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**NUCLEAR REGULATORY COMMISSION**

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NUCLEAR REGULATORY COMMISSION

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NATIONAL SOURCE TRACKING OF SEALED SOURCES

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PUBLIC MEETING

OFFICES OF TEXAS DEPARTMENT OF STATE HEALTH SERVICES

ELIAS RAMIREZ STATE OFFICE BUILDING

5425 POLK STREET

HOUSTON, TEXAS

SEPTEMBER 20, 2005

12:30 p.m.

SCOTT W. MOORE: Branch Chief

MERRI HORN: Senior Project Manager

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

1  
2 MR. MOORE: Good afternoon and welcome. On  
3 behalf of the NRC we really appreciate everybody being  
4 here today. My name is Scott Moore, and I'm Chief of  
5 the Rule Making and Guidance Branch in the Office of  
6 Nuclear Material Safety and Safeguards. Obviously I'm  
7 not Merri Horn. Merri Horn is here in the front row and  
8 she'll talk in a minute.

9 We're having this meeting in hopes of receiving  
10 public comments on the proposed rule on the national  
11 source tracking system. This is the second of two  
12 public meetings with regards to the national source  
13 tracking rulemaking. The first meeting was held in  
14 Rockville, Maryland on August 29th. I want to  
15 especially thank the Texas Department of State Health  
16 Services for allowing us the use of their facilities to  
17 hold the meeting. Thanks to Lisa Clark, and also to  
18 Tammy Porch of the department for their help in  
19 coordinating the meeting, so thanks, Lisa.

20 Now a few important administrative points. This  
21 meeting is being transcribed by a court reporter, Mr.  
22 Schafer. So when you give your comments today you can  
23 be assured that they'll become part of the official  
24 record for the rulemaking process. I've been asked to  
25 let you know that before you provide any comments, which

1 we'll get to after Merri's presentation, please state  
2 and spell your name for the record, and I'll remind you  
3 all of that again when we get to that stage.

4 If you prefer not to give your comments verbally  
5 today at the mike here at this podium, then you can  
6 present them in writing to the court reporter. So you  
7 might want to be thinking about that if you don't want  
8 to get up in front of the group. We provided note cards  
9 that are at each of the tables.

10 If you would like to have your comments read into  
11 the record today, you can write them down and hand them  
12 to us, and tell us you want them read to the entire  
13 group that's here today, to give people a chance to  
14 think about it. It's your choice. Otherwise you can  
15 also just hand them to the court reporter and we will  
16 take them and have them docketed as part of the  
17 rulemaking record, if you just want to provide them in  
18 writing but don't care if they get read to the whole  
19 group.

20 Of course you can always submit them via mail, fax,  
21 and e-mail during the public comment period. We've, as  
22 I mentioned, provided the note cards if you want them  
23 read in.

24 We're here today until 4:30. We'll take a break in  
25 the afternoon around 2:00 o'clock, and continue to take

1 comments after the break. During the break, if anybody  
2 needs to use the restrooms, they're down this hall.

3 Take a right and go around the corner. There's the rest  
4 rooms and there's also a snack room around the corner.

5 We'd ask that you keep in mind that we like to give  
6 everybody a chance to speak who wants to provide  
7 comments today, so if it looks like there's going to be  
8 a long list of speakers, and a few minutes ago there  
9 wasn't, we may ask you to try to keep your comments to a  
10 reasonable amount of time.

11 To gauge the available time, and to assist with the  
12 transcript, we'd ask that anybody who wants to provide  
13 comments today sign up on the speaker sheet at the  
14 entrance where Julie Ward is, where you came in the  
15 door. After everyone who has signed up to speak has had  
16 the opportunity to provide comments, then we'll also  
17 take additional comments from anyone else in the  
18 audience, as long as time permits up to 4:30.

19 An important note about our format for today's  
20 meeting. Following Merri Horn's presentation, and I'll  
21 introduce Merri in just a minute, we'll move into the  
22 public comment period. We're seeking your comments and  
23 statements about the proposed rule, so we will generally  
24 not be responding to the input right now in this forum.  
25 If you have questions for clarification about the rule,

1 I'd encourage you to approach us during the break.

2 A note about our posters. I hope you had a chance  
3 to see the posters on the side of the room, and also web  
4 based licensing back there. We have them on several  
5 subjects of interest. You can check them out during the  
6 break if you haven't had a chance to look at them  
7 already.

8 One of the series of posters on that side of the  
9 room is on the source tracking system transaction forms.  
10 It will give you an idea of what they would look like if  
11 they're completed. We also have an exhibit on an  
12 import/export form. That's right next to the entrance  
13 way, and also on the web based licensing. That's on  
14 this side of the room. There are also materials that  
15 you can pick up on each of these. Those are at the  
16 entrance way I think.

17 I want to introduce to you our folks who are here  
18 today. Merri Horn, our senior project manager in NRC's  
19 rulemaking and guidance branch, is the primary author  
20 and point of contact on the national source tracking  
21 proposed rule.

22 Julie Ward, our licensing and management analyst, is  
23 our material safety and inspection branch staff member,  
24 helped check you in today. She assisted with the  
25 posters and provided logistics for the meeting. Julie

1 is in the back of the room. Thanks, Julie.

2 I had mentioned our thanks to the State of Texas  
3 for their assistance, and I might say that it's a  
4 wonderful time to be in Texas if you're a Washington  
5 Redskin fan.

6 And finally, I'll be moderating. And with that I'd  
7 like to turn it over to Merri Horn who will go through  
8 your information packages. Merri.

9 MS. HORN: Good afternoon. I wanted to just  
10 quickly let you know what the information packets that  
11 you received today. There's a lot of information in it,  
12 and we won't be going over all of it today, but some of  
13 it just some background information and copy of the  
14 rule.

15 So on the right hand side you have NRC public  
16 feedback form. We really encourage you to fill these  
17 out. You can mail it back in, you can leave it with us  
18 and we'll take it back with us, but your feedback is  
19 very important to us on our public meetings, so we  
20 really do encourage you to fill that out.

21 Have a copy of the slides that I'm going to be  
22 going over today. It has basic information on the rule.  
23 It has sides here where you can actually take some notes  
24 if you have interest.

25 We have the copy of the table. This lists the

1 thresholds that the rule is going to cover. This is  
2 also in the proposed rule itself, but this is just kind  
3 of a handy, one page reference sheet for you.

4 The next item is a comment submittal form. This  
5 gives you the different methods in which you can submit  
6 your comments, and as Scott said you can mail them in,  
7 you can e-mail them, you can actually upload them  
8 directly from our website. You can also hand deliver  
9 them. Obviously that wouldn't be convenient for you all  
10 here. You can fax them. And in today's meeting you can  
11 either make verbal comments, oral comments, come up  
12 here. As we said, we have little note cards scattered  
13 throughout the room. There are some back at the  
14 registration desk. You can write a comment on that. If  
15 you're not comfortable giving it you can give it to one  
16 of us or the court reporter. It will get into the  
17 record.

18 If you have a formal letter, or written comments  
19 that you want to submit to us, we can take those back.  
20 We'll make sure that they're docketed in the record.

21 So basically any written or oral comments that you  
22 give today will be in the record, as Scott said.

23 The next item we have is a copy of the Federal  
24 Register notice. This is the actual proposed rule.  
25 This is what this meeting today is all about. It gives

1 background information, and it also provides the actual  
2 rule text in there.

3 The next item on that side is the regulatory  
4 analysis. This provides basically the cost benefit  
5 information for the rule, how this impacts everyone.

6 On the other side, we have a copy of the agenda, and I  
7 apologize. There has been a little bit of a change  
8 there. Dr. Holahan was not able to accompany us today,  
9 so Scott is going to actually be giving her opening  
10 remarks.

11 We have a copy of some questions and answers on the  
12 national source tracking system. This is just some  
13 questions that we thought that answered some of the  
14 issues that you may have, and hopefully it answered some  
15 of those things.

