UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

1997 ALL AGREEMENT STATES MEETING

RADIOLOGY HEALTH BRANCH

THURSDAY
OCTOBER 16, 1997

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
PANEL MEMBERS: (CONT.)

PAUL EASTVOLD           Illinois
ROLAND FLETCHER         Maryland
DIANE TAFFT             New Hampshire
AARON PADGETT           North Carolina
JAY HYLAND              Maine
BOB HALLOWAY            Massachusetts
BOB GOFF                Missouri
BOB QUILLIN             Colorado
ED BAILEY               California
ROGER SUPPES            Ohio
STUART LEVIN            Pennsylvania
VICK COOPER             Kansas
KIRK WHATLEY            Alabama
TOM HILL                Georgia
ALICE ROGERS            Texas
BILL PACETTI            Florida
KEN WANGLER             North Dakota
BILL SINCLAIR           Utah
RAY PARIS               Oregon
VICKIE JEFFS            Kentucky
MAX BATAVIA             South Carolina
BRIAN HEARTY            Nebraska
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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
small El Nino torrential rain followed by mudslides. So
you know, we'll work with that.

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

(Laughter)

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

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

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

Just a few words about the setups. If you
notice -- Cathy knows me well -- the meeting room is
directly across from the bar; that's convenient. And past
the bar is the restrooms if you happen to need those. If
you have anything that you need while you're here, please
get in touch with somebody on the California staff.

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

(Applause.)

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

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

But we really need someone to step forward and
take a leadership role and get this done. Twenty years is
an awful long time to dig a hole in the ground, and I'm
hoping that as we go forward we can accomplish this.
Well, last night I was talking to Carl Paperiello and we were talking a little bit about the relationship between the Agreement States and the NRC and how, up until last year when Mommy and Daddy finally cut the purse strings, the Agreement States were really like the children of the NRC -- here's your money, now you do what I tell you to, and so forth.

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

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

And I think I heard somebody else -- Aubrey, I believe -- was it you? Somebody else was telling me that they had essentially done the same thing; that they'd gone in and gotten training money, which allowed them to go to other kinds of meetings that they might not have been able to.
I think that we're also in an exciting time. Some of you are aware that NRC and DOE are beginning pilots on external regulation of DOE. Mike Mobley was amazed to hear that anyone would want to do that. And we've been meeting. One of the sites chosen is Lawrence Berkeley National Lab, and the State of California, as an Agreement State is participating fully in those deliberations.

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

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

MR. QUILLIN: Thank you, Ed. I think we should all express our appreciation to Ed and his staff,
to the work they've done in putting this meeting together here in Los Angeles. I've been on the periphery of some of those issues and I understand some of the problems they face. But I think we all should recognize the effort that they've put into this meeting.

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

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

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

This morning I'd like to say, this is our meeting, it's a states meeting, it's an NRC meeting, and let's not just bring up problems, let's try to bring up solutions to problems. And these solutions should be
based upon our mutual experiences and our viewpoints and how we can get the job done.

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

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

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

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

DR. JACKSON: Good morning. Let me welcome all of you to this meeting, particularly the
representatives from the Agreement States. But I also would like to greet all of my colleagues and friends from NRC and recognize their presence, but particularly Mr. Dick Bangart, who directs our Agreement State's program.

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

(Laughter.)

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

Mr. Quillin has been a very effective chairman of the organization, and we at the NRC greatly appreciate his efforts in sponsoring and planning this annual meeting; as well as Mr. Edgar Bailey, head of the
California Agreement State program, and his staff who so graciously hosted this meeting this year.

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

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

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

I will then discuss two recent NRC commission decisions regarding radiological criteria for decommission, and potassium iodide stockpiling, as well as several other interests of current commission focus, both internal and external, including the re-authorization of CERCLA, the revision of 10 CFR Part 35 -- which you'll be
talking more about in this meeting -- options for
disposition of surplus weapons grade plutonium, and
external regulation by the NRC of DOE nuclear facilities.

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

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

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

The Agreement States had a significant role in
this part of the process. In addition to providing
substantial written comments, Agreement States also
participated in the three stakeholder conferences that
were held to give the public an opportunity for oral
comment as well as face-to-face interaction with agency
representatives.

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

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

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

The fourth and final phase which is underway,
involves the implementation of the strategic plan and the
DSI decisions. At this stage, the strategic planning and
re-baselining moves from being a special, one-time effort,
to a way of conducting business. This phase will involve
developing a performance plan -- which in fact has been
done -- integration of the strategic plan and the
performance plan with the budget process, and performance
monitoring.

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

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

During the past few years, the commission has
approved a number of significant changes and initiatives
that represent the maturity of the Agreement State
programs and that acknowledge the collective, national
efforts among Agreement States and the NRC to regulate the
use of nuclear materials.
These program revisions include: use of the IMPEP program to evaluate both NRC regional programs and Agreement State programs using teams comprised of both NRC and Agreement State staff; publication of the final statement of principles and policy for Agreement State programs and the final policy statement on adequacy and compatibility of Agreement State programs; use of joint NRC and Agreement State working groups on projects such as the revision to Part 35; and the control and accountability of devices.

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

On behalf of the commission, I want to express appreciation for those important contributions made by the Agreement States. While future changes to the Agreement State program may be as rapid, we hope, or as frequent as during the past few years, continuing modifications may be necessary to further improve the program and to address the evolving, technical, societal, political and economic environments in which we live and work.
I now would like to address two issues on which the commission has recently issued decisions. On July 21st of this year the commission issued an amendment to its regulations to establish acceptable radiation levels at the point when the nuclear facility is permanently shut down, the license terminated, and the site released to other uses.

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

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

In addition, if a site is released for restricted use the licensee must provide financial arrangements to allow an independent third party to assume
and carry out responsibilities for any necessary control and maintenance of the site. Provisions are also included in the regulation that would limit the radiation dose to an individual in the unlikely event that institutional controls failed.

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

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

The commission would review proposals to use these alternate criteria -- the commission itself -- and the ALARA principle maintaining doses as low as reasonably achievable, would still be applied. The commission expects the alternate criteria would be used only rarely.
I'm elaborating these standards because the commission believes that they ensure protection of public health and safety and the environment. In addition, the regulations are consistent with the relevant recommendations of both national and international bodies tasked with developing radiation protection guidance. The new regulations consider risk, cost benefit, and socio-economic standards while providing the needed flexibility to accommodate site-specific conditions.

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

The report recommended that the Federal Government purchase and stockpile chemical nerve gas antidotes, vaccines for anthrax, antibiotics, potassium iodide, and other medicines for use by the general public in the event of a terrorist attack. The Federal Government is planning to put into place three national
stockpiles of medical supplies that include potassium iodide, or KI.

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

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

The principle aspects of the revised policy are: first, the recognition of availability of KI nationally as part of the Federal stockpiles of medicinal supplies for nuclear, biological, and chemical threats; and second, the commission endorsement of the Federal Radiological Preparedness Coordinating Committee, the FRPCC, recommendations to continue the present policy of stockpiling KI for emergency workers and institutionalized persons, and to leave to the states the decision to use KI for the general public.
This policy recognizes the central role of the states in protecting public health and safety. Under the revised position, potassium iodide would be available to any state for any type of radiological emergency at any time. If a state wishes to have its source of potassium iodide close at hand for use in a possible nuclear reactor accident, the Federal Government will fund the purchase if requested.

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

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

However, the state -- or in some cases, the local government -- is ultimately responsible for the protection of its citizens. Therefore the decision for multiple stockpiling and use of potassium iodide as a
protective measure for the general public is left to the
discretion of state and local government. And my
understanding is that currently three states -- Tennessee,
Alabama, Maine -- include in their emergency planning, the
use of potassium iodide as a protective measure for the
general public.

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

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

CERCLA re-authorization legislation is of
great importance to the commission because of its
potential applicability to the cleanup of residual
radioactivity resulting from materials under NRC
jurisdiction. The commission is concerned with CERCLA re-
authorization because it may make statutory-specific,
residual risk standards applicable to the cleanup of
radioactive material without designating an NRC rule in selecting or applying those clean-up standards.

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

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

That is, a remedial action that complies with the commission or Agreement State regulations would automatically certify CERCLA requirements for remediation and control. The commission is fully aware that the re-
authorization of CERCLA could have a significant impact on the NRC Agreement State program.

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

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

This process started before my time, in 1993, with an internal, senior management review. It was continued during my time with the 1996 independent, external review by the National Academy of Sciences, the Institute of Medicine, and culminated in decisions on this
issue by the commission as part of the NRC strategic assessment and re-baselining discussed earlier.

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

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

Additional staff efforts include addressing how best to capture, not only safety significant events but also presursor events, evaluating the quality management program provisions to focus on requirements essential for patient safety, and considering the viability of using or referencing available industry guidance and standards.
Representative of the Organization of Agreement States and the conference of Radiation Control program directors have been involved since the early stages, from participation in the NRC Part 35 working group and steering group. Two states, Alabama and Ohio, each have had a representative actively participating in the working group, and a State of Georgia management representative is participating in the steering group.

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

In addition, the groups have identified alternative recommendations for revisions of the 1979 medical policy statement of the NRC. These issues were the focus of last month's meeting between the NRC and the advisory committee on the medical use of isotopes. They also will serve as the basis for discussions in two upcoming public meetings to be held in Philadelphia on October 28th to 30th, and in Chicago on November 12th to 14th, to solicit early comment on the Part 35 revision.
The commission has asked the staff to do this rulemaking on an expediting basis. The NRC has also met with a number of medical professional organizations and more meetings are scheduled. I would also note for your information that a mini-workshop on this topic is scheduled at this meeting on Saturday morning.

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

In January of this year the U.S. Department of Energy issued its record of decision for the storage and disposition of weapons-useable fissile materials. In that record of decision DOE stated that it has decided to implement a program for the safe and secure storage of such material, including plutonium and highly enriched uranium, and it announced a strategy for the disposition of surplus weapons-useable plutonium.
DOE plans to pursue a dual track approach as you know, for plutonium disposition which would include immobilizing surplus plutonium with high-level radioactive waste in a glass or ceramic material for direct disposal in a geologic repository, and burning some of the surplus plutonium as mixed oxide fuel in existing, domestic, commercial reactors before its disposal as a spent reactor fuel in a geologic repository.

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

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

In July of this year the DOE issued a program acquisition strategy for selecting private sector
organizations to assist in implementing the MOX fuel alternative. And the services in the proposed strategy would include designing, constructing, modifying, licensing, and operating a fuel fabrication facility, supplying nuclear fuel for commercial reactors, and ultimately, obviously, the decontamination and decommissioning of any facility.

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

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

There are technical, financial, and political questions that remain. In the U.S., industry representatives have expressed reservations about the size and duration of the investment necessary for commercial, nuclear power companies to invest in the MOX program, particularly if there were unforeseen circumstances that
prompted DOE to cancel the programs. And certain U.S. public interest groups have asked that the Federal Government set minimum standards of safety for the performance of commercial entities to be selected to participate in the MOX program.

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

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

Let me turn to external regulation of DOE. You've heard a little about it so that will shorten what I have to say. By longstanding tradition and statutory direction, a primary mission of the U.S. DOE has been nuclear weapons production as well as the development of commercial and naval nuclear reactors and the conduct of energy-related research.
With the end of the Cold War certain elements of that mission have shifted. The fundamental mission elements of the Department have remained, but approximately half of DOE's nuclear budget is now devoted to three activities: materials management, decommissioning and cleanup, and waste management.

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

In 1994, legislation was introduced in the U.S. House of Representatives that would have subjected new DOE facilities to immediate external regulations. DOE created in January of '95, an advisory committee, that in the end recommended in its report, that essentially all aspects of nuclear safety at DOE nuclear facilities should be externally regulated, and a working group set up by the Secretary of Energy later provided recommendations that the NRC should be the external, nuclear safety regulatory, and that the transition to external regulation should proceed in phases.
The commission as part of the strategic assessment and re-baselining, in September addressed various options for the NRC position on this issue, and after considering public comments as well as the DOE's December 1996 decision, the commission endorsed having the NRC assume that regulatory oversight, contingent upon our receiving adequate resources and having a clear delineation of authority that we will exercise over these facilities.

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

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

Even so, the pilot is beginning to get underway as you've been told, and it's intended to simulate NRC regulation of a selected set of DOE nuclear facilities over a 2-year period in order to help both
agencies gain experiences related to NRC external regulation.

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

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

Who is to be regulated, DOE or its contractors? What safety criteria should apply? What the role is of other stakeholders and regulatory entities, including the Agreement States; safeguard and security; and how best to effect the transition to external regulation?
As we proceed, our primary goal is to remain rigorous in ensuring public and environmental protection on a cost-justified basis, and to ensure that whatever steps we take toward phased-in DOE oversight, do not compromise our ability to ensure adequate protection of public health and safety within the scope of our current mission.

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

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

This emphasis surely is changing the way we do business, but I believe in the end it will make us both more efficient and more effective as regulators. In reviewing with you the series of issues -- and I know I've
gone over my time but I thought it was very important -- I hope I've given you a greater appreciation for our perspective, and I hope that you will continue to work closely with the NRC so that we can continue to pursue this strategic vision in a responsible and an effective manner.

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

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

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

DR. JACKSON: That's correct.

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

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

MR. COLLINS: I think possibly if we look at it and we really like it, states that choose to do so might contact their delegations and provide what's --
DR. JACKSON: Okay, thank you. I'll see to that. Thank you very much. Any other questions?

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

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

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

DR. JACKSON: Right. I thank you for that comment and I don't disagree with your presentation of what happened in the case of that particular appointment. I think that it's important when you have meetings like this, not only to focus on specific issues such as IMPEP programs and so on, but to perhaps spend more time to talk
about how, in fact, the NRC and the Agreement States can be mutually reinforcing, particularly as we evolve from what I think one of the earlier speakers called a parent/child relationship, to a partnership.

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

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

MR. QUILLIN: Chip?

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

Let me add my welcome to all of you to the meeting. My name is Chip Cameron and I'm pleased to serve as the Facilitator for the next three days. I think the
program committee has put together an interesting and comprehensive program for you, and I'm going to try to assist you in having a productive meeting over the next few days.

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

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

Now, for those of you who have done a lot of these meetings, usually you know that we have name tags in front of you for purposes, not only of identification, but also to signal the facilitator for when someone like to talk so you don't have to have your hand up all the time. That's one of the few details we missed; we don't have any name tags as you can see. So if you'll just raise your hand or spill your glass or water in front of you or
something like that. Give me an idea that you want to talk and I'll try to keep track of you.

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

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

And in terms of the agenda, it's pretty straightforward. We're going to begin with Dick Bangart who's going to give us a state of the program message. Note that there is an Agreement State business meeting today. It's the first part of a 2-part business meeting that starts at 3:30 today. The second part is Saturday at 2:30, and at 4:30 on Saturday Bob Quillin is going to report out on the Agreement State business meeting. It will be in this room.
As I mentioned, there's a cash bar today for everybody to get together and talk at 5:30, and as Dr. Jackson mentioned, we are going to do a mini-workshop on the Part 35 rulemaking on Saturday morning. Now this -- there will be several members of the public in attendance on Saturday, and it should be an exciting and enjoyable session, but I will be going out to the audience at that time to comment on the various issues that we've been discussing. So just anticipate that, and I would just ask you to relax and speak your mind.

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

MR. FLATER: Don Flater, State of Iowa.

MR. WASCOM: Ronnie Wascom, State of Louisiana.

MR. BRODERICK: Mike Broderick, Oklahoma.

MR. MARSHALL: Dan Marshall, Nevada.

MR. MOBLEY: Mike Mobley, Tennessee.

MR. SNELLINGS: David Snellings, Arkansas.

MR. GODWIN: Aubrey Godwin, Arizona.

MR. ERICKSON: John Erickson, Washington.

MR. RATLIFF: Richard Ratliff, Texas.

MR. FLETCHER: Roland Fletcher, Maryland.
MS. TAFFT: Diane Tafft, New Hampshire.

MR. PAGGETT: Aaron Pageddett, North Carolina.

MR. HYLAND: Jay Hyland, State of Maine.

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

MR. GOFF: Bob Goff, State of Mississippi.

MR. QUILLIN: Bob Quillin, Colorado.

MR. SUPPES: Roger Suppes, Ohio.

MR. LEVIN: Stuart Levin, Commonwealth of Pennsylvania.

MR. COOPER: Vick Cooper, Kansas.

MR. WHATLEY: Kirk Whatley, Alabama.

MR. HILL: Tom Hill from Georgia.

MS. ROGERS: Alice Rogers, Texas.

MR. PACETTI: Bill Pacetti, Florida.

MR. WANGLER: Ken Wangler from North Dakota.

MR. SINCLAIR: Bill Sinclair, Utah.


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

MR. BATAVIA: Max Batavia, South Carolina.

MR. HEARTY: Brian Hearty, Nebraska.

FACILITATOR CAMERON: Okay, thank all of you.

Are there any housekeeping questions? Okay, Bob's
suggesting that we go out into the audience for any
Agreement States that aren't up here.

UNIDENTIFIED: That's right.

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

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

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

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

To address my views I'll request that you
follow a figurative presentation halfway with me, that
first goes through a gateway to an overarching issue that
some of you have identified as a concern. That issue is
the difference in the perception between NRC and Agreement
States about the flexibility of the program, that as we
know, has undergone significant revision since 1993.

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

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

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

But since most of the revisions are in place
and since the expressions of concern have still continued,
I recognize that addressing the question broadly probably
has at least limited value, or at least needs to be complemented by an additional evaluation.

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

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

Non-common indicators, however, if assessed fairly, probably have a flexibility mix associated with them. Compatibility of regulations is one part of the non-common indicator legislation and regulations. Before I explicitly discuss the flexibility for this non-common indicator I plan to digress for just a second to discuss the term, compatibility of regulations itself, because
even the use of that term under the new policy is really a
misnomer.

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

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

Having some rules that are different from the
category designation to the new policy could conceivably
have no impact on the overall program compatibility
determination. Because of this, together with the fact
that any type of legally binding requirement like a
license condition, is considered sufficient to satisfy the
policy need for an equivalent regulation, flexibility is
probably at a maximum in this area of the new program.
As far as what to expect from NRC on the review of regulations, we believe that it’s good news for everybody. The new policy, our revised implementing procedures, and our new tracking system will assure that all reviews of your regulations will be complete by the date you request or by a revised negotiated due date when we're unable to meet your originally requested date.

