

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BRIEFING ON OFFICE OF NUCLEAR MATERIAL SAFETY AND SAFEGUARDS
(NMSS) PROGRAMS, PERFORMANCE, AND PLANS - MATERIALS SAFETY

MARCH 9, 2004

11155 Rockville Pike
Rockville, MD

The Commission met in open session, pursuant to notice,
Chairman Nils J. Diaz, presiding.

COMMISSIONERS PRESENT:

CHAIRMAN NILS DIAZ

COMMISSIONER EDWARD McGAFFIGAN

COMMISSIONER JEFFREY MERRIFIELD

PRESENTERS PRESENT:

MR. WILLIAM TRAVERS, EDO

MR. CARL PAPERIELLO, Deputy Executive Director of Operations

MR. CHARLES MILLER, Director, Division of Industrial and Medical Nuclear
Safety

MR. MARTIN VIRGILIO, Director, Office of Nuclear Material Safety and
Safeguards

MR. ROBERT PIERSON, Director, Division of Fuel Cycle Safety and
Safeguards

PROCEEDINGS

CHAIRMAN NILS DIAZ: Good morning. The Commission meets today to hear from the NRC's Office of Nuclear Materials Safety and Safeguards, which is very well represented in here, I believe.

This area, of course, has and constitutes the widest variety of activities as the NRC conducts. In so many ways, I always say, that it's times in which they interface is directly with the public. And so that brings it to our area of attention all of the time, which Marty frequently reminds me of.

It is important that, therefore, with this variety of issues that we develop and implement a coherent and consistent regulatory framework for materials safety. And we realize this is a large challenge for you.

We appreciate the opportunity of being briefed. We take these briefings, every one of these, that the staff is striving to keep the Commission fully and currently informed. And we hope that they will succeed in doing that.

It also serves, this meeting, as a vital source of information to the public and stakeholders of the status of plants of the different programs. So it really has a dual purpose, has a dual value.

The issues that we discuss today, of course, will be at a high level. I know that you have provided us with detailed information. Many of them will significantly affect not only the NRC, but other federal agencies, which is part of the work that you continuously do with this interaction and interface with these federal agencies.

At this time, if my fellow Commissioners have comments.

COMMISSIONER JEFFREY MERRIFIELD: Mr. Chairman, as you were speaking, I was struck. You know, frequently when one acts, one as an individual acts and does things, one expects people to take clues from that. And sometimes that happens, and sometimes that does not.

By its actions, I think this Commission has been very clear about the importance that it places on the issues that we're going to be talking about today

and that we talked about in a similar meeting with Marty and his staff last week.

For many years, in other previous Commissions as you look at the history of this agency, the issues of material safety have come in a clear second to many of the other reactor issues that we deal with on a day-by-day basis.

I think we are today in a time period where this Commission and certainly this Commissioner recognizes that all the issues that we deal with are important. And the issues that we're going to be discussing today do have that focus of the Commission.

We believe they're important. We have put focus on it, a lot more focus than when these members of the Commission first came here. And we're going to continue to put a focus on it because it's important.

And just so that there's no lack of ambiguity about that topic, I wanted to explicitly state that at the very beginning of this meeting this morning.

Thank you, Mr. Chairman.

CHAIRMAN NILS DIAZ: Thank you, Commissioner Merrifield.

And with that, Dr. Travers?

DR. WILLIAM TRAVERS: Thank you, Mr. Chairman.

Good morning. We're glad to be here to talk to you about materials safety activities of the staff and the Commission. And, as you've indicated, it's a rather broad and diverse list of activities, including such things as medical and industrial materials licensees, uranium recovery licensees, fuel cycle licensees.

We'd like to focus on a number of things but include within our discussion a discussion of security of high risk sources, fuel cycle licensees, some high profile rulemakings that we have underway, some aspects of radiation protection, and other materials case work.

Besides Carl Paperiello and Marty Virgilio, who you know well, at the table with me today are Charlie Miller, the Director of the Division of Industrial Medical Nuclear Safety, and Bob Pierson, the Director of the Division of Fuel Cycle Safety

and Safeguards, NMSS.

And as I look behind me, you'll see we're well supported by all of the regions who are represented here today and, of course, the Office of State and Tribal Programs.

So with that, I'd like to turn it over to Carl, who's going to start our briefing this morning.

MR. CARL PAPERIELLO: Thank you.

I'd just like to touch base on three items before I turn it over to Marty.

First, I do want to recognize the Office of State and Tribal Programs. And in particular, I want to recognize the IMPEP program. Most material licensees are regulated by Agreement States. To evaluate our efficiency and effectiveness, we have the Integrated Material Performance Evaluation Program.

This year, it has been recognized by the 2004 Innovations in American Government Program in the top 7% of programs, a semifinalist.

If imitation is the sincerest form of flattery, I would recognize that the FDA Mammography Program, the French Regulatory Agency, DGSNR, and components of the EPA are all interested in studying our IMPEP program to see how much of that can be applicable to what they do.

So I really do want to recognize -- and it's not just State Programs. It's the regional people who support the program, the Agreement States, NMSS. So it's an agency-wide and actually, all the people involved in Materials in supporting that program.

The second issue, which the Commission is well aware of, is the challenge of material security. We have been heavily engaged with you in establishing the scope of the issues, the interactions with DOE, IAEA, and DHS to establish what are our sources of concern and the level of regulatory effort that should be put on different items.

I see this coming year as a major educational challenge. It's clear to me in

establishing security upgrades for hundreds of licensees, who have not really worked before in a security environment, either with respect to physically what you do or maintenance of how you control information and the people who regulate this area, that we have an educational work to do.

People just aren't familiar with the handling -- either handling the information or, what actually has to be done working in that arena. So we have a training that we have to do.

The second global challenge I just want to reflect on is maintaining our capability to fully play in the radiation protection standards development arena. And I see two things coming together.

After, I would say, at least a decade or more of standard stability, we see efforts on the part of ICRP, IAEA internationally, and even here at home, OSHA, to reconsider what the basic radiation protection standards ought to be. So that's one component.

The second component and I have to reflect on my own age we have gone from ICRP, which is effectively a slide rule and table methodology to a methodology now for dosimetry and the things that we do that depend upon very sophisticated computer models at a time when the educational and training resources in health physics are far lower than they were 30 years ago.

So we have a human capital, a sort of combined -- as the area gets much more sophisticated, there's a number of us who are getting older and need to be replaced. And we need to bring in people with the mathematical sophistication and the physics sophistication

CHAIRMAN NILS DIAZ: Speak for yourself.

MR. CARL PAPERIELLO: So I see that as a challenge that cuts across several offices in the agency.

So with that, I'll turn it over to Marty.

CHAIRMAN NILS DIAZ: I'm sorry. I couldn't help it.

MR. MARTIN VIRGILIO: Thank you, Carl.

Good morning, Chairman, Commissioners. It's a pleasure to be here with you today.

Bill had mentioned the region's support to us, and Carl mentioned Office of State and Tribal Programs. Other organizations I'd like to acknowledge include OGC for the support they provide us in the licensing area, Research for the technical basis work they provide in support of us, and Office of International Programs, which is also supporting us as we engage more heavily in the international arena today.

The purpose of today's meeting is -- as, Chairman, you pointed out -- to inform the Commission about our high-profile material issues, our objectives, maybe some upcoming milestones, opportunities where we see that we're going to need Commission support around policy decisions and to make sure we have a better understanding about all of those activities.

We want to have an open discussion with the Commission today. And turning to slide four, as Dr. Travers indicated in his opening remarks, I have the topics that we're going to be focusing on, and starting with security of high risk sources.

This is clearly, as Carl pointed out, this is an area where the staff has and will continue to engage with the Commission on almost every step of the process as we move forward.

The first area that I wanted to talk about is the National Source Tracking System. If I look back to the days immediately following September 11th, we formed an NRC/DOE working group to look at what activities we might want to take around control of sources.

And that group came forward with a report and a number of recommendations. One of the recommendations that that group came forward with was the development of a National Source Tracking System.

Shortly thereafter, IAEA, in finalizing its Code of Conduct, also supported the notion of national registry systems. NRC, not waiting for that, but moving just probably in parallel with the work that was going on at the time of the DOE/NRC working group study, began looking at the development of a National Source Tracking System.

In parallel with that, recognizing that's going to take a couple of years to put in place, we've developed an interim database. We've made substantial progress in populating the database with information about high risk sources today.

And if you look at where we stand, we've got information from approximately 80% of our licensees. And we're taking steps to ensure that we get the information from the remainder of the licensees.

When I say our licensees, I'm thinking about that from a national perspective, because that also includes the licensees in the Agreement States, as well. It's one of those projects where 80% of the work comes in the last 20% of the activity.

So right now, we are moving forward to try to ensure we get that information. We're sending letters out. We're making phone calls and taking extra steps to ensure that we get that information into the database complete.

The next area I wanted to touch on was the additional security measures for material licensees. Based on the threat environment, following September 11th, we took a number of actions.

We called these Additional Security Measures for Higher Risk Sources. These measures ensure that the sources are protected through a combination of activities, including the control of the sources, access controls, ensuring that authorities are alerted, and when sources are lost or in any way compromised around the access to those sources, and ensuring that there's adequate response, should sources be lost or compromised in any way.

We started out with the initiation, or issuance, of advisories. We've then

moved on to the actual issuance of orders. Thus far, we've issued orders to two categories of our licensees, those posing the highest risk in these areas, first the irradiators, and now the manufacturers and distributors.

With regard to the irradiators now, the next step in the process is to start inspection activities. We've just recently conducted training for our inspectors and are now ready to launch an inspection program.

And the next step, with regard to the manufactures and distributors, is to review the responses that they've provided to the orders that we've sent out. In this area, we've gotten a number of alternatives proposed to us to those provisions contained in the orders.

So our first task is to work with NSIR, our staff, to ensure that we can agree with the acceptability of the proposed alternatives that have come in from the licensees.

