a loss for words.

12 MR. MOBLEY: No comment.

13 FACILITATOR CAMERON: I think what we're going  
14 to do is -- are you done?

15 DR. PAPERIELLO: I'm done.

16 FACILITATOR CAMERON: Okay. Let's have Jay  
17 say a couple of words -- Jay Larson from DOE -- and then  
18 have Mike and then have all of you available to answer  
19 questions from everybody.

20 MR. BAILEY: Jay Larson had a 5-minute  
21 warning. We told him five minutes before we reconvened  
22 that we expected him to speak, so he should have an  
23 eloquent speech.

24 MR LARSON: Wait till you get the bill, Ed.

25 (Laughter.)

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1 I'm Jay Larson and it's a pleasure to speak  
2 here this afternoon. And I really can't represent the  
3 Department of Energy but I can represent the Office of  
4 Energy Research who I work for. And I should be able to  
5 answer most general questions that you do have about the  
6 Department of Energy and some of the actions that we've  
7 taken with regards to external regulation.

8 Within the Department of Energy there's  
9 several offices. One of the offices is the office I'm  
10 with, the Office of Energy Research. What Energy Research  
11 does basically is, we do the civilian research and  
12 development work within the Department of Energy, as  
13 opposed to the defense research and development.

14 Our laboratories include Brookhaven National  
15 Laboratory, Oakridge National Laboratory in Tennessee,  
16 Lawrence Berkeley National Laboratory in California, Fermi  
17 Lab National Laboratory, and Argon National Laboratory in  
18 Illinois. We have Pacific Northwest National Laboratory  
19 in Washington, and several other laboratories -- about ten  
20 major laboratories in all.

21 The Office of Energy Research position on  
22 external regulation is really quite simple. We favor  
23 external regulation by the same regulators and by the same  
24 regulations as private industry and academia. In other

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1 words, we believe we should be treated the same as  
2 everybody else; no differently.

3 I think that may come as a surprise to some of  
4 the people in the room here. But basically the reason  
5 that we have that position within the Office of Energy  
6 Research is because of credibility. There's been a  
7 problem within the Department of Energy in terms of the  
8 Department of Energy being its own internal regulator.

9 It's the fox guarding the henhouse syndrome.  
10 No matter how well the fox guards the henhouse, it's still  
11 the fox guarding the henhouse. And we believe that by  
12 having external regulation that there will be an  
13 improvement within credibility. And that's why we favor  
14 it within the Office of Energy Research.

15 As Carl mentioned, the external regulation  
16 issue within the department is not only NRC external  
17 regulation but OSHA external regulation as well. OSHA did  
18 do a pilot activity at Argon National Laboratory last  
19 year. They used it as an opportunity to experiment with  
20 their own re-invention efforts.

21 This particular effort is called the PEP  
22 program, the Program Evaluation Program, where instead of  
23 going in and citing specific citations for compliance with  
24 their own regulations, they actually did a programmed

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1 evaluation of their entire occupational safety and health  
2 program.

3           As was also mentioned, the first NRC pilot is  
4 going to be at Lawrence Berkeley National Laboratory. My  
5 involvement has been basically chairing the working group  
6 that's currently putting together the work plan to deal  
7 with the LB&L pilot. In fact, we had a 1-day meeting  
8 yesterday that I thought went well.

9           We have representatives throughout that  
10 meeting and several conference calls from the NRC,  
11 University of California -- which manages the LB&L  
12 laboratory -- LB&L itself, the DOE site office that  
13 manages the Lawrence Berkeley National Laboratory, myself  
14 from Energy Research, and also John Sung from the office  
15 of Environment, Safety and Health.

16           I was pleased that Mike Mobley was able to  
17 join us for a few hours yesterday afternoon as well. The  
18 second pilot has not gotten underway yet in terms of any  
19 activity. There has not been a -- the first step is to  
20 form the working group that would begin putting together  
21 the work plan individual to that site to identify what it  
22 is that we're going to try to do there and try to  
23 accomplish.

24           Let me wrap it up by saying that although I  
25 can't represent the Department of Energy, I can try to

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1 answer some of the questions. I can represent the Office  
2 of Energy Research. And finally, the Office of Energy  
3 Research position on external regulation is, we basically  
4 want to be treated as if we were a university or a private  
5 industry company within your own states.

6 Thank you.

7 FACILITATOR CAMERON: Thanks a lot, Jay,  
8 especially on short notice. And now we're going to go to  
9 Mike to give us another perspective on this, and then open  
10 it up for questions to all three of them.

11 MR. MOBLEY: I don't know how much of another  
12 perspective it will be. I think there's a lot of  
13 agreement regarding these issues right now. I hope you  
14 all can put up with my coughing as you already have this  
15 morning, but it seems to be getting worse.

16 As has been noted -- and I've tried to adjust  
17 this talk; I've pulled out overheads as different things  
18 have been introduced -- as has been noted, I did serve on  
19 the advisory committee for the Department of Energy back  
20 in 1995 that looked at this question of external  
21 regulation.

22 It was not as clean a process as one might  
23 imagine because there were many different players involved  
24 in that task force and to me, the recommendations that  
25 came out of that advisory committee -- let me get these

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1 terms right -- the recommendations that came out of that  
2 advisory committee were somewhat muddled and I think,  
3 unnecessary so, and I wrote a minority opinion.

4           Then the Secretary, Secretary O'Leary,  
5 appointed a task force within DOE to look at that advisory  
6 committee's report and make a recommendation to her  
7 regarding that, and I was very pleased.

8           I had no input whatsoever into that task force  
9 effort and I was really pleased that they must have read  
10 my minority report. Because the final recommendation and  
11 the statement by Secretary O'Leary in December of '96, as  
12 I read through it I'm thinking, man, this is really great.  
13 So obviously I agreed with it.

14           And here we are today where we are in this  
15 process. And there's one thing that bothers me a little  
16 bit. And Kathy, put up the next slide because I can't  
17 remember -- I've cut out so much -- okay. I'll be there  
18 in a little bit. I can't remember where I am in terms of  
19 what the slide are.

20           One of my concerns right now is that the NRC  
21 and DOE are working very actively in devising their  
22 process, and I want to make sure that they don't lose  
23 sight that the states are a major player in this, and I  
24 would urge them to go back and read what Secretary O'Leary  
25 said in her statement.

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1           And I want to emphasize that, and that is that  
2 she is asking for a waiver of sovereign -- or she asked or  
3 proposed that the legislation would have a waiver of  
4 sovereign immunity for the DOE facilities that would allow  
5 those facilities to be regulated just as Jay stated --  
6 just as if they were other facilities in the states; that  
7 the NRC would regulate those facilities it regulates, the  
8 state with its control agencies would regulate those  
9 facilities that they normally regulate in other areas of  
10 the state, just as they do those facilities in other areas  
11 of the state.

12           I do consider myself an original player in  
13 this. I've been saying for many, many years -- long  
14 before the Department of Energy or anyone else got  
15 interested in this -- I won't say anyone else; there were  
16 others around -- that these facilities ought to be  
17 regulated just like any other facility is regulated; that  
18 the "self-regulation" concept had lived well beyond its  
19 lifetime and had created many problems for the Department  
20 of Energy facilities.

21           And that's one of the things that came out  
22 and you hear their credibility discussed. That's a major  
23 concern of theirs now and it will continue to be until --  
24 I believe -- until they are regulated by an external  
25 regulator.

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1           And it has to be that way because when you can  
2 choose -- when you can pick and choose what regulations it  
3 is you have to meet, and when the person that's paying the  
4 freight for the operation of that facility can say, oh,  
5 that's too expensive, we don't want you to do that, then  
6 regulation will not mean what regulation means in the real  
7 world.

8           A couple of thoughts for the states that would  
9 be involved. And obviously California is well on the way  
10 in laying a lot of good groundwork, and as I told Ed  
11 yesterday and I told him again this morning and I'll tell  
12 him tomorrow and Saturday, get all the bugs worked out,  
13 have it all well laid out when it gets to Tennessee so I  
14 can just jump on there and sign on the dotted line or  
15 whatever.

16           This is a tough process, and it's not as tough  
17 as it would have been 10 years ago or 15 years ago. A lot  
18 of these facilities have upgraded significantly. The  
19 facilities that Hypher the -- whatever they call that,  
20 REDC or whatever it is -- I know what this facility is,  
21 I've been in this facility a couple of times, but I don't  
22 remember the names that they -- the program names change  
23 and the facility names change and all this and I don't  
24 remember exactly what they call it from day-to-day.

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1           But the Hypher for example, was the first  
2 facility in Oakridge to have a contamination control  
3 program. They instituted a contamination control program  
4 there about five years ago; said we're going to operate  
5 this site as if -- because it's an independent, isolated  
6 site on the Oakridge reservation that's associated with  
7 Oakridge National Lab.

8           And so they've got their own fence, their own  
9 facilities, basically, and so they instituted a program  
10 where they were going to control what went in and what  
11 went out of the facility. What they quickly found was,  
12 they had to control what came into the facility because  
13 they had problems with workers coming from another part of  
14 the reservation into their facility, and then when they  
15 tried to go out they found they were contaminated. But  
16 they didn't get contaminated at Hypher; they came in  
17 contaminated.

18           So they have been through a significant  
19 learning process and have instituted a good contamination  
20 control program, have instituted a lot of things, have  
21 instituted an emergency response kind of activity -- much  
22 like the nuclear power plants. So it's a very different  
23 world than it was 10, 15 years ago -- even five years ago.

24           So it's not going to be as difficult as it  
25 was, and in fact, this is a relatively new facility; much

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1 different than some of the other facilities such as the  
2 gaseous diffusion plants and some of the other, older  
3 facilities.

4           In Tennessee we have three major -- we have  
5 the Oakridge reservation and there's three major  
6 facilities there. There's the K-25, or the Oakridge  
7 gaseous diffusion plant which is in --if you look at the  
8 lower adjoined area it's in the upper, left-hand corner.

9           And then right in the middle on the right-hand  
10 side, you have the Y-12 facility which is a pure defense  
11 operation -- primarily a pure defense operation -- but  
12 they only handle uranium -- enriched and depleted uranium.  
13 That's one, although the facilities are old -- and  
14 earthquake resistance is one of the major concerns  
15 relative to the facilities -- the facilities and a number  
16 of the processes are old. It's really a pretty  
17 straightforward operation.

18           And for those of you who have uranium  
19 facilities that you regulate in your own states, if you  
20 have a uranium fuel fabricator or if you have a -- as in  
21 Tennessee we have a couple of facilities that fabricate  
22 uranium products: penetrators for the Air Force and Army,  
23 uranium shields for some of the energy operations, DOE  
24 operations. That's what this facility, the Y-12 facility,  
25 is.

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1           It's just that they're high enriched and  
2 they're in certain kinds of shapes and fabrications that  
3 are Secret or classified or whatever. But all they do  
4 there, they process and the machine manufactures uranium  
5 products. So it's pretty straightforward in terms of  
6 regulations; it's just the classification issues are very  
7 complex.

8           The Oakridge National Lab is in, roughly in  
9 the middle, lower portion of that diagram, and there  
10 you've got reactors, research reactors, hot cells. You've  
11 got hot cells that are old, old hotcells that have -- in  
12 some of them that have tremendous quantities of  
13 radioactive materials that nobody knows what they are,  
14 when they were put in there, or what condition they're in.

15           And then there's this -- anything that you can  
16 imagine, any radioactive material that you can imagine has  
17 been or is being produced, has been or is being used at  
18 that site, in any kind of configuration that you can  
19 imagine.

20           Even areas where -- and I think most of these  
21 have been cleaned up -- areas where radioactive material  
22 was spread on the ground to understand the impact of the  
23 continuous radiation on a biosphere area. And once they  
24 got through with the experiment they just left it there.

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1 And that's one of the real problems at these sites -- the  
2 hot cells I mentioned.

3           Once they got through using something, once  
4 they got through with the process -- even nuclear reactors  
5 -- they just turned out the lights, closed the doors, and  
6 went to the next process. And that has created some real  
7 problems.

8           And right now they're dealing with a molten  
9 salt reactor facility that they started using the area as  
10 offices; despite the fact that downstairs there was a  
11 nuclear reactor with fuel in it. And then they found out,  
12 well the fuel is migrating up the pipes, and lo and  
13 behold, it was up there where the people were. One day  
14 you went to work in there and that was your office, and  
15 the next day you couldn't get close to the facility.

16           I want to make a couple of points. Yesterday,  
17 somebody in one of the meetings I was in yesterday made  
18 the point that he thought he was in the right place  
19 because the licensee or potential licensee applicant was  
20 saying, hey you're being too hard on us, and the public  
21 was saying, hey you're being too easy on them.

22           In this case right here, this was one week I  
23 was questioning DOE's plans and the release of facilities  
24 without adequate surveys, and hammering them pretty hard

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1 that they needed to be doing things very differently than  
2 what they were doing.

3           The next week -- and you can't see it very  
4 well but if you'll look at the bottom paragraph here  
5 that's expanded -- I sold out to the DOE or whatever. So  
6 I think I'm pretty close to on the right track here. The  
7 one thing I do know is I'm on the track that Mike Mobley  
8 believes he should be on and that is, trying to assure the  
9 protection of the public, the workers, and the environment  
10 from these facilities in Oakridge.

11           And also, as part of a Federal facilities task  
12 force for the conference, trying to assure that the same  
13 tack is taken for the facilities in Oakridge as is taken  
14 for the facilities in California, New Mexico, Colorado,  
15 the State of Washington, wherever else any facilities may  
16 exist.

17           Next slide. I just want to use this to remind  
18 everybody present that the states play a big part in the  
19 regulation of sources of radiation in this country. And  
20 I'm pleased with the tone of the discussions here. It  
21 seems to me that the NRC is recognizing this more,  
22 although there are some areas within the NRC where it's  
23 not necessarily apparent.

24           And I want to make sure the people understand  
25 that states are major regulators; not only are we

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1 regulating what I call the AEA materials in Agreement  
2 States, but the states are also regulating the naturally  
3 occurring and accelerator produced radioactive materials,  
4 and we're regulating all of the machine-produced  
5 radiations to one extent or another -- either totally or  
6 in conjunction with FDA and then certain areas in the  
7 medical arena.

8           And we have some Federal partners -- the NRC  
9 and the EPA -- and we recognize that. I do not consider  
10 the DOE to be a regulator; I consider them to be a user.  
11 So they're not part of this slide that I use in a lot of  
12 presentations.

13           Another slide I use -- I heard something this  
14 morning that reminded me of this. One of the things that  
15 we get into a lot of times when we're dealing with  
16 radiation issues is, you get into this question of people  
17 being very concerned about something being radioactive,  
18 and I always try to take the tack that, you're absolutely  
19 correct; everything is radioactive. Is it a problem? And  
20 that's something that we've got to deal with, we've got to  
21 address in this arena.

22           I think that this DOE situation offers us in  
23 the states some real opportunities. I was in a meeting  
24 last week in Oakridge, and I was suffering terribly from  
25 my cold at that point in time so I was having some fever,

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1 and I may have been delirious or whatever. But it seemed  
2 to me that the DOE was very interested in working with the  
3 states to deal with some issues that they face. In  
4 particular, the issue was the recycling of scrap metal --  
5 and you can go further than that -- the recycling of other  
6 materials out of these facilities.

7           There's an effort underway, there's a center  
8 being established in Oakridge to deal with the issue of  
9 recycling the scrap metals. And they're very concerned  
10 about, how can we do this, how can we proceed in this  
11 process? And I told them, one way you can proceed on this  
12 process is, you can forget about getting a standard out of  
13 the Environmental Protection Agency.

14           I'm not sure you're going to get a standard  
15 out of the NRC but I told them, the states every day are  
16 dealing with this question of volumetric contamination,  
17 we're dealing with this question of contaminated scrap  
18 metal. Last night we had a meeting of the SERC -- the  
19 Southern Emergency Response Council -- and we were talking  
20 about our response issues and to a person, everybody that  
21 discussed their issues talked about the number of scrap  
22 responses that they're making.

23           And every day we're making decisions in the  
24 states: is this a problem or is it not a problem? And I  
25 for one, believe that we're making these largely on an ad

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1 hoc basis using our best technical judgment and our best  
2 political judgment in our states. I would really like to  
3 see there being a process that we can make these judgments  
4 and have some level of national unity to it.

5 And I personally think it's a matter of the  
6 states sitting down and saying: here it is, here's what  
7 we're going to do, here's how we're going to do it. And I  
8 offered that to the DOE last week as, here's a way that  
9 you can do this.

10 You've got the procedures in place, you've got  
11 money in place, you can task the conference, the states  
12 can look at it and say, here's a methodology for  
13 volumetric contamination releases, here's a methodology  
14 for determining that this steel is clean enough to be  
15 processed or not clean enough to be processed, here's a  
16 way to address some restricted release issues. I'm not  
17 too keen on restricted release but I can bind to it under  
18 certain circumstances.