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

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

The standard for compatibility category C regulation is even less rigorous and calls for the Agreement State requirement to have the same essential objective as NRC's Rule. So when a Rule review of an Agreement State regulation is conducted by OSP staff, I ask them to review your Rule or your legally binding requirement from the perspective of a licensee.
If a licensee would have to do nothing different from what is required by the NRC rule, then the Agreement State rule is the same. If a licensee would have to do at least as much as the NRC Rule requires, or if the Agreement State rule uses an alternate mechanism to achieve the same level of safety, then the Agreement State Rule meets the same essential objective as the NRC Rule. Agreement States should receive significantly fewer NRC comments on rules than in past years.

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

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

I think as you know, NRC has invested large amounts of resources over the years to develop our review capability in these specialized areas. And the NRC staff members have received recognition on a national level, and
sometimes even on an international level, for their technical expertise in these specialized areas.

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

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

I also believe that concerns about apparent NRC prescriptiveness in these areas should diminish with time, however, because the detailed, technical guidance for these non-common indicators will eventually become guidance that we can all embrace. This will happen increasingly because the guidance will be developed jointly, and even now in essentially all program areas, Agreement States are being provided opportunities to
comment at the very early stages in the development of regulatory positions and guidance.

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

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

We know incident response decisions require technical judgments and sometimes those judgments and decisions must be based on sketchy information. Management studies have repeatedly shown that decision based on input from several, knowledgeable, discussion participants are often better than those decisions made by small groups or those decisions that are made in isolation.
So because of these benefits I think you can expect that NRC will continue to actively seek information about the most significant events and Agreement State responses to these events.

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

This may appear as overly intrusive on the surface, or appear as if NRC is attempting to limit Agreement State flexibility in responding to events. Again, the intent, however, is just the opposite. Input to you based on NRC's assessment of the event, based on NRC's experience in perhaps similar situations, and NRC's offer of resources in the form of technical assistance, are actually tools that you can use to consider options in responding to an incident that might not otherwise be viable alternatives for considerations.
Somewhat related to event responses, event reporting to NRC. You know that even reporting to NRC is now mandatory for Agreement States under the new Adequacy and Compatibility Policy. While mandatory reporting may understandably be construed as reducing flexibility, I think we'll all agree that we are less effective regulators if our ability to assess trends and identify generic safety issues is hampered by an incomplete database.

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

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

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

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

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

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

We will not conduct a de novo review of your
entire program each time you make another submittal. This
will avoid the incremental and sometimes last minute
identification of new issues that contributed to some of the delays in the Massachusetts case.

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

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

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

FACILITATOR CAMERON: Sure. Let's revisit the statement that you made at the beginning about concerns about flexibility. Given what he said in his presentation, does anybody have a statement of concern
still, on flexibility, and if you do, do you have a
suggestion on how the NRC might provide more flexibility?

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

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

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

In some of your statements you talked about
the event report, NMED system and everything, and one of
the things that I, and I think a number of others have
insisted on and I don't think it's being addressed, is
that if we're going to have a national materials program
we're going to have an event reporting system for
radiation incidents -- radiation events or whatever -- it
ought to report on all radiation incidents, all radiation
events.

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

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

We have to -- you know, you talk flexibility
and I think that flexibility certainly -- I see some more
flexibility in terms of the NRC looking at the Agreement
States, but I still don't see a lot of flexibility for the
NRC saying, yes there are other radioactive materials,
there are other radiation things out there, and somehow
maybe we should, as a footnote at least, capture that in our reporting on AEA incidents and events.

And that's my comment and I have a question.

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

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

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

In fact, it has been stated that it inhibits the prompt response on the part of the Agreement State. In fact, we've interrupted people that they believe should actually be carrying out activities more directly related to the response. What I was trying to say, that this is -- should be viewed -- at least as I see it -- from an integrated standpoint. We have something that we can
offer; we'd like to see a receptive audience to that offer of support from NRC.

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

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

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

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

MR. BANGART: Well, if there were a concern or we felt that information about support from us wasn't
getting to the right person, we'd ask to talk to you. But I also want to say that we also have always said that if it's a choice between a matter of a proper response that's needed for safety and talking to NRC and providing information to us, always make the choice in terms of taking the action that's needed.

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

MR. MOBLEY: Thank you.

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

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

MR. BANGART: That's true.

MR. GODWIN: And we do get a variety of responses from them -- some very good, I might add. And they also bring a lot of assets to it and sometimes we cross it over in one thing or another. But it would be really helpful if we had a little bit clearer thing.
There's been an incident I noticed that you all have responded to and EPA got involved in, and I wasn't real sure who was running the show. So sometimes maybe we need a little clarification on that because offhand, when the event occurs, we don't really clearly know its licensed material. We're going to EPA now.

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

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

FACILITATOR CAMERON: Steve.

MR. COLLINS: Steve Collins from Illinois.

Two items. The first one is, Aubrey, Illinois doesn't share your experience with that other agency. We haven't had a pleasant one yet.

The real item with regard to flexibility -- and this is a real narrow, little, fine point with
communications. NRC has been trying to get Illinois to --
during off-hours in particular -- to contact the
Operations Center when we have events. We reluctantly
agreed to try that a couple of times. We've not been
pleased either time.

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

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

MR. BANGART: We're continuing to work in-
house on trying to make the reporting to the Headquarters'
operations officer a more user-friendly process for
Agreement States, including electronic communication of
information and transmitting of factual information about events.

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

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

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

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

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

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

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

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

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

MR. BANGART: We will.

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

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

My other comment is, I believe you said earlier that NRC has been doing joint development of technical guidance and policies with the Agreement States, and I'd just like to suggest that it's really hard for me to consider it joint development when we're given draft
documents and 30 days to turn around comments, which in my agency is not long enough.

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

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

Sometimes we have deadlines imposed upon us from other, outside factors that don't allow us to always give you the 60 days that you recommended. So I can't make a firm commitment that in each and every case we'll be able to find the 60-day period to allow you to comment.
But recognize that I think that's a reasonable goal and we'll work towards achieving it.

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

MR. SNELLINGS: Dave Snellings, Arkansas.

Just to relate an experience that we had and to back-up what Steve said, we had an event. We reported it into the Ops Center and very, very shortly -- and I wish I had kept track of time -- I got a call from the local newspaper. Now, how they got it I don't know, you know.

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

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

FACILITATOR CAMERON: And Mike.

MR. MOBLEY: Yes, I just wanted to follow up on Steve's comments, and I hadn't thought about it until Steve brought it back to my attention. But one of the problems -- normally during working hours we have our
contacts and we contact the NRC in Atlanta, EPA -- I mean, we just routinely now contact NRC in Atlanta and then we go about doing our business and somebody deals with all the resultant phone calls.

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

Somehow we need to work out this reporting thing so that it's nice to have all this support and if we need it we'll call for it, but having a bunch of people call me to find out what's going on is really difficult. And the reality is, off-hours normally EPA's the one that's -- I mean, I get calls from the Las Vegas Lab, the Atlanta EPA, the Headquarter's EPA, etc., etc., etc. -- all of them wanting to know what's going on, and I'm trying to deal with the event from a phone booth or from home or wherever.
MR. BANGART: That's clearly the kind of situation where you need to say that, I'll get back to you later because I need to do something that's more directly related to the response to the event.

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

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

And that's the way they've historically been trained to get the information that they need to have available to respond to NRC management, indeed if in case NRC needs to gear up to have our own incident response organization put in place.
So that's their starting point and we're trying to train them to recognize the difference between getting information from a nuclear power plant about an event that's in progress, as compared to getting information from a regulator in an Agreement State that isn't a licensee. So we're working on that.

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

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

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

And the other one, Mr. Bangart talked about.

We have been talking to the Operations Center folks about
some of the things that we discussed here, and we hope that things will begin to change.

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

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

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

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

(Whereupon, the foregoing matter went off the record at 10:35 a.m. and went back on
the record at 11:05 a.m.)

FACILITATOR CAMERON: We're going to begin

with a session on IMPEP, and Kathy Schneider from the NRC
is going to give us a context, and then Steve Collins from
Illinois is going to lead you through a worksession on
this.

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

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

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

My first slide is the results so far during
the last fiscal year, and as I think you're all aware, we
do IMPEP on fiscal and not calendar year. It was pointed out to me that we did miss Mississippi and I apologize. Mississippi was conducted in January of '97 and they were also found adequate and compatible. We still are awaiting the MRBs on two states -- New Mexico and New Hampshire -- and we had one follow-up done in Nebraska.

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

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

We do have the cadre of staff and team compositions available and we will be sending that out shortly. We were waiting for a few last-minute changes we had in the schedule.
We've tried to, over the years, give you a schedule, kind of a projection, what the next four years look. As you're aware, IMPEPs are between two and four years, again depending on performance. The fiscal year which started in October, we already have some dates and times for the reviews. And then in '99, the year 2001. The schedule doesn't reflect new Agreement States, it doesn't reflect any follow-ups that would be necessary under IMPEP.

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

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

We restructured the training a little bit so that we're doing a 2-day session. The first day is oriented in the morning for the new people, giving them orientation to the program; an afternoon session where
everybody come together and we talk about issues and
things that we all need to address; and then the next day
we're going to be doing some team leadership sessions.

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

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

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

We are awaiting publication right now; I was
hoping they would be published and I could bring them
copies with us. We will send them out to you with the
cover from the Agreement States as soon as they're
available.
We've also prepared a *Federal Register* notice and it should be published — again, a lot of things are coming together all at the same time — it should be published, it's probably yesterday or today, which will put in place IMPEP as a final program; it will no longer be under interim implementation. And what that entailed is, we have rescinded the 1992 policy statement, since the policy statements on adequacy and compatibility are effective now.

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

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

We now have the six non-common performance indicators, the description and the evaluation criteria in the revised management directive. And these six are listed here. The last two on page 7 are applicable to the regional offices and not the Agreement States.
For the legislation and program elements required for compatibility, this is the session that was changed to reflect the policy statement on adequacy and compatibility.

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

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

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

That information then, will feed into the management review board when they make the determination on the program. So some of the stuff that will be done in support of IMPEP will be done outside of the actual on-site time as the ongoing process, and one of the reasons that our new system for tracking regulations is so
important. But we fed that in and we set up the
evaluation criteria.

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

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

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

    The second is a more clear definition of what
NRC was looking for. We've had several terms used. We
had a technical quality assurance audit, we also had an
independent audit. Dick talked about some of the
descriptiveness. We tried to get a clearer definition as
to what we're looking for when we look for a second review
of the sealed source and device sheet before it's issued, and that's included in the revised management directive.

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

MR. MOBLEY: Kathy?

MS. SCHNEIDER: Yes sir?

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

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

MR. MOBLEY: Okay.

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

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

We're beginning that program this year. I have listed in the bullet, all those states who are scheduled for an annual meeting. The team will consist of your Agreement State officer and your new term called --
mean the regional state agreements officer and the
Agreement States project officer who will be a staff
member out of Office of State Programs.

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

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

I wanted to give you an idea of some of the
things you should be expecting out of the IMPEP from a
policy standpoint and procedures. We have completed the
"Identification of Good Practices". We're finishing the
internal concurrence within the agency and we expect to
get that out shortly to you. It covers the period from
the last one.

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

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

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

We're due to have that to the commission on
January 30th. We are going to be sending it out for
comments to the states, so that will be one of the things
that we will be sending out for comment to you.
Another thing I don't have marked here that will be coming out shortly -- and I'm glad Steve is going to be here to gather information -- is we'll be sending out the questionnaire to the Agreement States and the regions who are impacted by the questionnaire we use under IMPEP, to see if there's some enhancements.

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

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

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

And the other area where we're going to probably spend time this year and you'll be seeing procedures coming out of the office for comment, is the notebook that we've been using training people. We had a lot of internal procedures for the various indicators and
the overall program. We will be finalizing those but it will, again, be sent out for your comment and we'll feed those back in. So that hopefully we'll have a more useful product that we're all dealing with.

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

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

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

What this particular session is about is, can IMPEP be improved? And now is the time for the states to give their perspective. I'm asking for your input in the order of the following identified steps. And it's basically if you take the chronological order of steps you
go through in an IMPEP process, that's the order that I had picked out and used here.

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

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

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

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

MR. MOBLEY: Okay. It's a very specific question. Mike Mobley from Tennessee. And the question is about the SS&D program. Is the NRC's SS&D program reviewed by IMPEP? It would seem that if the state's program is reviewed by IMPEP that the NRC's program should be reviewed also. Might be just a normal evaluation of this program.
MR. COLLINS: Not yet, Don. I haven't recognized you.

(Laughter.)

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

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

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

MR. COLLINS: Tomorrow.

FACILITATOR CAMERON: Tomorrow.

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

"A review team of experienced Agreement State personnel and one experienced NRC staff" -- parallel to the way it's done now when it's going the other way -- "should review the NRC's SS&D program. The review could identify practices that may benefit the Agreement States would provide independent review of that portion of the
NRC's program for which some experienced Agreement State personnel are uniquely qualified."

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

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

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

And in fact, this might be one of the things that we might want to take back and propose to the commission in the next cycle that it goes through in terms
of its program plan. You heard the commission talk this morning about a strategic plan. Undergirding that are a series of performance plans and then a whole series of activities.

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

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

We found the use of E-mail was very effective. We would like to see the increased use of E-mail communication to facilitate the timeliness of communication with the questionnaire and its answers back and forth. We were able to agree on a word processing and we E-mailed stuff back and forth and we were able to end
up with a really good looking questionnaire that we both had electronically on both ends.

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

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

Okay, any other Agreement State suggestion on how we can improve IMPEP in the area of the questionnaire?

Don Bond, California.

MR. BOND: I'm Don Bond from California and I just have a simple question at this time. Regarding this annual meeting that you plan to hold, is that going to involve a questionnaire? Because a questionnaire does take considerable time for us to pull it together, and we're thinking that perhaps we wouldn't want to get
involved in more questionnaire development for the annual meeting which was just thrown out.

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

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

(Laughter.)

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

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

But if there's a need for follow-up discussions, follow-up interaction, that's the point once each year, where those also can be identified, as well as
confirming that the schedule for the next IMPEP review is appropriate.

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

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

MR. FLETCHER: Roland Fletcher, Maryland.

What kind of pre-annual meeting communication will there be so that in order to maximize use of time, both parties will be prepared?

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

MR. COLLINS: Ted Bailey from California.

MR. BAILEY: I think my question sort of flips between one and two in the annual visit. In the past we sort of assumed that the graduation exercise for
inspectors is when they're accompanied by NRC and there's
a laying on of hands in true apostolic succession -- you
know, we want to do this.

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

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

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

I don't know that we've spent a lot of time
addressing timing of inspector accompaniments as part of
the IMPEP process, but clearly it should be done in a way
that facilitates and recognizes competing priorities, and
if it's more appropriate and more efficient to conduct
those reviews throughout the year -- or those
accompaniments throughout the years, in-between the formal
IMPEP evaluations, that should be done that way. However
you and your RSAO -- and if your team has already
identified -- can work it out, I think is okay with us.

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

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

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

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

    MR. PACETTI: Bill Pacetti from Florida. I
was on the review team that went to Tennessee and New
Hampshire, and that's one of the things I noticed. Once
we got there we started asking questions like, can I have a list of all your inspections for the last two years, or all your pending licensing actions, or all your enforcement actions?

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

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

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

MS. SCHNEIDER: If I can get another shot. I think I mentioned the questionnaires going back out. One
of the things we took into account was Mike's comment
after the Tennessee review and I've had some of the teams
and the team leaders over this past year, give me a list
of things that we'd like to have the state pull together
and have on-site and ready.

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

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

MR. COLLINS: Aubrey Godwin is next.

MR. GODWIN: Godwin from Arizona. Nobody said
anything about the timeliness of it and how much time we
had. I'd like some response from the people that have
been through it. Did you have enough time, was it too
short? That's sort of an important thing when you get
questionnaires.
MR. WANGLER: Aubrey, this is Ken Wangler from North Dakota. We had sufficient time. I think we had three weeks, perhaps; something like that.

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

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

MS. ROGERS: Regarding that stuff that --

MR. COLLINS: Name -- Alice Rogers.

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

MR. WANGLER: Ken Wangler from North Dakota. I guess I have a little bit of a question on this item
"b." where it says you can answer questions by saying, "no change since the last review" or "only the following changes have occurred".

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

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

MR. COLLINS: Any others on the questionnaire?

Okay, the second item: accompanied inspections. And we have one comment on that already, from Illinois. The states should not be judged against Chapter 2800; adequacy is the standard that we should be judged against, and it
should be based on the Agreement State's own regulations, licensed conditions, policies, and procedures.

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

MR. MOBLEY: Mike Mobley from Tennessee.

Steve, I want to echo that because it's one of the specific things that we had a big surprise in Tennessee. It had to do with the -- and I assume it's Chapter 2800 because I'm like you; I don't even know what that is.

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

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

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

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

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

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

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

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

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

MR. COLLINS: Aubrey Godwin.

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

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

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

MR. COLLINS: Well, Illinois. And it's my understanding every state is supposed to have taken some beginning point, such as Chapter 2800, and develop its own set of inspection policies and procedures.
And we've done that and we want to be judged against that. It's most extracted from 2800 and modified where it's better, of course. But that's our point. But I agree with you totally that 2800 does have some really good stuff in it.

Ed Bailey.

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

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

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

We have had a review within the last year and several new inspectors. We felt that, you know, when the NRC was out doing our inspection accompaniments, they didn't have 2800 open. They were using their experience doing performance-based, making sure we hit the health and safety issues. I felt that that's how they did their inspection accompaniments and I thought it was very helpful to us.

MR. COLLINS: Very good. Roland.

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

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

MR. COLLINS: Diane Tafft.

MS. TAFFT: Diane Tafft, New Hampshire. Just the question: do the inspectors, 100 percent of the
inspectors for the regulator IMPEP, go out with
accompaniments for every state? I mean, even though we're
a small state, that was a question we had. We only have
two or three people. The response we got is yes, they do
100 percent of all inspectors in every state. Is that
really true?