Now, the next step in this process is to look further down the road, what other additional categories of licensees, for which we may want to impose additional security measures.

And today, we're looking at self-shielded irradiators, radiographers, well loggers, and those other sources that could pose a risk to public health and safety.

The third area I wanted to touch on in this arena is the implementation of revised import/export licensing controls. Again, if you look back to shortly after 9/11, we had the NRC/DOE working group report that recommended that additional controls be placed in this area.

The IAEA Code of Conduct subsequently came out with similar recommendations that we have additional controls on import and exports. The staff today is actively pursuing development of rulemaking to control the import and export of risk significant sources.

We currently expect to have a proposed rule implemented in the fall of this year. As currently envisioned, this rule will require specific licenses for both import

and exports of significant sources.

And in parallel with this, we're working with the Executive Branch and other key international stakeholders to make sure that the framework that we put in place is implementable and that it minimizes undue impacts on the international commerce in this area.

If you'd please turn to slide five, the next area I wanted to talk about is our fuel fabrication, licensing, and inspection activities.

Starting with the mixed oxide fuel fabrication facility, I recognize that there's currently a hearing regarding this action, and our presentation and discussions with the Commission are limited based on ex parte considerations. But I think we can talk a little bit about the schedule.

Here, our goal is to complete the timely and adequate safety and safeguards review of the proposed construction authorization of the mixed oxide fuel fabrication facility in a manner that's protective of the public health and safety and the environment.

We want to meet schedules in this area to support the U.S./Russian Bilateral Arrangements to dispose of weapons-grade plutonium declared excess to national security.

We expect to issue a construction permit and a final environmental impact statement and final safety evaluation report after we complete our review.

Today, our process is somewhat frustrated, because the licensee has made changes to the control, or proposing to make changes to the control area boundary. They have yet to submit additional information to us on that. When we get that information, we'll recommence our review activities.

DOE and the State Department both view this as a very important program with regard to the success of the U.S./Russian Plutonium Disposition Program. Part of that ensures that the Russian regulator, GAN, is able to maintain an infrastructure and maintain a schedule that's consistent with that of NRC's.

To do that, we have been providing support to the Russian regulator, GAN, around their mixed oxide fuel fabrication facility and their total licensing framework. We believe that this could have safety and environmental protection benefits, extending well beyond the scope of this one individual licensing action.

The next bullet on the slide goes to another significant activity we have underway. And that is the review of Louisiana Energy Services Gas Enrichment Facility Project.

NRC's goal here, like in the MOX facility, is to complete a timely and adequate safety and safeguards review of the applicant's proposal to construct and operate a gas centrifuge enrichment facility.

NRC staff intends to use, to the maximum extent possible, the previous technical and environmental review work that we did around the support of a 1991 application.

What differs in this area are, of course, the new safeguards and security requirements that come about as a result of September 11th and new insights that we're getting from the newly required risk assessment that comes with Part 70 of the Integrated Safety Analysis.

I would mention that, in applying this tool to this license application, the applicant has looked at the designs that they currently have operating in Europe and have identified enhancements to those designs as a result of conducting this activity, which I think shows the benefit and worth of having gone through this somewhat informal, but yet systematic, assessment of the risks and hazards of the facility.

The staff has received the license application. We received that back in December. We completed our acceptance review in the January time frame and now have our full review underway.

The Commission has, in fact, issued its order, initiating the proceedings, now offering an opportunity for petition to intervene in the hearings, and set a schedule

for the review around this project.

We are committed to completing the review of the license application, consistent with that schedule established by the Commission that is a 30-month schedule.

The next application or project I want to talk about is the United States Enrichments Corporation's Gas Centrifuge Licensing Project.

Here, our goal is the same, to complete in a timely and adequate manner our safety and safeguards review of their application, to construct and operate a centrifuge facility, should we receive that application.

We recently completed our review of the lead centrifuge application. This was accomplished in a very timely manner. We completed our review in about a year's time frame. And this was primarily as a result of the high quality application that we received from USEC, the quick turnaround that they provided to every request for additional information that we posed.

DOE was very timely in conducting its classification review and supporting us. And they were also very cooperative as we worked through a memorandum of understanding that developed an agreement for regulatory oversight of that lead cascade facility.

We currently expect to receive the application for the full-scale commercial production facility in about the August time frame of this year, 2004.

To complete the license application review and hearing on an accelerated schedule, if the Commission so chooses to direct us to do that, will require us to reprogram resources and, quite likely, have some impact on some of the high- and medium-priority licensing activities that I'll speak about somewhat later in this presentation.

If you'll please now turn to slide six, some of the high-profile rulemakings that we have underway, first is Part 35 around training and experience. We did discuss this somewhat last week at a Commission meeting that we had with the staff and

the ACMUI. So I will not go into a lot of detail here.

But I'll just acknowledge that this proposed rule is on training and experience requirements associated with the recognition of specialty boards. And this proposed rule was published in the Federal Register back in December of 2003.

It remedies some problems that we recognized with regard to specialty board certifications. And the proposed rule that we have today has been developed with input from key stakeholders, including the public, the states, the ACMUI, and many of the specialty boards.

This rule is on path to be presented back to the Commission and actually to be implemented in the fourth quarter of fiscal year 2004.

The next area is controlling the disposition of solid materials. As you know, there are currently no generally applicable NRC requirements for controlling the disposition of solid materials containing small or no amounts of radioactivity.

Absent a national standard, license requests to release this material has been processed on a case-by-case basis. The Commission directed the staff back in October of 2002 to conduct an enhanced participatory rulemaking. And the staff is now in the process of developing a proposal. We have recently engaged the Commission to seek additional guidance in this area.

As you know, there are sharply differing stakeholder views on the alternatives that we could use, including within the international community, as well. One of the challenges we face in this area is to ensure that, if there are differences between the standards that we use and the international community, they don't hamper free trade or create unnecessary burdens on those involved in the process.

Security rulemakings, we're continuing to work with NSIR on additional security rulemakings, looking to coordinate our activities and ensure that we have timely products.

If you would now please turn to slide seven, another area is radiation protection. The staff has been actively evolving a vision, a plan and options in this

area for research, development of standards, guidance.

And our emphasis and our vision is to maintain a coherent and coordinated scientifically based radiation protection framework within the NRC and across the U.S. Government.

Research has recently provided a paper to the Commission on the development of a more robust materials research program that speaks to many of these issues.

If I look across, we have many international and domestic activities that could have an impact on NRC's Radiation Protection Program, including radiation risk studies being accomplished by BIER and UNSCEAR, radiation protection recommendations being developed by the ICRP, regulatory standards, and implementation activities being considered by the IAEA and NEA, and proposed revisions to federal guidance being brought forward by other agencies.

These activities will result in policy issues that are going to require us to engage with the Commission. I'd just touch on a few of the examples. If you look across at the IAEA, they're coming forward with revised general recommendations.

These will have an impact, or potentially have an impact, on dose limits, present incorporation of new constraints, and new weighting factors for us to consider in our dose assessments.

We have the ICRP framework on protecting the environment. We discussed that in some detail last Thursday. And each of the Commission members spoke to their views on that issue.

We have the ICRP and a number of additional national activities ongoing to define appropriate protective actions, following an RDD, should one be detonated.

We have OSHA, who is working on an initiative to develop worker protection standards, the revised worker protection standards. And we have EPA's initiative to revise the federal guidance on dose to members of the public.

These are just some of the activities that are coming at us right now with the

potential to have an impact on our regulatory framework. We need to stay actively involved in these national and international activities in order to influence the development toward acceptable outcomes.

The staff will, in fact, continue to seek opportunities to provide comments on draft documents and reports being developed by these various organizations and through participation and meetings and other activities, some of which are hosted by the IAEA.

We continue to coordinate and discuss our views on radiation protection with the other federal stakeholders. Primarily, I look to DOE, EPA, the Department of Homeland Security, the states, and other organizations, and members of the public. And I know we'll be seeking additional guidance from the Commission around each of these issues.

If you now please turn to slide eight, somewhat in the background, maybe operating in the shadows of some of the higher profile activities, we have our materials case work.

I'll start with one example, the Blended Low-enrichment Uranium Fuel Facilities Project. Again, this is a contested case, so what I can say is very limited in this area.

But the overall goal of this project is to take highly enriched uranium from the Department of Energy and convert it by blending into a low-enriched uranium for use as fuel in the Tennessee Valley Authority's nuclear power reactors.

NRC staff is, today, performing its review of the license application in accordance with our standard established procedures and processes. And there's been considerable local interest in this project.

And openness is being maintained as we work on this licensing action. And we've been having many meetings with the stakeholders in ensuring that our process is as open to the public as we can make it.

The second area I wanted to touch on was, we're working very closely with

Region II on the Nuclear Fuel Service. This is a facility where NRC has heightened its oversight of Nuclear Fuel Service's fuel manufacturing operation in Irwin, Tennessee.

This is the result of some performance problems that we observed in the safety, security, and materials control and accounting programs. We've developed, and the licensee in parallel, has developed and implemented a number of programs around this facility.

Most notably NFS, themselves, have developed improvement initiatives, based on some of the problems that they've seen. And they've placed additional actions into place. And they're looking to change their performance.

In parallel, we'll monitor to make sure they are, in fact, making good on their promises. And we've been meeting with the licensee management on a quarterly basis. And we've put in additional resources to enhance the onsite Resident Inspector Program at that facility.

We're also working very closely with Region II on Honeywell. The staff has here, as well, heightened its oversight of Honeywell International's uranium conversion facility in Metropolis, Illinois, as a result of a recent release of hazardous chemicals.

In December of this past year, 2003, there was a uranium hexafluoride release that occurred in one of the chemical process lines. This release lasted approximately 40 minutes and resulted in the declaration of a site area emergency, which was terminated about four hours later.

About 25 people offsite were temporarily evacuated. And some 75 people remained sheltered in their homes for several hours. This occurred in the early hours of the morning. And it was quite personal for a number of us.

I know Commissioner Merrifield, myself, Luis Reyes, and Mike Webber were all on the phone, and getting dressed, and on our way into the Operations Center early that morning.