19 We've just got to deal with these issues. We  
20 are dealing with them in the states. I guess I'm somewhat  
21 tired of waiting for others to do the standards. It's  
22 kind of like the NRC in the Agreement States process.  
23 We're growing up, the states have a lot of technical  
24 ability, so let's utilize it effectively to move us down  
25 the road to where we need to be.

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1           And again, I'm going to ask the NRC to make  
2 sure that you are consulting with us in this process as  
3 you move forward to regulate the Department of Energy  
4 facilities. Thank you.

5           FACILITATOR CAMERON: Thanks a lot, Mike.  
6 We've heard from the NRC, DOE, and a state few on this,  
7 and I guess it sounds like everything is on track here,  
8 but maybe we'd better find out if Mike was delirious or  
9 not on this.

10           But how about some -- any concerns or  
11 questions out there among the people up at the table for  
12 right now? Kathy, with the K.

13           MS. ALLEN: Hi. I'd like to string together a  
14 few statements that I heard you guys make. Kathy Allen  
15 from Illinois. You are looking for facilities similar to  
16 NRC licensees or existing licensees where there are  
17 standards that can be met; facilities willing to  
18 participate in pilot programs using existing NRC or DOE or  
19 national or state standards; you'd like to do a brief  
20 examination of accelerators during some of the pilot  
21 programs; the states are invited to participate or observe  
22 on a site-specific basis; and you'd like to see value  
23 added to the regulatory process.

24           Jay, you said that you'd like -- that OER  
25 favors external regulation by the same regulations and

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1 regulators as regular licensees. My question is, was  
2 there any consideration given to having the Agreement  
3 States work in part of the pilot program in regulating  
4 some of these DOE sites, specifically sites like Ferme Lab  
5 or Argon, that seem to meet most of these criteria?

6 It's a loaded question; go ahead.

7 DR. PAPERIELLO: That thought was given to it,  
8 and we decided for purpose of a pilot that it wouldn't be  
9 done.

10 MS. ALLEN: Any specific reasons why this  
11 wouldn't work?

12 DR. PAPERIELLO: Because to get this program  
13 off the ground and get the buy-in, particularly of the  
14 various Congressional committees and the like, it was just  
15 another layer of complication that would have just made it  
16 extremely difficult.

17 I mean, you need to realize, there is not --  
18 there are some committees in Congress that are very  
19 interested in us. There are some committees that are  
20 highly suspicious of the whole thing, particularly the  
21 Senate Armed Services -- anything that deals with defense  
22 programs and the military has a lot of suspicion about  
23 this whole thing.

24 And so to get the buy-in that we needed from  
25 the political side of the house, it was -- this program

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1 was, you know, carefully crafted not to get a start. The  
2 idea was to get a start. Clearly, what we have today is  
3 not what was in either of the two earlier reports; you  
4 need to appreciate that.

5           And so the thing is, this is extremely  
6 important that this program get started and this program  
7 be successful if it's going to go forward. We may think  
8 it's a great idea, but I'm telling you, there are a lot of  
9 people -- particularly who are going to have to pay for  
10 this and by legislation, approve it -- who, you know, are  
11 on the fence.

12           One of the things is, what's so broken? Where  
13 are the dead bodies? Why should Congress who wants to cut  
14 the budget, spend any more money? You need to appreciate  
15 this thing. There is not a -- it's not like, you know,  
16 you've got the two houses on the Hill saying, you know,  
17 go, go, go.

18           MS. ALLEN: So what role do you see states  
19 like California playing in this -- like at Lawrence  
20 Livermore? I mean, are they going to be an active part or  
21 just sort of sitting on the sidelines observing NRC  
22 regulating DOE?

23           DR. PAPERIELLO: I'm sorry, I don't understand  
24 what you're --

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1 MS. ALLEN: You said that you wanted to get  
2 the states involved, so in places like California, what  
3 role does the state have in this program? I know they  
4 were involved in some of the discussions, but are they --  
5 they won't be performing any inspections. Are they just  
6 off to the side to observe how you regulate the DOE site?

7 DR. PAPERIELLO: That's right. I suspect  
8 people will not be shy about making comments and offering  
9 advice or doing the thing. I mean, we're -- I think  
10 people need to appreciate the box we're building around  
11 this to get a start, and I think you need to be extremely  
12 sensitive to, if this thing is done wrong, it won't go  
13 beyond the pilot stage.

14 MR. THUNDERBIRD: Bob Thunderbird from  
15 California. Has NRC given any thought to the eventual  
16 amending of the Agreement State's program and authorizing  
17 the Agreement States to do these inspections?

18 DR. PAPERIELLO: It is -- the final decision  
19 will probably not be the NRC's.

20 MR. MOBLEY: I think that requires a careful  
21 crafting of the Atomic Energy Act. I have a draft that's  
22 carefully crafted that does that, but it's a very specific  
23 kind of thing and it would be legislation much like what  
24 was done to establish, clearly establish the regulation of

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1 RICRA activities over Federal facilities. It can be done  
2 but it's a change in the Atomic Energy Act.

3 I don't think it requires any change in the  
4 Agreement State part of the Act, it just requires a waiver  
5 of sovereign immunity over the Department of Energy  
6 activities and the removal of their self-regulation  
7 ability under the Atomic Energy Act.

8 But I have a draft piece of legislation that  
9 does just that. And Carl's absolutely correct, and this  
10 was one of the things that I found out when I worked on  
11 the advisory committee. There is a large group within  
12 Congress as well as within some of the environmental  
13 agencies and within some of the environmental activists  
14 that are out there, that are very concerned about, for one  
15 reason or other -- the Congress is concerned about because  
16 these defense facilities will be regulated.

17 They haven't stopped to look at the fact that  
18 they're already regulated under RICRA, but it's almost  
19 like, well regulating these nuclear activities there would  
20 create some kind of problem. I personally don't think it  
21 will, but they think, they have a perception that it will.  
22 Until it's demonstrated that it won't, that it does add  
23 value or whatever, then we won't be able to get over that.

24 I don't know how we deal with the question  
25 that Kathy asked. I mean, her concerns -- and I

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1 appreciate them very much -- are exactly what mine are. I  
2 just know that there's somehow we've got to walk through  
3 this process and I'm very interested in how we craft it in  
4 California and then how we craft it in Tennessee.

5           One of the things that's somewhat concerning  
6 to me is, is this question of -- and particularly in  
7 California I believe -- a lot of the facilities there are  
8 accelerator facilities and I just don't see how the NRC's  
9 going to have an ability to look at those. The facility  
10 in Oakridge may be a little bit cleaner but I'm not even  
11 sure about that.

12           FACILITATOR CAMERON: Let's hear from Ed  
13 Bailey in California.

14           MR. BAILEY: I guess I don't necessarily see  
15 our role in the same light that Carl does. We're going  
16 into the project on the assumption that if the project is  
17 successful, the Atomic Energy Act will be amended. It  
18 will either, I would suggest, give NRC authority over Norm  
19 and accelerators -- which opens up a whole new dimension  
20 for NRC nationwide -- or it would allow states to regulate  
21 Federal facilities much as they do under many of the EPA  
22 programs and which we will be doing under NUCHAPS for  
23 radionuclides very shortly.

24           And I fully anticipate that the State of  
25 California will regulate radioactive materials and

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1 radiation producing machines at Lawrence Berkeley National  
2 Lab within the next decade. I'm not willing to waste our  
3 time participating and sitting sort of on the sidelines --  
4 and we may have some unique situations.

5 I hate to bring it up, but FACA has been  
6 mentioned in regard to this whole work area. We ran into  
7 some really strange problems at the State of California,  
8 i.e., radiologic health can't participate in it because of  
9 FACA; neither can the employees of Lawrence Berkeley  
10 National Lab because they are also employees of the State  
11 of California, not of DOE. They work for the University  
12 of California.

13 So we are probably going to end up, as  
14 envisioned yesterday, with two separate reports: one  
15 compiled by State of California employees --that is the  
16 Lab in the university and Rad Health; and a second one  
17 edited by DOE and NRC -- the Federal side of the house.  
18 And we may come to very divergent opinions on how they  
19 should go.

20 But I will make one statement. I found it  
21 humorous. Some of the lab people -- not just at Lawrence  
22 Berkeley but at Lawrence Livermore, which is a much more  
23 complicated lab -- said we're really not looking to  
24 replace one Federal bureaucracy in Washington with another

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1 Federal bureaucracy in Washington for regulating our site.  
2 We want the state to do it.

3 FACILITATOR CAMERON: Before we --

4 DR. PAPERIELLO: I'd like to make a comment.  
5 I don't disagree but I don't know where we're going to  
6 come out; that's part of the thing. I know how -- I can  
7 think of a number of things we can do to wreck the  
8 process, but how we're going to come out at the end I  
9 don't know.

10 Because clearly this thing has taken a lot of  
11 twists and turns since Secretary O'Leary first struck out  
12 in the early -- with the first task group, the first  
13 committee in '95. And right now, what my primary goal is,  
14 to get this pilot going and making sure that we don't stub  
15 out toes.

16 Because my feeling is, is the -- I'm not sure  
17 I can make the outcome successful, but I'm quite sure that  
18 I can make the outcome unsuccessful. So you know, that's  
19 what I'm trying to caution people. If we don't handle it  
20 right we can make it unsuccessful.

21 FACILITATOR CAMERON: I think we have a  
22 clarification on a number of points raised.

23 MS. RATHBON: Yes, this is Pat Rathbon from  
24 the NRC. Late yesterday afternoon I did receive a fax  
25 from our Office of the General Counsel regarding the FACA

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1 issue. And basically, the point that the lawyers are now  
2 taking is that it will be acceptable under the OMB  
3 interpretation of FACA, to have both the State of  
4 California and employees of the laboratories,  
5 participating in the pilots.

6           However, it might be a better way to go, which  
7 is the way Ed suggested, that the Federal employees -- DOE  
8 and ourselves -- write the report, but that the state and  
9 the laboratory offer independent view on that. And we  
10 might actually, that way, avoid a consensus, you know,  
11 long, drawn-out process, but everybody can get their voice  
12 out on the table.

13           FACILITATOR CAMERON: We're always trying to  
14 avoid that.

15           MR. COLLINS: Steve Collins from Illinois.  
16 We've been in discussions with most of the Federal  
17 laboratory facilities in Illinois, and one of them is  
18 basically nothing but an accelerator. There's virtually  
19 nothing there that would be under NRC rule under any of  
20 this, and we would certainly like to see DOE have a pilot  
21 project at a facility like that under state regulations.

22           Simply get the waiver of sovereign immunity to  
23 have one of the pilots be a facility that wouldn't be  
24 under NRC regulation no matter what happened, under the  
25 Atomic Energy Act was totally revised to allow them to

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1 have accelerators, and work with the state radiation  
2 regulatory program to do that.

3           If you take -- that facility for example, it  
4 has its own radiation protection program for the facility  
5 and its employees, and then they've got DOE staff in there  
6 that independently monitors that. That would go away and  
7 the DOE Headquarters' staff that spends time with regard  
8 to radiation health and safety would go away.

9           Those two items that would go away would be  
10 replaced by the state's program and ours, at \$110 per  
11 profession hour, is cheaper than what comes out of either  
12 DOE or NRC. So it would be value added. We think we  
13 would do the job for no more time and therefore, less  
14 dollars overall, so it would be value added.

15           FACILITATOR CAMERON: Let me ask DOE to  
16 perhaps put a finer point on that. Is there a way that a  
17 state, in terms of non-AEA material, could enter into a  
18 pilot with DOE under some type of contractual arrangement?

19           MR. LARSON: My understanding is that a waiver  
20 of sovereign immunity really needs to come through law,  
21 through Congress, that it can't be waived by the DOE or  
22 the Office of Energy Research within the DOE.

23           The Office of Energy Research, we share your  
24 viewpoint that Ferme Lab would be an excellent opportunity  
25 to do a pilot. We have very limited input into -- the

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1 Office of Energy Research has very little input on the  
2 selection. I think part of that reasoning behind  
3 selecting the LB&L is that it isn't just one accelerator  
4 but they have several accelerators, plus they have some  
5 radioactive materials as well. So it would give a little  
6 broader viewpoint of this simulated, regulatory pilot that  
7 we're talking about.

8 I'd like to try to address part of Kathy's  
9 question as well, earlier. The Office of Energy  
10 Research's position on external regulation as I said  
11 before, we favor external regulation by the same  
12 regulators and by the same regulations as private industry  
13 and academia.

14 And also, part of our position -- and again,  
15 this is the position of the Office of Energy Research; I  
16 can't speak for the entire department -- but the Office of  
17 Energy Research also favors active and meaningful  
18 participation from the states, and we've worked hard to  
19 get involvement by the State of California and are pleased  
20 that Ed Bailey has been participating in our last few  
21 conference calls and meetings.

22 And we're still in the process of putting  
23 together the work plan of what we're planning on doing at  
24 the Lawrence Berkeley National Laboratory. The conference  
25 calls that we have began maybe a month ago, so it's just

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1 beginning and we're working on trying to define exactly  
2 what it is that we're going to be doing at LB&L, and also  
3 trying to define what it is that the State of California  
4 would be doing.

5 FACILITATOR CAMERON: Okay, we do have to get  
6 rolling here on another DOE-related topic, but let's do  
7 Mike and then Aubrey and then Kathy and then go on to the  
8 next session, okay? Mike.

9 MR. MOBLEY: Steve, I love your idea and I  
10 think that it's something that we ought to pursue. I  
11 mean, if we're going to do simulated regulation by the NRC  
12 we can do simulated waiver of sovereign immunity and have  
13 you go in there and show them what you can do at that  
14 facility and go forth. I think it's a great idea and one  
15 that ought to be pursued.

16 FACILITATOR CAMERON: Okay. Aubrey?

17 MR. GODWIN: Godwin, Arizona. I point out,  
18 many of our states -- if not just about all of them --  
19 have a section in there talking about agreement with the  
20 Federal Government in which it probably says something  
21 along the line: the agency may, subject to the approval  
22 of the Governor, enter into agreements with Federal  
23 Government, other states, or interstate agencies, whereby  
24 the state will perform on a cooperative basis with the  
25 Federal Government, other states, or interstate agencies,

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1 inspections or other functions related to controlled  
2 sources of radiation.

3           That allows a state to enter into it. Now,  
4 this sovereign immunity thing really boils down to, if you  
5 find a problem are they going to fix it? And I hate to  
6 tell the Federal Government this: the downside of it is  
7 that our reports are public records. So if you do buy in  
8 you probably, you know, will want to research and consider  
9 the recommendation of the state.

10           But it seems to me the states probably have  
11 the authority to enter -- particularly non-Atomic Energy  
12 materials -- right now into a cooperative agreement with  
13 DOE, to do some regulation of non-AEA sources of  
14 radiation. So you might want to look into that for us to  
15 get the cooperation of the state. We may have to pay them  
16 too, but that's another issue.

17           FACILITATOR CAMERON: Kathy.

18           MS. ALLEN: Kathy Allen of Illinois. This is  
19 a puffball question for you, Carl. How long are you  
20 planning on doing the pilot programs for at each facility?  
21 Is it a set period of time that you're looking at, or just  
22 as everyone comes online until the year 2000 and then  
23 closing it out?

24           DR. PAPERIELLO: I think it's going to depend.  
25 I don't think we've worked all that out. I think the

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1 intent was to add the facilities and continue as we go  
2 along. But what we would do for a place like Lawrence  
3 Berkeley would clearly be different than what we would do  
4 for a facility where you were going through the  
5 authorization for a dry cask, independent, spent fuel  
6 storage facility, which would be a much more longer  
7 process.

8           So I think the intent was, is to add  
9 facilities so eventually we would be -- until we got  
10 somewhere between six and ten facilities and had enough  
11 experience so we could write a recommendation to Congress.

12           FACILITATOR CAMERON: Okay. Last but not  
13 least, it's 24-hours-in-a-day-Mobley.

14           MR. MOBLEY: I never give up. I like the  
15 ideas I'm hearing here. I just want to caution you in the  
16 states that Carl's comments regarding the problems in  
17 Congress as well as elsewhere are very, very pertinent,  
18 and if you do anything I would really, at a minimum,  
19 please let me know about it so that we can have some  
20 insight within the states all over as to what's going on.

21           We have a Federal Facilities Committee within  
22 the conferences dealing with the DOE facilities, and every  
23 DOE state -- even Idaho which is not an Agreement State --  
24 has somebody on that committee, and we're trying to work  
25 these issues. But it's very important that we understand

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1 that there are some downsides to this. You just don't  
2 want to jump in this and start going gung-ho without  
3 understanding some of the potential downsides to it.

4           We want to move forward and progress, I think,  
5 in a very step-wise fashion to effect this situation;  
6 whereas in the past, if any of you have been around you've  
7 heard me stand up here and say hey, I want to get in  
8 there, I want to do the deal. Well, we're getting in  
9 there and we're doing more.

10           And for example, the K-25 site at some point  
11 in time in the very near future -- probably five years or  
12 less, will probably be totally regulated by the State of  
13 Tennessee. There won't be any DOE operations on it, but  
14 whatever else is there will be regulated by the State of  
15 Tennessee.