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

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

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

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

    There's no way we can do all inspectors. How
many do you have. Well, we can keep Jack Horner there
for, you know, a couple of months, but we don't do 100
percent.
MR. BAILEY: Yes, I think all of our inspectors have been accompanied within the last two review periods except the brand-new ones, and normally we have begged off on any inspector that we didn't think was fully qualified to do independent inspections at the time of the review -- for whatever reason.

Don, is that --

MR. BOND: Yes.

MR. COLLINS: Mike Mobley.

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

And also, I want to make a comment about this. This is one of -- to me -- one of the strongest parts of our reviews under IMPEP as well as under the previous program. We've always had a really positive experience. I can remember -- and people may not remember Ernie Resner -- but I had one of the most positive experiences I've ever had with an NRC individual with him, going out on an accompaniment with me. I still remember that.
And it's always, I think -- as far as I know in Tennessee, we've always had very positive accompaniments. Even when deficiencies are found, that's used as a thing for that inspector to grow as well as for the program to develop or work out.

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

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

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

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

Well we then, since the draft report is a public record, we felt like we had to respond to them and got them into the public record. So we basically said,
got to make sure that the training is provided so that
these individuals, if they have questions, resolve as many
of these issues as they can while they're there, to talk
to the people person-to-person.

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

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

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

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

MR. BOND: Thank you. I've been a member of
the IMPEP review team for two years now and I'd like to
start out by saying it's been a very enlightening
experience and I've gained a lot by it. I've gone out to
different states -- two states -- and every time I've come back with more information that helps our program. So I feel it's a positive move and I'd like to see it continue.

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

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

(Laughter and applause.)

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

MR. COLLINS: It was unanimous.

MR. BOND: The other point I'd like to make, as a team member I've found that my needs aren't being satisfied with equipment. I bring along a laptop which is State of California issued; doesn't match the software,
whatever, that the other team members are using. I think
at the very least the coordinator ought to supply you with
tools that you can go out and do your job with.

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

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

MR. BOND: I would rather what?

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

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

(Laughter.)

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

So that's -- thank you.
MR. COLLINS: Any other comments on the on-site review team and interactions? Alice.

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

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

That draft report is going to go into the public record and if it says something that you don't disagree with -- normally our response was, oh it's no big deal; we'll just ignore it. But then when we found no, that's all going to be in the public record, then we're going to address every single thing in there that we have
any minor disagreement with. So that needs to be fully known to everybody.

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

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

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

Are there any more comments and suggestions on the draft report? Mike was first.
MR. MOBLEY: Mike Mobley from Tennessee. I'm sure that information regarding the process was all circulated and everything, but when I have something as a draft report I think it's a draft report and it's not published and circulated and everything. And so it's kind of a surprise to me to learn that it was published and circulated and everything.

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

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

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

FACILITATOR CAMERON: I would ask Hampton, my colleague back here --
MR. COLLINS: Is it correct that the draft report is available and it basically has to be public and made public? We can't keep it in a, "not to be disclosed except for the direct parties involved" until it's a final report?

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

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

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

MR. COLLINS: Would you identify yourself?

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

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

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

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

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

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

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

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

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

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

MR. COLLINS: Ed.

MR. BAILEY: I think one of the problems with not having that draft report out there is that when you go to the management review board, that's when the final is put on the report. So it's a draft report as I understand it, until it goes to that board, and that board might say yes, we concur on the finding.
I'm sensitive to the idea that certain things may creep into the draft report that can easily be explained away or something as a misunderstanding, and I don't know whether a preliminary draft would help or not. But having been liaison to some of the MRBs, I think it's very important -- or I felt it was important -- in reviewing it at the MRB level that you did hear some of these things that maybe got favorably resolved in favor of the state, rather than having everything already resolved when you go there and sort of rubber stamping.

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

It comes back, the teams look at the comments -- the actual comments. Some states also take at that time to actually address their recommendations or suggestions. The team then re-examines the report in light of what comments the state has made and issues what we call a proposed final, which goes to the management review board.
The state gets a copy of that, and that's the copy that Ed's talking about. We do use that also as a mechanism -- the teams have used that as a mechanism -- to identify items that the team had one position, the state took another position.

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

Just make sure we all understand the sequencing.

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

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

Does anyone have any comments or suggestions for the NRC regarding the MRB meeting? Mike Mobley.
MR. MOBLEY: I made the suggestion -- it may already have been incorporated or whatever -- but when I went up to the MRB meeting I had no idea as to what to expect or how it was going to go down. I had kind of read about some of the others and I called Bill Spell in Louisiana, who I think actually did his by phone.

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

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

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

Richard Ratliff from Texas.

MR. RATLIFF: Yes. One thing on ours, we had an executive session where they went out of the room and made a decision. When our boards do that, the legal
entities make a statement that no decision is to be made, no final decisions. But it appeared that a final decision was made in executive session, and that goes contrary to what we see in all rulemaking and all actions we take, and I think that needs to be clarified in how that works.

MR. COLLINS: Roland Fletcher?

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

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

MR. COLLINS: Aubrey Godwin.

MR. GODWIN: Godwin, Arizona. Is the reason the draft is made public, is that to allow the general public to offer comments on it also? In other words, would we potentially have to respond to public comments before the MRB? Then I don't understand why it's made public.
MR. COLLINS: As Kathy mentioned, the concept when we originally worked together in setting up the IMPEP review process was that it would be -- all the way through the process -- open, and that we would put everything into the public document room. That concept carried through to the fact that the MRB itself is open to the public; anybody can come that wants to.

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

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

That doesn't happen very often that a member of the public attend. But we did have some outside
interest from the Texas review, but I think that's the
only one to-date.

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

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

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

So we haven't gone and given specific
notification of every MRB. I believe during the pilot we
were doing that, so that everybody who was involved in the
pilot could sit in through all the MRBs for all the pilot
participants.

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

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

Are there any other comments? Ed Bailey.

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

But I guess I found that a little -- you know, like when we go out and do an inspection and we cite them for violations and we make suggestions or recommendations,
we don't normally hold them to committing to do something with the recommendation.

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

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

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

I'm talking specifically about regulations review for compatibility. In my situations my regulations were reviewed over about a 2-year period. I receive three letters indicating that certain items needed to be changed -- which we changed. And for all intents and purposes we believed that we were well on our way to receiving compatibility, which would have been wonderful.
But then about four days before my IMPEP I received another letter which said that another review had taken place that overrides, and they found some things that even the first three reviews didn't find. So there was no way to get compatibility.

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

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

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

"Required minimum inspection frequencies should be determined by cooperation of all parties, including agreement by a majority of the Agreement States, the NRC regions and the NRC Headquarters with each having one vote in the determination process." That's pretty specific.
Then, the NRC and Agreement States have flexibility to make changes for each agency's own jurisdiction without impacting the resource requirements of the others. The required minimum inspection frequency would be subject to review as needed with changes made only by approval of a majority of the regulatory agency parties. Probably should be.

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

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

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

MR. COLLINS: Whatever is appropriate. And 7.b. is, reciprocity inspection frequencies -- which has been mentioned -- should be determined in the same manner as recommended. We understand that we have a scale --
some of them 100 percent, some of them 50 percent, some of
them 30 percent, that sort of thing -- or 100 percent, 30
percent. But we would like to have those jointly
determined.

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

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

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

And then the last one: determinations of
compatibility, especially of that regulations, should be
removed from the IMPEP process. Even though that
particular process has worked for Illinois at the time,
for some of the rest of us we would like to see the
determination compatibility on specific regulations not be the IMPEP process but be separate.

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

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

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

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

Other states do things differently, and if we're going to evaluate how the states are inspecting, at
least we should have everything in the same order so we're not comparing apples to oranges and so forth.

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

MR. COLLINS: Aubrey Godwin.

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

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

MR. COLLINS: We think those come under adequacy rather than compatibility; that's where the difference in the understanding --
MR. GODWIN: Well, you know, it's sort of a little of both. As we talked about with the compatibility group you've got to smear the things from one to the other. But anyway, the regulations can probably be separated out, but it might be a good place to have a single letter where all the determinations were brought together; which is very handy to have a single letter you can take and forward to the governors and legislators and things like that. That's sometimes very handy to have.

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

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

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

MS. SCHNEIDER: Yes.

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

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

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

You know, I just wonder if there's not a
little bit more than we can do here. This is something
other than the direct IMPEP review process. I'll just
throw it out as a suggestion.
MR. COLLINS: The next chair -- they already asked -- may want to appoint you to head up a group to try to look into that; I'm not sure.

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

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

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

MR. BAILEY: Yes, I would like that number five not to be necessarily unanimously agreed to. I think having the regs in the process is important, and if you're one of the states who didn't have the letter of the reg to adopt it when your review was done but went to the MRB and they looked at the circumstances and so forth and said,
you've got a compatible program. I think it's extremely
important for that to remain in IMPEP.

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

    MR. BAILEY: Do you want to vote on that?

Because I'm also concerned about that not being in there.

    MR. COLLINS: Do you want it in?

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

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

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

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

    (Laughter.)

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

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

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

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

FACILITATOR CAMERON: Good work. We did go
over a little time over our time. Luckily we only have
two events left: one is to pass out the KI pills and the
second is the cash bar, so we will get back on schedule.

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

(Whereupon, a brief luncheon recess was taken
at 12:30 p.m.)
A-F-T-E-R-N-O-O-N  S-E-S-S-I-O-N

(1:36 p.m.)

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

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

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

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

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

DR. PAPERIELLO: Good afternoon. I happen to have been selected by the commission to head up the task
force within the NRC, and that's sort of been my
involvement in this. I'm going to cover some of the -- I
think to bring everybody up to -- there's a lot of
background.

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

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

The practical matter is, DOE self-regulates
since the Atomic Energy Act of 1946. Now, I was not
around in the old days when the NRC/AEC split. And what
went with the NRC and what stayed with DOE or its
predecessors were determined by -- I guess there was a
piece that the General Manager ran and something that
somebody else ran, and so there's a lot of ancient history into this.

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

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

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

Well, Secretary O'Leary accepted the report but then formed another group to make the recommendation on how to implement it and who should be the regulator.
They recommended that the NRC be the regulator -- and I want to emphasize, nuclear regulator -- but part of this thing involves -- a whole process involves bringing in OSHA also as a regulator of DOE facilities of the non-nuclear activities.

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

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

Anyway, in March of '97 the commission endorsed Secretary O'Leary's proposal and formed a task force, and I got a long SRM of all kinds of issues they
wanted me to consider. Among one of the issues for 
example, is what would be our role in regulating 
accelerators? I know it's been a subject that has come up 
and down, but that was one of the questions they asked. 

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

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

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

The MOU focuses on a pilot program. It 
defines the objectives of the pilot program, it describes
the scope, and it presents a stakeholder plan. It will run for a couple of years; it will involve a certain number of facilities.

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

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

So on a given site in a given geographical area, you will find these facilities co-mingled. So it's not like, well you know, Lawrence Livermore would be one of these. They might be getting money from these different areas. At one point we discussed a certain DOE reactor. It turns out that that particular reactor is completely surrounded by defense facilities, and it became a very difficult thing to put that into the pilot program.
We're looking at doing three facilities in 1998, and expanding it to six to ten facilities over the next three years -- essentially in '98, '99, and going into the year 2000. What are we going to try to do? We're going to try to pick facilities that are similar to NRC licensees, initially. We're going to pick facilities where NRC regulation will have value-added.

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

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

We're going to put out a report and we're going to provide information. What was the value added? What would be the value added of an NRC regulation? What would be our regulatory approach? Now, what do I mean by that? You will recognize that in the case of the gaseous diffusion plants which we now regulate -- we decided and the Congress wrote the law but we've had interaction with
them -- we've certified the plants. We didn't license
them; they're certified.

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

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

And so now, how do you get into a regulatory
regime where you -- if in fact -- and you could ask, well
why can't you license it? I don't know. Maybe it doesn't
meet today's licensing criteria; which we suspect, may be
in some cases. So we haven't, on this one, we have not
defined what we're going to do but we recognize that we're
going to have to look at different options.
I've offered an option -- I've thought it back of my own line -- general license. That way I go from an unregulated to a regulated regime automatically; just covered by a general license. I'm not going to say we're going to do that, but it's some of the thoughts, you know.

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

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

What are some of the alternative regulatory relationships? Who do we regulate? If a prime contractor like Lockheed Martin runs a place like INEL, do we issue a license to DOE, or do we issue a license to Lockheed Martin, or do we issue a license to both? Or what I said,
I'll license the facility; whoever actually has control over operations, they're the licensee. I don't know. I mean, that's something you've got to work out.

And remember, since we've got a -- to do anything that really puts them under our jurisdiction, requires a law change. I have the freedom to get the law -- of course Congress has to buy into it -- we have freedom to change how we do business in the legislation.

Identify issues for transitioning; how we actually make this happen. And I think we're going to find some problems that we didn't anticipate.

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

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

Evaluate stakeholder involvement. What will that involvement be? We will not interfere with ongoing safeguards and security programs. You know, we've got
major sites with security forces and the like, around. We
don't want to mess up that. And not interfere,
essentially, don't step on the toes of the Defense Nuclear
Safety Board and their activities.

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

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

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

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

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

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

We will look at accelerators during one of the pilots, and then we will put out a team report. And the schedule to complete the report, about two months after completion of the pilot.
Stakeholder plan. The stakeholders are not just the people who live around the site in the state. We have Congressional committees that are interested -- we've already interacted with them; the Office of Management and Budget is interested. They want to know, how much is it going to cost?

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

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

For individual pilot facilities we plan on briefing the appropriate state regulators because there may be more people involved just than the Rad health departments. We will invite state representative to participate or observe, depending on the site -- much like what we do now. States are invited to accompany us on
inspection. We have non-Agreement States -- for example, I understand New Jersey has people who accompany us on reactor inspections. So there's that.

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

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

The pilots are in Lawrence Berkeley Laboratory here in California, and some of the activities they're involve in. We originally had a facility in Idaho for spent fuel storage, but as it turns out we are already doing a facility there for the TMI-2 fuel, and it turns out the other facility, although it will be called another facility, it will be so identical and so co-located and built to the identical standards, that it made no sense to deal with it. And so DOE is looking for another facility that looks something like this, and we hope to have it selected in another four to six weeks.
And lastly, the Radiochemical Engineering Development Center in Tennessee -- that's an interesting facility. I did download information about that and got some from DOE off the Internet. It's two major buildings and they handle fairly large quantities of trans-uranic elements from plutonium all the way up, in glove boxes. So issues of shielding and a bunch of other facility issues are going to enter in, in that particular -- of an existing facility.

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

And as anybody that's been reading the record, is we've had a lot of -- one of the major issues for the Paduca gaseous diffusion plants is the seismic criteria. Paduca is within 200 miles or so of the New Madras Fault. I mean, so you're talking about a major earthquake zone, and when we looked at the actual construction, DOE found out it was built to a ground acceleration of about .15g --
which is about a -- I don't know, somewhere between a 50
and a 75-year return earthquake.

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

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

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

There are additional facilities to look at for
the fiscal '99. We intend to begin -- in fact, we had a
meeting here earlier this week on Wednesday, with both DOE folks and Berkeley and the people in the State of California, to build the workplan for Berkeley. So we're ready to go as soon as the ink is dry on the MOU.

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

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

MR. MOBLEY: No comment.

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

DR. PAPERIELLO: I'm done.

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

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

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

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

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

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

The Office of Energy Research position on external regulation is really quite simple. We favor external regulation by the same regulators and by the same regulations as private industry and academia. In other
words, we believe we should be treated the same as everybody else; no differently.

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

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

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

This particular effort is called the PEP program, the Program Evaluation Program, where instead of going in and citing specific citations for compliance with their own regulations, they actually did a programmed
evaluation of their entire occupational safety and health program.

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

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

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

Let me wrap it up by saying that although I can't represent the Department of Energy, I can try to
answer some of the questions. I can represent the Office
of Energy Research. And finally, the Office of Energy
Research position on external regulation is, we basically
want to be treated as if we were a university or a private
industry company within your own states.

Thank you.

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

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

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

It was not as clean a process as one might
imagine because there were many different players involved
in that task force and to me, the recommendations that
came out of that advisory committee -- let me get these
terms right -- the recommendations that came out of that
advisory committee were somewhat muddled and I think,
unnecessary so, and I wrote a minority opinion.

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

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

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

One of my concerns right now is that the NRC
and DOE are working very actively in devising their
process, and I want to make sure that they don't lose
sight that the states are a major player in this, and I
would urge them to go back and read what Secretary O'Leary
said in her statement.
And I want to emphasize that, and that is that she is asking for a waiver of sovereign -- or she asked or proposed that the legislation would have a waiver of sovereign immunity for the DOE facilities that would allow those facilities to be regulated just as Jay stated -- just as if they were other facilities in the states; that the NRC would regulate those facilities it regulates, the state with its control agencies would regulate those facilities that they normally regulate in other areas of the state, just as they do those facilities in other areas of the state.

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

And that's one of the things that came out and you hear their credibility discussed. That's a major concern of theirs now and it will continue to be until -- I believe -- until they are regulated by an external regulator.
And it has to be that way because when you can choose -- when you can pick and choose what regulations it is you have to meet, and when the person that's paying the freight for the operation of that facility can say, oh, that's too expensive, we don't want you to do that, then regulation will not mean what regulation means in the real world.

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

This is a tough process, and it's not as tough as it would have been 10 years ago or 15 years ago. A lot of these facilities have upgraded significantly. The facilities that Hypher the -- whatever they call that, REDC or whatever it is -- I know what this facility is, I've been in this facility a couple of times, but I don't remember the names that they -- the program names change and the facility names change and all this and I don't remember exactly what they call it from day-to-day.
But the Hypher for example, was the first facility in Oakridge to have a contamination control program. They instituted a contamination control program there about five years ago; said we're going to operate this site as if -- because it's an independent, isolated site on the Oakridge reservation that's associated with Oakridge National Lab.

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

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

So it's not going to be as difficult as it was, and in fact, this is a relatively new facility; much
different than some of the other facilities such as the
gaseous diffusion plants and some of the other, older
facilities.

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

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

And for those of you who have uranium
facilities that you regulate in your own states, if you
have a uranium fuel fabricator or if you have a -- as in
Tennessee we have a couple of facilities that fabricate
uranium products: penetrators for the Air Force and Army,
uranium shields for some of the energy operations, DOE
operations. That's what this facility, the Y-12 facility,
is.
It's just that they're high enriched and they're in certain kinds of shapes and fabrications that are Secret or classified or whatever. But all they do there, they process and the machine manufactures uranium products. So it's pretty straightforward in terms of regulations; it's just the classification issues are very complex.