16 There's a copy of the draft transaction form, and I  
17 will point out that this is a draft. This is the form  
18 that you would use to report your transaction  
19 information if you were to do hard copy by paper. It's  
20 a work in progress. If you have comments on it, you  
21 have suggestions for improvements, we're certainly open  
22 to those.

23 Next is a copy of the completed transaction form.  
24 This is an example of a manufacturer of a new source, a  
25 transfer, receipt, disposal. It just shows you how you

1 would fill out the form for some of those transactions.

2 The posters that we have in the back are actually  
3 the same thing as these, so this is a take away of that.

4 We also have a copy of the IAEA Code of Conduct,  
5 and a copy of the Categorization of Radioactive Sources.  
6 These provide some of the background and some of the  
7 basic information why we were doing some of the rule.

8 And as Scott said, we do have a couple of other  
9 poster stations back there. We have information on the  
10 import/export rule. That was published July 1. It  
11 becomes effective at the end of December. If you do any  
12 importing or exporting of category 2 and above sources,  
13 you will be impacted by that rule and so you need to be  
14 aware of it. We have a copy of the rule itself and I  
15 think there's a little fact sheet.

16 The other one is the web based licensing. If  
17 you're an NRC licensee this is something that we're  
18 going to be rolling out the end of January 2006. It's  
19 going to allow you to apply online for amendments, for  
20 new license applications. You can go online and track  
21 progress of where is it in the process of the review.  
22 Some basic information on inspections. That's just for  
23 NRC licensees, but it will be a very useful tool down  
24 the road.

25 And with that I will turn it back over to Scott.

1 MR. MOORE: Thanks, Merri.

2 Dr. Holahan, the deputy director of our division,  
3 had wished to be here today to give these remarks but  
4 lost her voice over the weekend, so she asked me to  
5 deliver these.

6 If you're having trouble hearing me in the back,  
7 please raise your hand and I'll just speak louder.

8 I want to start off with a few general comments on  
9 rulemaking.

10 The writing of regulations is one of the most  
11 important things we do at NRC. The regulations are  
12 important because they're our vehicle for implementing  
13 national and international policy, and for achieving  
14 NRC's goals for maintaining safety and security, and  
15 they of course translate into what is actually happening  
16 out in the field. It's an extremely important activity.

17 One of the most important parts of that activity is  
18 what's happening today here. It's the opportunity for  
19 public stakeholder involvement in the rulemaking  
20 process. We take public involvement very seriously, and  
21 we want your comments.

22 From that perspective, I really appreciate your  
23 being here today at this meeting. I encourage you to  
24 share your comments and perspectives with us. That  
25 input will help us get the best regulation in this and

1 every area that we work on.

2 Turning specifically to the actual source tracking  
3 system, this rulemaking is a critical part of NRC's, and  
4 the U.S. Government's, overall strategy for the security  
5 of sealed sources. There's been a lot of interest in  
6 this rulemaking both within the commission and also on  
7 Capitol Hill. The recently signed Energy Policy Act of  
8 2005 contains a provision concerning national source  
9 tracking. The proposed rule and this meeting are  
10 important steps in meeting the provisions of the act,  
11 meeting commitments that we made as a nation, and  
12 establishing the national source tracking system.

13 A little bit of background. The NRC has been  
14 working closely with other federal agencies to enhance  
15 national radioactive source security. NRC and the  
16 Department of Energy issued a joint report in May 2003  
17 on radiological dispersal devices. That report  
18 contained a recommendation to develop a national source  
19 tracking system.

20 In addition, NRC supported U.S. Government efforts  
21 to establish international guidance for the safety and  
22 security of radioactive material of concern. These  
23 efforts led to a major revision of the IAEA code of  
24 conduct on the safety and security of radioactive  
25 sources. The code contains a recommendation for each

1 country to develop a source registry of category 1 and 2  
2 sources. The U.S. Government has made a nonlegally  
3 binding political commitment to the code.

4 Although it's recognized that DOE, NRC and the  
5 states have a major responsibility for domestic  
6 regulation of most radioactive sources, other agencies  
7 have a role in ensuring security. The NRC formed an  
8 interagency coordinating committee to provide guidance  
9 on critical issues related to the development,  
10 coordination and implementation of the national source  
11 tracking system, and to ensure that the functions  
12 required by all agencies are addressed. Eleven other  
13 agencies and the agreement states have been involved in  
14 this committee. Agencies represented on the interagency  
15 coordinating committee include Homeland Security, DOE,  
16 Department of State, and the Department of  
17 Transportation. Both the rule and the system being  
18 developed reflect the needs of the NRC, as well as other  
19 agencies' on the committee.

20 I want to stop and point out a very key point here.  
21 We want to make sure that the rule and system that we  
22 put in place will serve everyone's needs. The reason we  
23 put the interagency coordinating committee together was  
24 to get those perspectives upfront. We're building  
25 flexibility into the software system that will support

1 the rule, so that we can hopefully make adjustments, and  
2 address needs as they arise. But we need to know what  
3 they are. We need to work with other agencies, and we  
4 need your input today. Similarly, stakeholders need to  
5 provide input so we can understand their perspectives.

6 So I want to take this opportunity to thank all the  
7 agencies involved for their effort, both for past and  
8 future activities.

9 The national source tracking system will be a web  
10 based system for reporting transactions involving the  
11 higher activity sealed sources. It will provide a life  
12 history for each nationally tracked source. The NRC has  
13 adopted the IAEA category 2 values as the threshold to  
14 allow alignment between domestic and international  
15 efforts, to increase the safety and security of  
16 radioactive sources. The system will contain  
17 information on sources possessed by NRC and agreement  
18 state licensees, as well as DOE facilities.

19 National source tracking is part of a comprehensive  
20 radioactive source control program for radioactive  
21 materials that could be used in radiological dispersal  
22 device.

23 When I spoke earlier about the importance of  
24 rulemaking, one of the things that I should emphasize is  
25 that this is part of an overall regulatory framework.

1 It goes along with inspection and licensing and  
2 oversight, and a lot of our other activities that we  
3 undertake. So although a source tracking system cannot  
4 ensure the physical protection of sources, it will  
5 provide greater accountability. A national source  
6 tracking system, in conjunction with other controls such  
7 as the inspection and the orders NRC issued, will result  
8 in improved security and accountability. Implementation  
9 of the national source tracking system will improve the  
10 security of sources around the world by helping  
11 cognizant agencies to keep track of the location of  
12 sources, and to enable a quick response to losses,  
13 unauthorized transfers, or diversion.

14 Implementation of national source tracking system  
15 will also fulfill the U.S. Government commitment to  
16 implement the IAEA code of conduct recommendation,  
17 develop a national registry of category 1 and 2  
18 radioactive sources.

19 As I said earlier, I encourage you to participate  
20 in our rulemaking process by providing comments on the  
21 proposed rule. We want your perspectives and input.  
22 There are some specific areas that we ask for your  
23 comment in the proposed rule, and Merri is going to go  
24 over them in her presentation.

25 Your input in these areas will help us make the

1 right decision for the tracking of these materials.  
2 Your comments will help us enhance the national source  
3 tracking system, and provide an important tool for  
4 maintaining the security of our nation.

5 Now, if I may provide a few other comments. In my  
6 review of rules as they come through me as the branch  
7 chief, we do look very closely at public comments, and  
8 at how we answer public comments. So I cannot  
9 underscore the importance of the public comment process.  
10 The comments that we are looking to you to provide to  
11 us today are important, and we look at those to shape  
12 the rule. We put out a proposed rule, but we look for  
13 public input to mold that rule into a final rule, both  
14 in the proposed rule stage, and in the final stage. We  
15 look to the agreement state comments in particular. The  
16 agreement state comments are very important to us, and  
17 we do appreciate the State of Texas for hosting us in  
18 this meeting.

19 We were concerned before we held this meeting  
20 whether we would have turnout following the tragic  
21 events of Katrina, and we actually considered canceling  
22 this because we weren't sure about availability of hotel  
23 space, so we're certainly gladdened about the large  
24 turnout today. We do hope that we will get comments  
25 from you today, and we will certainly consider them very

1 seriously as we put together the final rule.

