

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

UNITED STATES NUCLEAR REGULATORY COMMISSION
BRIEFING ON MATERIALS LICENSING AND SECURITY

+ + + + +

WEDNESDAY

APRIL 30, 2008

+ + + + +

The Commission convened at 9:30 a.m., the Honorable Dale E. Klein,
Chairman presiding.

NUCLEAR REGULATORY COMMISSION

DALE E. KLEIN, CHAIRMAN

GREGORY B. JACZKO, COMMISSIONER

PETER B. LYONS, COMMISSIONER

KRISTINE L. SVINICKI, COMMISSIONER

1 NRC STAFF:

2 LUIS REYES, Executive Director for Operations

3 MARTIN VIRGILIO, Deputy Executive Director for Materials,

4 Waste, Research, State, Tribal and Compliance Programs

5 CHARLES MILLER, Director, Office of Federal and State

6 Materials and Environmental Management Programs (FSME)

7 ROBERT LEWIS, Director, Division of Materials Safety and

8 State Agreements, FSME

9 PATRICIA HOLAHAN, Director, Division of Security Policy,

10 Office of Nuclear Security and Incident Response (NSIR)

11 JOSEPH HOLONICH, Director, Program Planning,

12 Budgeting and Program Analysis Staff, FSME

13

14

15

16

17

18

19

20

21

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

2 CHAIRMAN KLEIN: Good morning. We're looking forward
3 to hearing the update and the activities. I know this is an area that a lot of
4 activity has occurred. What I'd like to comment on before we start is I
5 thank the Agreement States for their participation. As we all know, they
6 have a lot of activity and involvement in this.

7 I think it's very important that we communicate through them
8 as we go through all of these processes. Any comments from my fellow
9 Commissioners?

10 COMMISSIONER JACZKO: I would just say a few words.
11 This is one of several briefings we've had on some of these topics. What I
12 will certainly be looking for out of this is to hear -- especially as I reviewed
13 the slides it wasn't exactly clear to me in some areas, exactly the actions
14 we'll be taking to address these issues.

15 I think we have spent a lot of time reviewing and studying. I
16 think we're at the point now where we need to start engaging in actions. I
17 think I continue to believe in particular on the cesium chloride issue that
18 rulemaking is the only way we're going to resolve this issue for the very
19 simple reason that rulemaking provides a forum to solicit the wide diversity
20 of stakeholder comments that we will get on this issue.

21 I do not think we can solve this issue any other way. I can't

1 tell you right now what I think the solution is, but I firmly believe that that is
2 the right process. The sooner we get involved in rulemaking, the sooner
3 we will get all the views on the table to be able to make good informed
4 decisions. So, I certainly hope to hear in particular on that issue how we
5 will be moving forward.

6 I saw a lot of discussion about reporting to the task force, the
7 Radiation Security Task Force, but no real sense of how we take that and
8 translate that into regulatory action. And I think that's the point at which
9 we are.

10 So, as I said, I hope to hear. If not, I'll probably explore that
11 some more in questions. Thank you.

12 COMMISSIONER LYONS: I guess I'd just comment that
13 there's certainly no question that radioactive source material security and
14 controls is one of the biggest challenges facing the agency.

15 In looking through the slides, it's very impressive the amount
16 of progress we have made and I'm looking forward to further discussion on
17 that today. Major challenges, clearly here, including the cesium chloride
18 that Commissioner Jaczko mentioned.

19 CHAIRMAN KLEIN: Luis?

20 MR. REYES: Good morning, Chairman and Commissioners.
21 The staff is ready to brief the Commission on materials licensing and

1 security. You stole my thunder. I was going to say I know there's a lot of
2 interest from the Commission.

3 We're excited to be here this morning because there's been
4 a lot of effort from the staff to be responsive to the challenge in front of us.
5 Since we have a lot of material to cover, so I'm going to just turn it over to
6 Marty.

7 MR. VIRGILIO: Thank you. Good morning, Chairman.
8 Good morning, Commissioners. I want to make sure that you knew the
9 people at the table. I think you do. Rob Lewis, Trish Holahan, Charlie
10 Miller, Joe Holonich will all be speaking to you today about the program.

11 I just wanted to kick off with a few opening remarks if I could.
12 We met with the Commission back in March on the state of the technical
13 programs. Commissioner Svinicki, I recognize you weren't here for that
14 briefing, but we did have a very good discussion about, I thought,
15 radioactive materials security and what we've implemented since the
16 events of 9/11.

17 I'm quite proud of all the program activities and changes
18 we've made around radioactive source materials since the September 11
19 events.