And it caused the staff to -- I think it caused us to rally to action and to wake up again to recognize that there are significant hazards at these facilities. And it heightened our attention to the need to make sure that their performance is where that needs to be from a safety perspective.

Honeywell, today, has conducted a root-cause analysis and formulated some corrective action programs. These corrective action programs are focused on improving the material condition of the plant, worker performance around procedures, and training and emergency procedures and response.

A meeting is now being scheduled in the Metropolis area. Next week, we'll be hearing again from the licensee as how well it's done with respect to its improvement programs and plans.

COMMISSIONER JEFFREY MERRIFIELD: Mr. Chairman, if I may interrupt Marty for a second.

Just to note, I did have the occasion to be in the position of Acting Chairman, as you were out of town that day, and I would only want to interrupt to make note of what I think was yet another demonstration of the excellence shown by our folks in our Incident Response Center and the rest of the senior staff and others who were supportive of that function in having both at headquarters and in the region, I think, an excellent response to this particular event.

I've seen this time and time again. It is clearly one of the areas where we distinguish ourselves, both domestically and internationally, in our ability to respond to emergencies, far different than we were 25 years ago, as we had all reflected on last week during our celebration, or recognition, of Sam Walker's book on TMI.

But I did want to make that note very specifically here, because it was a very excellent effort on the staff's part.

CHAIRMAN NILS DIAZ: That's a very good point. Thank you.

MR. MARTIN VIRGILIO: Thank you, Commissioner. The next area I wanted to speak to is the Revised Inspection Manual, Chapter 2800.

This is our Materials Inspection Program. And we've not only revised the manual chapter, but we've also revised our inspection procedures. And I've changed our program in this area.

This is an area where the program has been revised to improve both the efficiency and effectiveness. Today, I think we would all say that the program is more risk informed and performance based.

The revised Manual Chapter and procedures resulted in increasing the inspection intervals for various uses based primarily on our assessment of risk. And today, we have fewer routine inspections for our lower risk facilities and licensed activities.

The revised Manual Chapter is more performance based today, because it places its emphasis on observation of licensee's actions and methods in the field and assurance that the licensee is able to safely use the by-product materials.

The next area I wanted to touch on is the licensing and inspection case work. If I look at our Materials Licensing and Inspection Programs, they are largely a regional function today, primarily conducted in Regions I, III, and IV now, as a result of a consolidation that we've implemented.

We have approximately -- it's well over 4,000 licensing actions forecast to be completed this year. And we also have forecast approximately 1,200 inspections to be completed this year in this arena.

The programs are, I think, continuing to operate very smoothly and with all licensing and inspection timeliness metrics being met, both if I look back at 2003 and now as we proceed through 2004.

The next area is our fuel cycle licensing and inspection casework. Headquarters' staff are performing the reviews of license applications in accordance with our procedures and processes to ensure that the decisions we make are sufficiently protective of the public and the environment.

Today, we have forecast to complete approximately 90 licensing actions in

the fuel cycle area. This is roughly consistent with the workload that we have completed in the past.

We also have our Inspection Program in this area. Staff is out in the field, confirming that licensees are, in fact, carrying out their responsibilities consistent with the regulatory framework. Here, we're forecast to complete approximately 120 inspections in 2004 and on track to make that goal.

As you know, we had not anticipated the review of both the LES and USEC license applications. This review of two applications is going to place a challenge before us and could have an impact on some of our licensing activities.

We'll have to go back and look very carefully and prioritize to ensure that we minimize whatever impacts that could occur.

If you'll now please turn to page nine. If I look at some of the other activities that we have undergoing, we're in the process of implementing our revised Part 70. This is our regulations around the fuel cycle facilities.

One of those activities is the review of the newly required integrated safety analysis summaries, the ISA's I referred to earlier. Our efforts are ongoing to provide additional staff guidance today and to ensure that our activities are, in fact, being done as efficiently as they can be done.

Our efforts continue to also engage the stakeholders to make sure that we're communicating clearly about our expectations and that those expectations are met when we get the submittals from the licensees.

This could, in fact, be another area where, as a result of this process that we do, as we take on new work, shed existing work, or slow down existing work, this may be a process where, having to review two fuel cycle facilities will, in fact, have an implication and an impact on our programs.

If I look to the next area, our medical and stakeholder involvement around the medical licensees, as I said last week, we had a meeting with the Commission to talk about Part 35 and some of the changes we're making there.

I would just say that within NMSS, we've refocused our efforts, have created a working group, including regional personnel, to address some of the implementation issues that have come up around Part 35.

I think you heard during the presentation that we had last week that there is a challenge there. There is a challenge around change management. Some of the licensees are slow to accept the new Part 35. And we hope, through these efforts, we can help accelerate the implementation of the new rules.

Staff also continues to work with the medical community. The American College of Nuclear Physicians and Society of Nuclear Medicine have proposed to us a radio nuclide therapy guidance document. And we currently have that under review today.

We hope that implementation of that guidance would lead to further efficiencies and effectiveness gains in our program.

I'd also like to touch on our international community interactions. I mentioned some of those earlier in the presentation. But, more broadly, we participate in a number of interactions, not only in health physics and radiation protection, but also in the fuel cycle facilities area.

There's a very broad spectrum of involvement. And this is increasing today as a result of increased foreign interest in the NRC's programs and in the way we manage our nuclear materials activities.

And I believe we need to ensure that our activities here are timely and well coordinated. This does consume resources, and we're very conscious of that. So we're making sure our investments are, in fact, of the highest priority. But we need to continue where we decide we are going to invest our resources.

We need to ensure that we're seen as active, positive, and constructive contributors to the process. And we're working very carefully to ensure that our positions are well coordinated within the U.S. federal community, working closely with DOE, EPA, and other agencies to make sure that we're coordinating with State

Department and have a consolidated and well thought through U.S. position.

If you now please turn to slide ten, I just wanted to touch on some of the successes of the program. OMB has recently started an initiative, a program assessment rating tool.

This past year PART, as it's called, is a method for evaluating the effectiveness of a program against an agency's strategic plan and supporting programs. And, for us, we subjected the Fuel Cycle Facilities Licensing and Inspection Program to that PART process in 2003. I thought we were very successful.

If I look at the program, it received a rating of 89%, which placed it in the top 6% of all government programs. So that was a very significant accomplishment. And credit is due to Bob Pierson and the staff and the regional programs being conducted in this area, as well.

Another area, I think, that has gone very well is the consolidation of the regional programs. We have representatives from the regions here today. I think George Pangburn can speak to this activity, if you have questions, and Luis about the fuel cycle facility consolidation, as well.

I think it's gone well. I think it's as a result of the professionalism of our staff and the plans that we put in place in order to ensure the consolidation was done in an effective way.

I think, today, we're using resources and expertise more effectively. And I think it's going to ensure a more comprehensive and consistent program, particularly allowing one region to focus on the management activities of the fuel cycle facilities.

The gas certification, done somewhat quietly, but we did a timely review of renewal of the certificates of compliance for Paducah and Portsmouth Gas Diffusion plants.

I think when I look back at that project, we achieved a number of efficiencies by streamlining the management review, dedicating staff members to assemble the

necessary information and early and frequent consultation with USEC and DOE around that process.

Another success -- and it's still a lot of ongoing work that we have today -- is the IAEA Code of Conduct. I know that the staff took timely engagement with other federal agencies and Department of State to promote the U.S. position.

And there was a lot of significant Commission involvement in this activity, as our Office of International Programs representative and NMSS representatives were working that process in Vienna.

COMMISSIONER JEFFREY MERRIFIELD: Mr. Chairman, just a clarification for communication purposes.

You reflected that the GDP recertification was done somewhat quietly. I take it you meant that that was done without a lot of notoriety, but fully consistent with our transparency?

MR. MARTIN VIRGILIO: Yes. Thank you for that clarification. The next area I wanted to touch on was NRC's external oversight of DOE labs.

In response to a congressional mandate, NRC successfully led a multi-office and regional staff effort to complete a project in a manner that I thought minimized the impact on our agency resources and still provided a high quality product at the end of the day. We believe that we benefitted from this activity.

I think that we now have a new cross-cutting approach around our training of our staff. And I think that we evaluated alternative approaches to meeting our safety objectives. So there are two areas where I think that, as a result of that project, we received some benefits.

All the audits are now complete, and now we're in the process of documenting the results of those assessments.

One final activity is we're scheduled to meet with OSHA in March in order to see if we can, in fact, develop an MOU around NRC/OSHA interface for regulating these radiation hazards that might exist at these facilities. The last area I wanted to

touch on is uranium recovery. Here, we're implementing a new approach that will eliminate dual regulation of ground water protection at in-situ uranium extraction facilities. In our non-Agreement States, here we would do this by entering into an MOU with the affected states. And it's an opportunity for us to save additional resources.

If you turn to slide eleven, please, this is somewhat repetitious to the presentation I gave last week on our waste materials activities. So I'll go through this rather quickly. But NRC and NMSS, we continue to have a number of activities to increase our organizational capacity and effectiveness. We want to use the full potential of our staff and demonstrate behaviors consistent with our values.

We have three major initiatives that I wanted to touch on today: managing diversity, communications, roles and responsibilities. And then, I will also touch on some of the work that we're doing to maintain and improve our technical skills.

With regard to managing diversity, we are promoting effective recruiting, development and retention of our highly diverse work force by working with HR to support recruitment activities. We're working with them, as well, to develop and implement gap-closure strategies. And I think we've been quite successful in utilizing the Nuclear Safety Intern Program as a pipeline to support continued -- and continuity of our critical skills and maintaining our core competencies.

We've established a work environment within NMSS that's about empowering staff to excel by utilizing their knowledge and skills and abilities to the maximum extent possible. What we see, as an outcome, is improved quality and quantity and timeliness of our products and increased NRC responsiveness to our stakeholder needs. With respect to internal communications, we've established an internal communications working group, identified some barriers to effective communications in this area.