2           Once again I want to welcome everybody here. I  
3 want to emphasize the importance of the activity and how  
4 much we value your input. I encourage you to speak  
5 candidly today, and to provide that input to us. We  
6 certainly appreciate everybody being here today.

7           And with that I'd like to turn things over to  
8 Merri.

9           MS. HORN: Again, good afternoon and welcome.  
10 I really do want to thank you all for taking time out of  
11 what I know are very busy schedules and attending this  
12 meeting. It is very important to get your input.  
13 There's a lot of areas in this system that are flexible.  
14 They haven't been set yet.

15           It's a given that there will be a national source  
16 tracking system. We have a congressional mandate that  
17 says that there will be, so there really is no choice  
18 there. But exactly what that system is going to do, and  
19 exactly how it's implemented, there is some flexibility,  
20 so your comments are really very, very important, and so  
21 we do encourage you.

22           A little bit on today's format. I want to give you  
23 a little bit of background information on the rule,  
24 briefly describe what the requirements of the rule are.  
25 That's basically the rule content. A little bit on

1 scheduling, and then after the end of my presentation  
2 we'll be giving you an opportunity to provide comments.

3 A little bit of background. As Scott mentioned  
4 earlier, there was a joint NRC/DOE report on RDDs, or  
5 radiological dispersal devices, and one of the  
6 recommendations in that report was to develop a national  
7 source tracking system. It's a fairly important system.  
8 We took that very seriously. That's one of the reasons  
9 we formed the various committees that we have. We  
10 formed an interagency coordinating committee as Scott  
11 mentioned. We had representatives from a number of  
12 other federal agencies, and from the agreement states  
13 participating in that. We had steering committees, we  
14 had various working groups that had representatives from  
15 these various groups also. So the rule does, and the  
16 system does reflect the needs of all of these various  
17 agencies, so that's actually very important.

18 During the same time period the NRC was supporting  
19 U.S. Government efforts to establish international  
20 guidance for safety and security of these sources.  
21 These efforts actually led to a major revision of the  
22 IAEA code of conduct on the safety and security of  
23 radioactive sources. That is one of the handouts in the  
24 information packet. The revised code was approved by  
25 the IAEA Board of Governors in September 2003. As we

1 mentioned, it contained a recommendation for a national  
2 source registry.

3 The U.S. Government has made a nonlegally -- it's  
4 termed a nonlegally binding political commitment to the  
5 code. Basically it means we endorse, the government  
6 endorses the provisions of that code, and we are going  
7 to be implementing those aspects.

8 In addition, the President on August 8th signed the  
9 Energy Policy Act of 2005. That act contained a  
10 provision for a national source tracking system. It  
11 basically requires the NRC to issue final regulations by  
12 August 8th, 2006. So basically we have to have the  
13 final rule out and published by that time frame.

14 We believe that this rule is actually consistent  
15 with the act. There are a couple of exceptions that  
16 have to do with the isotopes and I will be discussing  
17 that a little bit later.

18 I also want to point out that source tracking is  
19 part of an integrated and complementary effort to  
20 enhance the security of sources. It's not something  
21 that's out there by itself. We have a lot of other  
22 activities that are ongoing, and some that have been  
23 completed. One of the efforts, the portable gauge  
24 security rule that was issued in final form in January  
25 of '05. There's also an import/export rule on the

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1 import of category 2 and above sources. That was  
2 published July 1 of this year, and that rule will go  
3 into effect I believe at the end of December. And as we  
4 mentioned, there's a little bit of information on that  
5 rule if you have any interest.

6 We've also issued orders related to transportation  
7 of materials. We've issued orders to the irradiators,  
8 to the manufacturers and distributors, and over the next  
9 I believe 90 days or so we're going to be issuing  
10 additional orders to radiographers, to well loggers, to  
11 other medical facilities, to some of the smaller  
12 irradiators. We're working with the states on that so  
13 in some cases the states may be issuing an order, or  
14 they may be issuing a revised license. I think each  
15 state will probably implement that a little bit  
16 different. No one is disagreeing with me on that, so  
17 that must be the way that's working.

18 The proposed rule was published on July 28th. It  
19 provides for a 75 day public comment period. That  
20 comment period ends on October 11th. So basically any  
21 comments that we receive between the July 28th and  
22 October 11th, we will consider, and we do consider  
23 those. I can guarantee you that I will personally read  
24 each and every comment that is given on the rule.

25 As we mentioned earlier, there are actually several

1 methods by which you can submit your comments. You can  
2 send them in by mail. You can e-mail. You can hand  
3 deliver them. You can fax them. You can provide  
4 comments at this particular meeting. So, as we  
5 mentioned, there are several methods by which you can  
6 submit the comments, and we do encourage you to do that.

7 Proposed rule requirements. That's what we're all  
8 here about. I will mention that this rule is being  
9 promulgated under the provisions of common defense and  
10 security. What this means from a practical standpoint  
11 is that it applies to NRC licensees and to all agreement  
12 state licensees at the same time. The agreement states  
13 do not have to issue their own regulations. There's no  
14 compatibility issue. It will apply to everyone, so you  
15 will all begin reporting basically at the same time.

16 Primary licensees that this rule will impact --  
17 manufacturers and distributors, the irradiators, medical  
18 facilities involved in radiation therapy, high and  
19 medium dose rate brachial therapy, radiographers, and  
20 some of the well loggers. I know some of the well  
21 logging sources are just under the threshold, some of  
22 them are just over, so that will be a mix.

23 In addition, point out that DOE is going to be  
24 providing information to the system. They're not  
25 impacted by the rule because we don't regulate them, but

1 they are going to be putting into place similar types of  
2 requirements on the DOE facilities.

3 We will actually require five specific areas, and  
4 we'll be going over those in a little more detail.

5 First we will talk about the threshold. As we  
6 mentioned, both the NRC/DOE RDD report, and the code of  
7 conduct, contains a list of isotopes and thresholds for  
8 consideration. The NRC actually adopted the IAEA code  
9 category 2 values to allow alignment between domestic and  
10 international efforts to increase the safety and  
11 security of those sources.

12 We actually added seven isotopes in the proposed  
13 rule that came from the RDD report. Those were added at  
14 the request of DOE.

15 The TECDOC-1344 document, which is one of the  
16 documents that's in your information packet, provides  
17 the basic of the bases. Where did those numbers come  
18 from, it tells you how those numbers were calculated.  
19 And basically the tech document ranks the sources in  
20 terms of potential risk associated with nonviolent use,  
21 considering normal quantity used, and the various  
22 applications. It considered radiological dispersal  
23 devices and radiological exposure devices.

24 As I mentioned, your information packet contains,  
25 in addition to the rule it contains a table that has all

1 the various isotopes and the thresholds that we're  
2 considering.

3 Now, I will point out that the code of conduct  
4 included radium 226. We mentioned that in the  
5 statements of considerations in the proposed rule. At  
6 the time the rule was issued NRC did not have regulatory  
7 authority over this material, only the states did. So  
8 we didn't have the authority to include it. The Energy  
9 Policy Act actually provides NRC the authority for  
10 discrete sources of radium 226, so we will be including  
11 that in the final rule. So if you have a category 2  
12 level source of radium 226 it will be covered by this  
13 rule when we issue it in final.

14 The Energy Policy Act also contained a provision  
15 that prohibits us from tracking special nuclear  
16 material, so included in that are plutonium isotopes.  
17 Plutonium is considered special nuclear material, so  
18 there were three isotopes that we will be deleting from  
19 the list of sources that we'll be tracking. Those  
20 isotopes are plutonium 236, plutonium 239, and plutonium  
21 240. So in the final rule we will actually take those  
22 isotopes out of the appendix.

23 We will be leaving in plutonium 238 and plutonium  
24 239 beryllium sources, and that's because those are also  
25 included in the code of conduct. The way the Energy

1 Policy Act was established, we are required to track  
2 category 1 and 2 sources from the code of conduct. So  
3 because those two plutonium sources were included there,  
4 we are including them. They will be left in the final  
5 rule.