16           So a lot of those kind of things are already  
17 going to be happening because the DOE operations are  
18 shutting down at certain sites. But there are a lot of  
19 other opportunities that we can take advantage of, but we  
20 have to take advantage of them very wisely and we have to,  
21 I think, work with the NRC and Department of Energy to  
22 effect this if we wanted to move forward and not stumble  
23 early, as Carl said.

24           Thank you.

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1 FACILITATOR CAMERON: Okay, I'd like to thank  
2 Carl and Jay and Mike for their thoughts on that. The  
3 next panel is sort of interesting because on the one hand  
4 you hear a lot about the external regulation of DOE which  
5 is sort of a real high level thing, but then there are  
6 these fascinating situations out in individual states  
7 where the state government, it has a relationship with the  
8 Department and it causes some problems. And we're going  
9 to hear from a number of states. Bob Quillin is going to  
10 begin from Colorado.

11 MR. QUILLIN: I just want to reiterate Carl's  
12 and Mike's comments about the pitfalls of this process  
13 because, just to fill in a little bit of history, I was  
14 the person who represented the State Radiation Control  
15 Program Directors before Congress when the Bill first came  
16 up. And Mike was supposed to be there but couldn't make  
17 it at the last minute so it was just myself.

18 In the first place, they had great difficulty  
19 bringing this Bill to a hearing. It kept getting  
20 postponed and even after it was heard there was no action  
21 taken and I was in contact with committee staff and  
22 basically there was a behind-the-scenes negotiations going  
23 on where DOE was going to volunteer to do the study and  
24 then they were going to drop this Bill entirely.

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1           So the initial legislation did not have much  
2 chance of getting out of the House of Representatives, let  
3 alone through Congress and to the President.

4           Secondly, Mike was on the roving committee  
5 which ran around the country to various DOE facilities,  
6 and when that roving committee came to Colorado I had a  
7 chance to testify before it. And from my perspective,  
8 standing up there, getting questions thrown at me from the  
9 various members of the committee, there certainly wasn't  
10 any general consensus of what they wanted done. There  
11 would seem to be a status quo group and an EPA group and a  
12 little OSHA group, and then Mike Mobley and the NRC group.

13           So there's not a groundswell outside of this  
14 room, maybe, to regulate DOE. And I agree with Carl; this  
15 thing has to be done carefully because there's more  
16 people, I think, want to see it fail than want to see it  
17 succeed.

18           So anyway, let's go on to this. I'm sorry  
19 that I didn't get copies of this. I didn't know part of  
20 the people wouldn't be able to see the screen here. But  
21 in Colorado at the Rocky Flats plant, we have what's  
22 called a National Conversion Pilot Project, the NCPP. And  
23 the purpose of this project was to develop a commercial  
24 use of the existing industrial facility, which Rocky Flats

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1 basically was, and obviously to provide commercial jobs  
2 for existing staff who were going to be laid off.

3           The project was to be in three phases. The  
4 first phase was a feasibility study where they were going  
5 to look at the feasibility of re-use of a facility. And  
6 then the re-use part of that issue was going to be that  
7 the contractor was to de-con the facilities in phase 2,  
8 and they were supposed to develop licenses and permits  
9 necessary to operate the facility once it was de-conned.

10           And then the third phase is to begin  
11 commercial production, and the idea was that they were  
12 going to use these industrial facilities to take  
13 contaminated metals and turn them into contaminated  
14 containers which they were then going to use for shipment  
15 of DOE waste to disposal sites.

16           The paradox of this was that between phase 2  
17 and phase 3 that the whole thing was going to be put out  
18 to bid again, and so theoretically you could have one  
19 contractor doing phase 1 and 2 and another contractor  
20 doing phase 3, which was the operation part of it.

21           The project started in 1994, and in July 1994  
22 a company called Manufacturing Sciences Corporation --  
23 which also currently operates and has operated in the  
24 State of Tennessee at Oakridge -- contacted our division

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1 during the stage 1 of the process to inquire about  
2 licensure of the facility.

3           In November 1994 the stage 2, the de-con  
4 process started. In April 1996 the Manufacturing Sciences  
5 Corporation, MSC, officially notified the division of its  
6 intent to apply for a Colorado Radioactive Materials  
7 license. So we're talking about several buildings on the  
8 Rocky Flats plant which would be operated under a state  
9 license rather than under some sort of DOE umbrella.

10           In July 1996 MSC submitted the license  
11 application and they identified themselves as the licensee  
12 applicant. In other words, their company was named. Then  
13 month later they submitted an amended license saying,  
14 there's no name on the application. So this is an  
15 interesting thing. How do you issue a license when  
16 there's no name on the license?

17           For the process to proceed we had to issue  
18 some sort of a license because this was the requirement so  
19 that they could go from phase 2 to phase 3. So we came up  
20 with the idea of a sample license. You get a license, we  
21 stamp "Sample" in big letters across it. The facility was  
22 really not valid.

23           In 1996 we amended that sample license because  
24 they came up with additional radionuclides and  
25 manufacturing processes that they had thought of that

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1 weren't included in the first application. As it stands  
2 to-date, there are a number of unresolved issues here.  
3 We're not in phase 3 yet: we're between phase 2 and phase  
4 3 right now.

5           And the reason we're sort of in limbo, or I  
6 should say MSC and the whole project is sort of limbo --  
7 is that the current plant operator has not been the most  
8 cooperative partner in this process, as was the previous  
9 plant operator. Because obviously this money they see as  
10 coming out of their pocket and not going into their  
11 pocket. Their whole money is going into this thing.

12           So anyway, we're waiting for a complete  
13 license application from Manufacturing Sciences  
14 Corporation, identifying names, players, etc. We have to  
15 try to clarify who's going to own these buildings when  
16 this whole process ends, because the idea is that DOE was  
17 going to lease the buildings to the corporation.

18           Does that mean that DOE is going to take these  
19 buildings back or is some other entity seen as taking  
20 control of these buildings at some time in the future when  
21 DOE hopes they're going to be completely out of this  
22 facility when they wash their hands of Rocky Flats?

23           There was the question of the radioactive  
24 wastes that are going to be generated by the facility.  
25 DOE wants to take the position that any waste that are

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1 generated are commercial wastes. The local compact, the  
2 Rocky Mountain board, takes the position that once these  
3 are DOE materials they're always DOE materials and we're  
4 not responsible for disposing of DOE waste, and there's a  
5 Low Level Waste Compact Amendment Act.

6           And one of the interesting items that's really  
7 tying things up now are the error permits which have been  
8 issued to Kaiser Hill, the operator at Rocky Flats,  
9 because they say that if this plant, this facility is  
10 operated as an independent facility, they would then have  
11 to amend all the permits that they had at Rocky Flats and  
12 change it to the fact that these are not DOE contractor  
13 employees anymore, they are members of the public right in  
14 their midst.

15           And consequently, they feel that they would  
16 not be able to meet the EPA NEPA discharge limits and  
17 other EPA criteria on air discharges. Which is kind of an  
18 interesting argument and I'm not an expert in all of that.

19           And then finally, the last thing that needs to  
20 be resolved is the general operations control. The issues  
21 of: who's going to provide security, who's going to  
22 provide fire safety, who's going to provide trash removal?  
23 All these things of issue seem to be up in the air and not  
24 yet resolved for this operation.

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1           So what started off as a great idea has fallen  
2 on a lot of procedural issues which have yet to be  
3 resolved. And although DOE still wants this process to  
4 move forward, there are obstacles in the place of its  
5 progress.

6           Any questions? Thank you.

7           FACILITATOR CAMERON: Okay. I know John  
8 Erickson is up next, and I think John -- you need help  
9 with your slides, right?

10           MR. ERICKSON: I wanted to make a comment  
11 about groundswell of support for this external regulation.  
12 It's true, I think members of Congress are a little bit  
13 skeptical, but speaking from a Hanford point of view --  
14 and I recognize that Hanford usually has its own point of  
15 view on just about everything -- there's a huge, huge  
16 groundswell of support from the stakeholders for external  
17 regulation.

18           Now, there are stakeholders and there are  
19 stakeholders. At Hanford, of course we have a very  
20 educated set of stakeholders that have been very active  
21 for 10 or 15 years. And they're leading parades down the  
22 street that NRC's coming any day to regulate DOE. So the  
23 environmental community, if nothing else -- now again, the  
24 stakeholders and stakeholders may not want that part of

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1 the support, but it's there and it's going to affect the  
2 way we all do business.

3           Anyway, I'm going to quickly go through  
4 Hanford in five or ten minutes if I can. I'm going to  
5 give you a Hanford 101 for those of you that want to know  
6 a little bit more about Hanford, but not very much; some  
7 of the issues on privatization which we're struggling  
8 with.

9           And I wanted to say a word or two about our  
10 air emission program because we're one of the few states  
11 that have an active air emission program in a DOE site.  
12 And of course then, we have a not of non-regulatory  
13 programs -- the dose reconstruction and that sort of  
14 thing.

15           So that's what Hanford looks like. It's on  
16 the Columbia River; it's got 560 square miles. The white  
17 dots along the river there are the reactor sites to all  
18 the 100 areas. Right in the middle of the site are the  
19 200 areas that -- were most of the tanks are where they've  
20 proposed most of the waste will be kept. Right also in  
21 the center of that site is the commercial low level waste  
22 site -- that little white dot; it's not identified. But  
23 that's on leased land in the State of Washington.

24           And WIPPS has a facility on the river down  
25 there on the lower right. So 560 square miles -- a vast

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1 majority of it is not contaminated at all. They generated  
2 -- you can see there, 56 metric tons of plutonium, of  
3 which 11 metric tons are still on-site -- which is one of  
4 the main hazards.

5           The hazards that we deal with is the  
6 plutonium, the 11 metric tons, and primarily -- this isn't  
7 in order of risk at all. Probably the highest risk one  
8 there might be the spent fuel that's in the K basins which  
9 are right on the river. A lot of plutonium in it, too.

10           And they were busy building a fuel storage  
11 facility, of which you might want to consider as one of  
12 your pilot projects -- they're building it in the 200  
13 areas -- to move that fuel from the river to the 200 area  
14 plateau. But knowing Hanford, they're probably building  
15 it entirely different than anything else in the world, so  
16 you might not want to consider it.

17           The high level waste tanks of course,  
18 everybody hears about the tanks and I have another slide  
19 on that. Contaminated buildings in the 100, 200, and 300  
20 areas. There's a 400 area also; it's called the FFF you  
21 hear about. It's a liquid sodium cooled reactor that may  
22 burn MOX fuel someday -- it may not.

23           And the buried waste. The buried waste is one  
24 of the things they're actively working on cleaning up.  
25 They're moving a lot of those -- the cribs and trenches

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1 from the river area to the central area plateau. They've  
2 built a huge facility called ERDIF -- Environmental  
3 Restoration Disposal Facility -- and it's many, many  
4 hundreds of acres. It's right next to the commercial low  
5 level waste site.

6           The tanks -- there's 177 of them. They're all  
7 in the 200 areas. Most of them range from a half-a-  
8 million gallons to a million gallons. Many of them -- 149  
9 of them are the older, single shell tanks. This is where  
10 most of the Hanford money goes. I think their annual  
11 budget this year for DOE RL on the tanks is 300 million.  
12 So the big push is to get that waste out of the tanks --  
13 68 leakers, known or suspected leakers, at various levels.  
14 Most of the liquids have been removed but the salt, the  
15 high level waste, remains.

16           We all have these regulations about the prime  
17 contractors -- and this is the specific, privatization  
18 issues we are concerned with. It's real clear from our  
19 regulations, what a prime contractor is, what they do, and  
20 for years that's the way DOE has operated and perfectly  
21 legal.

22           Now it's changed. Up to, I guess, last fall -  
23 - about a year ago, Westinghouse was the prime contractor  
24 and they operated most of the facilities. Nowadays we  
25 have four prime contractors. PNNL is a national

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1 laboratory R&D. Bechtel Hanford, Incorporated is  
2 primarily involved in environmental restoration -- digging  
3 the dirt, moving the contamination up to the 200 area  
4 plateau.

5           Hanford Environmental Health Foundation is the  
6 other prime on occupational health and safety. Flour  
7 Daniel is called a PHMC -- the Project Management Hanford  
8 Contractor. They don't -- they only do oversight.  
9 They're the only ones called the prime. So we go to the  
10 next slide, and under Flour we have the subcontractors.  
11 There are six contractor now reporting to Flour to do the  
12 real work -- much in the way of tanks, high level waste,  
13 operation of all the facilities.

14           So there's the question of, how far does the  
15 DOE umbrella extend? To the subs? Well, maybe to the  
16 subs; it's DOE material they're working on, it's on site -  
17 - that's the standard arguments -- it's DOE Rad on the  
18 site. So these companies now -- it brings us to the group  
19 at the bottom -- the enterprise companies.

20           These companies up on top have split in half -  
21 - not really split in half. They've established a  
22 separate set of companies with management, and addresses,  
23 and presidents -- called the Enterprise companies. Now  
24 these companies are put together to operate someplace else  
25 -- we're really not sure. Inside the fence, outside the

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1 fence; kind of both ways. Once again the question is, how  
2 far does the DOE umbrella reach?

3 Here's the last clause in that exemption part  
4 of our regulation. Any other prime contractor or  
5 subcontractor of the DOE or of the NRC, when the state and  
6 the NRC jointly determine: 1) that the exemption is  
7 authorized by law, and 2) that there's adequate assurance  
8 that the work can be accomplished without undue risk to  
9 the public health and safety.

10 And that's what has caused the flurry of  
11 activity between us and DOE and the subcontractors.  
12 Primarily we're looking at the subcontractors. According  
13 to our regulations we have to regulate the Enterprise  
14 companies, although to-date that hasn't been very  
15 satisfactory, and I think it's because they're not working  
16 outside the fence; they're working inside the fence.

17 Now, let's go to the TWRS slide real quick  
18 because that's a separate issue that I put in, and I don't  
19 know how this fits in on this pilot project or the MOU.  
20 TWRS stands for Tank Waste Remediation System. It's a  
21 privatization initiative that DOE started to vitrify the  
22 waste in those tanks.

23 We're hired two contractors, privatized  
24 contractors. They're going to have to supply their own  
25 money. British Fuels and Lockheed Martin I think, are the

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1 two. They're going to compete during phase 1 and both  
2 build a pilot plant on the Hanford site. And during that  
3 time DOE will fund them; during that time DOE will  
4 regulate this pilot phase.

5 And at the end of that pilot phase -- and how  
6 they're going to regulate is -- there's a brochure --  
7 they've established the RU, which is called the Regulatory  
8 Unit -- to regulate TWRS privatization contractors. I  
9 just got this in the mail a few weeks ago. Openness,  
10 independence, efficiency, clarity, reliability.

11 At the end of that pilot phase, my  
12 understanding is NRC will regulate the chosen contractor.  
13 Now that was up to earlier this summer. I'm not sure  
14 that's still part of the deal or not. State role is still  
15 undetermined; were invited in but not too often.

16 So in the meantime, quickly, our Agreement  
17 State program goes on. You see the first two names on  
18 that list are really Enterprise companies that have come  
19 to us for licenses already. One of them was actually a  
20 license before this change in privatized contractors.  
21 These licenses are on the Hanford reservation doing DOE  
22 work on DOE Rad. Why we're licensing we're not too sure.

23 The second group is another privatization  
24 issue. The first line, Interstate Nuclear. The laundry -  
25 - which DOE used to do their own laundry -- they

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1 privatized it. Interstate came in, built a facility off-  
2 site, but processed all the DOE laundry. And we license  
3 them.

4           ATG is another company that is a private  
5 license, privately licensed by us and have a huge waste  
6 processing contract for gassification or vitrification for  
7 DOE waste -- located right next to the DOE site. And  
8 Bechtel has other research and development facilities off-  
9 site that have state licenses. And then the other license  
10 in the area, you can see where we are.

11           Quickly talk about the air emissions program.  
12 It's in Nishaps, delegated by the EPA now. We have a  
13 state clean air act. The regulations are in our sister  
14 agency, the environmental agency, Department of Ecology,  
15 but the enforcement of those, the radionuclide portion is  
16 in our agency in the Department of Health. It's working  
17 quite nicely today; hasn't always; may not tomorrow.

18           There's 285 emission points regulated. All  
19 the facilities -- it turns out this program is one of the  
20 more powerful regulatory programs on Hanford, because  
21 virtually everything they do in clean-up, tri-party  
22 agreement activities really have to have -- and they're  
23 going to build a facility -- it's a Rad issue. They have  
24 to come up to us for notice of constructions and permits  
25 and stuff. So while we're not one of the signatories on

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1 the tri-party agreement, all of a sudden we have to be  
2 actually first in line to be discussed.

3           The size of the program: 11 people. A little  
4 over a million dollar budget a year. Again, very  
5 successful program. A lot of support -- unlike what Steve  
6 said about EPA -- EPA supports us quite a bit. The  
7 radiation and air program, anyhow, in Region 10.