And we have been working to develop training for our staff to increase communications up, down, and across NMSS and also across the NRC. And I think we've started to see some benefits as a result of those initiatives.

The next issue, or initiative, I wanted to just touch on is roles and responsibilities. We believe that our office can achieve greater organizational efficiencies by focusing very carefully on and distinguishing the various roles and responsibilities within the organization.

This is an initiative that we believe has the potential to eliminate some redundancies and inefficiencies and also improve the morale and increase the number of staff who are engaged in our processes.

I also wanted to touch on improving and maintaining our skills. We put a great emphasis not only on maintaining our technical skills, but also on improving our skills to enable our staff to work on the projects that are being placed before us.

Many of them involve new technical disciplines and new skills. And so we've got to look at what are the competencies that we need and ensure that our training programs meet those new demands and competencies.

We also need to make sure that we've got the right talent in the right place. It's another part of the program, putting the right people in the right jobs, making sure they have the tools necessary to do all the jobs, and ensuring for their continued development.

The last thing I wanted to touch on in this area is how we go about improving our efficiency and effectiveness. And one of the tools that we have is to risk inform our programs.

And with a modest investment in resources, NMSS is and has been doing some work to risk inform our programs, increase the use of risk information, develop tools and guidance that a staff member could use, and make this as simple as possible and as beneficial as possible.

I've already discussed a few of the examples, the ISA's being one example, and also the work that we did to risk inform the Inspection Manual chapter for our Materials Program.

Finally, if you now turn to slide 12, these are just our conclusionary remarks.

We believe that a key to continuous improvement involves a better alignment with the Commission.

And this year, we're piloting a new agency-wide approach to our Planning, Budgeting, and Performance Management System. This involves engaging the Commission earlier around our assumptions, performance measures, and outputs, and having more systematic engagements on our emerging issues.

I believe and the staff of NMSS believes that this alignment ensures that we have established the right priorities, that we have the right program direction, and that we continue to meet the agency's needs as the external environment around us continues to evolve.

That completes my prepared remarks. And now I'd like to turn it back over to Dr. Travers.

MR. WILLIAM TRAVERS: Just to say, that completes our presentation, Mr. Chairman.

I was looking at the slide package. One measure of the diversity of these programs is the seven pages of acronyms. And that concludes it. Marty has just covered a lot of ground. And I appreciate it. Thank you.

CHAIRMAN NILS DIAZ: Thank you, Dr. Travers, and thank you, Marty and Carl for your presentation and your staff for putting this together for us. With that, Commissioner Merrifield.

COMMISSIONER JEFFREY MERRIFIELD: Thank you very much, Mr. Chairman.

I've got a lot of ground I'd like to cover in a limited amount of time. So I think I'm going to start off by making some reactive comments to some of the parts of the presentation Marty has made, and then follow it up with directed questions. And hopefully, we can work our way through relatively quickly.

I think the first one I want to touch on -- and it was, in fact, the first thing that Marty spoke of -- and that's the National Source Tracking System.

I think clearly, from my part, both the interim database and the national database are high priority efforts. They are important as tools to inform our processes and to make sure we're focusing on these sources. And so I just want to make it clear that I, too, think it's a priority.

In terms of the gas centrifuge enrichment process, I met with Marty some weeks ago. We had under consideration how we were going to deal with the possibility of having two nearly parallel applications for reviews.

At that time, I very much challenged Marty to say, you know, how can we do these in a disciplined way? Can we do it faster than 30 months? I think Marty's issues, at that point, were principally the length of the EIS process, which has specific timelines for the involvement of the public.

There are also issues about the ability to which we could constrict our hearing process. I think, for my part, I was reluctantly convinced that 30 months was the right way to go.

Nonetheless, I think the Commission -- and I'll speak for my own part on this -- I think the Commission has been quite clear. We want to make the resources necessary and will find the resources necessary in terms of dollars and FTE to make that happen.

I think the 30-month timeline is an abounding timeline. I think the staff should continue to find efficiencies and should shoot for an earlier timeline than 30 months.

I think the Commission, for its part, has a continued need to be really on top of the staff and on top of the Board to make sure that we're doing this in an efficient way in meeting those kind of time lines expected of us.

On the issue of uranium recovery, I think I'd want to enhance Marty's comments. I think this is not only -- and I'm talking of the issue of our reducing some of our duplicative regulation, vis-a-vis the states of Nebraska and Wyoming as it relates to the regulation of in-situ mining facilities.

I think this is not just an opportunity to save some additional resources, but

indeed represents a model of good government in our recognition that there are others who can carry these obligations on in a risk informed way, in a way which meets the public's expectation for public health and safety and protection of the environment.

And I think it's good for us to reflect and get out of an area where others can do as well, if not better.

In terms of the Blended Low-Enriched Uranium Program, as Marty mentioned, this is an issue before the staff now. And we cannot go into significant dialogue on that matter.

That having been said, I think for my part we certainly want -- I feel the staff should be disciplined in it's approach and make sure that we're reviewing these issues, fully protective of our mission in a timely way.

As I mentioned with the gas centrifuge enrichment process, I think the Commission, for its part, also needs to make sure that the Board is also timely in its review.

And I think that our efforts in other areas in the last few years to oversee the Board are reflective of the willingness of the Commission to do so when that's appropriate.

In the reflection on our international matters, I would want to focus -- it is, I will admit, more of a pet issue of mine. But encompassing of the Commission as a whole, an enhancement of our engagement with our neighbors to the North and to the South, Mexico and Canada, I think there's a lot of very notable areas where Marty and his staff have engaged, both with our Mexican and Canadian counterparts to enhance the dialogue, communication, and understanding of our programs.

If you wanted to touch on that very briefly, I think, there's probably a little bit more you can draw out in that regard.

MR. MARTIN VIRGILIO: Specifically, if I think about the last trilateral meeting that we had with our Mexican and Canadian partners and looking ahead to the future activities, there are two areas that I know that we are both gaining and exchanging

information.

One is on the control of sources. And the other one is on import/export licensing. And I know our Office of International Programs has been very active and engaged in that area.

COMMISSIONER JEFFREY MERRIFIELD: I think also with Canada, in regards to the issue of dispositioning of former mining facilities, I think there's some work we've probably done in some respects, because many of our mines are shutting down.

And we're a little ahead of our Canadian neighbors but, again, in an area where I think we've talked about some of the dialogue that can continue. And I think that's another one I would probably point out.

On the issue of MOX disposition, this is clearly another program which has an important national priority. Again, it's a program which is currently under review of the staff. And so we shouldn't get into details where the staff stands or where the Commission stands.

We have talked, in the past, about the importance of enhancing our international relationship with GAN, which is our Russian counterpart, so that we may enhance our deliberations and our processes, vis-a-vis GAN.

And, perhaps, you can speak briefly about what I know is also for the Chairman an important priority of enhancing our relationship with GAN, at the same time, trying to effectuate an opportunity for the two of us to improve each other's way of doing business. So if you could talk about that briefly.

MR. MARTIN VIRGILIO: Let me just start, and then I'll ask Bob to lend a hand in this area.

If we look at their regulatory framework, it is very antiquated by comparison. They lack the regulations, the guidance, and the processes that the staff there could use to do a review and ensure consistency and, I think, adequate protection of the public health and safety and the environment.

And our efforts have been primarily around coaching to ensure that they have -- in fact, the staff has the ability and then training their staff, as well.

With that, Bob?

MR. ROBERT PIERSON: The Russian regulatory model really differs from the U.S. regulatory model. And basically, to license a facility, they have a panel of experts. So there isn't really any guidance or standard that translates across the organization, such that they would apply the same thing to different facilities of a similar nature.

It's more reflective of the panel of experts that's chosen for that particular facility. And in trying to work with GAN, what we're doing is we're educating them and working with them, and also getting comments from them in terms of the MOX review, and working to enhance our standard review plan and working with them to be able to take their regulatory framework and develop a standard review plan with the hope that, as a consequence of that, it would lead to something beyond this panel of experts that they would use for the regulatory process.

So their regulatory decisions would be more predictable for both our sake and for the Department of Energy's and also more analogous to what our regulatory processes would be, so that the end product would be more likely to be identical and would support the licensing and schedule dates that we've both done.

As a consequence, what we're doing is we're supporting on almost a monthly basis -- this week, we have one of our staff members there participating in a bilateral with them. And next week, we have three staff members who will be participating in an environmental review process.

Typically, what we do is we take a chapter of the Standard Review Plan, work with them, describe the Standard Review Plan, and in effect go through a tutorial and also a feedback session.

So they have a chance to read the slides and read the presentation in Russian when they come to the presentation, engage in a dialogue with our folks who are experts in that particular area.

And then, as a consequence, we take back lessons learned. We have learned some things, in fact, in terms of chemical process safety review for our MOX. They have a lot of expertise there.

We shouldn't belittle that, because there's certainly some really credible, knowledgeable people there that we've dealt with. And then, they take the process and try to apply it to what they're doing.

I suspect that, in the future, we'll be doing some fairly extensive work with them in helping them write a standard review plan. And that's going to be an interesting challenge for both them and for us. Actually, we're looking forward to it.

But in support of this process, we've taken essentially across the Fuel Cycle Division almost -- I mean, everybody hasn't gone, but a large percentage of our folks have gone for two or three weeks at a time to engage them, on their level, in their area of expertise and helped them accomplish what they need to do. It's going on on a monthly basis.

COMMISSIONER JEFFREY MERRIFIELD: Mr. Chairman, from a personal perspective, I think the staff -- and, again, I'm speaking personally here. I think the staff has placed appropriate importance on enhancing this relationship.

I think clearly that the Chairman -- and I'm supportive of it -- has spoken quite strongly about the importance of the relationship between ourselves and GAN. Clearly, I think we need to continue that degree of dialogue.

And I think that this MOX effort can really serve, perhaps not as a model because there are differences between their body and ours, but certainly as a strong nexus for the enhancement of that dialogue.