6 The way the source tracking system will work is we  
7 will actually track sources by a combination of the  
8 make, model and serial number. And so since that's the  
9 way they'll be tracked, we need to make sure that they  
10 all have a unique serial number. So one of the things,  
11 we're making a change to part 32 in the regulations, and  
12 it will require manufacturers to assign a unique serial  
13 number to each of the category 1 or category 2 sources.  
14 And that serial number has to be composed of  
15 alphanumeric characters. We believe that most  
16 manufacturers already do this, but this is actually  
17 going to make it a requirement.

18 Licensees will also be required to report their  
19 initial inventory. Now, I suspect that a lot of you  
20 have been involved in the interim database survey that  
21 we have been doing. We started that in 2003, I think it  
22 was in November or December 2003. We're doing an update  
23 for 2005. We'll be doing another update in 2006. If  
24 you reported your material to the interim database, we  
25 will actually take that data and download it to the

1 national source tracking system. Then we will be  
2 sending it out to the licensees and we'll ask you to  
3 verify that the information is correct, update anything  
4 that is not. It makes it a little less burdensome on  
5 you, particularly if you have a large number of sources,  
6 and they have a longer half life. The radiographers  
7 less of an issue because you change yours out every  
8 three or four months, so obviously the information may  
9 not be correct. But it is intended to provide a little  
10 easier way to get some of that information.

11 We have a phased approach. We plan to start  
12 tracking the category 1 by the end of 2006, and the  
13 category 2 sources by March 31st, 2007. I will say that  
14 those dates are goals. They are actually likely to  
15 change. The actual dates will depend on the development  
16 of the database, not just the rule, because you have to  
17 have a database to enter the information into, and  
18 unfortunately the development of that is a little bit  
19 behind schedule. So it's probably going to be close to  
20 the March to June time frame, but the final rule will  
21 establish the date by which you have to start reporting,  
22 but it will likely be a little bit later than the dates  
23 we have here.

24 For source transactions, what type of information  
25 do you have to report? These are the various things.

1 You have to report when you manufacturer a new source,  
2 when you transfer a source to another licensee, when you  
3 receive a source at your facility, and then when a  
4 source is actually disposed of. Those are the basic  
5 transactions that the source tracking system will be  
6 capturing.

7 For manufacturing of a source, we're really just  
8 getting basic information. It's the basic company  
9 information, the company name, the license number, the  
10 address, the name of the individual that prepared the  
11 report. We're looking for basic source information  
12 which is the make, model, serial number of the source,  
13 what isotope is in the source, the source strength, and  
14 the date that it was manufactured. So it's really just  
15 very, very basic information.

16 On the source transfer, again we're looking for  
17 what companies are involved. That's the company  
18 identification information for both the company that is  
19 sending the source somewhere, and the company that's  
20 receiving it. So for a source transfer, say company A  
21 is sending it to company B, company A would say here's  
22 my company identification information, my name, my  
23 address, the basic information. I'm shipping that  
24 source to company B, and you would provide their license  
25 number, their address information. In addition, you

1 would have to provide, the actual shipping  
2 date that you sent the source, and an estimated arrival  
3 date. And in addition you would have to provide again  
4 the basic source information.

5 Now, one exception to that is if you are  
6 transferring the source under a uniform low level  
7 radioactive waste manifest. Basically that means if  
8 you're sending it to a waste broker, or to a disposal  
9 facility, you would also have to provide information on  
10 the manifest number for that shipment, and the container  
11 identification information. And that's actually  
12 important because at the disposal facility they're not  
13 going to be opening up that container that you have the  
14 source in, so they won't necessarily know that it's in  
15 there.

16 Again for receipt, basic company information. You  
17 know, I received this source, here's my company name, my  
18 address, my license number. Basic information, and  
19 again with the company that sent you the source. And  
20 this is so that we can make the matches in the system.  
21 And then the date of arrival. And again, if it's  
22 material under our waste manifest, the waste manifest  
23 number and the container identification.

24 For disposal. Again your basic company  
25 identification information. What's different here is

1 you don't have to provide any of the source information  
2 because the company that sent it to you has already  
3 provided that, and they said this source is at this  
4 waste manifest and this container. So when the disposal  
5 facility receives it they would be identifying it by the  
6 waste manifest and the container ID. So that's the  
7 information they would provide to the system, and then  
8 the system would make the matches.

9 We're not requiring the licensee to actually open  
10 up the container and verify that the source is in there.  
11 That's an ALARA issues. We don't want undue exposure, so  
12 they're allowed to accept the word of the sending  
13 facility. The additional information they would have to  
14 provide is obviously the date of disposal and the method  
15 of disposal.

16 The proposed rule is actually allowing several  
17 different methods to provide the information. It has to  
18 be provided by the close of the next business day. So  
19 if you received the source on Monday morning, by the  
20 close of business on Tuesday you would have had to  
21 provide the transaction information to the tracking  
22 system. There are several different methods in which  
23 you can do it. You can do it online, you can do it  
24 electronically with like a batch file, and just load  
25 that into the system. You can do a mail, you can fax,

1 and in an emergency you can actually even telephone with  
2 a follow-up by mail. We really encourage everyone to do  
3 this online. Once you set up an account within the  
4 national source tracking system, it will be very, very  
5 easy because, one thing, your licensee information is in  
6 there. Once you log in with your password, that  
7 information is going to pop up, so you don't have to  
8 enter it every time. Once you've received sources, now  
9 you're going to send them somewhere else, those sources  
10 are already in the system, and if someone has sent them  
11 to you you'll have a pending transaction you can click  
12 on that says, yes, I received all these sources. So  
13 basically by clicking on the various screens and the  
14 various sources it makes it much easier to report the  
15 actual information. So we really are encouraging  
16 licensees to do it online. We think it will reduce your  
17 burden, and it makes for more accurate information in  
18 the system.

19 For those, particularly manufacturers that do a lot  
20 of transactions, who are actually making the sources,  
21 we're going to provide what we call a batch load. It's  
22 basically an electronic submittal. You send us a file  
23 that has all the basic information to us once a day, and  
24 we'll download it into the system. It makes for a very  
25 easy mechanism. And while that doesn't quite exist yet,

1 we will be working with you as we're developing this system.

2 It's obviously very important that the information  
3 in the system be accurate and reliable, because if it's  
4 not it doesn't really do anybody any good. To  
5 accomplish this we're doing two things. One is that if  
6 you discover an error we're asking you to correct it  
7 within five business days. That could be something as  
8 simple as you missed a report, you just totally forgot  
9 to file that one, you discovered it, so you're  
10 correcting it by filing the corrected report. Maybe you  
11 reported the model number wrong. Maybe you had a typo  
12 in the serial number. Or maybe you just accidentally,  
13 oh, I thought I was sending it to this company and you  
14 actually sent to a different company. Particularly  
15 where different companies have several licenses, maybe  
16 you clicked on the wrong license and you thought you  
17 were sending it to Texas, you actually sent it to  
18 Louisiana. So you would need to correct those within  
19 five business days of having discovered them.

20 The other thing that we're going to require to help  
21 keep the information in the system accurate is to  
22 require an annual verification of the data. Basically  
23 that means that once a year we're going to ask you to go  
24 in and compare the information that's recorded in the  
25 source tracking system to those sources that you

1 actually have at your facility, and is the information  
2 correct. The way it's set up right now is the first  
3 round would be in June 2007. Again, that date is likely  
4 to slip because the initiation date is going to slip,  
5 but all those dates will be established in the final  
6 rule. And basically if you find something you missed,  
7 we're asking you to resolve it by filing a corrected  
8 report, just like if you discovered an error, but you'll  
9 be required to do that once a year.

10 As Scott said, there are actually several areas  
11 that we're specifically inviting your comment on. We  
12 invite it on any aspect of the rule, obviously, but  
13 these particular six areas we have a lot of interest,  
14 and I think that you will too.