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

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

Even areas where -- and I think most of these have been cleaned up -- areas where radioactive material was spread on the ground to understand the impact of the continuous radiation on a biosphere area. And once they got through with the experiment they just left it there.
And that's one of the real problems at these sites -- the hot cells I mentioned.

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

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

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

In this case right here, this was one week I was questioning DOE's plans and the release of facilities without adequate surveys, and hammering them pretty hard.
that they needed to be doing things very differently than what they were doing.

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

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

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

And I want to make sure the people understand that states are major regulators; not only are we
regulating what I call the AEA materials in Agreement
States, but the states are also regulating the naturally
occurring and accelerator produced radioactive materials,
and we're regulating all of the machine-produced
radiations to one extent or another -- either totally or
in conjunction with FDA and then certain areas in the
medical arena.

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

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

I think that this DOE situation offers us in
the states some real opportunities. I was in a meeting
last week in Oakridge, and I was suffering terribly from
my cold at that point in time so I was having some fever,
and I may have been delirious or whatever. But it seemed
to me that the DOE was very interested in working with the
states to deal with some issues that they face. In
particular, the issue was the recycling of scrap metal --
and you can go further than that -- the recycling of other
materials out of these facilities.

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

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

And every day we're making decisions in the
states: is this a problem or is it not a problem? And I
for one, believe that we're making these largely on an ad
hoc basis using our best technical judgment and our best
political judgment in our states. I would really like to
see there being a process that we can make these judgments
and have some level of national unity to it.

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

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

We've just got to deal with these issues. We
are dealing with them in the states. I guess I'm somewhat
tired of waiting for others to do the standards. It's
kind of like the NRC in the Agreement States process.
We're growing up, the states have a lot of technical
ability, so let's utilize it effectively to move us down
the road to where we need to be.
And again, I'm going to ask the NRC to make sure that you are consulting with us in this process as you move forward to regulate the Department of Energy facilities. Thank you.

FACILITATOR CAMERON: Thanks a lot, Mike.

We've heard from the NRC, DOE, and a state few on this, and I guess it sounds like everything is on track here, but maybe we'd better find out if Mike was delirious or not on this.

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

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

Jay, you said that you'd like -- that OER favors external regulation by the same regulations and
regulators as regular licensees. My question is, was there any consideration given to having the Agreement States work in part of the pilot program in regulating some of these DOE sites, specifically sites like Fermi Lab or Argon, that seem to meet most of these criteria?

It's a loaded question; go ahead.

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

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

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

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

And so to get the buy-in that we needed from the political side of the house, it was -- this program
was, you know, carefully crafted not to get a start. The idea was to get a start. Clearly, what we have today is not what was in either of the two earlier reports; you need to appreciate that.

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

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

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

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

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

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

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

MR. MOBLEY: I think that requires a careful crafting of the Atomic Energy Act. I have a draft that's carefully crafted that does that, but it's a very specific kind of thing and it would be legislation much like what was done to establish, clearly establish the regulation of
RICRA activities over Federal facilities. It can be done
but it's a change in the Atomic Energy Act.

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

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

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

I don't know how we deal with the question
that Kathy asked. I mean, her concerns -- and I
appreciate them very much -- are exactly what mine are. I
just know that there's somehow we've got to walk through
this process and I'm very interested in how we craft it in
California and then how we craft it in Tennessee.

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

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

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

And I fully anticipate that the State of
California will regulate radioactive materials and
radiation producing machines at Lawrence Berkeley National Lab within the next decade. I'm not willing to waste our time participating and sitting sort of on the sidelines -- and we may have some unique situations.

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

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

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

We want the state to do it.

FACILITATOR CAMERON: Before we --

DR. PAPERIELLO: I'd like to make a comment.

I don't disagree but I don't know where we're going to come out; that's part of the thing. I know how -- I can think of a number of things we can do to wreck the process, but how we're going to come out at the end I don't know.

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

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

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

MS. RATHBON: Yes, this is Pat Rathbon from the NRC. Late yesterday afternoon I did receive a fax from our Office of the General Counsel regarding the FACA
issue. And basically, the point that the lawyers are now
taking is that it will be acceptable under the OMB
interpretation of FACA, to have both the State of
California and employees of the laboratories,
participating in the pilots.

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

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

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

Simply get the waiver of sovereign immunity to
have one of the pilots be a facility that wouldn't be
under NRC regulation no matter what happened, under the
Atomic Energy Act was totally revised to allow them to
have accelerators, and work with the state radiation
regulatory program to do that.

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

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

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

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

   The Office of Energy Research, we share your
viewpoint that Fermi Lab would be an excellent opportunity
to do a pilot. We have very limited input into -- the
Office of Energy Research has very little input on the selection. I think part of that reasoning behind selecting the LB&L is that it isn't just one accelerator but they have several accelerators, plus they have some radioactive materials as well. So it would give a little broader viewpoint of this simulated, regulatory pilot that we're talking about.

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

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

And we're still in the process of putting together the work plan of what we're planning on doing at the Lawrence Berkeley National Laboratory. The conference calls that we have began maybe a month ago, so it's just
beginning and we're working on trying to define exactly
what it is that we're going to be doing at LB&L, and also
trying to define what it is that the State of California
would be doing.

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

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

FACILITATOR CAMERON: Okay. Aubrey?

MR. GODWIN: Godwin, Arizona. I point out,
many of our states -- if not just about all of them --
have a section in there talking about agreement with the
Federal Government in which it probably says something
along the line: the agency may, subject to the approval
of the Governor, enter into agreements with Federal
Government, other states, or interstate agencies, whereby
the state will perform on a cooperative basis with the
Federal Government, other states, or interstate agencies,
inspections or other functions related to controlled
sources of radiation.

That allows a state to enter into it. Now, this sovereign immunity thing really boils down to, if you find a problem are they going to fix it? And I hate to tell the Federal Government this: the downside of it is that our reports are public records. So if you do buy in you probably, you know, will want to research and consider the recommendation of the state.

But it seems to me the states probably have the authority to enter -- particularly non-Atomic Energy materials -- right now into a cooperative agreement with DOE, to do some regulation of non-AEA sources of radiation. So you might want to look into that for us to get the cooperation of the state. We may have to pay them too, but that's another issue.

FACILITATOR CAMERON: Kathy.

MS. ALLEN: Kathy Allen of Illinois. This is a puffball question for you, Carl. How long are you planning on doing the pilot programs for at each facility? Is it a set period of time that you're looking at, or just as everyone comes online until the year 2000 and then closing it out?

DR. PAPERIELLO: I think it's going to depend. I don't think we've worked all that out. I think the
intent was to add the facilities and continue as we go along. But what we would do for a place like Lawrence Berkeley would clearly be different than what we would do for a facility where you were going through the authorization for a dry caste, independent, spent fuel storage facility, which would be a much more longer process.

So I think the intent was, is to add facilities so eventually we would be -- until we got somewhere between six and ten facilities and had enough experience so we could write a recommendation to Congress.

FACILITATOR CAMERON: Okay. Last but not least, it's 24-hours-in-a-day-Mobley.

MR. MOBLEY: I never give up. I like the ideas I'm hearing here. I just want to caution you in the states that Carl's comments regarding the problems in Congress as well as elsewhere are very, very pertinent, and if you do anything I would really, at a minimum, please let me know about it so that we can have some insight within the states all over as to what's going on.

We have a Federal Facilities Committee within the conferences dealing with the DOE facilities, and every DOE state -- even Idaho which is not an Agreement State -- has somebody on that committee, and we're trying to work these issues. But it's very important that we understand
that there are some downsides to this. You just don't
want to jump in this and start going gung-ho without
understanding some of the potential downsides to it.

We want to move forward and progress, I think,
in a very step-wise fashion to effect this situation;
whereas in the past, if any of you have been around you've
heard me stand up here and say hey, I want to get in
there, I want to do the deal. Well, we're getting in
there and we're doing more.

And for example, the K-25 site at some point
in time in the very near future -- probably five years or
less, will probably be totally regulated by the State of
Tennessee. There won't be any DOE operations on it, but
whatever else is there will be regulated by the State of
Tennessee.

So a lot of those kind of things are already
going to be happening because the DOE operations are
shutting down at certain sites. But there are a lot of
other opportunities that we can take advantage of, but we
have to take advantage of them very wisely and we have to,
I think, work with the NRC and Department of Energy to
effect this if we wanted to move forward and not stumble
early, as Carl said.

Thank you.
FACILITATOR CAMERON: Okay, I'd like to thank Carl and Jay and Mike for their thoughts on that. The next panel is sort of interesting because on the one hand you hear a lot about the external regulation of DOE which is sort of a real high level thing, but then there are these fascinating situations out in individual states where the state government, it has a relationship with the Department and it causes some problems. And we're going to hear from a number of states. Bob Quillin is going to begin from Colorado.

MR. QUILLIN: I just want to reiterate Carl's and Mike's comments about the pitfalls of this process because, just to fill in a little bit of history, I was the person who represented the State Radiation Control Program Directors before Congress when the Bill first came up. And Mike was supposed to be there but couldn't make it at the last minute so it was just myself.

In the first place, they had great difficulty bringing this Bill to a hearing. It kept getting postponed and even after it was heard there was no action taken and I was in contact with committee staff and basically there was a behind-the-scenes negotiations going on where DOE was going to volunteer to do the study and then they were going to drop this Bill entirely.
So the initial legislation did not have much chance of getting out of the House of Representatives, let alone through Congress and to the President.

Secondly, Mike was on the roving committee which ran around the country to various DOE facilities, and when that roving committee came to Colorado I had a chance to testify before it. And from my perspective, standing up there, getting questions thrown at me from the various members of the committee, there certainly wasn't any general consensus of what they wanted done. There would seem to be a status quo group and an EPA group and a little OSHA group, and then Mike Mobley and the NRC group. So there's not a groundswell outside of this room, maybe, to regulate DOE. And I agree with Carl; this thing has to be done carefully because there's more people, I think, want to see it fail then want to see it succeed.

So anyway, let's go on to this. I'm sorry that I didn't get copies of this. I didn't know part of the people wouldn't be able to see the screen here. But in Colorado at the Rocky Flats plant, we have what's called a National Conversion Pilot Project, the NCPP. And the purpose of this project was to develop a commercial use of the existing industrial facility, which Rocky Flats
basically was, and obviously to provide commercial jobs
for existing staff who were going to be laid off.

The project was to be in three phases. The
first phase was a feasibility study where they were going
to look at the feasibility of re-use of a facility. And
then the re-use part of that issue was going to be that
the contractor was to de-con the facilities in phase 2,
and they were supposed to develop licenses and permits
necessary to operate the facility once it was de-conned.

And then the third phase is to begin
commercial production, and the idea was that they were
going to use these industrial facilities to take
contaminated metals and turn them into contaminated
containers which they were then going to use for shipment
of DOE waste to disposal sites.

The paradox of this was that between phase 2
and phase 3 that the whole thing was going to be put out
to bid again, and so theoretically you could have one
contractor doing phase 1 and 2 and another contractor
doing phase 3, which was the operation part of it.

The project started in 1994, and in July 1994
a company called Manufacturing Sciences Corporation --
which also currently operates and has operated in the
State of Tennessee at Oakridge -- contacted our division
during the stage 1 of the process to inquire about licensure of the facility.

In November 1994 the stage 2, the de-con process started. In April 1996 the Manufacturing Sciences Corporation, MSC, officially notified the division of its intent to apply for a Colorado Radioactive Materials license. So we're talking about several buildings on the Rocky Flats plant which would be operated under a state license rather than under some sort of DOE umbrella.

In July 1996 MSC submitted the license application and they identified themselves as the licensee applicant. In other words, their company was named. Then month later they submitted an amended license saying, there's no name on the application. So this is an interesting thing. How do you issue a license when there's no name on the license?

For the process to proceed we had to issue some sort of a license because this was the requirement so that they could go from phase 2 to phase 3. So we came up with the idea of a sample license. You get a license, we stamp "Sample" in big letters across it. The facility was really not valid.

In 1996 we amended that sample license because they came up with additional radionuclides and manufacturing processes that they had thought of that
weren't included in the first application. As it stands to-date, there are a number of unresolved issues here.

We're not in phase 3 yet: we're between phase 2 and phase 3 right now.

And the reason we're sort of in limbo, or I should say MSC and the whole project is sort of limbo -- is that the current plant operator has not been the most cooperative partner in this process, as was the previous plant operator. Because obviously this money they see as coming out of their pocket and not going into their pocket. Their whole money is going into this thing.

So anyway, we're waiting for a complete license application from Manufacturing Sciences Corporation, identifying names, players, etc. We have to try to clarify who's going to own these buildings when this whole process ends, because the idea is that DOE was going to lease the buildings to the corporation.

Does that mean that DOE is going to take these buildings back or is some other entity seen as taking control of these buildings at some time in the future when DOE hopes they're going to be completely out of this facility when they wash their hands of Rocky Flats?

There was the question of the radioactive wastes that are going to be generated by the facility.

DOE wants to take the position that any waste that are
generated are commercial wastes. The local compact, the
Rocky Mountain board, takes the position that once these
are DOE materials they're always DOE materials and we're
not responsible for disposing of DOE waste, and there's a
Low Level Waste Compact Amendment Act.

And one of the interesting items that's really
tying things up now are the error permits which have been
issued to Kaiser Hill, the operator at Rocky Flats,
because they say that if this plant, this facility is
operated as an independent facility, they would then have
to amend all the permits that they had at Rocky Flats and
change it to the fact that these are not DOE contractor
employees anymore, they are members of the public right in
their midst.

And consequently, they feel that they would
not be able to meet the EPA NEPA discharge limits and
other EPA criteria on air discharges. Which is kind of an
interesting argument and I'm not an expert in all of that.

And then finally, the last thing that needs to
be resolved is the general operations control. The issues
of: who's going to provide security, who's going to
provide fire safety, who's going to provide trash removal?
All these things of issue seem to be up in the air and not
yet resolved for this operation.
So what started off as a great idea has fallen on a lot of procedural issues which have yet to be resolved. And although DOE still wants this process to move forward, there are obstacles in the place of its progress.

Any questions? Thank you.

FACILITATOR CAMERON: Okay. I know John Erickson is up next, and I think John -- you need help with your slides, right?

MR. ERICKSON: I wanted to make a comment about groundswell of support for this external regulation. It's true, I think members of Congress are a little bit skeptical, but speaking from a Hanford point of view -- and I recognize that Hanford usually has its own point of view on just about everything -- there's a huge, huge groundswell of support from the stakeholders for external regulation.

Now, there are stakeholders and there are stakeholders. At Hanford, of course we have a very educated set of stakeholders that have been very active for 10 or 15 years. And they're leading parades down the street that NRC's coming any day to regulate DOE. So the environmental community, if nothing else -- now again, the stakeholders and stakeholders may not want that part of
the support, but it's there and it's going to affect the way we all do business.

Anyway, I'm going to quickly go through Hanford in five or ten minutes if I can. I'm going to give you a Hanford 101 for those of you that want to know a little bit more about Hanford, but not very much; some of the issues on privatization which we're struggling with.

And I wanted to say a word or two about our air emission program because we're one of the few states that have an active air emission program in a DOE site. And of course then, we have a not of non-regulatory programs -- the dose reconstruction and that sort of thing.

So that's what Hanford looks like. It's on the Columbia River; it's got 560 square miles. The white dots along the river there are the reactor sites to all the 100 areas. Right in the middle of the site are the 200 areas that -- were most of the tanks are where they've proposed most of the waste will be kept. Right also in the center of that site is the commercial low level waste site -- that little white dot; it's not identified. But that's on leased land in the State of Washington.

And WIPPS has a facility on the river down there on the lower right. So 560 square miles -- a vast
majority of it is not contaminated at all. They generated -- you can see there, 56 metric tons of plutonium, of which 11 metric tons are still on-site -- which is one of the main hazards.

The hazards that we deal with is the plutonium, the 11 metric tons, and primarily -- this isn't in order of risk at all. Probably the highest risk one there might be the spent fuel that's in the K basins which are right on the river. A lot of plutonium in it, too.

And they were busy building a fuel storage facility, of which you might want to consider as one of your pilot projects -- they're building it in the 200 areas -- to move that fuel from the river to the 200 area plateau. But knowing Hanford, they're probably building it entirely different than anything else in the world, so you might not want to consider it.

The high level waste tanks of course, everybody hears about the tanks and I have another slide on that. Contaminated buildings in the 100, 200, and 300 areas. There's a 400 area also; it's called the FFF you hear about. It's a liquid sodium cooled reactor that may burn MOX fuel someday -- it may not.

And the buried waste. The buried waste is one of the things they're actively working on cleaning up. They're moving a lot of those -- the cribs and trenches
from the river area to the central area plateau. They've built a huge facility called ERDIF -- Environmental Restoration Disposal Facility -- and it's many, many hundreds of acres. It's right next to the commercial low level waste site.

The tanks -- there's 177 of them. They're all in the 200 areas. Most of them range from a half-a-million gallons to a million gallons. Many of them -- 149 of them are the older, single shell tanks. This is where most of the Hanford money goes. I think their annual budget this year for DOE RL on the tanks is 300 million. So the big push is to get that waste out of the tanks -- 68 leakers, known or suspected leakers, at various levels. Most of the liquids have been removed but the salt, the high level waste, remains.

We all have these regulations about the prime contractors -- and this is the specific, privatization issues we are concerned with. It's real clear from our regulations, what a prime contractor is, what they do, and for years that's the way DOE has operated and perfectly legal.

Now it's changed. Up to, I guess, last fall -- about a year ago, Westinghouse was the prime contractor and they operated most of the facilities. Nowadays we have four prime contractors. PNNL is a national
laboratory R&D. Bechtel Hanford, Incorporated is primarily involved in environmental restoration -- digging the dirt, moving the contamination up to the 200 area plateau.

Hanford Environmental Health Foundation is the other prime on occupational health and safety. Flour Daniel is called a PHMC -- the Project Management Hanford Contractor. They don't -- they only do oversight. They're the only ones called the prime. So we go to the next slide, and under Flour we have the subcontractors. There are six contractor now reporting to Flour to do the real work -- much in the way of tanks, high level waste, operation of all the facilities.