Marty, you mentioned at the beginning, or as we were walking through the presentation, the efforts that occurred or the event that occurred at the Honeywell Metropolis facility on December 22nd.

In fact, it was an early wake-up call for all of us at that point. You know I've had the opportunity recently to meet, as others have, with Nancy Dicciani, who is the

president of Specialty Chemicals Division of Honeywell.

I think Honeywell, at least in the presentation that I received from the staff and from their folks, is engaged, recognizes that there were gaps in the processes, gaps in the equipment.

And I think that it would appear that they are investing the time, the effort, and the personnel to improve their way of doing business.

I guess the two questions I have coming out of that is, is my impression correct? And is the staff of similar thinking, do you have some sense of where they are right now, what a restart date might be, and whether there are any other impacts that we need to be concerned about for fuel-cycle facilities, given the extended time that they've been shut down?

MR. MARTIN VIRGILIO: I'm going to start off, and then ask Luis Reyes, our Regional Administrator, to step in.

I believe, collectively speaking for all of us -- Luis, myself, Bob -- we believe that they have, in fact, engaged, that they have identified the problems, and that they are investing the resources necessary to bring that facility up to our expectations.

We have met with them. We are going to meet with them again next week to hear about how they're making progress on those plans.

And Luis can speak more directly to the restart schedules.

MR. LUIS REYES: Luis Reyes, Regional Administrator for the NRC office in Atlanta.

Commissioner, I was very impressed with the team that the company put together to review the event. They sought out experts from the corporation from all their chemical facilities', different expertise, and they wrote a very hard-hitting report.

So the short answer to your question is, the company and the regulator, I think, are in the same phase in terms of the issues at hand to be resolved.

That having been said, they have put a very detailed plan to recover the facility. It is a large co-effort that's going to take a lot of their energy.

The first milestone will be occurring this week when they'll be conducting table-top exercises with the local officials and state officials. We're participating in that arena.

We have tentatively scheduled a public meeting next week to discuss the progress of the recovery with members of the public in attendance, including a committee of citizens that participates with the company. They'll be invited. And both Marty and I will be there.

We have the resources to go in parallel with a recovery effort. And the recovery is going to be dictated by the pace of their activities. They have a very ambitious effort. It includes a lot of upgrades, hardware upgrade to the facility.

So it's hard to predict exactly when the facility will be recovered. What I can tell you is that the recovery plan is in three phases.

The first phase will be the ore processing. The second phase will be what they call "a salt crystal preparation." And the last phase will be the fluorination or when the uranium hexafluoride is produced.

And we'll probably do a review in combination with NMSS, allow them to restart the different processes. To that effect, we have taken the O350 process for the reactors.

We have modified it and have created a restart plan and a communication plan for overseeing this project. And NMSS and Region II are partners in that particular activity.

COMMISSIONER JEFFREY MERRIFIELD: Mr. Chairman, my time's running out. I want to ask one quick question. And then I'll hold a comment for the end. And, Luis, you may want to stay up there.

NFS Irwin is currently in their heightened NRC oversight. Now, they've recently reorganized and appointed a new company president, Kerry Schutt.

Are we seeing improvement in their program? And to what degree would you characterize that improvement?

MR. LUIS REYES: Marty and I recently were there for a public meeting, one of the periodic management meetings we have held with them. We do an extensive site visit, look at not only their existing facility, their recent upgrades, and the ongoing future facilities with the BLEU Project.

I think that Marty and I both agree that we see improvement at this site. The organizational arrangement has liberated management to separate monitoring operations versus looking at new ventures and new businesses.

So I thought that the organizational changes were for the positive. Some of their plans that they have had in place, upgrading such things as un-interruptible power systems, better monitoring, et cetera, et cetera, have come to fruition.

So if you go and visit today, you actually see hardware and improvements at the facility. There still remains room for improvement. We have a licensing performance review, which is currently scheduled for April, the third week in April.

And we'll have another public meeting there to give them feedback. We are preparing that document, as we speak, so it's not in the public domain. I don't want to speak before we're ready to do that.

But the short answer is, we continue to see improvement. Our intention is to continue the close monitoring and the management meetings.

To their credit, they also want to continue the periodic management meetings with the Agency to make sure we have a good line of communication with the activities of the site.

COMMISSIONER JEFFREY MERRIFIELD: Well, I appreciate that update. You know, I did have the opportunity to go there last year and did have explained to me at that time a lot of things they were talking about doing, which apparently they seem to have implemented.

I would say -- and this relates to Honeywell, as well -- it's good to see the investment in time and people, organizational processes. Hopefully, as we review that, that will be a sustained effort, not merely getting up to the level we like, but maintaining

that level.

Thank you, Mr. Chairman.

CHAIRMAN NILS DIAZ: Thank you, Commissioner Merrifield.

First let me agree with you regarding the issue of the gas centrifuge both the LES and USEC schedules. I believe the Commission was quite clear that we would expect a maximum, 30 month time period.

But I think we also instructed the staff to provide the resources to make sure that there are potential time savings or efficiencies made that, if we're required to do it in 24 months, so that we could. That certainly would be very appropriate.

Let me go to slide four in the security of high-risk resources. And I just want to get your comment.

Obviously, the National Source Tracking System is going to take a couple of years before it is totally completed. In the meantime, it is important that we maintain an up-to-date and continuous systematic assessment of the sources.

And I just wanted to hear from you, how are we going to keep that up to a standard that will serve as well?

MR. MARTIN VIRGILIO: Okay. If I think about that the interim database that we've developed, I think that, while that is a one-time tool right now in our mind, that allows us an opportunity and the information to continue to engage our licensees.

We've thought about how we could use that information. And I think that information could be very helpful to inform our inspection activities. It will be useful in helping us target future alerts and NRC actions.

I think that information will also be helpful as we move forward to develop the National Source Tracking System and the rulemaking itself.

CHAIRMAN NILS DIAZ: I understand it's one snapshot. But in the two-year period, obviously it's going to have to maintain a certain awareness of where we're going with this issue.

Are there any plans to check it out?

MR. MARTIN VIRGILIO: We will, in fact, be validating the data in the database, cross checking against other information that we have available to us. But, of course, we'll always be conducting our inspection activities. These are licensees that are subject to our inspection program.

MR. CARL PAPERIELLO: I would just note that we are providing to the Commission, at this point, weekly status reports of how the data is going and where it is.

CHAIRMAN NILS DIAZ: And one important aspect of all of these high risk sources is continuing communications with the Agreement States in these areas, because they've become a very important part of the overall -- not only the information, but the actual way that they're handled.

So we are ensuring that, again, during this two-year period -- I don't want people to look at the tracking system and say, that's it; we don't need to do anything else. We need to continue to engage.

MR. MARTIN VIRGILIO: Very much so. Our Office of State and Tribal Programs is right on the front, engaging those licensees and making sure that we're constantly communicating about protection of those sources.

CHAIRMAN NILS DIAZ: In the additional security measures -- I know that the staff have been working hard on this -- but it seems to be like the time line is not clear to me where are you going to achieve finality in some of these issues.

Do you actually have a time line? Or has it become so hard to get the information back that you're not able to provide a time line? There's not a time line in the background paper.

MR. MARTIN VIRGILIO: Excuse me, Mr. Chairman. For clarity, time line around which specific activity?

CHAIRMAN NILS DIAZ: All of these recommodations beyond manufacturers and all of the activities that we are actually doing that requires additional security measures.

MR. MARTIN VIRGILIO: Let me just take a shot, and then I want Charlie to provide some additional information and Mike, as well.

If I step way back and think about the IAEA Code of Conduct and the provisions within that Code of Conduct around control of sources, both domestically, import/export, the tracking systems, we have established time lines and activities for each one of those activities.

CHAIRMAN NILS DIAZ: I'm looking to the additional security measures beyond the manufacturers and distributors.

MR. MARTIN VIRGILIO: Right now, we have targets for the next round of licensees that we'd look at. I mentioned earlier some examples around the self-shielded irradiators and the radiographers, and the well loggers. And let me turn to Mike specifically about beyond that.

MR. MICHAEL WEBBER: We do have a paper in process to come to the Commission to describe the current approach that the staff has embarked on.

This week, the Materials Security working group, including the state representatives, is meeting in Region I to further that process.

I believe the schedule that we're working on right now is to develop a series of products that would be coming before the Commission in the June to September time frame.

What they've done is continue to work on the priorities based on the relative risks associated with the sources. And so they've worked at their next cycle, the next lower-risk category following after the manufacturer and distributors, so that will be the next product coming through.

The staff is working on a graded approach. And that's one thing we want to lay out for the Commission to understand the current approach that we're on. We believe that's consistent with the direction that we've receive from the Commission. But it may spell some changes, compared to the approaches we've taken for the irradiators and the manufacturer and distributors.

So it's important to get the guidance and the direction back from the Commission to shape the staff's approach as we proceed.

CHAIRMAN NILS DIAZ: And when did you say the paper would come to the Commission?

MR. MICHAEL WEBBER: It's in concurrence now. So I would hope the paper would be up very soon.

CHAIRMAN NILS DIAZ: Well, I just wanted to make sure we knew that. All right. Thank you.

Let me go to exports and imports controls. And, of course, this is a very important area. And we appreciate the work of the staff on this.

Looking at the schedule, you have a very aggressive schedule. And I wonder if now that it is getting closer, is this schedule realistic?

Are we going to be able to do these things in two weeks in June for Commission approval, where we're doing the budget three weeks for resolution of public comments, and then you know in completion in October for submission to the Commission?

Is this pared down now that is almost here? Ed Baker, I guess, is pointing to it.

MR. EDWARD BAKER: I'll take Marty off the spot on that one.

MR. MARTIN VIRGILIO: Thank you, Ed.

COMMISSIONER JEFFREY MERRIFIELD: The staff has great confidence in our abilities to work through materials.

COMMISSIONER EDWARD McGAFFIGAN: Especially since we've already given them some guidance in this area.

MR. EDWARD BAKER: Not only have you given us guidance, you've also given us support. And we've also gotten good support from OGC. So I think we're still working towards that schedule.