15 The first area is to whether we should lower the  
16 threshold and include category 3 sources. A category 3  
17 source is basically a source that's lower than a  
18 category 2, and it starts at one tenth of the category 2  
19 level. So that means if the category 2 level was 50  
20 curies, the category 3 source would be five curies, up  
21 to 49.999. So we're considering whether those need to  
22 be included in the source tracking system. We're  
23 basically seeking information on the additional  
24 licensees that would be impacted. Because these are  
25 smaller sources, obviously there would be more

1 licensees. The number of sources of these category 3  
2 sources that licensees possess. How often they change  
3 hands. We're looking for information to determine  
4 basically a cost benefit. What's the burden of lowering  
5 the threshold and including these sources? We haven't  
6 made up our mind on that. We don't know if we're going  
7 to do it or not, so your comment is really very, very  
8 important in this area.

9 The next area that we're seeking comment was  
10 whether the states would be interested in developing  
11 regulations to require radium 226 reporting. Obviously  
12 since the proposed rule was published that situation has  
13 changed. Since the Energy Policy Act now gives NRC the  
14 authority to do this, we will actually include radium  
15 226 in the final rule. So this particular area is kind  
16 of moot.

17 The third area where we're inviting specific  
18 comment is whether we should require transaction  
19 reporting for temporary jobsites, and I suspect that's  
20 something that would impact a lot of you here today.  
21 Basically in this scenario the material stays in the  
22 control of the licensee, but you're going to a different  
23 location to do a job. Radiographers do this quite  
24 frequently, as do the well loggers. So obviously that  
25 would have the biggest impact on those types of

1 licensees. But we're looking for information on how  
2 much additional burden would this impose. Is it even  
3 practical? Do you have access to a fax machine or a  
4 computer when you're out in the field? How frequently  
5 do you change temporary job locations? That type of  
6 information to help us decide whether it's worthwhile to  
7 include that in the rule. And again this is an area  
8 where we don't know if we're going to do it or not.  
9 Your comments will influence those decisions, so we  
10 really do encourage you to do that. And if you do  
11 include it, is it all temporary jobsites, or is it just  
12 those that might be in a different state, which means  
13 you're operating under a different license? So please  
14 comment on those areas.

15         The fourth area was since we're not requiring waste  
16 brokers and disposal facilities to verify that the  
17 source is actually in the container, we're seeking  
18 comments on whether we should require those companies to  
19 do a basic inspection of that container to see if  
20 there's any indication it had been tampered with, and  
21 then if there had been some indication that the  
22 container had been tampered with maybe require them to  
23 do a little more investigation.

24         The fifth area is quality assurance of the data  
25 submission. Obviously we expect licensees to provide

1 information that's correct. We're really not -- we  
2 don't have any requirements from a quality assurance  
3 standpoint to make sure that you're checking it, double-  
4 checking that the information is actually accurate. We  
5 are requiring correction of errors when they're  
6 discovered, but that's not quite the same thing. One  
7 possibility would be to require a licensee to double-  
8 check the accuracy of the data using two independent  
9 staff. That would mean one individual would prepare the  
10 reports, the second would check on the accuracy of the  
11 information before it was actually submitted. And again  
12 we're seeking comment on what might be the appropriate  
13 requirements for quality assurance? Are these the right  
14 ones? How much burden would that impose? Do you have  
15 enough staff? Particularly for some of the smaller  
16 licensees, do you even have enough staff to have someone  
17 independent to go in and actually verify that that  
18 information is correct? And if we're submitting  
19 information online, how could you do that double-check,  
20 how might that work? So we really are, again we're  
21 encouraging you to comment in this area.

22 And the last area where we're specifically inviting  
23 comment was in the data protection area. The data in  
24 the national source tracking system is going to be  
25 considered official use only. It's not going to be

1 considered safeguard, so it doesn't have to be locked up  
2 anywhere. But it also means that there are no specific  
3 requirements for licensees or anyone really to protect  
4 that information. NRC has our internal requirements to  
5 protect it once we receive it, but when it's in the  
6 licensees' hands, and it's their own data, it's  
7 equivalent of what's called company proprietary, and you  
8 can share that information at your discretion. So we're  
9 seeking comment on whether we should require some  
10 additional protection to this material. And if we do,  
11 what level of protection would be appropriate? Should  
12 it be considered safeguard? Should it be somewhere in  
13 between?

14 So we really do encourage you to provide  
15 information in these areas. As I said, we want  
16 information from the impacted stakeholders, that's you,  
17 to tell us. We want to make an informed decision that  
18 makes sense. Weigh the extra burden with what may be  
19 additional safety, security that we might get out of  
20 those requirements. So please do comment in those areas  
21 and any other areas that you would like to.

22 A little bit on the schedule. As I mentioned, the  
23 rule was published on July 28th. That comment period  
24 ends October 11th. That's just a few weeks from now so  
25 it is coming up.

1           We had the meeting here today. We had a meeting  
2 in Rockville on August 29th.

3           The Energy Policy Act requires us to have the final  
4 rule published by August 8th of 2006, so that's a  
5 definite date for us.

6           Mentioned we plan phased implementation. Those  
7 final dates aren't set yet, but they'll basically be  
8 about three months apart for the category 1 and the  
9 category 2. I'm guessing now maybe March to June time  
10 frame of '07. So it probably will slip a little bit.

11           We do plan to have a lot of stakeholder workshops.  
12 Once the rule is actually -- we've issued the rule and  
13 it's in place, and the system is getting a little  
14 closer, we plan on having workshops for licensees  
15 throughout the country. Right now we definitely plan on  
16 having one in each region, and the other exact locations  
17 we haven't set yet. But this will basically provide you  
18 an opportunity to have hands-on. We'll have the  
19 computer system there and you can actually go in and you  
20 can play with the system. We'll show you how to make  
21 those reports for the various reports. Information on  
22 how to set up an account for the source tracking source.  
23 We'll have training for the agreement state personnel,  
24 for licensees, for a large number. It's not going to be  
25 a rule that's just implemented all at once and you get

1 nothing. We actually plan some additional sessions to  
2 show you this is what the rule is, this is how you'd  
3 report the information. So it's intended to be a  
4 training and demonstration session.

5 And with that I do thank you, and again I encourage  
6 you to provide comments on the rule. They really are  
7 important. And with that I will turn it back to Scott  
8 and we will start taking comments from the stakeholders.

9 MR. MOORE: Right now there are two people  
10 signed up to speak, so what we'll do is we'll go through  
11 those two speakers and then if anybody else wants to  
12 speak I'd strongly encourage you to sign up in the back.  
13 We'll go with those afterwards. If you want to provide  
14 comments on the note cards, we can read them or you can  
15 just provide them for the court reporter. Then we'll  
16 take a break as soon as that's over.

17 We would prefer that if you have any questions you  
18 just ask them during the break. If you want to phrase  
19 your questions in terms of a comment for the rule, we'd  
20 prefer that you phrase it as a comment for the  
21 rulemaking. You can make a comment for the rule, but  
22 we're not going to respond to questions in general  
23 today.

24 Our first statement is by Ruth McBurney for the  
25 Health Physics Society. Ruth.

1           For each of the speakers, please state your name  
2 and then spell your name for the court reporter.

3           MS. MCBURNEY:   My name is Ruth McBurney, M-c-  
4 B-u-r-n-e-y, and I'm here representing the Health  
5 Physics Society.

6           What I'd like to do is turn in some written  
7 comments and read them into the record.

8           As President of the Health Physics Society I am  
9 pleased to be given the opportunity to provide comments  
10 on the proposed rulemaking by the Nuclear Regulatory  
11 Commission to implement a national source tracking  
12 system for certain sealed sources.

13           The Health Physics Society is an independent  
14 scientific organization of professionals in radiation  
15 safety. The Society has a history of providing its  
16 volunteer resources to assist legislative and regulatory  
17 entities in making responsible laws and regulations that  
18 provide security, safety and protection for the general  
19 public, while being able to receive the benefits from  
20 the use of radioactive material in medicine, homeland  
21 security, defense, academia, and industry.