So there's the question of, how far does the DOE umbrella extend? To the subs? Well, maybe to the subs; it's DOE material they're working on, it's on site -- that's the standard arguments -- it's DOE Rad on the site. So these companies now -- it brings us to the group at the bottom -- the enterprise companies.

These companies up on top have split in half -- not really split in half. They've established a separate set of companies with management, and addresses, and presidents -- called the Enterprise companies. Now these companies are put together to operate someplace else -- we're really not sure. Inside the fence, outside the
fence; kind of both ways. Once again the question is, how far does the DOE umbrella reach?

Here's the last clause in that exemption part of our regulation. Any other prime contractor or subcontractor of the DOE or of the NRC, when the state and the NRC jointly determine: 1) that the exemption is authorized by law, and 2) that there's adequate assurance that the work can be accomplished without undue risk to the public health and safety.

And that's what has caused the flurry of activity between us and DOE and the subcontractors. Primarily we're looking at the subcontractors. According to our regulations we have to regulate the Enterprise companies, although to-date that hasn't been very satisfactory, and I think it's because they're not working outside the fence; they're working inside the fence.

Now, let's go to the TWRS slide real quick because that's a separate issue that I put in, and I don't know how this fits in on this pilot project or the MOU. TWRS stands for Tank Waste Remediation System. It's a privatization initiative that DOE started to vitrify the waste in those tanks.

We're hired two contractors, privatized contractors. They're going to have to supply their own money. British Fuels and Lockheed Martin I think, are the
two. They're going to compete during phase 1 and both build a pilot plant on the Hanford site. And during that time DOE will fund them; during that time DOE will regulate this pilot phase.

And at the end of that pilot phase -- and how they're going to regulate is -- there's a brochure -- they've established the RU, which is called the Regulatory Unit -- to regulate TWRS privatization contractors. I just got this in the mail a few weeks ago. Openness, independence, efficiency, clarity, reliability.

At the end of that pilot phase, my understanding is NRC will regulate the chosen contractor. Now that was up to earlier this summer. I'm not sure that's still part of the deal or not. State role is still undetermined; were invited in but not too often.

So in the meantime, quickly, our Agreement State program goes on. You see the first two names on that list are really Enterprise companies that have come to us for licenses already. One of them was actually a license before this change in privatized contractors. These licenses are on the Hanford reservation doing DOE work on DOE Rad. Why we're licensing we're not too sure.

The second group is another privatization issue. The first line, Interstate Nuclear. The laundry -- which DOE used to do their own laundry -- they
privatized it. Interstate came in, built a facility off-site, but processed all the DOE laundry. And we license them.

ATG is another company that is a private license, privately licensed by us and have a huge waste processing contract for gassification or vitrification for DOE waste -- located right next to the DOE site. And Bechtel has other research and development facilities off-site that have state licenses. And then the other license in the area, you can see where we are.

Quickly talk about the air emissions program. It's in Nishaps, delegated by the EPA now. We have a state clean air act. The regulations are in our sister agency, the environmental agency, Department of Ecology, but the enforcement of those, the radionuclide portion is in our agency in the Department of Health. It's working quite nicely today; hasn't always; may not tomorrow.

There's 285 emission points regulated. All the facilities -- it turns out this program is one of the more powerful regulatory programs on Hanford, because virtually everything they do in clean-up, tri-party agreement activities really have to have -- and they're going to build a facility -- it's a Rad issue. They have to come up to us for notice of constructions and permits and stuff. So while we're not one of the signatories on
the tri-party agreement, all of a sudden we have to be actually first in line to be discussed.

The size of the program: 11 people. A little over a million dollar budget a year. Again, very successful program. A lot of support -- unlike what Steve said about EPA -- EPA supports us quite a bit. The radiation and air program, anyhow, in Region 10.

The Hanford CERCLA EPA people are a little bit harder to deal with, I think. We have civil penalty authority but we haven't issued any. Most of the stacks are in compliance or working toward compliance -- some of them are very old, of course.

This is the last slide. We also, in the top two there, we have non-regulatory programs. It's very similar to the AIP program, the nationwide DOE program except Hanford does it different, so we're not part of the AIP program.

We provide support to the tri-party agreement to our sister agency for radiation issues -- when they ask, which isn't often enough, but more than they used to. Especially now that they've recognized -- the other regulatory agencies have recognized that the air pathway regulated by health is probably the most important. We tend to be involved in just about everything.
And the endless health studies: dose reconstruction; ATSDR you probably heard, has proposed to spend $50 million doing medical monitoring around Hanford alone. I think the latest number I heard for the next years is $150 million for health studies -- and that's not the legal bills at all. It's growing -- that part of the pie is really growing.

That's all I have. Oh, yes, I have one last slide. Current status: waiting for NRC response; waiting for DOE response.

(Laughter.)

FACILITATOR CAMERON: Thanks, John. Are there any questions? I think the last slide probably summed it up. Why don't we try to finish up with the DOE and then we'll take a break and then come back and do Don Cool and the KI portion, because I know people are getting tired.

Stan Marshall, State of Nevada, is going to talk about the special DOE problem there.

MR. MARSHALL: I had some fun putting this paper together and thought I would take a little different tack on describing a story. This first slide might be in for the Ed Bailey Bad Slide Award. I don't know how you guys do your slides, but anyway the point of this one is to -- is basically my who, what, when, where, and how to reach me slide.
The point of it is that -- I recognized a lot of discussion today has talked about change that we're all undergoing. My office has moved twice in the last four years. This is the recent location as of July 1. We have been Web sited, we have been E-mail addressed, and all of this stuff is going to be in the new CRCPD directory so you don't need to worry about what's up there.

A few months ago NRC staff contacted me to begin arrangements for the first Nevada IMPEP review, and team leader Dick Blanton asked me what time in June this summer might be good for an IMPEP team to do its thing. And I mentioned we just moved July 1.

I told him, no time Dick, for two reasons. Number 1, the Nevada legislature would still be in session, and number 2, if things went as hoped, we would be moving on June 30, and frankly I didn't want to be doing any kind of audit out of a box on the curb, let alone an audit under new criteria out of a box on the curb.

NRC agreed to postponement of this audit until August, at the indicated address, at the indicated phone number and fax number, and at the indicated E-mail address and Web site. Yes folks, things have changed a lot for Nevada's radiation control program.
We provided some of the finest restaurant opportunities in Carson City for the audit team, good room rates, and private offices for each of the audit team members. I seem to think they had a pretty good time while they were here.

Ask them yourself: Dick Blanton, team leader; Jack Horner, Region 4, field office Walnut Creek; and Don Bond, State of California; with Charles Hackney, Region 4 Arlington, joining them, and Paul Lohouse, Deputy Director, OSP, on August 29th.

DR. PAPERIELLO: Well, if that one comes before the MRP I'll look at it really closely.

(Laughter.)

MR. MARSHALL: But don't think these perks of good room rates and private offices had anything to do with our audit outcome. We are receiving some suggestions; we are receiving recommendations, too. But at least we got moved in before they came. No lives, no jobs were lost in the process.

On to the issue at hand here. Now, adamine snowcapped, in Spanish I understand, it is a remnant of the great basin from west of the Rockies to the Sierra Mountains. It's known for gambling, gold, and government -- what I call the 3 G's of Nevada -- the three largest industries and employers.
Nevada was once described as the last discovered territory of the North American continent -- except for Alaska, Arizona, and I'm sure parts of Canada. It is the home for part of the Pony Express, it is where Mark Twain became somewhat famous for this time in Virginia City during the era of the Comstock Load. It is the 7th largest state in this country with approximately the 7th smallest population, despite being the fastest growing state since at least 1980.

Nevada, it means a lot of different things, and you can see why our government, the old AEC, and now DOE, liked it so much. It occurred to me in preparing for this presentation that the DOE has been responsible for a significant contribution to new vocabulary in this radiation control industry we are all part of. This by the way, is an exploded map of the test site.

To name a few terms: privatization, AIP -- for Agreement in Principle; external regulation -- already discussed today; radiological oversight; FRR for Foreign Research Reactor; E-20 -- it means the CRCPD committee on Federal facilities: WIPP for Waste Isolation Pilot Project; interim storage; of course, HLW for high level waste; names on the test site like Half-pint Ridge and Jackass Flats; and of course, there's Yucca Mountain.
Did you know there are no yuccas on Yucca Mountain? I'm sure you can name many things more. I mentioned AIP; let's turn to that in Nevada.

Once upon a time in 1991, the DOE said, let's do an AIP for the Nevada Test Site, with state environmental protection, health division, and state emergency management -- the three agencies of the original Nevada AIP. Lots of acronyms and alphabet soup; oh my.

Anyway, after nearly 40 years or so of hush-hush, don't look here, don't look there, you can see it but you can't inspect it, and since 1980 when I moved to Nevada -- Stan, stop asking your questions -- DOE decides to allow 13 states including many of you here in the room, to begin oversight in parts of the DOE complex.

In Nevada, the Governor designated the Division of Environmental Protection to serve as the lead agency with State Radiation Control and Engineering in the Health Division, and State Emergency Management to funnel our plans, budgets, reports, and everything manageable, through the designated lead agency to try to make this AIP thing work.

After three years, we in Rad Control and Engineering in the Health Division made separate arrangements to directly propose, submit budgets, file
reports, receive reimbursement and funding directly from DOE. Let me tell you, it works and it works well.

Last year at the first CRCPD E-20 committee meeting, Committee on Federal Facilities, I revealed our progress and to cut out some of our problems, to fix up things, and to get on with this oversight thing that had been created. I was amazed at the variety of relationships and hope that our example would help.

I’ve been regulating things for over 20 years and I still find only doing oversight with DOE to be difficult. I guess I like to argue too much sometimes. Oversight to me is like being told to only watch the man wrestling with the pig. Only watch, no matter how much fun it looks like.

Anyway, after years and years of DOE cloak-and-dagger and all the Secret stuff, we in Nevada are finding the Nevada office of that agency to communicate pretty well, and they seem to be pretty good at saying what they mean and meaning what they say, generally.

To accept suggestions such as the novel idea of separate budgeting and separate reporting may have been difficult, but they responded and we like it a lot. Sometimes they actually respond directly to a simple phone call, which brings me to my last example of modern day events.
Remember -- I think most of you will remember, three or four years ago when I sent what I thought was a rather simple letter to the NRC to request some clarification about DOE, contractors, and exclusive Federal jurisdiction -- and I appreciate John's remarks to refresh you.

Well, I received a 3- or 4-page letter that almost didn't answer my question. But OSP sent it to me and to all of you under Agreement State correspondence. Since that letter, regarding DOE land status, we've addressed who could do when and where. I continue to ask my questions.

In the last year, a small company in Nevada licensed by Nevada Health Division to decontaminate equipment within the scope of a small service license, inquired to us about conducting such activities on the Nevada test site. DOE staff called me to ask the same, even saying, gee Stan, we want your office to license, regulate, and inspect this company's activities on the site, and we promise we'll stay out of your way.

Well, despite plutonium in the underground water discovered under the site recently, and other news articles that I have here about the plutonium and even some things in color, I sue the tactic suggested in more
recent version of the NRC position about determining
exclusive Federal jurisdiction.

I asked the custodian of the land, the DOE, to
provide interpretation to me about the land status for the
parcel on the test site where the company intended to do
business. Months and months passed and the next thing I
heard was that DOE was going to conduct a public ceremony
of sorts in Las Vegas to announce the company's deal. DOE
was beginning to privatize the Nevada test site.

I told them that they should confirm the land
status first or I would definitely rain on their parade.
If the land status was not determined or if it was
exclusive Federal jurisdiction -- or if it was exclusive
jurisdiction I assured them that my management and my
lawyers would not allow my office to issue a license to do
business regarding Rad materials on the site.

DOE called off the press conference or
whatever was planned, and proceeded to research and study.
Stan's question -- remember, I've been asking questions
for years -- why is the Nevada State Health Division the
only Nevada state agency not allowed to do anything, other
than oversight, on the Nevada test site? No less than
five different DOE personnel called me to ask about my
concern.
Last month I received a DOE letterhead, dated, signed letter that says in so many words -- and I'll paraphrase part of it -- in 1952 the Secretary of the Interior issued Public Land Order 805 withdrawing lands which established the Nevada Test Site. Three subsequent Land Orders enlarged the site to its current boundaries. None of the orders established exclusive, Federal jurisdiction over the land.

Furthermore, on November 22, 1968, the Chairman of the AEC, Glenn Seaborg, DOE's predecessor, in response to a prior session of jurisdiction by Nevada, accepted concurrent jurisdiction, both civil and criminal, on the Nevada Test Site. Under concurrent jurisdiction, both Federal and State laws apply. Based on the fact, we see no reason the State of Nevada may not validly exercise its NRC program to issue a radiological license to this company for its contemplated operations on the test site.

Well, how about that? I could go on a bit but I'll close by referring to a favorite book of mine to characterize the recent experience with DOE. I'm sure that many of you are familiar with Mr. Robert Fulgrum's book, Everything I Ever Need to Know I Learned in Kindergarten. You know the book. Well, my favorite book is, like it, by Biddle and Fishman called, All I Need to Know I Learned From My Horse.
Some of you know my wife and I have pleasure riding horses, so you can know the meaning of the reference. Two favorite readings from this book seem most appropriate here concerning our struggles and successes in dealing with DOE over the many years, with the AIP in recent years, and this latest development about land status in recent days.

One says -- from the book -- "75 percent of success in life is just staying on board". Another one says, "You can teach an old horse new tricks, but only if you're willing to work at it". DOE is an old horse. They do seem able to learn new tricks and new ways of doing business. In fact, we're all old horses -- the states, the NRC, and DOE. We just have to keep working at it.

Thank you.

FACILITATOR CAMERON: Thanks a lot, Stan. That was great. We have one more presentation and then we can see if there's any general conclusions or questions from us. So Art Tate from the State of Texas -- or are they in the Republic --

(Laughter.)

MR. TATE: I'll take it all. Just listening to the comments made before me, we have just one DOE facility in the state, and they're not privatizing, they have no contamination to speak of, they're using only
sealed sources of plutonium, and they belong to defense programs. I guess that's my presentation.

However, since I did make one, I guess I'm obligated to break it out. And like my fellow panel members I'm here to talk about my state's experiences dealing with the Department of Energy. We've been dealing with them, at least since I've been there -- since the late '70s, early '80s. But really we only got serious in a contractual way in the last seven years.

I'd like to structure my presentation just a little differently than some, and talk about the contracts first and then give you my conclusions and then fill in the details that I might have. And after that, any questions that you might have.

Texas currently has three contracts in place to deliver services to the Department of Energy. Our oldest contract is the Agreement in Principle that you heard mentioned just a minute ago -- a couple of the other presenters also. It primarily covers tasks associated with the Department of Energy's Pantex plant which is near Amarillo, Texas.

And Pantex is the only significant assembly/disassembly point in the United States for nuclear weapons. Every weapon that goes into our arsenal
is put together there, and when they're serviced they come back to there for disassembly.

The AIP provides funds for emergency planning, radiological and environmental monitoring, equipment purchases, and also pays for the salaries of the staff necessary to do these AIP tasks.

We have a second contract and it's less well-defined and it is for our university consortia. The consortium consists of three different universities in Texas: The University of Texas, of course; Texas A&M University; and Texas Tech University.

These activities have been funded to perform DOE sorts of activities for about the last three years. And specifically, what they're doing is being the central repository for the effects of aging on pits in the United States -- the plutonium pits.

There are currently about 12,000 plutonium pits at Pantex. And that it's DOE's plan to disassemble weapons until there are about 20,000 there. And just by way of comparison, the Cassini spacecraft on the way to Saturn was recently launched with 72 pounds of plutonium, and we have tens of thousands of pounds. And depending on who you talk to and how much a pit weighs, it's going to be tens of hundreds of thousands of pounds.
In addition to serving as a repository for plutonium pit aging information, they also do some other things. The consortium provides a technical evaluation capability for the State of Texas, and they use them for a lot of different things, including the ability to both validate and verify some of the studies that the DOE does regarding the risk of their continuing activities at Pantex.

One of the things that they have done for us recently was to tally all of the commercial flights and the military flights and come up with a probability of whether or not one of them would hit Pantex if it were to fall, and if it were to fall from the sky, would it create an off-site release of radioactive materials. They do esoteric things like that.

And our third contract -- and we're signing any day for the waste isolation pilot project -- we're going to be transporting a lot of radioactive material. The so-called trans-uranic waste to the WIPP site in Carlsbad, New Mexico on Interstate 20. That for the most part the Department of Health, the Radiation control group, will be doing a lot of emergency planning and some training and things like that.

But those are our three contracts. My conclusion on how things are going with DOE. Texas has an
excellent working relationship with the Department of
Energy. That hasn't necessarily always been so but it is
now. We have full and complete access to their senior
management in their area office if we need it, and in
their Headquarters if the occasion warrants it.

Most importantly, we do work with their middle
management, both DOE and the contractor that runs the
Pantex site, as well as the workers that we must do
business with on a day-to-day basis in order to meet our
commitments to them.

We make an effort also to work closely with
other state and local Agreement principal participants.
And we also maintain some very open communication with
residents that live in the area who are both for and
against continued operation of the Pantex facility.

In fact, one of our staff members was
appointed about three years ago to be an ex-officio member
of the Pantex Citizen's Advisory Board, and he attends
each of their meetings and has input during the course of
the meeting and is able to represent the views of the
Department quite well there.

Seven years ago our relationship with DOE
really was just starting to developing. They were still
fighting the Cold War at the time and they tried to deal
with this pretty much on a need-to-know basis. And
generally what that really meant is some or most of their staff members decided we didn't need to know it.

And at the same time we were very distrustful of Feds bearing gifts of money with strings attached, especially when they tried to use the strange vocabulary talking about pre-decisional documents, and AREC, and hotspot, and rep teams and Q clearances, and hot wash, and some stuff like that. And I have to say in their defense, they didn't understand this either.

It has taken a lot of time and effort on both parts, but we're doing pretty well now. One of our earliest concerns related to the need for information in the event of an accident at Pantex. We still have that concern but we have worked very closely with them to make sure that there is a state representative in their emergency operations facility if we respond there for an accident.