A lot of it's going to depend on the volume of comments that we get and the difficulty of trying to work those comments in.

I think we're pretty confident we're going to make the proposed rule date to the Commission. And so, then we'll see where we go from there based on your deliberations and the kind of comments we get.

I will say that, based on the last meeting in Vienna, there are going to be issues on the timeliness of prior notification and consent that we're going to have to work through.

NRC's ability to do this unilaterally is going to be somewhat limited by the ability of our bilateral partners, the folks who we are importing and exporting with, to participate as well. So I think we can get out of the proposed rule.

And then, we're going to have to see where we are in terms of comments and how far we get on the implementing guidance for the Code of Conduct in that same time frame.

CHAIRMAN NILS DIAZ: Thank you.

Going back, I think Commissioner Merrifield already touch on GAN and the fact that we believe that MOX is an important issue. And GAN, of course, is undergoing major changes in upgrading their federal standards.

And we, of course, maintain an interest in participating with them in whatever form the United States Government decides to participate.

One concern that I have is that you look at the fuel fabrication area and you look at all of these activities is the fact that, as we get to a point that really it goes, you might have to shed or not-shed some activities in the Fuel Fabrication Program, because if GAN decides that, or the government both decides that, we're going to take off on the issue of the MOX with GAN, that's going to take a significant amount of your time.

Is that being programmed? Have you looked at the potential for having to shed other activities in the fuel fabrication? Or are you comfortable that you are so prepared that it won't impact on other activities?

MR. MARTIN VIRGILIO: I'm going to start off and then turn to Bob.

But almost on a daily basis, he and I are watching the schedules, because we're taking advantage right now of as one slips, one speeds up and trying to manage our activities.

It's very difficult to predict. I would have never predicted that we would have gotten the request to change the control area boundary. I mean these kinds of things, what was also unpredictable was the schedule slip.

We had originally envisioned that the full-scale application for MOX would have been coming in this summer. And then, in a meeting with senior DOE officials not long ago, Bob and I were told that, well, no, the schedule is actually going to slip. And now you can expect the application to come in in the January/February time frame of next year.

So, yes, we're watching it carefully. We're taking advantage of this, and we're being very flexible and very quick to move around some of these changes.

Bob?

MR. ROBERT PIERSON: All I can tell you, everything that we're doing is prioritized. We have a time line against all our activities. We know whether something is slipping, whether something is gaining.

And if we would get something that would come in that would require 5-FTE, 6-FTE, you just start from the bottom of the line and work our way up.

Now that, of course, has implications. In some cases, we'll be coming to you and saying, we can't do this. It's required by an SRM. It's required by some other action. And when that happens, that's what we'll do. But, yes, we do have everything prioritized.

CHAIRMAN NILS DIAZ: All right. Thank you.

Of course you know that this position of solid materials is an issue that I have a special interest for some time. And we continue to work over some resolution of these issues.

And fundamentally, you know, we're working towards getting this DS-161. I

guess, in March, you're going to be able to get acceptance by the working group. I think it's important, in this area, that you keep the Commission apprized of any significant changes, because this is an area that has tremendous amount of visibility.

It might be low on the screen of some people, but I think it matches with the issue of how we protect public health and safety, how we actually look at radiation protection as an integrative effort. Just a point just to make sure that you will keep us apprized of it.

I don't know whether you want to comment on this issue.

MR. WILLIAM TRAVERS: I'll even do that, Mr. Chairman.

First of all, we certainly will keep the Commission informed. And you've raised a very important element in this process, and it was the element that, perhaps, most had to do with international alignment or attempts to assure that we were relatively aligned with the international sentiment in that regard.

John Greeves, who serves on the INWAC, is the Waste Advisory Committee. I serve on the Commission of Safety Standards.

I know that we've had some success recently. And we've provided that information to the Commission and influencing the thinking internationally on the document that you made reference to, the DS-161.

I think John may be going back in the relative near term. And I will be going back some time in June. And certainly, we'll keep you updated on that.

But I'm relatively optimistic about what we've been able to achieve in that forum or those fora so far. And we'll continue to look for that.

CHAIRMAN NILS DIAZ: All right. Thank you.

Let me just take my last -- I could actually spend more time, but let me tackle risk informing your activities.

And, you know, Marty and I have had several talks in the past about this and the importance of your need to prioritize so many things. And as we saw with ACMUI, there is a chance that certain activities are more ripe for being risk-informed than

others.

And I think that, as you have this plate full of things, you know there's sometimes, at least, up front a little more efficient for a series of activities that are not that easy to risk-inform to maintain them in, let's call it, a more prescriptive way.

And I think that those decisions are very important. And as you look at increasing organizational capacity and getting people trained and informed, I think the choices need to be made a high priority by senior managers of what is it that we're going to risk-informed and what is it that we're not.

Could you elaborate on that a little bit?

MR. MARTIN VIRGILIO: It's really important that we have a return on investment in this area. And looking forward today, we're going through our planning process for 2006 as to what areas do we want to accomplish? How much do we want to invest in this area?

I look backward at what we did with the Inspection Manual chapter. And we had the information at hand. We could see that we were going to gain efficiencies. We could see that there was going to be opportunities to do certain inspections less frequently.

We fully agree with you. We have to be very choiceful about what we invest in. And we wouldn't want to invest 10-FTE to only yield a 1-FTE return.

And clearly, we've got to pick those targets very carefully and make sure that all the stakeholders internally, the divisions right down to the branches and sections really believe that there's an opportunity for a gain here. And then, we go in and make the changes.

CHAIRMAN NILS DIAZ: And there's also this issues, the licensees need to be onboard. If not, we're going to have something like what happened with the medical community that a significant number of them are, you know, saying I would rather do it the old way.

So it almost becomes, in certain cases, a two-way street. We were able to do it

with the larger licensees. But, in many ways, you need to be very picky. All right?

MR. MARTIN VIRGILIO: We will.

CHAIRMAN NILS DIAZ: Commissioner McGaffigan?

COMMISSIONER EDWARD McGAFFIGAN: Thank you, Mr. Chairman.

With regard to the schedule for enrichment plant consideration, dido. But I think we've already given you that guidance previously.

I'm going to start with sources. I do want to commend the staff for the very large amount of activity that we have been engaged in in terms of the control of high-risk radioactive sources.

I think that we absolutely don't get enough credit for what we have done. We have tried to articulate what we have done in various letters from the Chairman to various entities. But nevertheless, there's wide confusion. So I'm just going to spend several minutes on this. And there may be a question or two in here.

But in high-risk radioactive sources, the fact is that we have shaped the entire international response to this issue. The fact is that we helped define, through the renegotiation of the Code of Conduct and the safety and security what the radio nuclides of concern are, and what the thresholds of activity for those radio nuclides of concern are.

We were fully involved in the IAEA Tech Doc. We were fully involved in the appendix to the Code of Conduct. Indeed, Commissioners were on the telephone as a Commission with the Delegation in Vienna, Ed Baker and company, last July.

And there is a famous dotted line in the appendix to the Code of Conduct to which I give the Chairman full credit. But we have been the world leader in this effort.

And I think we're also the world leader in the effort to now put meat on the bones of the Code of Conduct. We have talked about the proposed Export/Import Rule that we expect to receive in June. And we hope to, perhaps, take two weeks on. It depends how the staff has done.

I do think that there are some transition issues and effective-date issues that

we'll have to work through with our international partners.

I agree with Commissioner Merrifield that if there's anybody working hand and glove with us on this -- and there are a lot of nations that are -- but the nation that I think that we're most aligned with in this effort is Canada.

And I would hope that the Canadian Nuclear Safety Commission could be in approximate parallel with us in developing their export/import rules. But it's just a tremendous success story.

In the Code of Conduct, which our ambassador to the IAEA has said that this nation has made a political commitment to implementing we have done this. It requires that we have cradle-to-grave controls on category two and one radio nuclides of concern. That's what the Code of Conduct urges nations to do.

And we are currently, as Marty said, doing an initial inventory of these category one and two sources that are within our Agreement State licensees.

Now, contrary to misinformation that the General Accounting Office has put out, there are approximately, at most, about 2,500 licensees who may possess high-risk radioactive sources.

And I think the initial inventory is showing that the actual number is going to be substantially less. And we have, as Marty said, a very good initial -- well, not to my -- we have 80% response so far. We have many states who'd have a hundred percent response.

And I am going to get to a question here. I went down and looked at the database last week. And I agree entirely with Marty that if you look at the database, as I did, and we played with it, it should inform inspection activities.

I mean, I was there and I won't say what licensee would be one that would be very high on my list, but there were two that I suggested that I don't want to repeat, because I don't want to help terrorists know where I think places we should be inspecting ours on a priority basis.

But the concern I have -- and this really is a generic issue within NMSS and

perhaps the Commission, as a whole. We have GS-15's, and perhaps above, chasing down who hasn't responded to this thing yet.

And I had a discussion with some of the junior staff, relatively junior staff, at this meeting. And the issue came up of administrative and secretarial support for the various people in this agency. And it strikes me that this is something that administrative assistants and secretaries could do. But there aren't any.

I mean, I guess, what has happened in this institution over the last decade -- and we're outliers, because each of us has two administrative or the Chairman more. But Commissioners have, for a relatively small number of people, I have two administrative assistant type people.

And EDO's office, I think, is relatively well staffed. But down there in the trenches, we have GS-15's doing what secretaries could do. And it's been a general depopulation as we all want to get that next technical expert in.

And so I guess the issue that I raise -- and it comes up in a recent OIG report that raised the issue of whether we keep up-to-date on licensee addresses. Are we under supported in administrative functions?

And I don't know whether I should be asking Marty this or I should be asking the EDO and the deputy EDO. But what has happened down there is, according to the staffers -- I mean, big smiles on their faces -- nobody's defending why they don't have any secretaries or administrative assistants, but you have like one or two per division, or something, now.

That strikes me as way too few. And I honestly didn't know it was that bad until I had this sort of glimpse into the system.