8           The Hanford CERCLA EPA people are a little bit  
9 harder to deal with, I think. We have civil penalty  
10 authority but we haven't issued any. Most of the stacks  
11 are in compliance or working toward compliance -- some of  
12 them are very old, of course.

13           This is the last slide. We also, in the top  
14 two there, we have non-regulatory programs. It's very  
15 similar to the AIP program, the nationwide DOE program  
16 except Hanford does it different, so we're not part of the  
17 AIP program.

18           We provide support to the tri-party agreement  
19 to our sister agency for radiation issues -- when they  
20 ask, which isn't often enough, but more than they used to.  
21 Especially now that they've recognized -- the other  
22 regulatory agencies have recognized that the air pathway  
23 regulated by health is probably the most important. We  
24 tend to be involved in just about everything.

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1           And the endless health studies: dose  
2 reconstruction; ATSDR you probably heard, has proposed to  
3 spend \$50 million doing medical monitoring around Hanford  
4 alone. I think the latest number I heard for the next  
5 years is \$150 million for health studies -- and that's not  
6 the legal bills at all. It's growing -- that part of the  
7 pie is really growing.

8           That's all I have. Oh, yes, I have one last  
9 slide. Current status: waiting for NRC response; waiting  
10 for DOE response.

11           (Laughter.)

12           FACILITATOR CAMERON: Thanks, John. Are there  
13 any questions? I think the last slide probably summed it  
14 up. Why don't we try to finish up with the DOE and then  
15 we'll take a break and then come back and do Don Cool and  
16 the KI portion, because I know people are getting tired.

17           Stan Marshall, State of Nevada, is going to  
18 talk about the special DOE problem there.

19           MR. MARSHALL: I had some fun putting this  
20 paper together and thought I would take a little different  
21 tack on describing a story. This first slide might be in  
22 for the Ed Bailey Bad Slide Award. I don't know how you  
23 guys do your slides, but anyway the point of this one is  
24 to -- is basically my who, what, when, where, and how to  
25 reach me slide.

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1           The point of it is that -- I recognized a lot  
2 of discussion today has talked about change that we're all  
3 undergoing. My office has moved twice in the last four  
4 years. This is the recent location as of July 1. We have  
5 been Web sited, we have been E-mail addressed, and all of  
6 this stuff is going to be in the new CRCPD directory so  
7 you don't need to worry about what's up there.

8           A few months ago NRC staff contacted me to  
9 begin arrangements for the first Nevada IMPEP review, and  
10 team leader Dick Blanton asked me what time in June this  
11 summer might be good for an IMPEP team to do its thing.  
12 And I mentioned we just moved July 1.

13           I told him, no time Dick, for two reasons.  
14 Number 1, the Nevada legislature would still be in  
15 session, and number 2, if things went as hoped, we would  
16 be moving on June 30, and frankly I didn't want to be  
17 doing any kind of audit out of a box on the curb, let  
18 alone an audit under new criteria out of a box on the  
19 curb.

20           NRC agreed to postponement of this audit until  
21 August, at the indicated address, at the indicated phone  
22 number and fax number, and at the indicated E-mail address  
23 and Web site. Yes folks, things have changed a lot for  
24 Nevada's radiation control program.

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1           We provided some of the finest restaurant  
2 opportunities in Carson City for the audit team, good room  
3 rates, and private offices for each of the audit team  
4 members. I seem to think they had a pretty good time while  
5 they were here.

6           Ask them yourself: Dick Blanton, team leader;  
7 Jack Horner, Region 4, field office Walnut Creek; and Don  
8 Bond, State of California; with Charles Hackney, Region 4  
9 Arlington, joining them, and Paul Lohouse, Deputy  
10 Director, OSP, on August 29th.

11           DR. PAPERIELLO: Well, if that one comes  
12 before the MRP I'll look at it really closely.

13           (Laughter.)

14           MR. MARSHALL: But don't think these perks of  
15 good room rates and private offices had anything to do  
16 with our audit outcome. We are receiving some  
17 suggestions; we are receiving recommendations, too. But  
18 at least we got moved in before they came. No lives, no  
19 jobs were lost in the process.

20           On to the issue at hand here. Now, adamine  
21 snowcapped, in Spanish I understand, it is a remnant of  
22 the great basin from west of the Rockies to the Sierra  
23 Mountains. It's known for gambling, gold, and government  
24 -- what I call the 3 G's of Nevada -- the three largest  
25 industries and employers.

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1 Nevada was once described as the last  
2 discovered territory of the North American continent --  
3 except for Alaska, Arizona, and I'm sure parts of Canada.  
4 It is the home for part of the Pony Express, it is where  
5 Mark Twain became somewhat famous for this time in  
6 Virginia City during the era of the Comstock Load. It is  
7 the 7th largest state in this country with approximately  
8 the 7th smallest population, despite being the fastest  
9 growing state since at least 1980.

10 Nevada, it means a lot of different things,  
11 and you can see why our government, the old AEC, and now  
12 DOE, liked it so much. It occurred to me in preparing for  
13 this presentation that the DOE has been responsible for a  
14 significant contribution to new vocabulary in this  
15 radiation control industry we are all part of. This by  
16 the way, is an exploded map of the test site.

17 To name a few terms: privatization, AIP --  
18 for Agreement in Principle; external regulation -- already  
19 discussed today; radiological oversight; FRR for Foreign  
20 Research Reactor; E-20 -- it means the CRCPD committee on  
21 Federal facilities: WIPP for Waste Isolation Pilot  
22 Project; interim storage; of course, HLW for high level  
23 waste; names on the test site like Half-pint Ridge and  
24 Jackass Flats; and of course, there's Yucca Mountain.

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1           Did you know there are no yuccas on Yucca  
2 Mountain? I'm sure you can name many things more. I  
3 mentioned AIP; let's turn to that in Nevada.

4           Once upon a time in 1991, the DOE said, let's  
5 do an AIP for the Nevada Test Site, with state  
6 environmental protection, health division, and state  
7 emergency management -- the three agencies of the original  
8 Nevada AIP. Lots of acronyms and alphabet soup; oh my.

9           Anyway, after nearly 40 years or so of hush-  
10 hush, don't look here, don't look there, you can see it  
11 but you can't inspect it, and since 1980 when I moved to  
12 Nevada -- Stan, stop asking your questions -- DOE decides  
13 to allow 13 states including many of you here in the room,  
14 to begin oversight in parts of the DOE complex.

15           In Nevada, the Governor designated the  
16 Division of Environmental Protection to serve as the lead  
17 agency with State Radiation Control and Engineering in the  
18 Health Division, and State Emergency Management to funnel  
19 our plans, budgets, reports, and everything manageable,  
20 through the designated lead agency to try to make this AIP  
21 thing work.

22           After three years, we in Rad Control and  
23 Engineering in the Health Division made separate  
24 arrangements to directly propose, submit budgets, file

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1 reports, receive reimbursement and funding directly from  
2 DOE. Let me tell you, it works and it works well.

3 Last year at the first CRCPD E-20 committee  
4 meeting, Committee on Federal Facilities, I revealed our  
5 progress and to cut out some of our problems, to fix up  
6 things, and to get on with this oversight thing that had  
7 been created. I was amazed at the variety of  
8 relationships and hope that our example would help.

9 I've been regulating things for over 20 years  
10 and I still find only doing oversight with DOE to be  
11 difficult. I guess I like to argue too much sometimes.  
12 Oversight to me is like being told to only watch the man  
13 wrestling with the pig. Only watch, no matter how much  
14 fun it looks like.

15 Anyway, after years and years of DOE cloak-  
16 and-dagger and all the Secret stuff, we in Nevada are  
17 finding the Nevada office of that agency to communicate  
18 pretty well, and they seem to be pretty good at saying  
19 what they mean and meaning what they say, generally.

20 To accept suggestions such as the novel idea  
21 of separate budgeting and separate reporting may have been  
22 difficult, but they responded and we like it a lot.  
23 Sometimes they actually respond directly to a simple phone  
24 call, which brings me to my last example of modern day  
25 events.

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1           Remember -- I think most of you will remember,  
2 three or four years ago when I sent what I thought was a  
3 rather simple letter to the NRC to request some  
4 clarification about DOE, contractors, and exclusive  
5 Federal jurisdiction -- and I appreciate John's remarks to  
6 refresh you.

7           Well, I received a 3- or 4-page letter that  
8 almost didn't answer my question. But OSP sent it to me  
9 and to all of you under Agreement State correspondence.  
10 Since that letter, regarding DOE land status, we've  
11 addressed who could do when and where. I continue to ask  
12 my questions.

13           In the last year, a small company in Nevada  
14 licensed by Nevada Health Division to decontaminate  
15 equipment within the scope of a small service license,  
16 inquired to us about conducting such activities on the  
17 Nevada test site. DOE staff called me to ask the same,  
18 even saying, gee Stan, we want your office to license,  
19 regulate, and inspect this company's activities on the  
20 site, and we promise we'll stay out of your way.

21           Well, despite plutonium in the underground  
22 water discovered under the site recently, and other news  
23 articles that I have here about the plutonium and even  
24 some things in color, I sue the tactic suggested in more

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1 recent version of the NRC position about determining  
2 exclusive Federal jurisdiction.

3 I asked the custodian of the land, the DOE, to  
4 provide interpretation to me about the land status for the  
5 parcel on the test site where the company intended to do  
6 business. Months and months passed and the next thing I  
7 heard was that DOE was going to conduct a public ceremony  
8 of sorts in Las Vegas to announce the company's deal. DOE  
9 was beginning to privatize the Nevada test site.

10 I told them that they should confirm the land  
11 status first or I would definitely rain on their parade.  
12 If the land status was not determined or if it was  
13 exclusive Federal jurisdiction -- or if it was exclusive  
14 jurisdiction I assured them that my management and my  
15 lawyers would not allow my office to issue a license to do  
16 business regarding Rad materials on the site.

17 DOE called off the press conference or  
18 whatever was planned, and proceeded to research and study.  
19 Stan's question -- remember, I've been asking questions  
20 for years -- why is the Nevada State Health Division the  
21 only Nevada state agency not allowed to do anything, other  
22 than oversight, on the Nevada test site? No less than  
23 five different DOE personnel called me to ask about my  
24 concern.

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1           Last month I received a DOE letterhead, dated,  
2 signed letter that says in so many words -- and I'll  
3 paraphrase part of it -- in 1952 the Secretary of the  
4 Interior issued Public Land Order 805 withdrawing lands  
5 which established the Nevada Test Site. Three subsequent  
6 Land Orders enlarged the site to its current boundaries.  
7 None of the orders established exclusive, Federal  
8 jurisdiction over the land.

9           Furthermore, on November 22, 1968, the  
10 Chairman of the AEC, Glenn Seaborg, DOE's predecessor, in  
11 response to a prior session of jurisdiction by Nevada,  
12 accepted concurrent jurisdiction, both civil and criminal,  
13 on the Nevada Test Site. Under concurrent jurisdiction,  
14 both Federal and State laws apply. Based on the fact, we  
15 see no reason the State of Nevada may not validly exercise  
16 its NRC program to issue a radiological license to this  
17 company for its contemplated operations on the test site.

18           Well, how about that? I could go on a bit but  
19 I'll close by referring to a favorite book of mine to  
20 characterize the recent experience with DOE. I'm sure  
21 that many of you are familiar with Mr. Robert Fulgrum's  
22 book, Everything I Ever Need to Know I Learned in  
23 Kindergarten. You know the book. Well, my favorite book  
24 is, like it, by Biddle and Fishman called, All I Need to  
25 Know I Learned From My Horse.

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1           Some of you know my wife and I have pleasure  
2 riding horses, so you can know the meaning of the  
3 reference. Two favorite readings from this book seem most  
4 appropriate here concerning our struggles and successes in  
5 dealing with DOE over the many years, with the AIP in  
6 recent years, and this latest development about land  
7 status in recent days.

8           One says -- from the book -- "75 percent of  
9 success in life is just staying on board". Another one  
10 says, "You can teach an old horse new tricks, but only if  
11 you're willing to work at it". DOE is an old horse. They  
12 do seem able to learn new tricks and new ways of doing  
13 business. In fact, we're all old horses -- the states,  
14 the NRC, and DOE. We just have to keep working at it.

15           Thank you.

16           FACILITATOR CAMERON: Thanks a lot, Stan.  
17 That was great. We have one more presentation and then we  
18 can see if there's any general conclusions or questions  
19 from us. So Art Tate from the State of Texas -- or are  
20 they in the Republic --

21           (Laughter.)

22           MR. TATE: I'll take it all. Just listening  
23 to the comments made before me, we have just one DOE  
24 facility in the state, and they're not privatizing, they  
25 have no contamination to speak of, they're using only

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1 sealed sources of plutonium, and they belong to defense  
2 programs. I guess that's my presentation.

3           However, since I did make one, I guess I'm  
4 obligated to break it out. And like my fellow panel  
5 members I'm here to talk about my state's experiences  
6 dealing with the Department of Energy. We've been dealing  
7 with them, at least since I've been there -- since the  
8 late '70s, early '80s. But really we only got serious in  
9 a contractual way in the last seven years.

10           I'd like to structure my presentation just a  
11 little differently than some, and talk about the contracts  
12 first and then give you my conclusions and then fill in  
13 the details that I might have. And after that, any  
14 questions that you might have.

15           Texas currently has three contracts in place  
16 to deliver services to the Department of Energy. Our  
17 oldest contract is the Agreement in Principle that you  
18 heard mentioned just a minute ago -- a couple of the other  
19 presenters also. It primarily covers tasks associated  
20 with the Department of Energy's Pantex plant which is near  
21 Amarillo, Texas.

22           And Pantex is the only significant  
23 assembly/disassembly point in the United States for  
24 nuclear weapons. Every weapon that goes into our arsenal

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1 is put together there, and when they're serviced they come  
2 back to there for disassembly.

3           The AIP provides funds for emergency planning,  
4 radiological and environmental monitoring, equipment  
5 purchases, and also pays for the salaries of the staff  
6 necessary to do these AIP tasks.

7           We have a second contract and it's less well-  
8 defined and it is for our university consortia. The  
9 consortium consists of three different universities in  
10 Texas: The University of Texas, of course; Texas A&M  
11 University; and Texas Tech University.

12           These activities have been funded to perform  
13 DOE sorts of activities for about the last three years.  
14 And specifically, what they're doing is being the central  
15 repository for the effects of aging on pits in the United  
16 States -- the plutonium pits.

17           There are currently about 12,000 plutonium  
18 pits at Pantex. And that it's DOE's plan to disassemble  
19 weapons until there are about 20,000 there. And just by  
20 way of comparison, the Cassini spacecraft on the way to  
21 Saturn was recently launched with 72 pounds of plutonium,  
22 and we have tens of thousands of pounds. And depending on  
23 who you talk to and how much a pit weighs, it's going to  
24 be tens of hundreds of thousands of pounds.

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1           In addition to serving as a repository for  
2 plutonium pit aging information, they also do some other  
3 things. The consortium provides a technical evaluation  
4 capability for the State of Texas, and they use them for a  
5 lot of different things, including the ability to both  
6 validate and verify some of the studies that the DOE does  
7 regarding the risk of their continuing activities at  
8 Pantex.

9           One of the things that they have done for us  
10 recently was to tally all of the commercial flights and  
11 the military flights and come up with a probability of  
12 whether or not one of them would hit Pantex if it were to  
13 fall, and if it were to fall from the sky, would it create  
14 an off-site release of radioactive materials. They do  
15 esoteric things like that.

16           And our third contract -- and we're signing  
17 any day for the waste isolation pilot project -- we're  
18 going to be transporting a lot of radioactive material.  
19 The so-called trans-uranic waste to the WIPP site in  
20 Carlsbad, New Mexico on Interstate 20. That for the most  
21 part the Department of Health, the Radiation control  
22 group, will be doing a lot of emergency planning and some  
23 training and things like that.

24           But those are our three contracts. My  
25 conclusion on how things are going with DOE. Texas has an

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1 excellent working relationship with the Department of  
2 Energy. That hasn't necessarily always been so but it is  
3 now. We have full and complete access to their senior  
4 management in their area office if we need it, and in  
5 their Headquarters if the occasion warrants it.

6           Most importantly, we do work with their middle  
7 management, both DOE and the contractor that runs the  
8 Pantex site, as well as the workers that we must do  
9 business with on a day-to-day basis in order to meet our  
10 commitments to them.

11           We make an effort also to work closely with  
12 other state and local Agreement principal participants.  
13 And we also maintain some very open communication with  
14 residents that live in the area who are both for and  
15 against continued operation of the Pantex facility.

16           In fact, one of our staff members was  
17 appointed about three years ago to be an ex-officio member  
18 of the Pantex Citizen's Advisory Board, and he attends  
19 each of their meetings and has input during the course of  
20 the meeting and is able to represent the views of the  
21 Department quite well there.

22           Seven years ago our relationship with DOE  
23 really was just starting to developing. They were still  
24 fighting the Cold War at the time and they tried to deal  
25 with this pretty much on a need-to-know basis. And

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1 generally what that really meant is some or most of their  
2 staff members decided we didn't need to know it.