We also have the capability to communicate directly into their EOF if we need information in a hurry. During an exercise about three years ago it just didn't work. Pantex's accident assessment team came up with just an absolutely, totally wrong conclusion that they didn't have any off-site release, when everything and every indication in the world showed that they did.
We had something going for us in that one of the Federal groups, the Federal Radiological Monitoring Assistance Center came from Las Vegas -- and I couldn't say that again fast -- had decided to participate in the exercise. And they co-located with us at our staging area and they also had representatives in the Pantex EOF.

And in fact, they acted as our conduit for information and allowed us to complete the exercise and do what we need to do to protect the public health and safety. And then after it was over, worked it out with the critique comments and input to DOE to fix the problem. And we're going back, I think, in the summer of '98 to see that it has been fixed.

And something that Mike said earlier -- that if you have the right to choose the rules that you want to obey, then sometimes you decide not to. This was a facility that had nuclear weapons and they didn't have an alerting and notification system -- and chose not to. And we pointed it out to them and they were able to get it into the 5-year budget. And five years later we now have a siren system, a strobe-light system, and a couple of other things that are scheduled to be tested -- either late December or early January, thereabouts.

The system will alert on-site workers and off-site personnel using a combination of strobe-lights, tone
alerts, and -- strobes, yes. In the meanwhile, the same thing that the locals were doing in the old days which was, they'd send a law enforcement officer out with a vehicle, or use radio and television announcements -- or will be used until the A&S system has been fully made operational.

This certainly didn't go as fast as we had wanted it to, but it's there now and it's almost operational, and it soon will be. I could go on with our laundry list of how things have not gone as well as we had hoped, and I'm sure that if there were someone from Pantex here that they could equally give you the same short list on what we had done that we could and should have done better.

But I think each of us would have said that the problems that we would have encountered today are of less consequence and occur much less often than at the beginning of the relationship some seven years ago.

In closing, I would like to say that my outlook is very positive, my observations about our relationship is that both of our cultures are very slowly being modified by the grip of day-to-day interactions. Neither the State of Texas nor the Department of Energy will ever be completely satisfied in our dealings with each other as we serve different masters. However, our
goal is the same; that is, to protect the public health and safety. Thank you.

FACILITATOR CAMERON: Thank you, Art, too. Do we have some questions for our panelists? I mean, it was sort of interesting hearing the external regulation of DOE's sessions and then hearing about these individual states who are all trying to forge a relationship with DOE on various subjects. I suppose the external regulation at some point in time might add some coherence to all this, but right now it just seems like a patchwork quilt.

Anybody have any comments or -- yes, Brian.

MR. HEARTY: Brian Hearty, Nebraska. I have a question, just -- if anyone else has had any problems with DOE subcontractors coming into their state under reciprocity? We've had our prime contractor or OR&L hired an engineering firm to come in and do some XRF testing in Post Office throughout Nebraska. And they had rewritten the procedures -- safety/operating procedures -- for this company.

Now, the company had a Maryland license but they were using these different procedures. Now, we reviewed them -- they were actually more stringent and actually fairly well. So we let them come in under reciprocity but we made it reciprocity with the sub-subcontractor that had the Maryland license.
I was just wondering if anyone else has had dealings like that?

MR. MOBLEY: We're dealing with a similar kind of thing in Knoxville that's not -- I don't know what it's going to be, but they're doing some sort of testing at the airport of security devices, and we're not clear right now what it's going to be.

In fact, I'm very concerned that what it's going to be is, they're going to go out there and install devices and we're going to go out there and find them, and then the fur will fly. But it sounds very similar.

MR. BAILEY: We have a facility that's being cleaned up. It's one of the old beagle facilities where they fed and injected strontium and radium into beagles in a fairly large colony, and they did things that I think we would not consider proper today, as they basically had a seepage pit that the radium wastes went into and so forth.

Anyway, at one point they finally pumped it out and was stored in a tanker for a long time. Chem Nuclear was hired to come in and pump that out and take it and solidify and dispose of it. Thanks to South Carolina, the Chem Nuclear license said they had to get reciprocity if they did that kind of work anywhere else, and so they came right to us. We didn't have any problems with it.
The next phase of the contract though, has been difficult, because the contractor now on the site doesn't feel that we should be able to regulate it -- even though it's on state-owned land at a DOE lab that's closed, and it's a CERCLA site. And you have to watch on CERCLA because they want to blow smoke that they don't have to have a license; they don't have to get permits under CERCLA. So we -- and they're a prime DOE contractor.

MR. MARSHALL: A quick one. Back in the old days, only seven or eight years ago, a DOE Nevada contractor was doing NES team emergency response training in a downtown Las Vegas hotel, and proclaimed DOE exemption. Now, even DOE couldn't get them to come around to do the training -- to do license application with us. You know, the training was over with before.

But for years they just ignored the fact that they were on state jurisdiction property. I think we're in a new age where some of the new age DOE people are convinced that if subcontractors do that again in Las Vegas they will be Nevada state-licensed.

FACILITATOR CAMERON: Thanks, Stan. Aaron.

MR. PADGETT: Aaron Padgett, North Carolina. It's broader than just DOE. We had a situation in midwestern North Carolina having to do with the Army. And
this was an old facility that was no longer under the
control of the Army. Work had been done there -- in fact,
it really was kind of touchy whether or not it should have
been done under the -- on these approvals and so forth, or
whether it should have been done under the state
originally, anyway.

But this facility is no longer under Army
control but they got a contractor to come in and do some
clean-up on that property, and we face the same issue
there. And the only reason for me mentioning this is
that, don't just look at DOE, but also military services.

FACILITATOR CAMERON: Ed, do you --
MR. BAILEY: Yes. I think the DOE thing is a
very good point. My wife works in the DOD base closure
and we have more than our fair share of base closures in
California. And that has been one of the big problems in
their researching these bases and determining what's
radioactive or whether there was radioactive material
there.

Because they hire contractors who have no
radioactive materials license, they go in and do all the
hazardous material inventory and all that, and you know,
there's a pile of aircraft dials that you know, was
outside the door, and they'll practically ignore those.
And that has been a real problem -- getting the military
to go back and look for facilities that had radioactive material.

Such things as, there were Air Force bases in California where planes flew out of into each of the mushroom clouds and came back contaminated and washed down and all that sort of stuff. So that's been a real problem with DOD.

FACILITATOR CAMERON: Is there anything --

Mike, go ahead.

MR. MOBLEY: I wanted to mention a couple of things. I mean, we've heard about privatization. There's another program -- re-industrialization that DOE sites are undergoing, and we've had some real problems in Tennessee with this because they're re-industrializing based on very inadequate surveys, if indeed a survey is done. And they're leasing these facilities to non-Rad operations.

There's a couple of other things that are very current that we need to keep our eyes open on and one is the -- help me here Alice -- is it MCS? Is that the entity in Texas that's trying to get the low level waste --

MS. ROGERS: Probably you're talking about waste control specialists.

MR. MOBLEY: Right, WCS, waste control specialists. Filed a suit against the Department of
Energy that said, you can't require us to have a license
to bid on your contracts to dispose of your low level
waste, and won the suit.

Where that goes I don't have a clue and I may
not have expressed that just exactly right, but it's a
potential to really throw a wrench in here where in the
past -- as has been mentioned -- DOE has brought people
onto their sites who know little or nothing about
radiation issues, to do things.

You may now suddenly see this concept utilized
off-site through the auspices of this lawsuit. I'm very
interested in seeing where that goes.

The other is, the fuse wrap program has now
been taken away from DOE and given to the Corps of
Engineers. I presume they're going to become an NRC
licensee or the contractor will become an NRC licensee or
a state licensee. I don't know, but that's another
interesting wrinkle in some of these issues that we've
heard about today.

FACILITATOR CAMERON: Aubrey.

MR. GODWIN: Godwin, Arizona. There's also
some business which they contract out for scrap removal,
and they have this scrap dealer -- or people that remove
the scrap -- to sign a contact that says -- DOE has this
wonderful program to assure that no radioactive material
is on the scrap. And because of that, if any radioactive material is found on the scrap it belongs to the scrap dealer.

(Laughter.)

Very abridged, but that's what the contract said. Well, I advised the people in Arizona to understand what they were signing off on; that if they were going to have to pick up liability look like the way that was set up. But I didn't know that anyone had reviewed the DOE release criteria which was cited in there as being adequate, and how they were going about analyzing it.

DOE refused to give the people who were trying to bid on the contract a copy of it -- which I thought was interesting since they had to sign that it was wonderful.

FACILITATOR CAMERON: Thanks for that story.

Bob Quillin.

MR. QUILLIN: While we're telling stories I'll tell the story of the trailers at Rocky Flats. Rocky Flats, when it went through an expansion phase, brought in all these trailers. Now they're trying to get rid of all these trailers and they're trying to give them away to government agencies, Indian tribes, anybody that will take them.

They surveyed the inside of the trailers and said these trailers are clean, they were never used to
store or process any radioactive materials, but they didn't check the outside of the trailer. Well, somebody thought that maybe they should check the outside of the trailers.  

Well, they found that they were getting fixed contamination in the order of several hundred dpm, etc., and removable contamination on the outside of the trailer. So the question was then, well what is this contamination? And they were in a crisis mode at this point because this was one of their performance contract incentives -- if they got rid of these things by the 1st of October they got X number of dollars. So there was a real crisis.  

So they went out to three commercial -- no, they went to two commercial laboratories and an on-site laboratory and said, is there any special nuclear material here? And I think one said they couldn't tell if it was special nuclear material or not, and one said it's not special nuclear material, and the other came down sort of in-between.  

So they declared that contamination on the outside of the trailer was not special nuclear materials, they could bash them in, get rid of them, and meet their incentive for the disposal of these trailers. So you have to be careful when DOE's contractors get on one of these tracks, especially something which is in the incentive
part of their contracts, because they try to move very 
quickly and you reach decisions and get things done to 
make their dollars.

FACILITATOR CAMERON: Thanks, Bob. There's 
been a number of stories relating to DOE here. Is there 
anything that the Organization of Agreement States could 
do that would help individual states in trying to deal 
with these problems? In other words, you shared all this 
information with each other today. Is there something 
more that could be done with this that would be helpful to 
all of you or to other states? Just throwing that out for 
considerations?

MR. QUILLIN: Chip, exactly what is your 
question? Help me here.

FACILITATOR CAMERON: Well, I'm thinking that 
you have to -- you are all dealing with DOE in various 
ways. Is there information that could perhaps be 
disseminated in a more systematic way than we've done 
today that would help others to --

MR. MOBLEY: Well, we do have a Federal 
Facilities Committee for the Conference, and we do meet 
periodically, although it's been -- I think our last 
meeting was early this year in Vegas. We've lost our DOE 
interface when Tom Gurusky retired for a second time --
maybe third time, I don't know. But he retired from the
DOE and we do not have that interface anymore.

That group has met several times and developed
a certain level of understanding of how things are
different and how things are the same in the different
states. But I think -- I hope, anyway, it's been really
good for the other Agreement States to hear, and I hope
that we're going to have something at the conference
meeting in May about some of the DOE activities.

Because if you don't deal with it routinely
you have difficulty believing it. And I know there are
probably people sitting in the room today that say, I just
can't believe that these things go on, or is this really
real, or whatever. I can attest to you that it is very
real and these things go on all the time.

You know, and as I was listening to Bob
Quillin and Aubrey over here, we have a major program
that's fixing to be initiated in Oakridge where they're
going to be free-releasing scrap metals. And part of that
is going out through a state licensed facility and part of
it may go out through a DOE operation.

And you know, I am very, very wary of that
because we're still finding scrap metal that's been
released out of the DOE facilities at scrap yards that
meets nobody -- it doesn't even meet their own criteria.
It's one of those situations where that, we have processes in place to share information, we've had a couple of meetings, we're learning more and more. But it has been within the DOE/state community I guess you could call it. And we haven't got much information out to the others.

That's one of the reasons I was really happy to know that we were going to do this discussion here. I think maybe -- and I'm the chair of the committee -- I think maybe that we're probably falling down on the job some with that committee, but at the same time I think we've established a lot of interfaces between the DOE-sited states to deal with these issues.

I hope that the NRC staff that's here today understands that there's a lot of things going on with the NRC and the states -- DOE and the states. There are a few things going on within our states too. But there's a lot of things going on with the DOE and the states.

And what we heard today primarily is, radiation program-related interfaces. We haven't talked a lot about the RICRA interface, the CERCLA interface. In Tennessee we have a wholly separate organization that does the DOE oversight. I don't do DOE oversight; I do DOE bashing and when the things get really tough they drag me out of the closet and let me bash for a while and then things smooth out and they go ahead doing their oversight.
But every state really is very different and it's very difficult to keep up, because one place they're privatizing and it means one thing and another place they're re-industrializing and it means something very different. It's very, very tough to keep up, from state to state. Heck, it's difficult to keep up in the same state.

FACILITATOR CAMERON: Well, Carl was talking about the pilots and what we're going to try to learn from the pilots. Is there a whole lot of information from these individual ongoing, real-life experiences that at some point might be useful to feed into the decision-making process on what the legislative or regulatory framework should be for external regulation?

In other words, they're going down two separate tracks. Should they come together at some point?

MR. MOBLEY: I think so, and it's one of the things that's kind of bothered me, and I just kind of mentioned it up-front in my discussion. Is that the NRC has gone out here and got with the DOE about this external regulation thing, not really looking at, well what's really going on between the states and DOE? What kinds of arrangements or processes are in place?

What is the level of movement within each state? It's very different in different states.
moving quite rapidly at the K-25 site to take over more
and more parts of that site, and that will just be
regulated by the state. And that's in addition to us
having a group in the State of Tennessee that does DOE
oversight totally independent of us.

And different states have different levels of
activities that are ongoing; as we have heard here today.

MR. BAILEY: I'd like to ask what you and the
others think. Back during the days of the Milltown clean-up
DOE basically had a quarterly meeting of the states
that were involved in the Milltown clean-up. And I'm
wondering if this organization might ought to get, or
encourage DOE to establish something similar to the old
Milltown -- what groups -- we just got together literally
and talked about what's going on in your state, what's
going on here, what's going on there. And it was a
regularly set-up and funded thing. And I think it worked
eventually to help everybody in the Milltown clean-up.

MR. MOBLEY: Well, I think to some extent
that's what the conference E-20 committee was supposed to
do but has not gotten off the ground exactly like it was
going to. Because one thing, we didn't have a real
targeted thing, other than our initial meeting to hear
what every state was doing, and then we were going to
visit each of the sites.
I think now we have some targeted things that we could be working on -- the scrap metal recycling one is a biggie in my mind. So that's there. The problem that we have, from my perspective, is that each site, each DOE site now is out on its own going gung-ho in whatever direction it's going, doing privatization, re-industrialization, etc., etc., etc. And they all mean different things to them. It's really, really hard to deal with it on a national level anymore.

FACILITATOR CAMERON: Okay. Well, I think there's some food for thought there. Why don't we -- does anybody else have anything to say on this issue at this point? Because we can -- why don't we take a break till 20 after 4 and come back with Don Cool and Aby. I think the business meeting is getting slimmer and slimmer here.

(Whereupon, the foregoing matter went off the record at 4:05 p.m. and went back on the record at 4:25 p.m.)

DR. COOL: I think probably an equitable share would be something like three bucks apiece. You know, that's according to our earlier calculation. I don't know how many are still here but that should cover it. And if there is anything left over, of course it gets refunded.

FACILITATOR CAMERON: Okay, thank you, Don. As Don mentioned it's a fairly small sum, so if you can
give that money to Don. Diane Tafft had a great idea that
the business meetings will be held after the cash bar. So
there you are.

I think Don Cool is with us, and Don is going
to talk about consolidation of license guidance documents,
and then we're going to go to, I think what's an
interesting issue, possibly controversial, to Aby Mosheni
to talk about the KI issue. Don?

DR. COOL: I'm going to put the watch right up there where I can see it and you can all start waving at
me, because it's gotten to be late in the afternoon. I'm
not sure why it is -- and I don't think I can blame Chip
because he did the agenda this time but he hasn't done the
agenda the previous times -- why I always manage to get
the late afternoon timeslot. You'll see that I have the
last one again tomorrow, so they're telling me something
but I'm not quite sure what it is.

What they asked me to talk about today is a
project that some of you have been aware of, dealing with
the licensing guidance. This is about as drastic a gear
shift as you can make from the previous topic -- as you
can get. We'll just to ahead and go on with the next
process.

Lest some of you were concerned that somehow
we wouldn't manage to talk about business process or
engineering during the course of this meeting -- because
this has been the standard topic over the last several
years -- let me assure you that in fact, we'll manage to
get the word up there at least once.

FACILITATOR CAMERON: How much can we give us
to not talk about it? Ed?

(Laughter.)

DR. COOL: You will recall that we went
through and did a lot of analysis and look over the last
several years. One of the things that we discovered
earlier on in the process, is that you don't want to
automate or otherwise, something which is already old and
disjointed and dysfunctional.

Second thing we discovered -- or we believe we
discovered, not surprisingly -- was that if someone really
knows that the requirements are -- and that someone could
be the license reviewer or the licensee or the applicant
or the inspector or whomever else it was -- if they had
all in one place, all the information that they actually
needed to know, then they'd be much more likely to
actually have good application, good inspection, or good
review conduction to better process. Everything should be
a lot more efficient.

So we embarked upon a process of trying to
revise and update the existing the guidance. The first
one of those was with portable gauges, and some of you have heard about that effort which was done. We went through and developed a consolidated guidance document. Several folks from the states participated in that process.

I know Wendy Tingall from North Carolina actually worked on the writing team; Joe Klinger who was -- yes, and is still here -- helped us out with the review team going through that process -- received rave reviews, everybody liked it. That is now in fact, a final document, NUREG-1556, Volume 1.

My nickname for these is the Ragu series. You remember the old ad -- somebody has told me it might have been Prego rather than Ragu, but irrespective -- you know, all that good stuff that's in there? All in one place, trying to consolidate all of the things that were in various sundry places over the course of time.

The project that we have now embarked upon is a line operation project, not a re-engineering project. We've moved out of the re-engineering; we've tested the process; we've found that it worked; we've tested the outcome and found that everyone tended to like a single document. So we're now embarked upon a process over about the next three years to try and take the thousand or so
different documents which are out there in NRC-land which relate to the way that we do licensing.