22           On the issue of security of radioactive sources,  
23 the Society issued a position statement in April 2002  
24 titled "State and Federal Action is Needed for Better  
25 Control of Orphan Sources," which was accompanied by a

1 document that provided background information on the  
2 position statement. More recently, a working group of  
3 experts was chartered by the Society President to  
4 prepare a report on the current state of radioactive  
5 source security for use by Society leadership as they  
6 consider whether Society position statement need  
7 updating in light of the extensive actions that have  
8 occurred over the last few years. The background report  
9 and assessment titled "Actions Needed to Better Control  
10 of Vulnerable Radioactive Sources: A Contemporary  
11 Report" includes a section on the national source  
12 tracking system. These documents are available on the  
13 Society website at hps.org. Although these comments do  
14 not constitute official positions of the Society, they  
15 are based on these documents.

16 The Society's 2002 position statement on orphan  
17 source control recommends, among other things, that  
18 actions be taken by federal and state regulatory  
19 agencies to prevent existing radioactive sources from  
20 becoming orphaned, as well as to correct the problem  
21 with vulnerable sources.

22 One of the specific actions recommended by the  
23 Society was developing a confidential national tracking  
24 system for licensed sources. Therefore, the Health  
25 Physics Society fully endorses the establishment of a

1 national source tracking system as it has for the past  
2 three years.

3 I would like to commend the extensive effort made  
4 by the NRC and the Department of Energy to get to this  
5 point of formalizing their proposed rule for such a  
6 system.

7 Although the referenced Society position statement  
8 was issued after the events of September 11, 2001, the  
9 majority of the work in drafting the statement had been  
10 completed before that tragic day. Because it was  
11 essentially written before 9-11, the position statement  
12 was written from a perspective of addressing a concern  
13 for a public health and safety issue, and not from a  
14 perspective of addressing a national security issue.  
15 The proposed national source tracking system has arisen  
16 from a national security concern. However, I would like  
17 to emphasize that the Society believes that a source  
18 tracking system is also needed to address a public  
19 health and safety issue. Therefore, I believe that the  
20 final system should meet the needs for enhancing public  
21 health and safety, as well as national security. I  
22 believe that a system designed to provide an adequate  
23 degree of protection for public health and safety will  
24 provide for national security.

25 The Federal Register notice of the proposed

1 rulemaking invites public comments on seven specific  
2 items. One of these items involves the inclusion of  
3 radium 226, and category 3 sources in the tracking  
4 system, which are the issues related to the fundamental  
5 protectiveness of the tracking system. The other issues  
6 are related to the details of implementation and impact.  
7 While implementation and impact issues are very  
8 important, they are most appropriately addressed by the  
9 individuals, agencies, and organizations directly  
10 affected by implementing the rule. I strongly encourage  
11 Society members that are directly affected by the  
12 proposed rule to provide public comments. However, my  
13 comments will only address the first issue, which is  
14 related to the fundamental protectiveness of the  
15 tracking system.

16 Regarding the issue of inclusion of radium 226 in  
17 the tracking system, the Federal Register notice cites  
18 that the NRC does not have the authority under the  
19 Atomic Energy Act as amended for control of radium 226,  
20 and, therefore, proposes that the inclusion of radium  
21 226 be on a voluntary basis, even though it is  
22 recognized that this would not provide for assured  
23 tracking of these sources. The Federal Register notice  
24 was published one day before the United States Congress  
25 passed the Energy Act of 2005, and a little more than

1 one week before the Energy Act was actually signed by  
2 the President.

3 One of the provisions of the Energy Act which was  
4 added at the last minute during conference on the bill  
5 is to classify discrete sources of radium 226 as a type  
6 of by-product material in the Atomic Energy Act, which  
7 gives the NRC authority and responsibility for its  
8 control. Although discrete sources of radium 226 still  
9 needs to be defined by NRC, the Society is confident  
10 that it will include sources of radium 226 that are of a  
11 strength to be in a category that is covered by the  
12 tracking system. Therefore, I understand the issue of  
13 inclusion of radium 226 in the tracking system has been  
14 resolved by the Energy Act of 2005, and as Merri  
15 mentioned earlier that it would be included in the final  
16 rule.

17 There is also an issue as to the extent to which  
18 radioactive sources are required to be included in the  
19 tracking system. The proposed rule requires category 1  
20 and 2 sources to be included in the system. The Federal  
21 Register notice defines and explains these categories  
22 which are established by the International Atomic Energy  
23 Agency (IAEA). The NRC justifies inclusion of category  
24 1 and 2 sources by citing the recommendation from the  
25 IAEA Code of Conduct for inclusion of these isotopes and

1 thresholds in a national source registry, and the NRC  
2 has chosen these categories to allow alignment between  
3 domestic and international efforts, to increase the  
4 safety and security of radioactive sources.

5         However, the NRC further states that they may  
6 consider including category 3 sources, those at one  
7 tenth of the category 2 threshold, in the future because  
8 a licensee possessing a large number of category 3  
9 sources could present a security concern. The notice  
10 points out that an item tracking system, like the  
11 proposed system, cannot include aggregation of sources,  
12 because the sources may move in and out of the tracking  
13 system with changes of ownership. The NRC then  
14 specifically invites comments on the inclusion of  
15 category three sources in the national source tracking  
16 system.

17         The definition of category 3 clearly indicates that  
18 they should be included in the national source tracking  
19 system, unless it can be shown that to do so is  
20 unreasonably burdensome.

21         The NRC is correct that an aggregation of category  
22 3 sources could be a security concern. However, by  
23 definition, individual category 3 sources are also  
24 dangerous. IAEA Safety Guide RS-G-1.9, Categorization  
25 of Radioactive Sources, which you have in your packet,

1 Appendix 2, Table 3 describes a category 3 source as  
2 follows:

3 "Dangerous to the person: This source, if not  
4 safely managed or securely protected, could cause  
5 permanent injury to a person who handled it, or was  
6 otherwise in contact with it for some hours."

7 In addition to the ability to cause permanent  
8 injury, individual category 3 sources can have a serious  
9 social and economic impact if not managed or securely  
10 protected. As reported in the previously cited "Actions  
11 Needed for Better Control of Vulnerable Radioactive  
12 Sources: A Contemporary Report," in an RDD attack  
13 radiation injuries and deaths will be relatively small  
14 compared to psychosocial and economic damage.  
15 Significant psychosocial effects were observed in the  
16 aftermath of the Goiania, Brazil radioactive  
17 contamination accident. With respect to economic  
18 damage, the cost for a contaminated steel mill to shut  
19 down and cleanup after an accidental melting of a  
20 radioactive source has been as high as \$23 million, and  
21 has averaged \$12 million per event, even though the  
22 contamination is confined to specific pathways within  
23 mill property. Further, only one of the 22 accidents of  
24 this type in the United States involved a source  
25 exceeding IAEA category 2 thresholds. The economic

1 consequences of radioactive contamination caused by  
2 similar radioactive sources dispersed by an RDD into a  
3 public area would be far greater.

4 This same report also details that in developing  
5 the code of conduct provision for a source tracking  
6 system, the IAEA concluded that category 3 sources  
7 carried a potential risk of harm that warrants inclusion  
8 in a tracking system. However, participating member  
9 states did not want to make inclusion of category 3  
10 sources in the national registry a requirement because  
11 the large number of such sources and the economic cost  
12 for tracking them could be overly burdensome.

13 A source tracking system does not prevent the loss,  
14 theft or mismanagement of a radioactive source.  
15 However, it can be an important part of the overall  
16 security and control system for sources.

17 Because of the potential for unacceptable personal  
18 injury, economic or social consequences from a  
19 mismanaged or poorly secured individual category 3  
20 source, the NRC should be consistent with the approach  
21 of the IAEA and consider that category 3 sources warrant  
22 inclusion in the tracking system, unless they can  
23 demonstrate that the large number of such sources, and  
24 the economic cost for tracking them, would be overly  
25 burdensome.

1           The current mindset of NRC towards category 3  
2 sources is that they not be included at this time, but  
3 they may be included in the future based on security  
4 risk. Public health and safety concerns, as well as  
5 security concerns, support a mindset that category 3  
6 sources should be included at this time, unless an  
7 appropriate study and analysis demonstrates that it  
8 would be overly burdensome.