MR. MARTIN VIRGILIO: This I think, if you'll allow me, underscores the importance of our roles-and-responsibilities effort.

If I look back at over the last several years, we've actually invested more resources in this area. We've converted positions back into administrative staff positions, as we've redefined the roles and responsibilities.

So I think your observations are correct. And I think our efforts to better define roles and responsibilities and make sure that we have the right numbers and types of staff to do these kinds of activities, because you are right in that there had been a trend.

But I think we're reversing now around converting administrative staff positions to technical staff positions. And I'm winding up having technical staff, in part, do administrative activities.

COMMISSIONER EDWARD McGAFFIGAN: The significant part, at times, if it's a high-priority thing and the work has to get done, then you do have technical staff doing administrative staff functions, it appears.

MR. CARL PAPERIELLO: I think this is just an issue that we needed to look at for this particular task.

I think one of the things, my observation around here is, we are a bunch of go-getters and get things done. There's compression in this, in getting the tasks done in a very short period of time.

And I think the staff just reaches for a phone without saying, do I need to reorganize the work. I would point out that on the terms of the General License database, when people could not be located, we contracted with private investigators, who were less costly than using NRC inspectors, to find -- gauge licensees.

But when you do something like that, you have to step back and take a look at what you have and reorganize the way you do business. And I think this is what this thing is showing us right now.

I think we may have enough people to do it. We just have to, you know, maybe look at the project and see whether or not we need to reassign staff and what they're doing. But we will look into this.

COMMISSIONER EDWARD McGAFFIGAN: Okay. Well, I'm probably going to come back to source security, because my notes here are not fully organized.

But I'm going to switch to another topic. And it's one I've mentioned to you

before and more in Charlie's area.

I was reading something the other day that came across -- it was a press clip on the IAEA Press Clip System. And it was somebody, I think, in the UK writing about UNSCEAR 2000 in medical doses that the population in advanced countries are now receiving.

And as somebody probably who has received as large a medical dose as anybody around here, just a diagnostic dose, I know it's happening. And if somebody listens to the WTOG, you know, every day as I drive to and fro here, you know, the advertisements for heart scans and virtual colonoscopies, you name it, we'll image it. Images are us.

You know, the thing that's not funny is, I think we need an update. I mean we desperately need an update, and I think other agencies need an update of what the actual facts are with regard to medical doses.

We tend to say around here that, you know, people get about 360 milirems a year, 300 from radon and sulfur radiation from potassium, 40, et cetera, and 60 from medical.

And this fellow was saying, it's probably more like 300 for medical based on UNSCEAR 2000. UNSCEAR 2000 in the UK and U.S., I mean, UNSCEAR 2000 said it's more like 200 for advanced countries.

But we're clearly more advanced in this particular area than other advanced countries, because Russia is an advanced country for purposes of the UNSCEAR 2000 data. But there isn't much to do.

We don't regulate this enormous blossoming of diagnostic medical stuff. But we should at least acknowledge the fact that the single largest place where the American public is coming into contact with radiation, artificial radiation, that we do not regulate, it's either PET scans that we don't regulate, because it's accelerator-produced material, or it's x-rays, which we don't regulate.

But it's an enormous change. And this fellow was noting it and he was also

then going on, as some of our fellow regulators in the CRCPD and elsewhere have done, to question whether some of this stuff is being overused and whether the medical community is adequately informed.

Many doctors -- you know, virtual colonoscopy, there's something in today's Post about it if you go back to the back sections. And they point out, you know, this wonderful tool, which will give you a pretty good dose.

If they find a polyp in there, you still have to do the normal colonoscopy to go get it. So it only will save you some discomfort and give you some dose if you're not going to have any polyps. You might as well have gotten the normal colonoscopy.

But it's not something we regulate. The only thing I urge you guys to do is to update that pie chart we have on our web page somewhere and update our information to be consistent with UNSCEAR 2000.

And I think the medical dose in the United States today is 200 to 300 milirems on average, and not 60. I mean, there's vast numbers of kids who get CAT scans, including my son I've mentioned at Reg Info conferences, CAT scans of their brains and various other things when they have injuries. And I just mention that in passing.

It hadn't happened. I mean, we continue to pump out this information that the medical dose in this country is 60 milirems. And it isn't true any longer.

MR. CARL PAPERIELLO: Yes. I'm aware of what's in the UNSCEAR. Yes, and the doses are significantly higher today than they were when that data was generated.

COMMISSIONER EDWARD McGAFFIGAN: One thing that I mentioned going back to high-risk sources, we have one issue that has come up -- and I would be just interested in either Marty's or Mike Webber's, or whoever's reaction -- whether we have too much information on our web page.

The issue of identity theft has come up. We have license numbers and a lot of information about our licensees available on our web pages.

And people have claimed that somebody could basically claim to be --and there

is some evidence that one licensee facility in New York, this did happen. Somebody claims to be that licensee and says, ship me to this address high-risk source No. X.

And the company thinks, okay, well it sounds like -- it's about the right address. You know, the last time I checked, the licensee was in Rochester, New York, or something. And this person has the right license number, so I guess I can ship him this high-risk source. So that issue comes up. Another issue has come up as to whether we have the sealed-source device database. It's on our web page. And people have raised the issue as to whether that shouldn't be passworded and made more difficult to access, except for legitimate users.

Are you all rethinking where the line is drawn in terms of openness of data with regard to high-risk sources?

MR. MARTIN VIRGILIO: I would like Mike Webber to come up to the microphone and talk a little bit more about that.

But, yes, particularly with regard to this next category of licensees. You know that we are constantly in challenging ourselves and looking at the decisions that we have made and are going to make about requiring Safeguards M around some of this information.

MR. MICHAEL WEBBER: Commissioner, as you may know, this is one of the items that's on our list of activities to work through.

Our most fundamental guidance we take from the Commission back in May of 2002 when the Commission rendered its view on what information should be protected.

But every day, we have occurrences that come up that somebody will contact us, whether it's from a vendor, a member of the public, a concerned citizen, another agency, and they'll ask this question, gee, I found this information. Is that information appropriately available to the public? Shouldn't that be constrained?

But it always comes back to this fundamental balance between the openness, with which this agency operates in most cases, and keeping information from adversaries who might seek to exploit that information in using it against the American

public.

We have kept, as far as I know, compilations of information away from the public, so that it could be used systematically to pinpoint who might have the most attractive material and things of that nature.

But it's something the working group has discussed. We are attempting to address it at a certain level in the individual additional security measures that we're imposing on the classes of licensees. I don't want to get into the specifics here.

COMMISSIONER EDWARD McGAFFIGAN: Right. I'm willing to rethink where we draw this line. I'm just telling you, and I think some of the concerns that have been raised are legitimate as to whether we're too far towards openness.

And we've set a fairly high threshold back in that time period, with Chairman Diaz suggesting a somewhat lower threshold. And I guess I'm signaling, at this point, that I am -- perhaps, Chairman Diaz may have been more right when he was Commissioner Diaz.

He hasn't grown more wise as a Chairman. It's just that, even as a Commissioner, he was a very wise man. So we need to think about this stuff, and we need to not just let it languish in this materials working group.

Two more issues. I could go on for a long time, but I'll just finalize with two issues. One, the issue of who we inspect and who we touch on an annual basis.

Mallinckrodt didn't come up today, but it came up in previous years in these meetings. And Mallinckrodt had these events where there was significant occupational dose being received to the extremities of many of their workers. And they had a corrective action plan.

But I think one of the insights we got was we needed to get to places like Mallinckrodt more often. And radiographers, it seems to be a target-rich environment. I just watch our press releases, but we seem to have a fair number of violations that occur where people cut corners. And we suspend people from activities and whatever.

How do you update in terms of figuring out where do I put extra resources and

where do I maybe withdraw a little bit of inspection activity? How do you think this through on an annual basis?

MR. MARTIN VIRGILIO: I wouldn't say today that we're thinking it through on an annual basis. Today, we're implementing the revision to the Manual, Chapter 2800, which was pretty much a complete overhaul.

I'll set this up. And, Charlie, you might want to add.

Using the risk information we have available to us, we went back and looked at some of the higher-risk activities. And I think you've touched on two of them, particularly with regard to radiographers.

And we've looked and challenged ourselves; have we got the right inspection frequency, and are we doing the right inspection activities.

MR. CHARLES MILLER: Yes.

And to further amplify, one of the things that we have to remember is, many of these licensees are in Agreement States, also.

COMMISSIONER EDWARD McGAFFIGAN: Right. I understand.

MR. CHARLES MILLER: So there would be some subset of that population that we would inspect ourselves.

What we try to do is, we try to keep an eye towards where we're seeing problems. And if we see common problems in certain areas -- you mentioned radiographers, Commissioner -- what we try to do is to do two things.

One, is it worthy of some kind of generic communication to try to further educate the population of licensees out there, with regard to things that we're saying.

And secondly, we have a close relationship in working with the regions, who themselves do the inspections. And the regions have been very diligent and working with myself and my staff, when they see problems in certain areas, of having dialogues; do we need to go back in? Do we need to do reactive inspections? Do we need to go back at a higher frequency?

So I think, from that perspective, for places like Mallinckrodt we have done a

very effective job of trying to collaborate with the regions.

That said, it's sometimes always hard to predict what's around the next corner. And I think what's important is to make sure the classes of licensees know what the risks are and are better educated in being careful, whether they be radiographers, whether they be portable gauge users, whether they be well loggers, whether they be medical, especially in the medical area with the emerging technologies moving as rapidly as they are.

COMMISSIONER EDWARD McGAFFIGAN: The final comment I'll make -- and it really is a question for both NMSS and maybe OIP -- one of the things I've noticed and it came up when I went down and looked at this database last week the European community in Brussels really is very, very important, particularly with regard to materials regulation.

Whether they're going to be important in reactor regulation is something that the European community is struggling with today. But in terms of material regulation, they put out a directive in the '97, or so, time frame with regard to ICRP 60.