3           And at the same time we were very distrustful  
4 of Feds bearing gifts of money with strings attached,  
5 especially when they tried to use the strange vocabulary  
6 talking about pre-decisional documents, and AREC, and  
7 hotspot, and rep teams and Q clearances, and hot wash, and  
8 some stuff like that. And I have to say in their defense,  
9 they didn't understand this either.

10           It has taken a lot of time and effort on both  
11 parts, but we're doing pretty well now. One of our  
12 earliest concerns related to the need for information in  
13 the event of an accident at Pantex. We still have that  
14 concern but we have worked very closely with them to make  
15 sure that there is a state representative in their  
16 emergency operations facility if we respond there for an  
17 accident.

18           We also have the capability to communicate  
19 directly into their EOF if we need information in a hurry.  
20 During an exercise about three years ago it just didn't  
21 work. Pantex's accident assessment team come up with just  
22 an absolutely, totally wrong conclusion that they didn't  
23 have any off-site release, when everything and every  
24 indication in the world showed that they did.

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1           We had something going for us in that one of  
2 the Federal groups, the Federal Radiological Monitoring  
3 Assistance Center came from Las Vegas -- and I couldn't  
4 say that again fast -- had decided to participate in the  
5 exercise. And they co-located with us at our staging area  
6 and they also had representatives in the Pantex EOF.

7           And in fact, they acted as our conduit for  
8 information and allowed us to complete the exercise and do  
9 what we need to do to protect the public health and  
10 safety. And then after it was over, worked it out with  
11 the critique comments and input to DOE to fix the problem.  
12 And we're going back, I think, in the summer of '98 to see  
13 that it has been fixed.

14           And something that Mike said earlier -- that  
15 if you have the right to choose the rules that you want to  
16 obey, then sometimes you decide not to. This was a  
17 facility that had nuclear weapons and they didn't have an  
18 alerting and notification system -- and chose not to. And  
19 we pointed it out to them and they were able to get it  
20 into the 5-year budget. And five years later we now have  
21 a siren system, a strobe-light system, and a couple of  
22 other things that are scheduled to be tested -- either  
23 late December or early January, thereabouts.

24           The system will alert on-site workers and off-  
25 site personnel using a combination of strobe-lights, tone

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1 alerts, and -- strobes, yes. In the meanwhile, the same  
2 thing that the locals were doing in the old days which  
3 was, they'd send a law enforcement officer out with a  
4 vehicle, or use radio and television announcements -- or  
5 will be used until the A&S system has been fully made  
6 operational.

7           This certainly didn't go as fast as we had  
8 wanted it to, but it's there now and it's almost  
9 operational, and it soon will be. I could go on with our  
10 laundry list of how things have not gone as well as we had  
11 hoped, and I'm sure that if there were someone from Pantex  
12 here that they could equally give you the same short list  
13 on what we had done that we could and should have done  
14 better.

15           But I think each of us would have said that  
16 the problems that we would have encountered today are of  
17 less consequence and occur much less often than at the  
18 beginning of the relationship some seven years ago.

19           In closing, I would like to say that my  
20 outlook is very positive, my observations about our  
21 relationship is that both of our cultures are very slowly  
22 being modified by the grip of day-to-day interactions.  
23 Neither the State of Texas nor the Department of Energy  
24 will ever be completely satisfied in our dealings with  
25 each other as we serve different masters. However, our

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1 goal is the same; that is, to protect the public health  
2 and safety. Thank you.

3 FACILITATOR CAMERON: Thank you, Art, too. Do  
4 we have some questions for our panelists? I mean, it was  
5 sort of interesting hearing the external regulation of  
6 DOE's sessions and then hearing about these individual  
7 states who are all trying to forge a relationship with DOE  
8 on various subjects. I suppose the external regulation at  
9 some point in time might add some coherence to all this,  
10 but right now it just seems like a patchwork quilt.

11 Anybody have any comments or -- yes, Brian.

12 MR. HEARTY: Brian Hearty, Nebraska. I have a  
13 question, just -- if anyone else has had any problems with  
14 DOE subcontractors coming into their state under  
15 reciprocity? We've had our prime contractor or OR&L hired  
16 an engineering firm to come in and do some XRF testing in  
17 Post Office throughout Nebraska. And they had rewritten  
18 the procedures -- safety/operating procedures -- for this  
19 company.

20 Now, the company had a Maryland license but  
21 they were using these different procedures. Now, we  
22 reviewed them -- they were actually more stringent and  
23 actually fairly well. So we let them come in under  
24 reciprocity but we made it reciprocity with the sub-  
25 subcontractor that had the Maryland license.

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1 I was just wondering if anyone else has had  
2 dealings like that?

3 MR. MOBLEY: We're dealing with a similar kind  
4 of thing in Knoxville that's not -- I don't know what it's  
5 going to be, but they're doing some sort of testing at the  
6 airport of security devices, and we're not clear right now  
7 what it's going to be.

8 In fact, I'm very concerned that what it's  
9 going to be is, they're going to go out there and install  
10 devices and we're going to go out there and find them, and  
11 then the fur will fly. But it sounds very similar.

12 MR. BAILEY: We have a facility that's being  
13 cleaned up. It's one of the old beagle facilities where  
14 they fed and injected strontium and radium into beagles in  
15 a fairly large colony, and they did things that I think we  
16 would not consider proper today, as they basically had a  
17 seepage pit that the radium wastes went into and so forth.

18 Anyway, at one point they finally pumped it  
19 out and was stored in a tanker for a long time. Chem  
20 Nuclear was hired to come in and pump that out and take it  
21 and solidify and dispose of it. Thanks to South Carolina,  
22 the Chem Nuclear license said they had to get reciprocity  
23 if they did that kind of work anywhere else, and so they  
24 came right to us. We didn't have any problems with it.

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1           The next phase of the contract though, has  
2 been difficult, because the contractor now on the site  
3 doesn't feel that we should be able to regulate it -- even  
4 though it's on state-owned land at a DOE lab that's  
5 closed, and it's a CERCLA site. And you have to watch on  
6 CERCLA because they want to blow smoke that they don't  
7 have to have a license; they don't have to get permits  
8 under CERCLA. So we -- and they're a prime DOE  
9 contractor.

10           MR. MARSHALL: A quick one. Back in the old  
11 days, only seven or eight years ago, a DOE Nevada  
12 contractor was doing NES team emergency response training  
13 in a downtown Las Vegas hotel, and proclaimed DOE  
14 exemption. Now, even DOE couldn't get them to come around  
15 to do the training -- to do license application with us.  
16 You know, the training was over with before.

17           But for years they just ignored the fact that  
18 they were on state jurisdiction property. I think we're  
19 in a new age where some of the new age DOE people are  
20 convinced that if subcontractors do that again in Las  
21 Vegas they will be Nevada state-licensed.

22           FACILITATOR CAMERON: Thanks, Stan. Aaron.

23           MR. PADGETT: Aaron Padgett, North Carolina.  
24 It's broader than just DOE. We had a situation in  
25 midwestern North Carolina having to do with the Army. And

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1 this was an old facility that was no longer under the  
2 control of the Army. Work had been done there -- in fact,  
3 it really was kind of touchy whether or not it should have  
4 been done under the -- on these approvals and so forth, or  
5 whether it should have been done under the state  
6 originally, anyway.

7 But this facility is no longer under Army  
8 control but they got a contractor to come in and do some  
9 clean-up on that property, and we face the same issue  
10 there. And the only reason for me mentioning this is  
11 that, don't just look at DOE, but also military services.

12 FACILITATOR CAMERON: Ed, do you --

13 MR. BAILEY: Yes. I think the DOE thing is a  
14 very good point. My wife works in the DOD base closure  
15 and we have more than our fair share of base closures in  
16 California. And that has been one of the big problems in  
17 their researching these bases and determining what's  
18 radioactive or whether there was radioactive material  
19 there.

20 Because they hire contractors who have no  
21 radioactive materials license, they go in and do all the  
22 hazardous material inventory and all that, and you know,  
23 there's a pile of aircraft dials that you know, was  
24 outside the door, and they'll practically ignore those.  
25 And that has been a real problem -- getting the military

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1 to go back and look for facilities that had radioactive  
2 material.

3           Such things as, there were Air Force bases in  
4 California where planes flew out of into each of the  
5 mushroom clouds and came back contaminated and washed down  
6 and all that sort of stuff. So that's been a real problem  
7 with DOD.

8           FACILITATOR CAMERON: Is there anything --  
9 Mike, go ahead.

10           MR. MOBLEY: I wanted to mention a couple of  
11 things. I mean, we've heard about privatization. There's  
12 another program -- re-industrialization that DOE sites are  
13 undergoing, and we've had some real problems in Tennessee  
14 with this because they're re-industrializing based on very  
15 inadequate surveys, if indeed a survey is done. And  
16 they're leasing these facilities to non-Rad operations.

17           There's a couple of other things that are very  
18 current that we need to keep our eyes open on and one is  
19 the -- help me here Alice -- is it MCS? Is that the  
20 entity in Texas that's trying to get the low level waste  
21 --

22           MS. ROGERS: Probably you're talking about  
23 waste control specialists.

24           MR. MOBLEY: Right, WCS, waste control  
25 specialists. Filed a suit against the Department of

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1 Energy that said, you can't require us to have a license  
2 to bid on your contracts to dispose of your low level  
3 waste, and won the suit.

4           Where that goes I don't have a clue and I may  
5 not have expressed that just exactly right, but it's a  
6 potential to really throw a wrench in here where in the  
7 past -- as has been mentioned -- DOE has brought people  
8 onto their sites who know little or nothing about  
9 radiation issues, to do things.

10           You may now suddenly see this concept utilized  
11 off-site through the auspices of this lawsuit. I'm very  
12 interested in seeing where that goes.

13           The other is, the fuse wrap program has now  
14 been taken away from DOE and given to the Corps of  
15 Engineers. I presume they're going to become an NRC  
16 licensee or the contractor will become an NRC licensee or  
17 a state licensee. I don't know, but that's another  
18 interesting wrinkle in some of these issues that we've  
19 heard about today.

20           FACILITATOR CAMERON: Aubrey.

21           MR. GODWIN: Godwin, Arizona. There's also  
22 some business which they contract out for scrap removal,  
23 and they have this scrap dealer -- or people that remove  
24 the scrap -- to sign a contact that says -- DOE has this  
25 wonderful program to assure that no radioactive material

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1 is on the scrap. And because of that, if any radioactive  
2 material is found on the scrap it belongs to the scrap  
3 dealer.

4 (Laughter.)

5 Very abridged, but that's what the contract  
6 said. Well, I advised the people in Arizona to understand  
7 what they were signing off on; that if they were going to  
8 have to pick up liability look like the way that was set  
9 up. But I didn't know that anyone had reviewed the DOE  
10 release criteria which was cited in there as being  
11 adequate, and how they were going about analyzing it.

12 DOE refused to give the people who were trying  
13 to bid on the contract a copy of it -- which I thought was  
14 interesting since they had to sign that it was wonderful.

15 FACILITATOR CAMERON: Thanks for that story.  
16 Bob Quillin.

17 MR. QUILLIN: While we're telling stories I'll  
18 tell the story of the trailers at Rocky Flats. Rocky  
19 Flats, when it went through an expansion phase, brought in  
20 all these trailers. Now they're trying to get rid of all  
21 these trailers and they're trying to give them away to  
22 government agencies, Indian tribes, anybody that will take  
23 them.

24 They surveyed the inside of the trailers and  
25 said these trailers are clean, they were never used to

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1 store or process any radioactive materials, but they  
2 didn't check the outside of the trailer. Well, somebody  
3 thought that maybe they should check the outside of the  
4 trailers.

5 Well, they found that they were getting fixed  
6 contamination in the order of several hundred dpm, etc.,  
7 and removable contamination on the outside of the trailer.  
8 So the question was then, well what is this contamination?  
9 And they were in a crisis mode at this point because this  
10 was one of their performance contract incentives -- if  
11 they got rid of these things by the 1st of October they  
12 got X number of dollars. So there was a real crisis.

13 So they went out to three commercial -- no,  
14 they went to two commercial laboratories and an on-site  
15 laboratory and said, is there any special nuclear material  
16 here? And I think one said they couldn't tell if it was  
17 special nuclear material or not, and one said it's not  
18 special nuclear material, and the other came down sort of  
19 in-between.

20 So they declared that contamination on the  
21 outside of the trailer was not special nuclear materials,  
22 they could bash them in, get rid of them, and meet their  
23 incentive for the disposal of these trailers. So you have  
24 to be careful when DOE's contractors get on one of these  
25 tracks, especially something which is in the incentive

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1 part of their contracts, because they try to move very  
2 quickly and you reach decisions and get things done to  
3 make their dollars.

4 FACILITATOR CAMERON: Thanks, Bob. There's  
5 been a number of stories relating to DOE here. Is there  
6 anything that the Organization of Agreement States could  
7 do that would help individual states in trying to deal  
8 with these problems? In other words, you shared all this  
9 information with each other today. Is there something  
10 more that could be done with this that would be helpful to  
11 all of you or to other states? Just throwing that out for  
12 considerations?

13 MR. QUILLIN: Chip, exactly what is your  
14 question? Help me here.

15 FACILITATOR CAMERON: Well, I'm thinking that  
16 you have to -- you are all dealing with DOE in various  
17 ways. Is there information that could perhaps be  
18 disseminated in a more systematic way than we've done  
19 today that would help others to --

20 MR. MOBLEY: Well, we do have a Federal  
21 Facilities Committee for the Conference, and we do meet  
22 periodically, although it's been -- I think our last  
23 meeting was early this year in Vegas. We've lost our DOE  
24 interface when Tom Gurusky retired for a second time --

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1 maybe third time, I don't know. But he retired from the  
2 DOE and we do not have that interface anymore.

3           That group has met several times and developed  
4 a certain level of understanding of how things are  
5 different and how things are the same in the different  
6 states. But I think -- I hope, anyway, it's been really  
7 good for the other Agreement States to hear, and I hope  
8 that we're going to have something at the conference  
9 meeting in May about some of the DOE activities.

10           Because if you don't deal with it routinely  
11 you have difficulty believing it. And I know there are  
12 probably people sitting in the room today that say, I just  
13 can't believe that these things go on, or is this really  
14 real, or whatever. I can attest to you that it is very  
15 real and these things go on all the time.

16           You know, and as I was listening to Bob  
17 Quillin and Aubrey over here, we have a major program  
18 that's fixing to be initiated in Oakridge where they're  
19 going to be free-releasing scrap metals. And part of that  
20 is going out through a state licensed facility and part of  
21 it may go out through a DOE operation.

22           And you know, I am very, very wary of that  
23 because we're still finding scrap metal that's been  
24 released out of the DOE facilities at scrap yards that  
25 meets nobody -- it doesn't even meet their own criteria.

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1 It's one of those situations where that, we have processes  
2 in place to share information, we've had a couple of  
3 meetings, we're learning more and more. But it has been  
4 within the DOE/state community I guess you could call it.  
5 And we haven't got much information out to the others.

6           That's one of the reasons I was really happy  
7 to know that we were going to do this discussion here. I  
8 think maybe -- and I'm the chair of the committee -- I  
9 think maybe that we're probably falling down on the job  
10 some with that committee, but at the same time I think  
11 we've established a lot of interfaces between the DOE-  
12 sited states to deal with these issues.

13           I hope that the NRC staff that's here today  
14 understands that there's a lot of things going on with the  
15 NRC and the states -- DOE and the states. There are a few  
16 things going on within our states too. But there's a lot  
17 of things going on with the DOE and the states.

18           And what we heard today primarily is,  
19 radiation program-related interfaces. We haven't talked a  
20 lot about the RICRA interface, the CERCLA interface. In  
21 Tennessee we have a wholly separate organization that does  
22 the DOE oversight. I don't do DOE oversight; I do DOE  
23 bashing and when the things get really tough they drag me  
24 out of the closet and let me bash for a while and then  
25 things smooth out and they go ahead doing their oversight.

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1           But every state really is very different and  
2 it's very difficult to keep up, because one place they're  
3 privatizing and it means one thing and another place  
4 they're re-industrializing and it means something very  
5 different. It's very, very tough to keep up, from state  
6 to state. Heck, it's difficult to keep up in the same  
7 state.

8           FACILITATOR CAMERON: Well, Carl was talking  
9 about the pilots and what we're going to try to learn from  
10 the pilots. Is there a whole lot of information from  
11 these individual ongoing, real-life experiences that at  
12 some point might be useful to feed into the decision-  
13 making process on what the legislative or regulatory  
14 framework should be for external regulation?

15           In other words, they're going down two  
16 separate tracks. Should they come together at some point?

17           MR. MOBLEY: I think so, and it's one of the  
18 things that's kind of bothered me, and I just kind of  
19 mentioned it up-front in my discussion. Is that the NRC  
20 has gone out here and got with the DOE about this external  
21 regulation thing, not really looking at, well what's  
22 really going on between the states and DOE? What kinds of  
23 arrangements or processes are in place?