Take regulatory guides -- the Title 10 CREs -- a whole bunch of standard and format and contents in various and sundry states -- mostly drafts from the '84/'85 timeframe, all the technical assistance requests that have been done over the course of time, all the policy and guidance directives, all the various memos and otherwise.

Take that mountain of information: jam it, compact it, squeeze on it a little bit; toss out all of the duplication, find the one that works best for the process and put it in the single document which would have all the information the applicant needs to have, all the information that the reviewer needs to have.

Some standard things that licensees could use in terms of procedures and checklists if they wished to go that route, but then more fundamentally, the sorts of underlying routes that you'd be looking for if they wished to have a different approach; the sorts of criteria that they would need to identify if you were going to develop specific procedures for specific activities, and publish that into a single forum.

I've already managed to talk about that.

There's a whole bunch of things that we'll be trying to
update. For those of you on this side of the room who
can't see this -- sorry about that -- a whole series of
guides, directives, and otherwise, which we would all
intend to pull together.

Once upon a time I had a slide and my business
process engineering group had doodled this little slide
up, and it had to do with a little story of Sally
Applicant. Now Sally wanted to apply for a license and so
she called up the appropriate regional office and said to
the regional reviewer, I would like to apply for the
license for -- and you can sort of fill it in. In that
particular case it was a portable gauge license, so it
should be relatively simple.

And said to the reviewer in the region that
she had gotten a hold of, can you send me the information
I need to have in order to apply for this license? And
the reviewer says sure, no problem; be there in a few
days. Sally says, this is great, settles back and waits.

Some number of weeks later, a large truck --
one of these roadway express trucks -- drives up to
Sally's door. And Sally says, I don't remember ordering
anything. Well, I've got this form here; just sign it.
And proceeds to unload piles after piles of documents. It
turned out that this was the information which the
regional reviewer had promised to send her.
It included a large stack of Federal regulations. There were NRC regulations and EPA regulations and OSHA regulations. And then there were a series of regulatory guides issued. She noticed right away that most of them were dated in the '60s or '70s.

And then there was several boxes which turned out to be photocopies of about 500 technical assistance requests that had been issued over the course of time, and she noticed that those at least were a little more recent. There were some from '92/'93/'94 timeframe there.

Then she got to another box which turned out to have a whole series of things which were labeled, information notices. And she wasn't quite sure what that had to do but she read the first one and saw that there was no response necessary and she pitched that box; pitched it right out the door.

Then she found a smaller box -- this was a very small box -- that said bulletins. They immediately required action so she figured that was important and added it to the pile. So finally there was a whole series of other things -- standard license conditions, policy and guidance directives -- those sorts of things. And she's standing here and she suddenly realizes that in order to apply for what she thought was going to be a very simple
license, she was going to have to wade through the things
and they were piled all around her.

For those of you who are familiar with the
consolidation parts of that you know that NUREG-1556,
Volume 1 for portable gauges is about that thick -- total.
And it has all the information including appendices and
standard forms. That's really what we're trying to
accomplish with this effort.

Now, how are we going through the process? I
know there was one question earlier today about
reimbursement for pink teams and red teams. Let's just
not go there. It's way too late in the day to try and do
that. But the process that we're using is in fact a team-
based process which involves trying to pull in the people
who know how to do the licensing inspections for a
particular kind of license.

So this is not one of the old fashioned, stick
somebody from Headquarters in the corner, let them write
some piece of guidance and sooner or later it will turn up
and see the light of day. In fact, pull a group of
several individuals together including folks from the
region and some folks from the states who have
participated on some of our teams and say to them, develop
this consolidated document.
Here's all the background material. You're going to have to do that which licensee formally had to do -- go through and weed through and pull it out, extract, distill it down -- and give me a single document. And the advantage of this kind of system is that you get a number of people's heads together, which has some great benefits to it; they can weed out and find some things.

And we are already finding over the course of time, that a bunch of the stuff can become very standardized. What they often do in computerland as well. You write it once and then you read it or re-use it many times. And we're already beginning to find as we are going through this process, there are things that we can extract from the first volume or the second volume which has already been drafted, and immediately drop it in so that the format starts to proceed.

Those are reviewed also by a couple of teams. Now, the language actually comes from Computer Sciences Corporation who was our contractor in the re-engineering. And I know I've already had at least one reaction: well, I don't mind being on a writing team but there's no way I'm going to be on a pink team.

Call it what you will. We may want to try and find some other term, long-term, that doesn't offend some sensibilities. But to pull middle-level management -- the
branch chief type people within the NRC system, senior
technical individuals -- to do a review, particularly
looking for technical accuracy, correctness, whether this
is in fact, all the information that we'd want to have.

Sit back, put on a pretend-you're-a-licensee
hat for a few minutes. Is it all there? Then turn around
and put on a reviewer hat. Is everything that you would
need to have as a reviewer available there? Does it make
sense; are we asking the right questions; are we looking
for the right pieces of information?

The second step in that process is to do
what's been referred to in our lingo for the moment as a
red team -- which is a division-level review, myself or my
deputy. Often pull Lohouse from state programs. Again,
we've had some folks from the states who have participated
in a couple of these reviews already.

For both a final technical review and a policy
review to make sure that we are in fact, looking for the
right kinds of information; that we have accomplished the
job that we tried to do. With that second approval, we go
to publication.

Now, the second thing that we're doing in an
effort to avoid at least a few of the sins of the past, is
that I have issued a rather absolute edict: we are going
to go final with these documents. Most of you are
probably familiar -- I know all the people in the regions
are immediately going to nod their heads up and down --
when the NRC regionalized its materials licensing program
in '84/'85, they popped out a whole bunch of draft policy
and guidance directives on how to do various pieces of
licensing.

It's 1997; they're still drafts. In fact, as
it turns out, there probably was really never very much of
an intention to ever really go final with those documents,
and they just sort of lived on, right in the system.

So once we have developed the draft document
we move to a public comment period, formally notice its
availability in the Register, send it out to every single
one of the NRC licensees that's in that category, have
Paul distribute it to all you folks in the states, and
take some time to have everybody look at it and say, is
this what's going on, is this the right kind of
information, does this do the job that we needed to do?

And then come back and run a similar sort of
process, till you build up the final document. Ask the
writing group to come back together, analyze the comments,
suggest the appropriate changes, and go through the review
process, and then publish it in final. At that point it
becomes the document which, at least for the NRC licensing
actions, becomes the document that we will be using.
Now, after having talked about this with the executive committee -- with Bob Quillin and Tom and Roland and Richard -- sent the memo to them which I believe they have forwarded to each of the programs. What we are inviting is for the states to consider having someone be on writing teams or some of the review teams. This is not an edict, I am not counting the number of clicks in any one particular column. I am doing that for the regions but I'm not doing that for the states.

But we have found that we get some really good benefit from having you folks on board. And if we're talking about early participation and whether or not you've got 30 days for review, I would much rather have someone of the folks write in the review process while we're writing it instead of a sort of, after-the-fact, it's already written, the word processor has already printed it out. And get the experiences that the state has and the advantages that the states have gone through because they've gone through similar processes, right in the initial document.

On the other hand, we are not looking for the states -- either individually as the participant or the Organization of Agreement States in any sort of collective way -- to say, we fundamentally buy every single detail of this document. Obviously all of the references in it are
references to NRC's Code of Federal Regulations and there would need to be changes that are going on.

There are some places where you may not have very many licensees. You may pursue slightly different approaches for licensing a particular type, and that's fine. So we're not asking for endorsement. What I'm really look for is the opportunities that you may have to help us develop as good a consolidated document as possible.

Obviously, getting in on the writing team, getting in on the ground level -- one of the statements I was told early-on in my career was, he who writes, wins. While managers may do a lot of marking up, you're going to average probably better than 80 percent of your words will survive somewhere in the document to begin with. So that's a really fundamental place to have a direct input to the process.

If that's not possible, and certainly it may not be possible in all circumstances, as one of the review teams, the mid-level management team or the second-level -- the division-level team -- to provide us that input to the process.

I'm going to put one more slide up and then call it quits on this. I have provided for you -- and there aren't enough copies for everyone in the audience;
I'm not sure where the remaining ones ended up. I guess over on the shelf at the moment, for each of the states that are on the table. You have a detailed list of the topics that we're looking at covering overall through this project. It runs for a couple of pages of individual topics.

The letter that was sent out has actually some of the scheduling details along with the kind of resource commitment, that thus far through the process we believe are sort of the unit cost factors for running through one of these processes.

As I said, the portable gauge document has been completed; that's a final. The industrial radiography NUREG is published as a draft. That's out on the street in the public comment period right now. The NUREG related to sealed source and devices, which is the revision update of the document that a lot of you are familiar with -- the earlier iteration.

This was more a formatting issue than it was a large, consolidation effort. Was in the printer. Whether it actually makes it -- bound copies make it into the office this week or not or next week -- there was a little printing glitch but that one is very close.

The next couple that were on there which were the self-shielded irradiators and the fixed gauges, are
most of the way through the process. They've all undergone at least pink, first level reviews, and at least in the case of one of those two, the second level review has already been accomplished and they're working on fixing up those corrections.

A slightly different document which was not one which would directly affect the states -- we ran a similar process in our review of the Veteran's Administration's application for master material license. We used a similar team-based process, not only to develop the review criteria -- because one hadn't been done in eons and there was no such document laying around -- but then also the same team actually reviewed the license and developed the efficiency letter.

We have also, by the way, used a similar sort of process and plan to use a similar sort of process in the medical arena whether it would be actual writing of the Part 35 and we're going to spend all day -- or most all day on Saturday -- talking about that. And also the development of the guidance that will go along with that document.

So there are a number of opportunities. I think the best approach, at this point I will ask if you've got any questions. If you've got some people that you think might fit in well with one of these, you can
talk directly to me or feed that back through -- I guess Roland gets to be the conduit now in terms of some nominations -- and we'll try to see how we can best get together and work this process.

Questions?

MR. FLATER: Don, these working teams, are they going to be all, you know, back and forth through E-mail, that kind of thing? There are no meetings with this?

DR. COOL: A combination of the two. What we have found is that you have to have everybody together to get a baseline and initial, and take the initial cut on the draft. These teams have met together for two weeks at the start of the process. Then most of the rest of the writing effort is distributed -- whoever they are, sending things back and forth.

Depending on the document, the team may feel it needs to get back together to get the synergy of being all together in the same place and hammering through comments and resolutions. In other cases that has been then distributed.

The review teams have, for the most part, actually gotten together a pink or a red team. It's usually -- it's averaging about one day getting together. They have the document ahead of time. They enter the
comments electronically ahead of time so that's all
waiting when they walk in the door and sit around the
table and work through the process and get it solved.

The record on the short end is now four hours,
start to finish on the review. The long end went about
two-and-a-half days. That was radiography and sort of as
expected, you're dealing not only with trying to
consolidate fairly complicated things, but writing
guidance to the brand-new rule.

But it does involve some together time as a
team, particularly initially in the process.

MR. MOBLEY: Are these going to be available
electronically so that as you note, we might want to make
additions or references or whatever? It would be nice to
have it on disk.

DR. COOL: Our intention is to have them
available electronically; to have them up on the NRC Home
Page and to HTMO codem so you can jump to the place you
want to have. Long-term, as we get our new network
systems and move forward in the electronic licensing
arena, our intention is to electrify each of these, have
them available and have for our reviewers, a desktop
capability to call up an application that's been received
electronically, side-by-side have whatever guidance is
necessary, and spit out an efficiency letter on the bottom
-- all sitting on one screen. So we are definitely going
to have them available electronically.

MR. GODWIN: Godwin, Arizona. I noticed one
of your specific guides, consolidation, is number 15 about
general licenses. Is that all the general licenses you
all have got or is it just going to be certain ones? If
you've got 30 you got stuff from 30, you've got stuff from
40 -- 70, isn't there some, and 150?

DR. COOL: For the moment these are focused
principally in the byproduct, the 30 arena. Exactly
what's in or out -- I mean, part of the reason that's
farther down the list, that's going to also depend on one
of the things we're going to talk about tomorrow, as to
exactly what survives as a general license versus perhaps
some sort of registration for other systems.

I know we've got a bunch of other pieces out
there, 40 and 70, that also have to be dealt with, but
it's a matter of how much can you chew in one block of
time.

MR. KLINGER: Joe Klinger with Illinois. I
just want to point out -- Illinois is not always feisty
and critical of the NRC. I want to say something real
positive here. I was a member of the pink team and it was
a very positive experience. It was probably one effort
that I experienced working with the NRC that I felt like a true partner. And they really wanted my input.

And I think this whole effort is very important because I have ulterior motives and that is, I want to benefit their efforts here, too. They're paying consultants a considerable amount of money to automate all this. And so I think if we participate in it now we can get a product more like what we want and then we can borrow.

DR. PAPERIELLO: The practical matter is, when these are done, it's my expectation that you will maintain them. I'm serious about it. Do the arithmetic. We pick up two more Agreement States and we're down to 4,000 licenseees. If there's going to be a national program it's going to be run by the nation.

The problem is, there is so much chaos out there I can't expect you to do this. But the practical matter is -- and this has been my long-term goal -- is when I consolidate this stuff in something that's manageable, in a format that is manageable on electronics, and with the ability that we can communicate over the Internet, is my long-term expectation is you will be the one to maintain further iterations of these things.

We may deal with some of the mechanics of the whole thing and the brokering. The fact of the matter is,
when we're down to 4,000 licensees in about another three years, there is no way we can carry this whole program alone, and a major burden of this has to be transferred to you.

And that's why I want your input. It's not a game. It's a serious business and it's a -- but the practical matter is, if you do the arithmetic you're going to have to maintain them.

MR. WANGLER: Ken Wangler from North Dakota. This electronic information that you're talking about producing, what's the software? Is this going to be a software that we can take and adapt at our own programs and change as we need it? I mean, what is the software that you use?

DR. COOL: There's two different software efforts in there. The development for the team itself -- at least in the NRC space -- is using LOTUS NOTES as a group-based software where everyone can work to the same file. We find that facilitates the process.

The publication actually runs out of WordPerfect 6.1. So a very standard word processing package. I believe the contractor may be using some more advanced levels of WordPerfect to help with the HTML Hypertext coding in order to make it a little more
friendly for people to be able to point, click, and jump
to the various pieces.

But at this point we're trying to stay very
much with standard, available word processing software in
terms of what's actually published.

MR. WANGLER: And I think that's very
important because I've seen other things come out under
consultants that come out under -- oh, like BOX, you know
-- some controlling software that really most people can't
use. And so when it comes out, it's a menu-driven system
that what you get is what you got, and you can't -- you
know, it's very difficult for the average person to change
that. I would encourage you not to allow that to creep
into this.

DR. COOL: Yes. In terms of the guidance
documents themselves, they're available in something which
should be readable by any of the readers that you could
come in over the Web for upload.

In terms of the licensing system, we still
have to look at some of the pieces of that development
cycle -- what software package or combination of packages
are available on the desk that brings up an application on
one side, allows you to cross-link and look in a second
window at the relevant guidance.
The development work that we did with the pilot project, used Powerbuilder Zybase, which is pretty standard -- one of the standard packages for developing these kinds of applications. We are still looking at exactly what -- the best mechanism for doing a long-term development.

There are a lot of things going on out there in the IT arena. A lot of things that are now available through the Internet and some of the codings, which we have to look at and see whether that's a reasonable way to jump. In IT space you always have this tremendous difficulty.

The technology is moving so fast that by the times you sort of decided that you can do something in this way and there's enough people who have it, the technology leading edge is two or three steps ahead of you and you have to just say, cut and fish and we're going to roll with this for a while, knowing that in fact, by the time we get it online we're probably obsolete with respect to what is conceivably possible out there in the larger scheme of things.

But planned obsolescence is not one of the things I'm really fond of. Brian?

MR. HEARTY: Brian Hearty, Nebraska. I was just going to say that the way it's out on the Internet
right now -- the portable gauge, the final guidance
document -- there's just a nice button that says
"download", and you get to pick what format you want, pull
it right down into WordPerfect and start making changes.

    MR. WANGLER: Make changes -- that's the
critical part. I'm not concerned about being able to
download it. I think we'll be able to download it and run
it, but I'm concerned about being able to adapt it to our
state program and make the changes that -- just simple
things even like changing the references to our regulation
versus 10 CFR.

    DR. COOL: This should be set up such that you
should be able to drop it right into a processor and make
those changes.

    MR. HEARTY: The only problem -- some of the
documents that are scanned, like the sample licenses and
things like that, where you'll have to just remove those
and actually scan in your own.

    DR. COOL: The border probably gets to be real
fun in codes. Yes, some of those sorts of things, that's
true. Other questions? Going once, twice. Thank you
very much.

    FACILITATOR CAMERON: Thank you, Don. Now
we're going to switch gears and go to an update on state
assumption of KI responsibility. And Aby Mosheni from our
office of AEOD is here with us.

MR. Mosheni: Thank you. I'm Aby Mosheni.
I'm with the Office of AEOD. That stands for Analysis of
and Evaluation of Operational Data. And I'm going to
briefly bring you up to speed on what has transpired on
the policy development under use of KI -- potassium iodide
-- for the general public.

The chairman briefly discussed it in here
presentation this morning. I'll go in a little bit more
detail and answer some questions that you might have. A
brief history of where it all started. Back in 1985 a
policy was developed and issued by FEMA. That policy
required that KI be stockpiled and distributed to
emergency workers and institutionalized people. But it
did not require KI stockpiling for the general public.

Subsequent to that, a differing professional
opinion was submitted to the NRC to revisit that policy
and that was revisited and no change in policy occurred as
a result of doing a further analysis on cost benefit of
potassium iodide in severe reactor accidents.

Subsequent to that, the American Thyroid
Association wrote a letter to FEMA requesting FEMA to
change the policy. That was looked at by FEMA and no
change occurred after reviewing the existing information at the time. No change was made to the existing policy.

Subsequent to that a petition was presented to the NRC for NRC to revisit the policy, and that is under review at this time. Meanwhile, the analysis of potassium iodide, the cost benefit analysis has been out for some time, and it has demonstrated that potassium iodide -- the cost effectiveness was 2.22 -- I'm going into details now -- within five miles of nuclear power plants.

Meaning, you would have to spend two dollars for every dollar saved, if you will, and therefore it was within that range. It was pretty close. That was the end result of that cost benefit analysis.