They're currently deciding how they're going to implement cradle-to-grave controls in Europe on high-risk sources. They've been very important in the clearance area in terms of setting European standards for clearance that many nations have implemented.

And, you know, some nations have been slower to implement than the EC Brussels wants. But, to my knowledge, we do not interact with EC Brussels. We have no agreement for cooperation with EC Brussels, except in the margins of IAEA or NEA meetings.

Should we routinely, you know, have an exchange with EC Brussels? I mean, especially given how the European community today is expanding. You know, we work very well with Canada and Mexico.

The initiative that Commissioner Merrifield had a lot to do with initiating that North American Free-Trade Zone reinforces. But we have this other huge party that

really -- in material space, not in reactor space. I think Euratom and how far that's going to go, individual nation states are going to have very different views within Europe.

But in material space, it strikes me that EC Brussels' directives really set the tone for what happens. And so, shouldn't we be thinking about having some sort of relationship, ongoing relationship, with the European community, staff in Brussels?

And, probably, the agreement would be signed by one of those deputy EC commissioners and our Chairman if we were going to have an agreement for exchange of information or ongoing information exchanges.

MR. ED BAKER: Ed Baker, International Programs.

Janice and I have discussed that very topic. It's really starting with the issue on sources. And she had met in one of those meetings on the margins with a couple of EC representatives on sources. And we started a dialogue of trying to arrange a meeting, which hasn't taken place yet.

In addition, there was an EC representative at the last meeting developing the guidance for implementing the Code of Conduct. And she and I had a conversation about how that would be implemented from the EC perspective.

And, in particular, with respect to imports and exports, their guidance really is covering the movement of sources within the EC or EU. And they were still, in terms of the Code of Conduct, going to have the import/export function take place between the member countries and the countries outside of the EU.

COMMISSIONER EDWARD McGAFFIGAN: What they do internally is going to have carryover to the external EC interaction with the rest of the world.

MR. ED BAKER: That's certainly true, particularly with regard to where they put their thresholds and whether they adopt the Code of Conduct thresholds.

COMMISSIONER EDWARD McGAFFIGAN: But this isn't just Code of Conduct.

MR. ED BAKER: Right.

COMMISSIONER EDWARD McGAFFIGAN: I mean, you mentioned earlier the flora and fauna stuff that kicks around.

And, as I say, it strikes me that you all, as a group, need to decide that my bias would be that we need to develop a relationship with EC Brussels, that we need to have -- we might not need a formal agreement, but it wouldn't hurt.

I think it would be very fruitful to have an annual interchange with EC Brussels at a fairly high level. You know, my colleagues travel more than I do, but I'd urge them to think about putting Brussels on an itinerary and starting a relationship there.

Thank you, Mr. Chairman.

CHAIRMAN NILS DIAZ: Yes, thank you, Commissioner McGaffigan. I think we will consider if you were to go to Brussels.

COMMISSIONER EDWARD McGAFFIGAN: My daughter is graduating from high school so maybe it's possible.

CHAIRMAN NILS DIAZ: So looking forward to that.

I'll just make one comment. I think the issue that Commissioner McGaffigan brought on the inspection and the feedback that inspection needs to have and licensees' education, I think it's an important issue, especially with the variety of issues and the different levels at which they're impacted, the regulations, both from the point of view of public health and safety and security.

Carl, you seem to be ready.

MR. CARL PAPERIELLO: Commissioner, could I just touch on two subjects, because I hope that we touched on it in the paper we just recently sent you on a robust materials research program.

One is the issue of much greater consciousness on operating experience. You know we've had long meetings on the reactor side, but on the materials side, the necessity to do the same thing, we do it.

But I'm thinking in terms of doing it in a much more conscious manner to look for these things, feedback it into the Inspection Program.

And secondly, we've raised the issue there of just greater -- I mean, what I'm seeing is people talk about globalization, but the fact of the matter is, we are far more connected with the rest of the world in this area than we were, say, 10 years ago.

And so, it may be Brussels; it may be Vienna. But clearly, our need to engage in radiation protection standards, regardless of the issue internationally, I think is growing.

I mean, circumstances are putting it there. I just wanted to make those observations.

CHAIRMAN NILS DIAZ: Okay. Thank you very much.

My fellow commissioners?

COMMISSIONER JEFFREY MERRIFIELD: Yes, if I can make a couple of comments.

Mr. Chairman, first Commissioner McGaffigan mentioned the high-risk source issues that went on and the negotiations that Ed Baker conducted on our behalf this past summer.

And I don't know if we've had a public opportunity to make a comment on that. But following along on what Commissioner McGaffigan said, I think Ed did an absolutely terrific job in that effort and should be highly commended for what he's done.

When Janice made, what I think, is a very wise decision to take Ed as her deputy, I was interested to see how our allegations advisor would work in the international regime. And Ed's done a terrific job in that regard.

The other one, the other comment I would make, if my fellow members of the Commission can put up with me for a second. I had the occasion -- and I'm reminded as a result of this briefing of a conversation that I had with my wife recently.

And we were sitting, reading the Sunday morning paper, and she mentioned to me the thought that we, as an agency, really ought to get involved in external regulations with the Department of Energy.

And at the time, more concentrated on my coffee, I did not exhibit what she felt

was an appropriate degree of enthusiasm for this particular subject. And being the strong woman that she is, she attempted to encourage me that I should take this as one of the causes that I would champion as a member of this Commission.

Whereupon, I recognized that sticking my nose back in the newspaper would be insufficient to answer this particular challenge, I went on to explain that, in fact, before I came to the Commission in the '96-97 time period, I spent a great deal of time talking to NRC and DOE folks about the then effort to conduct a series of pilot projects, which had been initiated by then Secretary of Energy Hazel O'Leary and then Chairman Shirley Jackson to see -- can NRC conduct the external regulation of DOE facilities.

The further developments in DOE were for Frederico Pena-- then followed by Bill Richardson, as the subsequent Secretaries of Energy, neither of whom had a great degree of desire to follow this program, resulted in what I have characterized as a pilot project in which we have all the results, and then the final conclusion taken is quite contrary to what the results would demonstrate, i.e., I think we showed that we could do it very well in a timely way, disciplined way, cost-effective way, value-added from a public health and safety perspective. Yet, the conclusions drawn by the DOE, as a result of the leadership at that time, was sort of like rewriting *Gone with the Wind* and having Rhett Butler say, you know, will you marry me, rather than, Scarlett, I don't give damn.

So I tried to explain to her the difficulties we had gone through in that regard. Notwithstanding this, there's obviously differences of opinion on the Hill. And as we were instructed, we have again conducted an audit where we had pre-licensing reviews at ten national labs, managed the DOE Office of Science. Again, I think -- and we'll get the final results from our staff -- but I think this will, again, demonstrate that in a timely, disciplined, cost-effective, value-added way, we could add to the improvement of the situation at DOE.

Now, that all having been said, the degree of weariness that I exhibited to my

wife upon the early elements of this conversation still exist. There is some enthusiasm on the Hill for doing this. There is some enthusiasm on the Hill for our not having anything to do with the Department of Energy in external oversight.

The only plea that I would make to our champions and our detractors on the Hill is that I hope, at some point, we can put this issue to bed. It would be, I think, a serious challenge and, perhaps, distraction for us to take on that very great task right now. If they want us to, I'm certain we can do it and do it well.

But I do hope at some point, one way or the other, we can end this debate because I think we can continue to do pilot projects and audits infinitum, but it nonetheless will only prove at the end of day that we can do it and do it well.

And I think that is well proven, and I hope as a result of the completion of this particular effort, we can finally put that issue to bed.

Thank you, Mr. Chairman.

COMMISSIONER EDWARD McGAFFIGAN: Mr. Chairman, could I pile on and say, I agree entirely with everything that Commissioner Merrifield said.

I think, as a matter of policy, when since 1996 or '97 when Tom Grumbly first came before this Commission, it's been clear that I think the Commission, as a whole, has been very supportive that we could do this job.

We could do it well, if DOE did certain things, like get out of the way. But DOE has been, as an institution -- I think even when Tom Grumbly and Hazel O'Leary were there -- there was a great lack of enthusiasm at lower levels.

And as soon as they left, that lack of enthusiasm manifested itself. And the chance of this happening, given that DOE is an unwilling partner to the marriage and can go to their congressional allies and prevent it from happening, the chance of it happening is very, very small, despite I think the Commission thinking it's good public policy.

But I agree this sort of continuing to do pilot projects is not useful. It was once a fairly clear policy from one of the committees in the Congress that if new facilities

came online at DOE, they at least would be brought into external regulation, because Tom Grumbly wanted them -- you know, he came out of the private sector, and he wanted them to be private sector-like. You know, let's hold them to the same standard.

And that went by the Boards, as well. So every effort has been stymied, and yet, we've been at this for seven years. And I do think now would be a particularly -- I'm not looking for the job. It would be a particularly inauspicious time to do it because of all the other tasks that are before us.

And if it were given to us, we would need some resources, as we've always said. I think our resource increase would be far less than the DOE resource decrease should be. But that is something that has dragged on for many years.

But the short advice that I would give to Commissioner Merrifield's wife with great trepidation is, it takes two willing participants in a marriage, and if there's one participant, that is evidenced over my seven years here, great unwillingness to participate in this particular event.

CHAIRMAN NILS DIAZ: Thank you, Commissioner McGaffigan.

I, of course, agree with my fellow Commissioners.

I was very young and naive in 1996, younger and more naive than I am right now, when I was plainly asked, can the NRC really provide external regulation of DOE?

And I said, absolutely, yes, we can. And we can do it very well, and we can do it economically. I still have that opinion, however, it's been tempered by time.

I think we do realize that there is a time in which we have done all we need to do, and the decision lies elsewhere. I think we can send the right message. And I think we all agree that it will be a good thing to do. But I think it's time to not fool around with it anymore and either do it or not do it.

And with that, we are adjourned.

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(Whereupon, the Materials Commission Briefing adjourned at 11:30 a.m.)