24           What is the level of movement within each  
25 state? It's very different in different states. We're

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1 moving quite rapidly at the K-25 site to take over more  
2 and more parts of that site, and that will just be  
3 regulated by the state. And that's in addition to us  
4 having a group in the State of Tennessee that does DOE  
5 oversight totally independent of us.

6 And different states have different levels of  
7 activities that are ongoing; as we have heard here today.

8 MR. BAILEY: I'd like to ask what you and the  
9 others think. Back during the days of the Milltown clean-  
10 up DOE basically had a quarterly meeting of the states  
11 that were involved in the Milltown clean-up. And I'm  
12 wondering if this organization might ought to get, or  
13 encourage DOE to establish something similar to the old  
14 Milltown -- what groups -- we just got together literally  
15 and talked about what's going on in your state, what's  
16 going on here, what's going on there. And it was a  
17 regularly set-up and funded thing. And I think it worked  
18 eventually to help everybody in the Milltown clean-up.

19 MR. MOBLEY: Well, I think to some extent  
20 that's what the conference E-20 committee was supposed to  
21 do but has not gotten off the ground exactly like it was  
22 going to. Because one thing, we didn't have a real  
23 targeted thing, other than our initial meeting to hear  
24 what every state was doing, and then we were going to  
25 visit each of the sites.

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1           I think now we have some targeted things that  
2 we could be working on -- the scrap metal recycling one is  
3 a biggie in my mind. So that's there. The problem that  
4 we have, from my perspective, is that each site, each DOE  
5 site now is out on its own going gung-ho in whatever  
6 direction it's going, doing privatization, re-  
7 industrialization, etc., etc., etc. And they all mean  
8 different things to them. It's really, really hard to  
9 deal with it on a national level anymore.

10           FACILITATOR CAMERON: Okay. Well, I think  
11 there's some food for thought there. Why don't we -- does  
12 anybody else have anything to say on this issue at this  
13 point? Because we can -- why don't we take a break till  
14 20 after 4 and come back with Don Cool and Aby. I think  
15 the business meeting is getting slimmer and slimmer here.

16                           (Whereupon, the foregoing matter went off  
17 the record at 4:05 p.m. and went back on  
18 the record at 4:25 p.m.)

19           DR. COOL: I think probably an equitable share  
20 would be something like three bucks apiece. You know,  
21 that's according to our earlier calculation. I don't know  
22 how many are still here but that should cover it. And if  
23 there is anything left over, of course it gets refunded.

24           FACILITATOR CAMERON: Okay, thank you, Don.  
25 As Don mentioned it's a fairly small sum, so if you can

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1 give that money to Don. Diane Tafft had a great idea that  
2 the business meetings will be held after the cash bar. So  
3 there you are.

4 I think Don Cool is with us, and Don is going  
5 to talk about consolidation of license guidance documents,  
6 and then we're going to go to, I think what's an  
7 interesting issue, possibly controversial, to Aby Mosheni  
8 to talk about the KI issue. Don?

9 DR. COOL: I'm going to put the watch right up  
10 there where I can see it and you can all start waving at  
11 me, because it's gotten to be late in the afternoon. I'm  
12 not sure why it is -- and I don't think I can blame Chip  
13 because he did the agenda this time but he hasn't done the  
14 agenda the previous times -- why I always manage to get  
15 the late afternoon timeslot. You'll see that I have the  
16 last one again tomorrow, so they're telling me something  
17 but I'm not quite sure what it is.

18 What they asked me to talk about today is a  
19 project that some of you have been aware of, dealing with  
20 the licensing guidance. This is about as drastic a gear  
21 shift as you can make from the previous topic -- as you  
22 can get. We'll just to ahead and go on with the next  
23 process.

24 Lest some of you were concerned that somehow  
25 we wouldn't manage to talk about business process or

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1 engineering during the course of this meeting -- because  
2 this has been the standard topic over the last several  
3 years -- let me assure you that in fact, we'll manage to  
4 get the word up there at least once.

5 FACILITATOR CAMERON: How much can we give us  
6 to not talk about it? Ed?

7 (Laughter.)

8 DR. COOL: You will recall that we went  
9 through and did a lot of analysis and look over the last  
10 several years. One of the things that we discovered  
11 earlier on in the process, is that you don't want to  
12 automate or otherwise, something which is already old and  
13 disjointed and dysfunctional.

14 Second thing we discovered -- or we believe we  
15 discovered, not surprisingly -- was that if someone really  
16 knows that the requirements are -- and that someone could  
17 be the license reviewer or the licensee or the applicant  
18 or the inspector or whomever else it was -- if they had  
19 all in one place, all the information that they actually  
20 needed to know, then they'd be much more likely to  
21 actually have good application, good inspection, or good  
22 review conduction to better process. Everything should be  
23 a lot more efficient.

24 So we embarked upon a process of trying to  
25 revise and update the existing the guidance. The first

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1 one of those was with portable gauges, and some of you  
2 have heard about that effort which was done. We went  
3 through and developed a consolidated guidance document.  
4 Several folks from the states participated in that  
5 process.

6 I know Wendy Tingall from North Carolina  
7 actually worked on the writing team; Joe Klinger who was  
8 -- yes, and is still here -- helped us out with the review  
9 team going through that process -- received rave reviews,  
10 everybody liked it. That is now in fact, a final  
11 document, NUREG-1556, Volume 1.

12 My nickname for these is the Ragu series. You  
13 remember the old ad -- somebody has told me it might have  
14 been Prego rather than Ragu, but irrespective -- you know,  
15 all that good stuff that's in there? All in one place,  
16 trying to consolidate all of the things that were in  
17 various sundry places over the course of time.

18 The project that we have now embarked upon is  
19 a line operation project, not a re-engineering project.  
20 We've moved out of the re-engineering; we've tested the  
21 process; we've found that it worked; we've tested the  
22 outcome and found that everyone tended to like a single  
23 document. So we're now embarked upon a process over about  
24 the next three years to try and take the thousand or so

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1 different documents which are out there in NRC-land which  
2 relate to the way that we do licensing.

3           Take regulatory guides -- the Title 10 CREs --  
4 a whole bunch of standard and format and contents in  
5 various and sundry states -- mostly drafts from the  
6 '84/'85 timeframe, all the technical assistance requests  
7 that have been done over the course of time, all the  
8 policy and guidance directives, all the various memos and  
9 otherwise.

10           Take that mountain of information: jam it,  
11 compact it, squeeze on it a little bit; toss out all of  
12 the duplication, find the one that works best for the  
13 process and put it in the single document which would have  
14 all the information the applicant needs to have, all the  
15 information that the reviewer needs to have.

16           Some standard things that licensees could use  
17 in terms of procedures and checklists if they wished to go  
18 that route, but then more fundamentally, the sorts of  
19 underlying routes that you'd be looking for if they wished  
20 to have a different approach; the sorts of criteria that  
21 they would need to identify if you were going to develop  
22 specific procedures for specific activities, and publish  
23 that into a single forum.

24           I've already managed to talk about that.  
25 There's a whole bunch of things that we'll be trying to

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1 update. For those of you on this side of the room who  
2 can't see this -- sorry about that -- a whole series of  
3 guides, directives, and otherwise, which we would all  
4 intend to pull together.

5           Once upon a time I had a slide and my business  
6 process engineering group had doodled this little slide  
7 up, and it had to do with a little story of Sally  
8 Applicant. Now Sally wanted to apply for a license and so  
9 she called up the appropriate regional office and said to  
10 the regional reviewer, I would like to apply for the  
11 license for -- and you can sort of fill it in. In that  
12 particular case it was a portable gauge license, so it  
13 should be relatively simple.

14           And said to the reviewer in the region that  
15 she had gotten a hold of, can you send me the information  
16 I need to have in order to apply for this license? And  
17 the reviewer says sure, no problem; be there in a few  
18 days. Sally says, this is great, settles back and waits.

19           Some number of weeks later, a large truck --  
20 one of these roadway express trucks -- drives up to  
21 Sally's door. And Sally says, I don't remember ordering  
22 anything. Well, I've got this form here; just sign it.  
23 And proceeds to unload piles after piles of documents. It  
24 turned out that this was the information which the  
25 regional reviewer had promised to send her.

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1           It included a large stack of Federal  
2 regulations. There were NRC regulations and EPA  
3 regulations and OSHA regulations. And then there were a  
4 series of regulatory guides issued. She noticed right  
5 away that most of them were dated in the '60s or '70s.

6           And then there was several boxes which turned  
7 out to be photocopies of about 500 technical assistance  
8 requests that had been issued over the course of time, and  
9 she noticed that those at least were a little more recent.  
10 There were some from '92/'93/'94 timeframe there.

11           Then she got to another box which turned out  
12 to have a whole series of things which were labeled,  
13 information notices. And she wasn't quite sure what that  
14 had to do but she read the first one and saw that there  
15 was no response necessary and she pitched that box;  
16 pitched it right out the door.

17           Then she found a smaller box -- this was a  
18 very small box -- that said bulletins. They immediately  
19 required action so she figured that was important and  
20 added it to the pile. So finally there was a whole series  
21 of other things -- standard license conditions, policy and  
22 guidance directives -- those sorts of things. And she's  
23 standing here and she suddenly realizes that in order to  
24 apply for what she thought was going to be a very simple

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1 license, she was going to have to wade through the things  
2 and they were piled all around her.

3           For those of you who are familiar with the  
4 consolidation parts of that you know that NUREG-1556,  
5 Volume 1 for portable gauges is about that thick -- total.  
6 And it has all the information including appendices and  
7 standard forms. That's really what we're trying to  
8 accomplish with this effort.

9           Now, how are we going through the process? I  
10 know there was one question earlier today about  
11 reimbursement for pink teams and red teams. Let's just  
12 not go there. It's way too late in the day to try and do  
13 that. But the process that we're using is in fact a team-  
14 based process which involves trying to pull in the people  
15 who know how to do the licensing inspections for a  
16 particular kind of license.

17           So this is not one of the old fashioned, stick  
18 somebody from Headquarters in the corner, let them write  
19 some piece of guidance and sooner or later it will turn up  
20 and see the light of day. In fact, pull a group of  
21 several individuals together including folks from the  
22 region and some folks from the states who have  
23 participated on some of our teams and say to them, develop  
24 this consolidated document.

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1           Here's all the background material.  You're  
2 going to have to do that which licensee formally had to do  
3 -- go through and weed through and pull it out, extract,  
4 distill it down -- and give me a single document.  And the  
5 advantage of this kind of system is that you get a number  
6 of people's heads together, which has some great benefits  
7 to it; they can weed out and find some things.

8           And we are already finding over the course of  
9 time, that a bunch of the stuff can become very  
10 standardized.  What they often do in computerland as well.  
11 You write it once and then you read it or re-use it many  
12 times.  And we're already beginning to find as we are  
13 going through this process, there are things that we can  
14 extract from the first volume or the second volume which  
15 has already been drafted, and immediately drop it in so  
16 that the format starts to proceed.

17           Those are reviewed also by a couple of teams.  
18 Now, the language actually comes from Computer Sciences  
19 Corporation who was our contractor in the re-engineering.  
20 And I know I've already had at least one reaction:  well,  
21 I don't mind being on a writing team but there's no way  
22 I'm going to be on a pink team.

23           Call it what you will.  We may want to try and  
24 find some other term, long-term, that doesn't offend some  
25 sensibilities.  But to pull middle-level management -- the

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1 branch chief type people within the NRC system, senior  
2 technical individuals -- to do a review, particularly  
3 looking for technical accuracy, correctness, whether this  
4 is in fact, all the information that we'd want to have.

5           Sit back, put on a pretend-you're-a-licensee  
6 hat for a few minutes. Is it all there? Then turn around  
7 and put on a reviewer hat. Is everything that you would  
8 need to have as a reviewer available there? Does it make  
9 sense; are we asking the right questions; are we looking  
10 for the right pieces of information?

11           The second step in that process is to do  
12 what's been referred to in our lingo for the moment as a  
13 red team -- which is a division-level review, myself or my  
14 deputy. Often pull Lohouse from state programs. Again,  
15 we've had some folks from the states who have participated  
16 in a couple of these reviews already.

17           For both a final technical review and a policy  
18 review to make sure that we are in fact, looking for the  
19 right kinds of information; that we have accomplished the  
20 job that we tried to do. With that second approval, we go  
21 to publication.

22           Now, the second thing that we're doing in an  
23 effort to avoid at least a few of the sins of the past, is  
24 that I have issued a rather absolute edict: we are going  
25 to go final with these documents. Most of you are

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1 probably familiar -- I know all the people in the regions  
2 are immediately going to nod their heads up and down --  
3 when the NRC regionalized its materials licensing program  
4 in '84/'85, they popped out a whole bunch of draft policy  
5 and guidance directives on how to do various pieces of  
6 licensing.

7           It's 1997; they're still drafts. In fact, as  
8 it turns out, there probably was really never very much of  
9 an intention to ever really go final with those documents,  
10 and they just sort of lived on, right in the system.

11           So once we have developed the draft document  
12 we move to a public comment period, formally notice its  
13 availability in the *Register*, send it out to every single  
14 one of the NRC licensees that's in that category, have  
15 Paul distribute it to all you folks in the states, and  
16 take some time to have everybody look at it and say, is  
17 this what's going on, is this the right kind of  
18 information, does this do the job that we needed to do?

19           And then come back and run a similar sort of  
20 process, till you build up the final document. Ask the  
21 writing group to come back together, analyze the comments,  
22 suggest the appropriate changes, and go through the review  
23 process, and then publish it in final. At that point it  
24 becomes the document which, at least for the NRC licensing  
25 actions, becomes the document that we will be using.

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1           Now, after having talked about this with the  
2 executive committee -- with Bob Quillin and Tom and Roland  
3 and Richard -- sent the memo to them which I believe they  
4 have forwarded to each of the programs. What we are  
5 inviting is for the states to consider having someone be  
6 on writing teams or some of the review teams. This is not  
7 an edict, I am not counting the number of clicks in any  
8 one particular column. I am doing that for the regions  
9 but I'm not doing that for the states.

10           But we have found that we get some really good  
11 benefit from having you folks on board. And if we're  
12 talking about early participation and whether or not  
13 you've got 30 days for review, I would much rather have  
14 someone of the folks write in the review process while  
15 we're writing it instead of a sort of, after-the-fact,  
16 it's already written, the word processor has already  
17 printed it out. And get the experiences that the state  
18 has and the advantages that the states have gone through  
19 because they've gone through similar processes, right in  
20 the initial document.

21           On the other hand, we are not looking for the  
22 states -- either individually as the participant or the  
23 Organization of Agreement States in any sort of collective  
24 way -- to say, we fundamentally buy every single detail of  
25 this document. Obviously all of the references in it are

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1 references to NRC's Code of Federal Regulations and there  
2 would need to be changes that are going on.

3           There are some places where you may not have  
4 very many licensees. You may pursue slightly different  
5 approaches for licensing a particular type, and that's  
6 fine. So we're not asking for endorsement. What I'm  
7 really look for is the opportunities that you may have to  
8 help us develop as good a consolidated document as  
9 possible.

10           Obviously, getting in on the writing team,  
11 getting in on the ground level -- one of the statements I  
12 was told early-on in my career was, he who writes, wins.  
13 While managers may do a lot of marking up, you're going to  
14 average probably better than 80 percent of your words will  
15 survive somewhere in the document to begin with. So  
16 that's a really fundamental place to have a direct input  
17 to the process.

18           If that's not possible, and certainly it may  
19 not be possible in all circumstances, as one of the review  
20 teams, the mid-level management team or the second-level  
21 -- the division-level team -- to provide us that input to  
22 the process.

23           I'm going to put one more slide up and then  
24 call it quits on this. I have provided for you -- and  
25 there aren't enough copies for everyone in the audience;

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1 I'm not sure where the remaining ones ended up. I guess  
2 over on the shelf at the moment, for each of the states  
3 that are on the table. You have a detailed list of the  
4 topics that we're looking at covering overall through this  
5 project. It runs for a couple of pages of individual  
6 topics.

7           The letter that was sent out has actually some  
8 of the scheduling details along with the kind of resource  
9 commitment, that thus far through the process we believe  
10 are sort of the unit cost factors for running through one  
11 of these processes.

12           As I said, the portable gauge document has  
13 been completed; that's a final. The industrial  
14 radiography NUREG is published as a draft. That's out on  
15 the street in the public comment period right now. The  
16 NUREG related to sealed source and devices, which is the  
17 revision update of the document that a lot of you are  
18 familiar with -- the earlier iteration.

19           This was more a formatting issue than it was a  
20 large, consolidation effort. Was in the printer. Whether  
21 it actually makes it -- bound copies make it into the  
22 office this week or not or next week -- there was a little  
23 printing glitch but that one is very close.

24           The next couple that were on there which were  
25 the self-shielded irradiators and the fixed gauges, are

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1 most of the way through the process. They've all  
2 undergone at least pink, first level reviews, and at least  
3 in the case of one of those two, the second level review  
4 has already been accomplished and they're working on  
5 fixing up those corrections.