9           Regarding the performance of a study and analysis,  
10 the NRC indicated in the Federal Register notice three  
11 specific items of information that they are interested  
12 in to enable the NRC to make a more informed decision on  
13 the inclusion of category 3 sources. The three items  
14 listed are certainly important to the analysis of the  
15 impact of including category 3 sources. However, a  
16 study that is performed to inform a decision on  
17 exclusion, rather than a decision on inclusion, would  
18 likely include other items of interest, and would  
19 require focused data gathering rather than a general  
20 solicitation of information.

21           The data gathering for an analysis of exclusion  
22 rather than inclusion should be done by a proactive  
23 search for information, rather than a passive general  
24 request for information. The latter approach does not  
25 give any assurance of the representativeness of the

1 data. A focused study should also look at alternatives  
2 rather than an "all or nothing" approach. For example,  
3 an analysis of the numbers of different types of  
4 sources, types of licensees, and other security  
5 requirements associated with the different types of  
6 sources might identify some types of category 3 sources  
7 that could be excluded, while others should be  
8 appropriately included in the tracking system.

9 An important issue related to the suggested study  
10 of category 3 sources is that the suggested study and  
11 analysis of category 3 sources should be done in such a  
12 way that it does not disrupt the current implementation  
13 schedule for category 1 and 2 sources. The current  
14 implementation schedule set out by the proposed rule is  
15 appropriately aggressive with tracking of category 1  
16 sources implemented by December 31, 2006, and category 2  
17 sources implemented by March 31, 2007. It seems that a  
18 study and decision regarding category 3 sources could be  
19 completed to support implementation of category 3  
20 sources, if required, by the end of 2007.

21 In closing, I want to reiterate my commendation of  
22 the NRC and DOE for getting this far along with the  
23 implementation of a national source tracking system, and  
24 thank you for the opportunity to provide these comments  
25 on the proposed rule. I hope you will find them useful

1 as you continue to work to protect the public health and  
2 safety, as well as to increase the national security of  
3 beneficial radioactive sources.

4 Thank you.

5 MR. MOORE: Thanks, Ruth, and the HPS, for  
6 those comments.

7 Our next speaker will be Lloyd Gray of Acuren.

8 MR. GRAY: Well, it's actually Acuren  
9 Inspection. Used to be Longview Inspection. We can  
10 still go by Longview because we're waiting on the NRC to  
11 amend that license. We've been waiting on for four  
12 months. It's L-l-o-y-d G-r-a-y.

13 I'm not as prepared as Ruth because I came prepared  
14 to ask questions from you guys, but I'll have to e-mail  
15 them to you. But I had a couple of comments I wanted to  
16 go over.

17 First of all, on page five, proposed rule  
18 submittal. You all say "reports submitted by the close  
19 of the next business day after the transaction." I  
20 would like to see that changed to probably five days, at  
21 least three, because sometimes it's very difficult, and  
22 these guys in the building here, either with well  
23 logging or with radiography know that sometimes things  
24 can get out of hand a little bit. You might have other  
25 responsibilities. You wear multiple hats so, therefore,

1 you need extra time. You're not going to have a  
2 significant change in activity between the next day and  
3 three days or five days, and you're going to know where  
4 that source is at. So I'd like to see that changed.

5 As an example, we have 31 facilities around the  
6 country. We have 22 in agreement states and nine  
7 locations in NRC jurisdiction. Those 31 facilities, on a  
8 daily routine, are receiving and disposing of sources.  
9 I'm going to have one individual at each office who is  
10 going to be the RSO assigned this responsibility for  
11 this reporting, and he may not be available that next  
12 business day. So I don't want to have multiple people  
13 involved in this, so that's why I would ask that that be  
14 extended.

15 Proposed rule verification reconciliation. It says  
16 "Reconcile and verify inventory each year." Now, I'm  
17 not sure if you all mean that you're going to want us to  
18 reinvent the wheel and reconstruct the inventory itself  
19 that we've submitted during the year, or is it going to  
20 be a one page verification form that says that we have  
21 verified that -- that's what it's going to be? Okay.  
22 So I got a question in anyway.

23 The last comment I have is on proposed rule  
24 comments is reporting use at temporary jobsites. This  
25 is not practical at all. We have guys, on a given day

1 we'll have 150 jobsites going at one time, and it  
2 doesn't matter whether you have ten temporary jobsites,  
3 or a hundred temporary jobsites. You would have to have  
4 someone permanently assigned to do nothing but sit down  
5 and send this information in on a daily routine. So I  
6 would ask that that be omitted from that particular  
7 category.

8 And the rest of it is all questions that I'll be  
9 sending to you. Thank you.

10 MR. PICCOLO: I'd like to make a comment.

11 MR. MOORE: Sure.

12 MR. PICCOLO: My name is Rick Piccolo, P-i-c-  
13 c-o-l-o. I'm with the Marion Medical Systems, and like  
14 the earlier gentleman I really had come prepared more to  
15 ask questions than make a comment, but be that as it is,  
16 I'll just state my comment.

17 I'm a health physicist. I'm certainly not speaking  
18 other than for myself and my company. I recommend that  
19 the NRC not include category 3 sources in the  
20 rulemaking. If category 3 sources were to be included  
21 many low activity sources of low risk would overburden  
22 the database and user. This would dramatically increase  
23 the number of records and would diminish the  
24 effectiveness of the rule by the likelihood of data  
25 entry error, timeliness, and sheer volume.

1           Additionally, inclusion of category 3 sources would  
2 unduly burden the manufacturers and licensees due to the  
3 large number of category 3 sources that are in common  
4 use throughout the U.S.

5           Thank you.

6           MR. MOORE:   Thank you.  Are there any  
7 comments on any of the note forms?  Would anybody else  
8 right now, before we take a break, like to make any  
9 comments?  Yes.  Why don't you come on up.

10           MR. MILLER:   Name is John Miller, M-i-l-l-e-  
11 r.  I'm with International Isotopes.

12           The comment I have is on the transactions, and I  
13 think there's one transaction that is missing, and  
14 that's recycling, a recycling of sources.  There should  
15 be something in here that says recycling, or disposal  
16 for recycling, or disassembly for recycling, because you  
17 can't capture it with disposal because the rule ties you  
18 to include a waste manifest number for that disposal.  
19 And if that changes then there needs to be a change on  
20 the form 748.

21           That's my comment.

22           MR. MOORE:   Anybody else would like to  
23 provide any comment?

24           Okay.  I think what we'll do is we'll take a break  
25 for 15 minutes, until 2:00 o'clock.  I'd like everybody

1 to consider what we're asking for comments during the  
2 break. In particular we're especially looking for  
3 thoughts about inclusion of category 3 sources,  
4 reporting use at temporary jobsites, inspecting waste  
5 shipments for tamper indication, inclusion of quality  
6 assurance provision on data submission, and data  
7 protection by licensees. We had the issue also on  
8 state development regulations of radium 226, but Ruth  
9 mentioned that in her comments and it's effectively been  
10 addressed by the nonregulation.

11 Merri will be available to answer any questions  
12 that anybody may have on the rule. We will be off the  
13 transcript during the break portion. But if you do have  
14 any questions about the rule, Merri will be available  
15 during the break portion.

16 The restrooms are down the hall around the corner,  
17 and we will begin again at 2:00 o'clock. Thank you all.

18 (Whereupon, the foregoing matter went off the  
19 record at 1:42 p.m. and resumed at 2:00 p.m.)

20 MR. MOORE: I encourage anybody that wants to  
21 make any specific comments again to sign up in the back  
22 of the room with Julie.

23 We had some people turn in written comments, and  
24 I'll read those out now.

25 Daniel Bonvillain provided the following comments.

1 Last name spelled B-o-n-v-i-l-l-a-i-n.

2 "Temporary jobsite reporting did not address timing  
3 of reporting. Even with the next business requirement  
4 of other proposed reporting, most information would be  
5 irrelevant due to the fact that 80 to 90 percent of  
6 temporary jobsites are less than one day in job  
7 duration. For information to be useful it would have to  
8 be the day of use, which would be overly burdensome.  
9 Therefore, my comment is that temporary jobsite  
10 tracking would be very impractical."