Then FRPCC, the Federal Radiological Preparedness Coordinating Committee formed a subcommittee to study KI. This is when the petition that was submitted to the NRC was also submitted to FEMA for its review. FRPCC formed a subcommittee to study any new information that would change that policy.

The result was, while the evidence was compelling, no new information was submitted that would challenge the basis for the 1985 KI policy. However, some recommendations were made by the subcommittee to the full committee.
The recommendations were: if any state wishes to have KI available close at hand around nuclear power plants, they can request funding from the Federal Government and the Federal Government will provide it. The language of the 1985 policy would be softened. In other words, while it would still be required to stockpile and distribute KI for the emergency workers and institutionalized people, the decision to stockpile KI for the general public would be at the discretion of the states.

This would replace the term that said, it's not required. It would say, it would be at the discretion of the states. Without changing the effectiveness of protective actions that we believe in to be still the case -- that's prompt evacuation -- that offers the best protection to the public.

The NRC staff presented a policy option to the commission on June 16th of this year, and as the chairman presented the policy this morning, the commission voted to endorse the FRPCC policy -- which is the softening of the language and the Federal Government purchasing KI for any state that so requests it. And three was that any local government that wishes to have KI should coordinate with the states for that to occur.
So the commission voted to endorse the FRPCC policy on June 30th, 1997, and also meanwhile, while this effort was taking place under the auspices of FRPCC, an interagency committee was formed to look at the vulnerabilities of the Federal plans; vis-a-vis, terrorism -- nuclear, biological, and chemical events that could threaten the public.

The interagency group made several recommendations to the President, one of which was to include KI in any pharmaceutical stockpiles that are recommended to be stockpiled in different locations across the country. This was not based on the risks associated with reactors accidents, obviously. This was terrorism in the sense that we have witnessed, in Japan, Oklahoma City, and other types of events that are really not related directly to any power plant operation.

The fact that now the Federal Government had embarked on a major project to stockpile KI nationally at different locations was a fundamental basis for the commission's decision on June 30th that now KI is available to any state for any radiological emergency at any time that the states so request.

Now, this is in addition to any state wishing to have it close at hand and requesting funding from the Federal Government, and the Federal Government offering
that. Since June 30th the NRC staff was directed by the
commission to work with FEMA to develop a final, Federal
Register notice that would announce the revised KI policy.

Which is basically, KI is available, not for
nuclear power plant reasons, but once available it can be
used for any emergency. And two, any state who has a
power plant within its borders and determines that they
want to go that extra step of having close at hand KI,
they can request funding from the Federal Government and
the Federal Government will provide them.

These are the principal changes, if you will,
to the 1985 policy. When FEMA is ready with its Federal
Register notice it will go to all the member agencies,
Federal agencies of FRPCC, for a final vote. Once it has
been approved by the FRPCC's committee it will be
published as FRPCC policy that will replace the 1985
policy.

I briefly discussed the policy itself as
endorsed by the commission and by FRPCC as of now; that's
for emergency workers and institutionalized people. No
change in the Federal policy from 1985. In other words,
it would be required to stockpile and pre-distribute or
distribute during an emergency to such people.

The general public, no change in terms of
requirement. There is no basis to require KI to be
stockpiled for the general public. But should the states plan to act as a supplemental protective measure, KI for the general public, the Federal Government is prepared to pay for the funding of a KI supply.

Principally, it's the discretion of the state that's emphasized here. And of course, the Federal stockpile of KI for nuclear, biological, and chemical events will make KI nationally.

There are some important considerations that are included in the policy. One is that prompt evacuation remains the most effective and preferred protective action for severe accidents. In-place sheltering remains as it was. In other words, the public is asked to, in some cases when evacuation is not feasible, to shelter in-place. That remains unchanged.

Those are the two principal protective measures that are outlined in NUREG-0654 sub 3, which was issued a year ago, and they remain the preferred protective measures.

Another important consideration is that the costs associated with stockpiling KI for the general public above and beyond the initial purchase and the repurchasing every seven years -- if the shelf life will remain at seven years, which I understand that is the case
today -- those costs will be the responsibility of the
state: maintenance, distribution of any subsequent cost.

Only the cost to purchase KI and replenish
that supply every seven years will be the responsibility
of the Federal Government if so requested by the state.

The commission was clear in its direction to
us, to the staff, to ensure that NRC licensees -- those
are nuclear power plant licensees -- will discuss with
their state counterparts, the revised commission policy,
and that if there is any change arising from that because
a state decides to do something different than what it has
done so far, the licensee should coordinate and make the
necessary -- bring about the necessary changes to its
procedures and support the state.

And really, that is the principal message
we're going out under the direction of the commission to
give to the state and licensees -- that coordination is
important if there is a change in your policy based on the
revised, Federal policy that should be out when FEMA
publishes -- meets with the rest of the agencies and vote
on it. That's maybe in a month or so from now.

In its decision, the commission explicitly
underlined the importance of the central role of the
states in protecting public health and safety. It is in
that context that this decision of whether or not KI ought
to be stockpiled at hand -- nearby -- remains a prerogative of the state.

It is important to note that even the 1985 policy recognized that the states could, at any time without requiring any Federal support or permission, if you will -- to go ahead and stockpile KI. And as a result, Alabama and Tennessee are cases in point, where in fact they did stockpile KI for the general public.

The language in the new, revised policy is less negative, if you will, in terms of saying it's not required. It will leave it to the discretion of the states.

We continue to appreciate and understand the logistical concerns raised by the states about the use of KI. And in fact, the major concern that there is, is to reduce the effectiveness of prompt evacuation should KI become an additional protective measure to be considered. And that's why it's at the discretion of the state and not something that's emphasized in terms of requirement by the Federal Government.

Other considerations are important. Obviously KI cannot reduce the external exposure or internal exposure from the non-iodides, and therefore it should not be viewed as a protective measure by itself; it should always be accompanied by something else. It's either

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because you could not evacuate and you have in-place
sheltering, or it's done with evacuation at some
relocation center.

In any case, it's not viewed as being an
independent and on the same level of importance as
obviously, protective actions such as evacuation. So by
no means should this become an issue to delay prompt
evacuation; that's critical. We continue to believe
prompt evacuation is the best protective measure and if KI
should by any means, delay that protective action
implementation, then obviously it is not advisable.
That's clear in all the analysis that was performed.
The guidance that's provided in sub 3 of
NUREG-0654 remains valid. If there are any changes it is
not in the basic science of that, but rather in the
additional constraints that might be added should there be
additional protective actions such as distribution of KI
during an emergency.

So any change would not be in the area of
presenting a less effective protective action when
evacuation is the central focal point, but rather, the
additional concerns regarding the distribution of KI when
in fact, prompt evacuation and in-place sheltering is
being taking place.
That summarizes the commission's policy issue, June 30th. Do you have any questions? Yes?

MR. RATLIFF: Richard Ratliff, Texas. Are NRC regional offices going to stockpile KI?

MR. MOSHENI: To my knowledge, no, not for the general public. They do for NRC teams that are sent to the site, yes, that's given. Yes?

MS. ALLEN: Kathy Allen from Illinois. Can you clarify something for me? You said that the Federal Government would pay the cost for the initial distribution of the KI. Did you also say that they are funding the subsequent distribution -- like at seven years down the road --

MR. MOSHENI: Not distribution; the --

MS. ALLEN: No, I'm sorry --

MR. MOSHENI: -- purchase of a supply of KI and, depending on the final consensus and what the shelf life is, I believe it to be seven years now as we speak, but it has been extended over the years. Every time that it has to be replenished I think you can come back to the Federal Government, according to their policy, and request funding.

MS. ALLEN: Has there been any consideration for infant doses in a liquid form where the shelf life is only about 18 months?
MR. MOSHENI: We have gone with the FDA recommended doses; that has not been revised. And the FDA dosage discusses -- the same information that was discussed in the 1985 policy which is -- the tablets, I think 13 milligram was the dosage for an adult, and it was in tablet form.

MS. ALLEN: Right, but that's for adults. I'm talking about --

MR. MOSHENI: Half of that is recommended for children.

MS. ALLEN: For children. But infants that can't -- you're suggesting that people just grind up the tablets? You don't want to deal with liquid forms for infants?

MR. MOSHENI: I'm not sure that we have gone that far, if you will, to -- and I understand in the policy we said, which the commission endorsed -- that should the NRC commission endorse this approach, we will work with FDA to ensure that proper labeling and proper usage that was in place back in 1985, remains valid today and that there is nothing else out there that we need to say.

So I think we owe that activity to be completed before finalizing the purchase of KI -- has to ensure what the labeling says and the dosage is in
accordance with the state-of-the-art knowledge about the
use of KI.

MS. ALLEN: Is part of the labeling going to
include some sort of pamphlet that goes with the
individual doses that sort of reminds people that this KI
doesn't protect you from all sources of radiation?

MR. MOSHENI: Yes.

MS. ALLEN: So FEMA or NRC would be preparing
that document?

MR. MOSHENI: I think together. We are the
technical -- but mostly I think it's FDA that deals with
the medication and the warning, the caution statements
that go on it. And in FRPCC, FDA or HHS is the lead
tagency in developing the medical pamphlet that goes with
it.

MS. ALLEN: Can I ask one more question?

Illinois is glad to see that you have really put the
responsibility and the decision back to the states. The
states can decide whether or not they want to accept the
KI. But we're rather concerned with the policies and the
implementation and the strings that are attached when we
say yes or no; whether FEMA will come up with a series of
test plans for your distributions system and things like
that.
We're really kind of nervous about that; we're really -- in conjunction with the Federal Register notice will that guidance be available at that time or will it be something where the states sort of sign up for it and then all of a sudden FEMA shows up and says, oh by the way, no, they all have to be packed horizontally instead of vertically, or something? Which is not unheard of.

MR. MOSHENI: Yes. We had a meeting with FEMA based on this new policy, NRC policy, and we asked a question of FEMA. In the NRC approved policy there is a statement, the fact that because KI is a supplemental, protective measure -- above and beyond the minimum required -- and the existing emergency plans are deemed adequate so you need not demonstrate that you have KI capability of distribution to ensure that the emergency plans are adequate, FEMA is aware of that NRC position -- commission position.

FEMA however, has included in its existing guidance from the past, statements that are broader in nature. In other words, they will -- they have always had the option if you will, of looking at NUREG-0654 criteria for evaluation and applying it to off-site agencies.

But according to FEMA, because this is a supplemental protective action above and beyond the minimum, while the language on the existing guidance gives
everyone the perception that they may be subject to
Federal evaluation, as you pointed out, we and FEMA agreed
that they need to go back and make some changes to ensure
that any FEMA evaluation would not lead to a finding of a
deficiency in the area of KI should a state adopt this
issue.

And they have verbally agreed with that
stance. It remains to be written and revised, and you
know how bureaucracies work. It took us many years to
issue sub 3, and so if I told you it's going to happen in
the near future, then I probably was born yesterday.

MS. ALLEN: Thank you.

MR. MOSHENI: Yes?

MR. MATINAIS: Two things that I didn't see on
your slides that I thought were important for
consideration. Oh, I'm Jim Matinais with Alabama. First,
is this not a legend drug and does it not -- who is
prescribing it and is this not the practice of medicine?
In many states I could not tell you to take an aspirin; I
would be practicing medicine.

And my second issue that bothers me is, what
about informed consent? Inform where the patient, knowing
and accepting the potential risk of having a reaction --
and going with that, if you give it to your workers and a
worker has an allergic reaction that kills him, then who
is liable? The regional administrator that told him to take it?

So the two issues of practicing medicine and informed consent I think need to be addressed in your documents.

MR. MOSHENI: You're absolutely right, and I'm not sure if what's already there you would deem adequate. But FDA has addressed that issue, even in the 1985 policy. So for all practical purposes, if it was vague back then it remains vague today, and if it was clear to Alabama and Tennessee then, then obviously it should be viewed as no change at this stage.

We still believe that with FDA being the responsible agency -- and we're not the expert medical agency and we do rely on FDA to make the necessary changes to the language resulting from prescribing. And of course it's always with the state health officer, the prescription -- or the local health officer. It's not done by an emergency response manager. And similarly in the area of workers, I think each agency has its own internal responsibility.

Same reasoning that you would apply allowing emergency workers to get higher doses when they're indeed going in there and trying to do something. I mean, their
responsibility is not too easily defined, and we appreciate that.

MR. GODWIN: Godwin, Arizona. Having been in Alabama for a while, a couple of issues that everybody should be aware of is indeed, exactly what Jim has brought forward. The prescription requirement says that a public health official has got to prescribe it if you would, to the public. That would normally be an M.D.

As a matter of fact, for your emergency workers, that same provision applies. Since you also want people to take this stuff in sort of an informed consent arrangement, Alabama, last I heard, also requested them to sign a waiver that indicated -- that they had fish allergies or something that might be indicative not to take it -- that they didn't have it and they understood that those, you know, all the usual indications there. So they definitely had a plan with a provision for a waiver.

But looking at the protection factors, if you can get the material in within the first six hours, you're in good shape. But you're getting down pretty low by the 6th hour, I might add. The people that want to do it need to look very carefully at the delivery system; that they can get it delivered in a timely manner. Getting in there a couple of days later and depending on it to come from some distant Federal center is a hang-it-up time.
And I'm afraid that if you do have an iodide release at your plant and you have been so unlucky as to not get your people moved before they got a snootfull, you'll be subject to pretty severe criticism if you haven't made some arrangements to at least attempt to get them potassium iodide.

At any rate, it's something that I agree each state needs to look at and make their own decision on how they're going to handle it.

MR. MOBLEY: This is very interesting to me. I have to go back to what I think is the basic question. What nuclear, biological, chemical event is going to create a need for KI? I mean, that seems to be the genesis of why this major change here, when the states have already made their decision based on KI. What's the driver of that?

MR. MOSHENI: As I mentioned, the science did not support requiring KI. Clearly that has been the finding. And it wasn't just once. Over the years, people have gone back and revisited events -- you know, Chernobyl results, all those were looked at. And clearly the basis -- every committee that looked at it did not find a reason to actually meet the threshold of saying, we are deficient if we do not have KI readily available as a protective measure. That did not occur.
The fact that the language has been softened and the state has been recognized if you will, as being ultimately responsible for public health and safety, should not imply that there is science in there that has changed. It's more a matter of policy, if you will, rather than a change in science that shows that there are events, nuclear accidents, that we can clearly identify, where potassium iodide administration to the general public would indeed, give you the additional protection that you might not have had under different circumstances.

Bearing in mind that, you know, theoretically one can come up with something, but when you have to look at the application, the administration, the distribution, the logistics, it just makes -- potentially it has a negative effect if you will, of either slowing down the process of either prompt evacuation or otherwise.

That has been looked at. It's there in the documentation, that indeed the commission looked at. And that is why they did not choose any option that would make this a matter of stronger language, if you will.

MR. MOBLEY: Number one is, you didn't answer my question, and number two is, all of those issues have been looked at and I can assure you -- I don't know about Alabama -- I think I know about Alabama but I can speak for Tennessee. In Tennessee we've looked at all those
issues and if you're going to use KI you'd better have it stockpiled.

We do not make any sort of determination in terms of an evacuation decision or whatever, based on whether KI is or is not available. The evacuation decision is made on the basis of whether evacuation is proper to do under the event that we are evaluating, and KI is then issued to people when they report to the shelters as appropriate. And I'm speaking to the general public because we issue KI to our workers upon being dispatched to the scene under appropriate health officer orders, etc., etc., etc.

But one of the things that we've clearly identified in Tennessee and Aubrey alluded to it, is that if you want to have KI and utilize it, you'd better have it in hand, because you're not going to get it in a timeframe in which it's reasonable to use. But I still don't understand -- and maybe it's a simple answer and Aubrey's busing to answer it -- but I still don't understand what even it is that you would use KI for --

MR. GODWIN: What terrorism event would you --

MR. MOSHENI: Oh, you're not talking about nuclear? Actually power plant accidents? You're talking about --
MR. MOBLEY: This came about as a result of the weapons of mass destruction analysis.

MR. MOSHENI: Yes.

MR. MOBLEY: Which leads you to the conclusion that a small nuclear weapon could be one of the reasons for it because there are several missing from Russia, according to --

MR. MOSHENI: Let me read to you the basis for that. I have it here. NBC events are unpredictable with many unquantifiable parameters. This is the result of the interagency core group finding -- what made the ultimate recommendation to the President. In contrast to nuclear power plant accidents, NBC events can occur in major metro areas. The group postulated NBC scenarios for which evacuation and sheltering were not effective or even possible.

NBC events can have consequences ranging from low to disastrous. Some may not escalate beyond the threat stage, while others may occur without the threat stage with devastating consequences, with everything in-between. Even with a significant amount of planning at the Federal, state, and local level, NBC events still have potential for mass casualties.

This was the premise that they could not exclude -- they would like more of a negative finding. We
cannot say why we don't need KI, but we can't really say where we would need it either.

MR. MOBLEY: Let me just say, that if you need it because some terrorist sets off a small nuclear weapon in a city, it's too late. And it's not going to be very helpful anyway because the real problem's going to be that small, nuclear weapon that went off and all the damage it's done. What's a little iodide under that circumstance? I mean, who the heck cares, you know?

The whole, I mean, the whole genesis about the change in this policy -- I don't comprehend it. I absolutely don't comprehend it.

MR. BAILEY: Hey Mike, maybe I can help you.

MR. MOBLEY: Please.

MR. BAILEY: Here in California we have fire trucks that move around so that they'll be closer to a fire perhaps, if it occurs, rather than sitting at the fire station.

(Laughter.)

MR. MOBLEY: Only in California. So I should take a wagonload of KI with me wherever I go?

FACILITATOR CAMERON: And I think you can bring some of it up to the cash bar.

MR. MOBLEY: Will we have KI at the cash bar, perhaps?
FACILITATOR CAMERON: Yes, absolutely. I don't want to break this off because Aby finally managed to get some controversy going here. But I guess that this has something to do about, we're losing money by paying our bartender and we're not there and — one thing to think about is whether the term "snootfull" is a health physics term.

(Laughter.)

MR. QUILLIN: Since we are so far behind schedule I'd like to try to pick up at least half-an-hour in the business meeting by starting tomorrow at 8 o'clock with the business meeting. So could all state representatives be here at 8 tomorrow morning.

(Whereupon, the Agreement States Annual Meeting was adjourned at 5:30 p.m.)