6           A slightly different document which was not  
7 one which would directly affect the states -- we ran a  
8 similar process in our review of the Veteran's  
9 Administration's application for master material license.  
10 We used a similar team-based process, not only to develop  
11 the review criteria -- because one hadn't been done in  
12 eons and there was no such document laying around -- but  
13 then also the same team actually reviewed the license and  
14 developed the efficiency letter.

15           We have also, by the way, used a similar sort  
16 of process and plan to use a similar sort of process in  
17 the medical arena whether it would be actual writing of  
18 the Part 35 and we're going to spend all day -- or most  
19 all day on Saturday -- talking about that. And also the  
20 development of the guidance that will go along with that  
21 document.

22           So there are a number of opportunities. I  
23 think the best approach, at this point I will ask if  
24 you've got any questions. If you've got some people that  
25 you think might fit in well with one of these, you can

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1 talk directly to me or feed that back through -- I guess  
2 Roland gets to be the conduit now in terms of some  
3 nominations -- and we'll try to see how we can best get  
4 together and work this process.

5 Questions?

6 MR. FLATER: Don, these working teams, are  
7 they going to be all, you know, back and forth through E-  
8 mail, that kind of thing? There are no meetings with  
9 this?

10 DR. COOL: A combination of the two. What we  
11 have found is that you have to have everybody together to  
12 get a baseline and initial, and take the initial cut on  
13 the draft. These teams have met together for two weeks at  
14 the start of the process. Then most of the rest of the  
15 writing effort is distributed -- whoever they are, sending  
16 things back and forth.

17 Depending on the document, the team may feel  
18 it needs to get back together to get the synergy of being  
19 all together in the same place and hammering through  
20 comments and resolutions. In other cases that has been  
21 then distributed.

22 The review teams have, for the most part,  
23 actually gotten together a pink or a red team. It's  
24 usually -- it's averaging about one day getting together.  
25 They have the document ahead of time. They enter the

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1 comments electronically ahead of time so that's all  
2 waiting when they walk in the door and sit around the  
3 table and work through the process and get it solved.

4           The record on the short end is now four hours,  
5 start to finish on the review. The long end went about  
6 two-and-a-half days. That was radiography and sort of as  
7 expected, you're dealing not only with trying to  
8 consolidate fairly complicated things, but writing  
9 guidance to the brand-new rule.

10           But it does involve some together time as a  
11 team, particularly initially in the process.

12           MR. MOBLEY: Are these going to be available  
13 electronically so that as you note, we might want to make  
14 additions or references or whatever? It would be nice to  
15 have it on disk.

16           DR. COOL: Our intention is to have them  
17 available electronically; to have them up on the NRC Home  
18 Page and to HTMO codem so you can jump to the place you  
19 want to have. Long-term, as we get our new network  
20 systems and move forward in the electronic licensing  
21 arena, our intention is to electrify each of these, have  
22 them available and have for our reviewers, a desktop  
23 capability to call up an application that's been received  
24 electronically, side-by-side have whatever guidance is  
25 necessary, and spit out an efficiency letter on the bottom

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1 -- all sitting on one screen. So we are definitely going  
2 to have them available electronically.

3 MR. GODWIN: Godwin, Arizona. I noticed one  
4 of your specific guides, consolidation, is number 15 about  
5 general licenses. Is that all the general licenses you  
6 all have got or is it just going to be certain ones? If  
7 you've got 30 you got stuff from 30, you've got stuff from  
8 40 -- 70, isn't there some, and 150?

9 DR. COOL: For the moment these are focused  
10 principally in the byproduct, the 30 arena. Exactly  
11 what's in or out -- I mean, part of the reason that's  
12 farther down the list, that's going to also depend on one  
13 of the things we're going to talk about tomorrow, as to  
14 exactly what survives as a general license versus perhaps  
15 some sort of registration for other systems.

16 I know we've got a bunch of other pieces out  
17 there, 40 and 70, that also have to be dealt with, but  
18 it's a matter of how much can you chew in one block of  
19 time.

20 MR. KLINGER: Joe Klinger with Illinois. I  
21 just want to point out -- Illinois is not always feisty  
22 and critical of the NRC. I want to say something real  
23 positive here. I was a member of the pink team and it was  
24 a very positive experience. It was probably one effort

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1 that I experienced working with the NRC that I felt like a  
2 true partner. And they really wanted my input.

3           And I think this whole effort is very  
4 important because I have ulterior motives and that is, I  
5 want to benefit they their efforts here, too. They're  
6 paying consultants a considerable amount of money to  
7 automate all this. And so I think if we participate in it  
8 now we can get a product more like what we want and then  
9 we can borrow.

10           DR. PAPERIELLO: The practical matter is, when  
11 these are done, it's my expectation that you will maintain  
12 them. I'm serious about it. Do the arithmetic. We pick  
13 up two more Agreement States and we're down to 4,000  
14 licensees. If there's going to be a national program it's  
15 going to be run by the nation.

16           The problem is, there is so much chaos out  
17 there I can't expect you to do this. But the practical  
18 matter is -- and this has been my long-term goal -- is  
19 when I consolidate this stuff in something that's  
20 manageable, in a format that is manageable on electronics,  
21 and with the ability that we can communicate over the  
22 Internet, is my long-term expectation is you will be the  
23 one to maintain further iterations of these things.

24           We may deal with some of the mechanics of the  
25 whole thing and the brokering. The fact of the matter is,

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1 when we're down to 4,000 licensees in about another three  
2 years, there is no way we can carry this whole program  
3 alone, and a major burden of this has to be transferred to  
4 you.

5           And that's why I want your input. It's not a  
6 game. It's a serious business and it's a -- but the  
7 practical matter is, if you do the arithmetic you're going  
8 to have to maintain them.

9           MR. WANGLER: Ken Wangler from North Dakota.  
10 This electronic information that you're talking about  
11 producing, what's the software? Is this going to be a  
12 software that we can take and adapt at our own programs  
13 and change as we need it? I mean, what is the software  
14 that you use?

15           DR. COOL: There's two different software  
16 efforts in there. The development for the team itself --  
17 at least in the NRC space -- is using LOTUS NOTES as a  
18 group-based software where everyone can work to the same  
19 file. We find that facilitates the process.

20           The publication actually runs out of  
21 WordPerfect 6.1. So a very standard word processing  
22 package. I believe the contractor may be using some more  
23 advanced levels of WordPerfect to help with the HTML  
24 Hypertext coding in order to make it a little more

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1 friendly for people to be able to point, click, and jump  
2 to the various pieces.

3           But at this point we're trying to stay very  
4 much with standard, available word processing software in  
5 terms of what's actually published.

6           MR. WANGLER: And I think that's very  
7 important because I've seen other things come out under  
8 consultants that come out under -- oh, like BOX, you know  
9 -- some controlling software that really most people can't  
10 use. And so when it comes out, it's a menu-driven system  
11 that what you get is what you got, and you can't -- you  
12 know, it's very difficult for the average person to change  
13 that. I would encourage you not to allow that to creep  
14 into this.

15           DR. COOL: Yes. In terms of the guidance  
16 documents themselves, they're available in something which  
17 should be readable by any of the readers that you could  
18 come in over the Web for upload.

19           In terms of the licensing system, we still  
20 have to look at some of the pieces of that development  
21 cycle -- what software package or combination of packages  
22 are available on the desk that brings up an application on  
23 one side, allows you to cross-link and look in a second  
24 window at the relevant guidance.

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1           The development work that we did with the  
2 pilot project, used Powerbuilder Zybase, which is pretty  
3 standard -- one of the standard packages for developing  
4 these kinds of applications. We are still looking at  
5 exactly what -- the best mechanism for doing a long-term  
6 development.

7           There are a lot of things going on out there  
8 in the IT arena. A lot of things that are now available  
9 through the Internet and some of the codings, which we  
10 have to look at and see whether that's a reasonable way to  
11 jump. In IT space you always have this tremendous  
12 difficulty.

13           The technology is moving so fast that by the  
14 times you sort of decided that you can do something in  
15 this way and there's enough people who have it, the  
16 technology leading edge is two or three steps ahead of you  
17 and you have to just say, cut and fish and we're going to  
18 roll with this for a while, knowing that in fact, by the  
19 time we get it online we're probably obsolete with respect  
20 to what is conceivably possible out there in the larger  
21 scheme of things.

22           But planned obsolescence is not one of the  
23 things I'm really fond of. Brian?

24           MR. HEARTY: Brian Hearty, Nebraska. I was  
25 just going to say that the way it's out on the Internet

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1 right now -- the portable gauge, the final guidance  
2 document -- there's just a nice button that says  
3 "download", and you get to pick what format you want, pull  
4 it right down into WordPerfect and start making changes.

5 MR. WANGLER: Make changes -- that's the  
6 critical part. I'm not concerned about being able to  
7 download it. I think we'll be able to download it and run  
8 it, but I'm concerned about being able to adapt it to our  
9 state program and make the changes that -- just simple  
10 things even like changing the references to our regulation  
11 versus 10 CFR.

12 DR. COOL: This should be set up such that you  
13 should be able to drop it right into a processor and make  
14 those changes.

15 MR. HEARTY: The only problem -- some of the  
16 documents that are scanned, like the sample licenses and  
17 things like that, where you'll have to just remove those  
18 and actually scan in your own.

19 DR. COOL: The border probably gets to be real  
20 fun in codes. Yes, some of those sorts of things, that's  
21 true. Other questions? Going once, twice. Thank you  
22 very much.

23 FACILITATOR CAMERON: Thank you, Don. Now  
24 we're going to switch gears and go to an update on state

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1 assumption of KI responsibility. And Aby Mosheni from our  
2 office of AEOD is here with us.

3 MR. MOSHANI: Thank you. I'm Aby Mosheni.  
4 I'm with the Office of AEOD. That stands for Analysis of  
5 and Evaluation of Operational Data. And I'm going to  
6 briefly bring you up to speed on what has transpired on  
7 the policy development under use of KI -- potassium iodide  
8 -- for the general public.

9 The chairman briefly discussed it in here  
10 presentation this morning. I'll go in a little bit more  
11 detail and answer some questions that you might have. A  
12 brief history of where it all started. Back in 1985 a  
13 policy was developed and issued by FEMA. That policy  
14 required that KI be stockpiled and distributed to  
15 emergency workers and institutionalized people. But it  
16 did not require KI stockpiling for the general public.

17 Subsequent to that, a differing professional  
18 opinion was submitted to the NRC to revisit that policy  
19 and that was revisited and no change in policy occurred as  
20 a result of doing a further analysis on cost benefit of  
21 potassium iodide in severe reactor accidents.

22 Subsequent to that, the American Thyroid  
23 Association wrote a letter to FEMA requesting FEMA to  
24 change the policy. That was looked at by FEMA and no

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1 change occurred after reviewing the existing information  
2 at the time. No change was made to the existing policy.

3           Subsequent to that a petition was presented to  
4 the NRC for NRC to revisit the policy, and that is under  
5 review at this time. Meanwhile, the analysis of potassium  
6 iodide, the cost benefit analysis has been out for some  
7 time, and it has demonstrated that potassium iodide -- the  
8 cost effectiveness was 2.22 -- I'm going into details now  
9 -- within five miles of nuclear power plants.

10           Meaning, you would have to spend two dollars  
11 for every dollar saved, if you will, and therefore it was  
12 within that range. It was pretty close. That was the end  
13 result of that cost benefit analysis.

14           Then FRPCC, the Federal Radiological  
15 Preparedness Coordinating Committee formed a subcommittee  
16 to study KI. This is when the petition that was submitted  
17 to the NRC was also submitted to FEMA for its review.  
18 FRPCC formed a subcommittee to study any new information  
19 that would change that policy.

20           The result was, while the evidence was  
21 compelling, no new information was submitted that would  
22 challenge the basis for the 1985 KI policy. However, some  
23 recommendations were made by the subcommittee to the full  
24 committee.

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1           The recommendations were: if any state wishes  
2 to have KI available close at hand around nuclear power  
3 plants, they can request funding from the Federal  
4 Government and the Federal Government will provide it.  
5 The language of the 1985 policy would be softened. In  
6 other words, while it would still be required to stockpile  
7 and distribute KI for the emergency workers and  
8 institutionalized people, the decision to stockpile KI for  
9 the general public would be at the discretion of the  
10 states.

11           This would replace the term that said, it's  
12 not required. It would say, it would be at the discretion  
13 of the states. Without changing the effectiveness of  
14 protective actions that we believe in to be still the case  
15 -- that's prompt evacuation -- that offers the best  
16 protection to the public.

17           The NRC staff presented a policy option to the  
18 commission on June 16th of this year, and as the chairman  
19 presented the policy this morning, the commission voted to  
20 endorse the FRPCC policy -- which is the softening of the  
21 language and the Federal Government purchasing KI for any  
22 state that so requests it. And three was that any local  
23 government that wishes to have KI should coordinate with  
24 the states for that to occur.

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1           So the commission voted to endorse the FRPCC  
2 policy on June 30th, 1997, and also meanwhile, while this  
3 effort was taking place under the auspices of FRPCC, an  
4 interagency committee was formed to look at the  
5 vulnerabilities of the Federal plans; vis-a-vis, terrorism  
6 -- nuclear, biological, and chemical events that could  
7 threaten the public.

8           The interagency group made several  
9 recommendations to the President, one of which was to  
10 include KI in any pharmaceutical stockpiles that are  
11 recommended to be stockpiled in different locations across  
12 the country. This was not based on the risks associated  
13 with reactors accidents, obviously. This was terrorism in  
14 the sense that we have witnessed, in Japan, Oklahoma City,  
15 and other types of events that are really not related  
16 directly to any power plant operation.

17           The fact that now the Federal Government had  
18 embarked on a major project to stockpile KI nationally at  
19 different locations was a fundamental basis for the  
20 commission's decision on June 30th that now KI is  
21 available to any state for any radiological emergency at  
22 any time that the states so request.

23           Now, this is in addition to any state wishing  
24 to have it close at hand and requesting funding from the  
25 Federal Government, and the Federal Government offering

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1 that. Since June 30th the NRC staff was directed by the  
2 commission to work with FEMA to develop a final, *Federal*  
3 *Register* notice that would announce the revised KI policy.

4 Which is basically, KI is available, not for  
5 nuclear power plant reasons, but once available it can be  
6 used for any emergency. And two, any state who has a  
7 power plant within its borders and determines that they  
8 want to go that extra step of having close at hand KI,  
9 they can request funding from the Federal Government and  
10 the Federal Government will provide them.

11 These are the principal changes, if you will,  
12 to the 1985 policy. When FEMA is ready with its *Federal*  
13 *Register* notice it will go to all the member agencies,  
14 Federal agencies of FRPCC, for a final vote. Once it has  
15 been approved by the FRPCC's committee it will be  
16 published as FRPCC policy that will replace the 1985  
17 policy.

18 I briefly discussed the policy itself as  
19 endorsed by the commission and by FRPCC as of now; that's  
20 for emergency workers and institutionalized people. No  
21 change in the Federal policy from 1985. In other words,  
22 it would be required to stockpile and pre-distribute or  
23 distribute during an emergency to such people.

24 The general public, no change in terms of  
25 requirement. There is no basis to require KI to be

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1 stockpiled for the general public. But should the states  
2 plan to act as a supplemental protective measure, KI for  
3 the general public, the Federal Government is prepared to  
4 pay for the funding of a KI supply.

5           Principally, it's the discretion of the state  
6 that's emphasized here. And of course, the Federal  
7 stockpile of KI for nuclear, biological, and chemical  
8 events will make KI nationally.

9           There are some important considerations that  
10 are included in the policy. One is that prompt evacuation  
11 remains the most effective and preferred protective action  
12 for severe accidents. In-place sheltering remains as it  
13 was. In other words, the public is asked to, in some  
14 cases when evacuation is not feasible, to shelter in-  
15 place. That remains unchanged.

16           Those are the two principal protective  
17 measures that are outlined in NUREG-0654 sub 3, which was  
18 issued a year ago, and they remain the preferred  
19 protective measures.

20           Another important consideration is that the  
21 costs associated with stockpiling KI for the general  
22 public above and beyond the initial purchase and the  
23 repurchasing every seven years -- if the shelf life will  
24 remain at seven years, which I understand that is the case

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1 today -- those costs will be the responsibility of the  
2 state: maintenance, distribution of any subsequent cost.

3           Only the cost to purchase KI and replenish  
4 that supply every seven years will be the responsibility  
5 of the Federal Government if so requested by the state.

6           The commission was clear in its direction to  
7 us, to the staff, to ensure that NRC licensees -- those  
8 are nuclear power plant licensees -- will discuss with  
9 their state counterparts, the revised commission policy,  
10 and that if there is any change arising from that because  
11 a state decides to do something different than what it has  
12 done so far, the licensee should coordinate and make the  
13 necessary -- bring about the necessary changes to its  
14 procedures and support the state.