11 Thanks for the comment.

12 We have a couple of questions with no name provided  
13 on the rule.

14 "As the radiation safety officer with multiple  
15 locations in various NRC/agreement states, will I have  
16 access to manage the information provided from these  
17 locations? And the next question is what happens if  
18 when sources decay below the category levels?"

19 And then I think what we'll do is just address  
20 those types of questions when we respond to the  
21 questions in the proposed rule.

22 The next comment is made by Chris Smith. Last name  
23 S-m-i-t-h.

24 "The comment is this rulemaking is in excess. If  
25 the NRC/agreement states wish to track sources it should

1 be via the submission of required quarterly inventories.  
2 As for increased security, currently the NRC is/has  
3 issued orders related to quantities of concern.  
4 Therefore, licensees are required to provide increased  
5 controls/security measures for the receipt, transfer and  
6 movement of sources. This rule is repetitive in  
7 nature."

8 Thanks, Mr. Smith.

9 The next comment is not signed. It just says "I  
10 would strongly suggest that the tracking of temporary  
11 jobsites be removed from the tab six. Radiography  
12 companies may frequent a number of jobsites in any one  
13 day. The burden/financial impact would be overly  
14 burdensome for licensees."

15 Those were the written comments submitted on cards  
16 during the break. Are there any other comments that  
17 anybody would like to provide at this point?

18 These are the areas we're looking for comments on  
19 the rules. Inclusion of category 3 sources. The radium  
20 226 we've discussed has effectively been dealt with  
21 under the Energy Policy Act of 2005. The reporting use  
22 of temporary jobsites. Can't believe that in Texas you  
23 don't have opinions about the temporary jobsite issue.  
24 Inspecting waste shipments for tamper indication.  
25 Inclusion of quality assurance provisions on data

1 submission, and data protection by licensees.

2 Here's what we're going to do if there are no other  
3 comments, and I'll ask again when I finish on the  
4 discussion if anybody wants to make any comments.

5 If there are no other comments that anybody wants  
6 to provide, either on the cards or in person to the  
7 audience, then effectively we'll end this general  
8 portion of the meeting, but we will stay here and we'll  
9 be open to receive any comments until 4:30. The meeting  
10 will go on as it was announced until 4:30. Anybody can  
11 provide open comments until 4:30.

12 If you have questions and would just like to talk  
13 with Merri about the rule, or ask questions of Merri  
14 about the rule, we'll be available to address any  
15 questions at the back of the room. We will stay around,  
16 but the open portion of the meeting will effectively be  
17 over at that point.

18 Our purpose today was to take comments on the rule,  
19 and we certainly achieved that purpose. We appreciate  
20 everybody's input. As I mentioned when we started the  
21 meeting, we had concerns about whether we'd even have  
22 attendance at the meeting, given the effects of Katrina  
23 and the availability of space in the Houston area and  
24 everything like that. So we certainly appreciate  
25 everybody's attendance. We also appreciate the State's

1 help in setting up the meeting.

2 Is there anybody else that would like to offer any  
3 comments at all on the proposed rule at this point?

4 Yes, sir? Maybe I could just repeat the question.

5 The individual asked the proposed workshops, are  
6 there dates set up for those? There are not dates set  
7 up for those yet, for the workshops. The workshops are  
8 actually on the tracking system itself, and the system  
9 has to finish development and we have to be ready to  
10 roll it out before we set up the workshops. So it would  
11 have to be closer to the actual implementation date  
12 before we'd be ready to do workshops. Certainly when  
13 we're ready to do the workshops you'll get notified and  
14 the notification will be as broad as it was for these  
15 types of public meetings.

16 With that, thank you so much for attending this.  
17 We appreciate your input. Also, if you want to provide  
18 input via mail or e-mail or fax, we'd be open to that.  
19 We do use your input to shape the rule, and it is very  
20 important. The open time period for the rule is closing  
21 off, so please get your comments in before the open time  
22 period closes on October 11th.

23 Finally, we would appreciate receiving any feedback  
24 you all have on this meeting. There's an NRC public  
25 meeting form in your folders. Please fill out the form

1 if you would and provide it either to Julie as you all  
2 walk out the door, or you can send it back. You can  
3 mail it back to NRC, no postage is necessary, so I would  
4 appreciate filling it out.

5 Yes, sir?

6 UNIDENTIFIED SPEAKER: Is the October 11th  
7 date, is that receipt by the NRC by October 11th?

8 MR. MOORE: There's a question about the  
9 October 11th date. Is the October 11th date receipt by  
10 NRC?

11 UNIDENTIFIED SPEAKER: Or postmarked?

12 MS. HORN: Postmarked.

13 MR. MOORE: Or postmarked. And the answer is  
14 it needs to be postmarked.

15 Yes, sir? There's a question, the comments that  
16 have been generated, are they going to be available  
17 online, and can you read the replies?

18 The comments themselves are provided in summary  
19 form. We generally bin the comments as part of the  
20 proposed rule and they're provided in the Federal  
21 Register notice that announces the final rule, and so  
22 the Federal Register notice that goes out announcing the  
23 final rule has the comments on the proposed rule and the  
24 response to each block of comments.

25 For example, the one that got comment here a lot

1 today was on temporary jobsites. There will be either a  
2 block responding to the issue of temporary jobsites, or  
3 a bunch of questions on temporary jobsites saying so  
4 many commenters said such and such about temporary  
5 jobsites. Then it will have NRC's response on that  
6 issue, or if there were multiple issues about temporary  
7 jobsites it will have those and the response to each of  
8 those. That will go out in the Federal Register. I  
9 don't remember if we posted it.

10 MS. HORN: All comments that we receive will  
11 be posted on our website. The transcripts from this  
12 meeting will be on the website. The transcripts from  
13 the August 29th meeting are already located there. And  
14 while they're available in ADAMS, I'm not sure how many  
15 of you are familiar with ADAMS, it's not always the  
16 easiest thing to find, we also place them on the  
17 ruleforum. It's ruleforum.llnl.gov. You can also  
18 access that site from the NRC's public website. That  
19 particular website has all the information related to  
20 all the NRC rules that we have ongoing.

21 Yes, sir? It's ruleforum.llnl.gov -- and  
22 ruleforum is r-u-l-e-f-o-r-u-m dot l-l-n-l dot g-o-v.

23 MR. MOORE: And you can get to it from NRC's.

24 MS. HORN: You can actually get to the site  
25 from the NRC's public website, but that's the direct

1 address for that. We have information on all of our  
2 rulemakings as I said, so when you first go into that  
3 site it will give you a whole bunch of things on the  
4 left. It has ANPR, it has new regs, it has a whole  
5 bunch of things. So if you go down to the one that says  
6 proposed rules, and you click on that, it will bring up  
7 a list of all the proposed rules that we actually have  
8 out for comment right now. One of those is the national  
9 source tracking system. If you click on the national  
10 source tracking system you get a second menu that says  
11 -- you can actually send comments directly via that  
12 website. You can also, one of the things you click on  
13 is rule documents, and if you click on the rule  
14 documents it lists all the documents for the rule. It  
15 will have the federal register notice. It has the reg  
16 analysis. It has the Office of Management and Budget  
17 information collection documents. It has the  
18 transcripts. All the public comments are also listed on  
19 that website. So you can actually go in and you can get  
20 access to any comment that's been provided.

21 And as far as the responses, as Scott said, we will  
22 have a section in the statement of considerations in the  
23 final rule, and we summarize all the comments in there,  
24 and we respond to them. And that's the only place that  
25 that would be. Now that final rule will go, once it's

1 published in the Federal Register it will be placed on  
2 that website. I think it stays there for like 90 days  
3 after the rule becomes effective. And of course you can  
4 always find things in ADAMS.

5 Do we have any other questions?

6 MR. MOORE: Thank you so much for your  
7 attendance here. We really appreciate it.

8 (Whereupon, at 2:10 p.m. the foregoing matter  
9 was adjourned.)

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