15           And really, that is the principal message  
16 we're going out under the direction of the commission to  
17 give to the state and licensees -- that coordination is  
18 important if there is a change in your policy based on the  
19 revised, Federal policy that should be out when FEMA  
20 publishes -- meets with the rest of the agencies and vote  
21 on it. That's maybe in a month or so from now.

22           In its decision, the commission explicitly  
23 underlined the importance of the central role of the  
24 states in protecting public health and safety. It is in  
25 that context that this decision of whether or not KI ought

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1 to be stockpiled at hand -- nearby -- remains a  
2 prerogative of the state.

3           It is important to note that even the 1985  
4 policy recognized that the states could, at any time  
5 without requiring any Federal support or permission, if  
6 you will -- to go ahead and stockpile KI. And as a  
7 result, Alabama and Tennessee are cases in point, where in  
8 fact they did stockpile KI for the general public.

9           The language in the new, revised policy is  
10 less negative, if you will, in terms of saying it's not  
11 required. It will leave it to the discretion of the  
12 states.

13           We continue to appreciate and understand the  
14 logistical concerns raised by the states about the use of  
15 KI. And in fact, the major concern that there is, is to  
16 reduce the effectiveness of prompt evacuation should KI  
17 become an additional protective measure to be considered.  
18 And that's why it's at the discretion of the state and not  
19 something that's emphasized in terms of requirement by the  
20 Federal Government.

21           Other considerations are important. Obviously  
22 KI cannot reduce the external exposure or internal  
23 exposure from the non-iodides, and therefore it should not  
24 be viewed as a protective measure by itself; it should  
25 always be accompanied by something else. It's either

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1 because you could not evacuate and you have in-place  
2 sheltering, or it's done with evacuation at some  
3 relocation center.

4           In any case, it's not viewed as being an  
5 independent and on the same level of importance as  
6 obviously, protective actions such as evacuation. So by  
7 no means should this become an issue to delay prompt  
8 evacuation; that's critical. We continue to believe  
9 prompt evacuation is the best protective measure and if KI  
10 should by any means, delay that protective action  
11 implementation, then obviously it is not advisable.  
12 That's clear in all the analysis that was performed.

13           The guidance that's provided in sub 3 of  
14 NUREG-0654 remains valid. If there are any changes it is  
15 not in the basic science of that, but rather in the  
16 additional constraints that might be added should there be  
17 additional protective actions such as distribution of KI  
18 during an emergency.

19           So any change would not be in the area of  
20 presenting a less effective protective action when  
21 evacuation is the central focal point, but rather, the  
22 additional concerns regarding the distribution of KI when  
23 in fact, prompt evacuation and in-place sheltering is  
24 being taking place.

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1           That summarizes the commission's policy issue,  
2 June 30th. Do you have any questions? Yes?

3           MR. RATLIFF: Richard Ratliff, Texas. Are NRC  
4 regional offices going to stockpile KI?

5           MR. MOSHENI: To my knowledge, no, not for the  
6 general public. They do for NRC teams that are sent to  
7 the site, yes, that's given. Yes?

8           MS. ALLEN: Kathy Allen from Illinois. Can  
9 you clarify something for me? You said that the Federal  
10 Government would pay the cost for the initial distribution  
11 of the KI. Did you also say that they are funding the  
12 subsequent distribution -- like at seven years down the  
13 road --

14           MR. MOSHENI: Not distribution; the --

15           MS. ALLEN: No, I'm sorry --

16           MR. MOSHENI: -- purchase of a supply of KI  
17 and, depending on the final consensus and what the shelf  
18 life is, I believe it to be seven years now as we speak,  
19 but it has been extended over the years. Every time that  
20 it has to be replenished I think you can come back to the  
21 Federal Government, according to their policy, and request  
22 funding.

23           MS. ALLEN: Has there been any consideration  
24 for infant doses in a liquid form where the shelf life is  
25 only about 18 months?

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1                   MR. MOSHENI: We have gone with the FDA  
2 recommended doses; that has not been revised. And the FDA  
3 dosage discusses -- the same information that was  
4 discussed in the 1985 policy which is -- the tablets, I  
5 think 13 milligram was the dosage for an adult, and it was  
6 in tablet form.

7                   MS. ALLEN: Right, but that's for adults. I'm  
8 talking about --

9                   MR. MOSHENI: Half of that is recommended for  
10 children.

11                  MS. ALLEN: For children. But infants that  
12 can't -- you're suggesting that people just grind up the  
13 tablets? You don't want to deal with liquid forms for  
14 infants?

15                  MR. MOSHENI: I'm not sure that we have gone  
16 that far, if you will, to -- and I understand in the  
17 policy we said, which the commission endorsed -- that  
18 should the NRC commission endorse this approach, we will  
19 work with FDA to ensure that proper labeling and proper  
20 usage that was in place back in 1985, remains valid today  
21 and that there is nothing else out there that we need to  
22 say.

23                                So I think we owe that activity to be  
24 completed before finalizing the purchase of KI -- has to  
25 ensure what the labeling says and the dosage is in

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1 accordance with the state-of-the-art knowledge about the  
2 use of KI.

3 MS. ALLEN: Is part of the labeling going to  
4 include some sort of pamphlet that goes with the  
5 individual doses that sort of reminds people that this KI  
6 doesn't protect you from all sources of radiation?

7 MR. MOSHANI: Yes.

8 MS. ALLEN: So FEMA or NRC would be preparing  
9 that document?

10 MR. MOSHANI: I think together. We are the  
11 technical -- but mostly I think it's FDA that deals with  
12 the medication and the warning, the caution statements  
13 that go on it. And in FRPCC, FDA or HHS is the lead  
14 agency in developing the medical pamphlet that goes with  
15 it.

16 MS. ALLEN: Can I ask one more question?  
17 Illinois is glad to see that you have really put the  
18 responsibility and the decision back to the states. The  
19 states can decide whether or not they want to accept the  
20 KI. But we're rather concerned with the policies and the  
21 implementation and the strings that are attached when we  
22 say yes or no; whether FEMA will come up with a series of  
23 test plans for your distributions system and things like  
24 that.

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1           We're really kind of nervous about that; we're  
2 really -- in conjunction with the *Federal Register* notice  
3 will that guidance be available at that time or will it be  
4 something where the states sort of sign up for it and then  
5 all of a sudden FEMA shows up and says, oh by the way, no,  
6 they all have to be packed horizontally instead of  
7 vertically, or something? Which is not unheard of.

8           MR. MOSHENI: Yes. We had a meeting with FEMA  
9 based on this new policy, NRC policy, and we asked a  
10 question of FEMA. In the NRC approved policy there is a  
11 statement, the fact that because KI is a supplemental,  
12 protective measure -- above and beyond the minimum  
13 required -- and the existing emergency plans are deemed  
14 adequate so you need not demonstrate that you have KI  
15 capability of distribution to ensure that the emergency  
16 plans are adequate, FEMA is aware of that NRC position --  
17 commission position.

18           FEMA however, has included in its existing  
19 guidance from the past, statements that are broader in  
20 nature. In other words, they will -- they have always had  
21 the option if you will, of looking at NUREG-0654 criteria  
22 for evaluation and applying it to off-site agencies.

23           But according to FEMA, because this is a  
24 supplemental protective action above and beyond the  
25 minimum, while the language on the existing guidance gives

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1 everyone the perception that they may be subject to  
2 Federal evaluation, as you pointed out, we and FEMA agreed  
3 that they need to go back and make some changes to ensure  
4 that any FEMA evaluation would not lead to a finding of a  
5 deficiency in the area of KI should a state adopt this  
6 issue.

7           And they have verbally agreed with that  
8 stance. It remains to be written and revised, and you  
9 know how bureaucracies work. It took us many years to  
10 issue sub 3, and so if I told you it's going to happen in  
11 the near future, then I probably was born yesterday.

12           MS. ALLEN: Thank you.

13           MR. MOSHANI: Yes?

14           MR. MATINAIS: Two things that I didn't see on  
15 your slides that I thought were important for  
16 consideration. Oh, I'm Jim Matinais with Alabama. First,  
17 is this not a legend drug and does it not -- who is  
18 prescribing it and is this not the practice of medicine?  
19 In many states I could not tell you to take an aspirin; I  
20 would be practicing medicine.

21           And my second issue that bothers me is, what  
22 about informed consent? Inform where the patient, knowing  
23 and accepting the potential risk of having a reaction --  
24 and going with that, if you give it to your workers and a  
25 worker has an allergic reaction that kills him, then who

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1 is liable? The regional administrator that told him to  
2 take it?

3 So the two issues of practicing medicine and  
4 informed consent I think need to be addressed in your  
5 documents.

6 MR. MOSHENI: You're absolutely right, and I'm  
7 not sure if what's already there you would deem adequate.  
8 But FDA has addressed that issue, even in the 1985 policy.  
9 So for all practical purposes, if it was vague back then  
10 it remains vague today, and if it was clear to Alabama and  
11 Tennessee then, then obviously it should be viewed as no  
12 change at this stage.

13 We still believe that with FDA being the  
14 responsible agency -- and we're not the expert medical  
15 agency and we do rely on FDA to make the necessary changes  
16 to the language resulting from prescribing. And of course  
17 it's always with the state health officer, the  
18 prescription -- or the local health officer. It's not  
19 done by an emergency response manager. And similarly in  
20 the area of workers, I think each agency has its own  
21 internal responsibility.

22 Same reasoning that you would apply allowing  
23 emergency workers to get higher doses when they're indeed  
24 going in there and trying to do something. I mean, their

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1 responsibility is not too easily defined, and we  
2 appreciate that.

3 MR. GODWIN: Godwin, Arizona. Having been in  
4 Alabama for a while, a couple of issues that everybody  
5 should be aware of is indeed, exactly what Jim has brought  
6 forward. The prescription requirement says that a public  
7 health official has got to prescribe it if you would, to  
8 the public. That would normally be an M.D.

9 As a matter of fact, for your emergency  
10 workers, that same provision applies. Since you also want  
11 people to take this stuff in sort of an informed consent  
12 arrangement, Alabama, last I heard, also requested them to  
13 sign a waiver that indicated -- that they had fish  
14 allergies or something that might be indicative not to  
15 take it -- that they didn't have it and they understood  
16 that those, you know, all the usual indications there. So  
17 they definitely had a plan with a provision for a waiver.

18 But looking at the protection factors, if you  
19 can get the material in within the first six hours, you're  
20 in good shape. But you're getting down pretty low by the  
21 6th hour, I might add. The people that want to do it need  
22 to look very carefully at the delivery system; that they  
23 can get it delivered in a timely manner. Getting in there  
24 a couple of days later and depending on it to come from  
25 some distant Federal center is a hang-it-up time.

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1           And I'm afraid that if you do have an iodide  
2 release at your plant and you have been so unlucky as to  
3 not get your people moved before they got a snootfull,  
4 you'll be subject to pretty severe criticism if you  
5 haven't made some arrangements to at least attempt to get  
6 them potassium iodide.

7           At any rate, it's something that I agree each  
8 state needs to look at and make their own decision on how  
9 they're going to handle it.

10           MR. MOBLEY: This is very interesting to me.  
11 I have to go back to what I think is the basic question.  
12 What nuclear, biological, chemical event is going to  
13 create a need for KI? I mean, that seems to be the  
14 genesis of why this major change here, when the states  
15 have already made their decision based on KI. What's the  
16 driver of that?

17           MR. MOSHENI: As I mentioned, the science did  
18 not support requiring KI. Clearly that has been the  
19 finding. And it wasn't just once. Over the years, people  
20 have gone back and revisited events -- you know, Chernobyl  
21 results, all those were looked at. And clearly the basis  
22 -- every committee that looked at it did not find a reason  
23 to actually meet the threshold of saying, we are deficient  
24 if we do not have KI readily available as a protective  
25 measure. That did not occur.

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1           The fact that the language has been softened  
2 and the state has been recognized if you will, as being  
3 ultimately responsible for public health and safety,  
4 should not imply that there is science in there that has  
5 changed. It's more a matter of policy, if you will,  
6 rather than a change in science that shows that there are  
7 events, nuclear accidents, that we can clearly identify,  
8 where potassium iodide administration to the general  
9 public would indeed, give you the additional protection  
10 that you might not have had under different circumstances.

11           Bearing in mind that, you know, theoretically  
12 one can come up with something, but when you have to look  
13 at the application, the administration, the distribution,  
14 the logistics, it just makes -- potentially it has a  
15 negative effect if you will, of either slowing down the  
16 process of either prompt evacuation or otherwise.

17           That has been looked at. It's there in the  
18 documentation, that indeed the commission looked at. And  
19 that is why they did not choose any option that would make  
20 this a matter of stronger language, if you will.

21           MR. MOBLEY: Number one is, you didn't answer  
22 my question, and number two is, all of those issues have  
23 been looked at and I can assure you -- I don't know about  
24 Alabama -- I think I know about Alabama but I can speak  
25 for Tennessee. In Tennessee we've looked at all those

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1 issues and if you're going to use KI you'd better have it  
2 stockpiled.

3           We do not make any sort of determination in  
4 terms of an evacuation decision or whatever, based on  
5 whether KI is or is not available. The evacuation  
6 decision is made on the basis of whether evacuation is  
7 proper to do under the event that we are evaluating, and  
8 KI is then issued to people when they report to the  
9 shelters as appropriate. And I'm speaking to the general  
10 public because we issue KI to our workers upon being  
11 dispatched to the scene under appropriate health officer  
12 orders, etc., etc., etc.

13           But one of the things that we've clearly  
14 identified in Tennessee and Aubrey alluded to it, is that  
15 if you want to have KI and utilize it, you'd better have  
16 it in hand, because you're not going to get it in a  
17 timeframe in which it's reasonable to use. But I still  
18 don't understand -- and maybe it's a simple answer and  
19 Aubrey's busing to answer it -- but I still don't  
20 understand what even it is that you would use KI for --

21           MR. GODWIN: What terrorism event would you --

22           MR. MOSHANI: Oh, you're not talking about  
23 nuclear? Actually power plant accidents? You're talking  
24 about --

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1 MR. MOBLEY: This came about as a result of  
2 the weapons of mass destruction analysis.

3 MR. MOSHANI: Yes.

4 MR. MOBLEY: Which leads you to the conclusion  
5 that a small nuclear weapon could be one of the reasons  
6 for it because there are several missing from Russia,  
7 according to --

8 MR. MOSHANI: Let me read to you the basis for  
9 that. I have it here. NBC events are unpredictable with  
10 many unquantifiable parameters. This is the result of the  
11 interagency core group finding -- what made the ultimate  
12 recommendation to the President. In contrast to nuclear  
13 power plant accidents, NBC events can occur in major metro  
14 areas. The group postulated NBC scenarios for which  
15 evacuation and sheltering were not effective or even  
16 possible.

17 NBC events can have consequences ranging from  
18 low to disastrous. Some may not escalate beyond the  
19 threat stage, while others may occur without the threat  
20 stage with devastating consequences, with everything in-  
21 between. Even with a significant amount of planning at  
22 the Federal, state, and local level, NBC events still have  
23 potential for mass casualties.

24 This was the premise that they could not  
25 exclude -- they would like more of a negative finding. We

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1 cannot say why we don't need KI, but we can't really say  
2 where we would need it either.

3 MR. MOBLEY: Let me just say, that if you need  
4 it because some terrorist sets off a small nuclear weapon  
5 in a city, it's too late. And it's not going to be very  
6 helpful anyway because the real problem's going to be that  
7 small, nuclear weapon that went off and all the damage  
8 it's done. What's a little iodide under that  
9 circumstance? I mean, who the heck cares, you know?

10 The whole, I mean, the whole genesis about the  
11 change in this policy -- I don't comprehend it. I  
12 absolutely don't comprehend it.

13 MR. BAILEY: Hey Mike, maybe I can help you.

14 MR. MOBLEY: Please.

15 MR. BAILEY: Here in California we have fire  
16 trucks that move around so that they'll be closer to a  
17 fire perhaps, if it occurs, rather than sitting at the  
18 fire station.

19 (Laughter.)

20 MR. MOBLEY: Only in California. So I should  
21 take a wagonload of KI with me wherever I go?

22 FACILITATOR CAMERON: And I think you can  
23 bring some of it up to the cash bar.

24 MR. MOBLEY: Will we have KI at the cash bar,  
25 perhaps?

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1 FACILITATOR CAMERON: Yes, absolutely. I  
2 don't want to break this off because Aby finally managed  
3 to get some controversy going here. But I guess that this  
4 has something to do about, we're losing money by paying  
5 our bartender and we're not there and -- one thing to  
6 think about is whether the term "snootfull" is a health  
7 physics term.

8 (Laughter.)

9 MR. QUILLIN: Since we are so far behind  
10 schedule I'd like to try to pick up at least half-an-hour  
11 in the business meeting by starting tomorrow at 8 o'clock  
12 with the business meeting. So could all state  
13 representatives be here at 8 tomorrow morning.

14 (Whereupon, the Agreement States Annual  
15 Meeting was adjourned at 5:30 p.m.)

16

17

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