20 With that being said, today you're going to hear more about
21 initiatives and new initiatives that we have undertaken to advance and

1 enhance where we are in the area of security.

2 You're also going to be hearing about some of the
3 challenges we face in the materials security area. I'd like to recognize as
4 the Chairman did the close and very good cooperation we've had from our
5 partners, both the Federal partners and our Agreement State partners.

6 I really want to acknowledge their commitment to safety and
7 security and the support that they've provided to us. I'd also like to
8 support -- to recognize the support the Commission has provided us.

9 We've had good policy, good direction and we've had
10 resources to implement that policy, which we really very do much
11 appreciate.

12 One of the challenges that we talked about at the technical
13 meeting on programs was the integration of all the various initiatives and
14 recommendations that we have in front of us.

15 This remains a major challenge for us and Charlie Miller in
16 his presentation is going to talk about the integration of those initiatives.
17 I'd also like to highlight one additional near-term challenge related to our
18 safety programs.

19 In parallel with making enhancements to our security
20 programs, we still need to implement our safety programs. And balancing
21 these two issues of safety and security has been a challenge and I expect

1 it to be a more significant challenge as we move forward toward
2 implementation of additional enhancements.

3 At some point this may actually influence the priority and the
4 speed of the security enhancements, but again, I feel like since 9/11 we've
5 put a very good base of security program enhancements in place and now
6 we're continuing to refine, but we do have very good base programs in
7 place.

8 So, we must continue to maintain safety as we develop
9 these additional security enhancements and safety is a priority and we
10 cannot afford to falter in any way in this area.

11 So, as we think about the integration piece of this and as
12 Charlie talks about how we're going to integrate all these various
13 recommendations, I think about this like a deck of cards. If you split the
14 deck, you've got safety and security. Shuffle the deck in the end and so
15 as we prioritize and integrate we have to ensure that we continue to
16 implement our safety programs. Again, it's an area where we cannot
17 falter.

18 With that, I'll turn it over to Charlie Miller. Thank you very
19 much.

20 MR. MILLER: Thank you, Marty. Good morning. I'd like to
21 thank the Commissioners for the opportunity of this briefing. You're going

1 to hear from both FSME and NSIR today. FSME and NSIR have worked
2 very closely on these activities and I think you'll see the relationship from
3 our collaboration in this discussion.

4 As you did, Chairman, and as also Luis and Marty did, I'd
5 like to acknowledge the Organization of Agreement States and the
6 CRCPD as well as our Federal partners from Homeland Security and the
7 National Security Administration, all of which are in the audience today.

8 The leadership from the OAS and CRCPD are here. We've
9 got representatives from our Federal partners here. I think it shows the
10 interest and the coordination that we've been trying to do with all of those
11 organizations.

12 Our presentation this morning is going to cover a number of
13 areas: security and control program activities, the actions that we've taken
14 to respond to findings by the GAO's report which followed the 2007 sting,
15 the status of the National Source Tracking System and associated
16 rulemaking, the status of future developments for Web-Based Licensing
17 and our plan for incorporating the recommendations of the Independent
18 External Review Panel, which briefed you in March and getting that into
19 our plan as we integrate all the activities together.

20 After you hear about each of these individual activities, I'd
21 like to take a few minutes at the end of the staff presentation to share my

1 vision of what I see us doing in the next year or so to integrate these
2 activities and to work toward long-term program stability and efficacy.

3 Next slide, please.

4 This has been a very busy and productive year in the
5 material security area. We've had a lot of significant accomplishments
6 including the issuance of fingerprinting orders and a continued successful
7 implementation of the increased controls.

8 Increased controls inspections continue to be on track with
9 many completed ahead of schedule. Improved interagency coordination
10 and communications has been accomplished with DNDO and NNSA.

11 Significant progress has been made on the GAO Action Plan
12 including the development of revised pre licensing guidance and
13 appropriate short and long-term recommended actions for addressing
14 identified potential vulnerabilities in the licensing process.

15 NSTS is moving forward to completion of the first release
16 and is on track to continue the development of the second phase. In close
17 coordination with the Agreement States, staff has published in the Federal
18 Register an approach for inclusion of sources down to one-tenth of
19 Category 3 level for public comment.

20 Staff has developed an aggressive but realistic plan for
21 getting Web-Based Licensing back on track. Staff is also aggressively

1 pursuing an approach for providing an automated means for verifying the
2 authenticity of the licensee and for ensuring that licensees only obtain
3 radioactive materials that they're authorized to receive.

4 I'd be remiss if I didn't try to take a moment to try and talk
5 about some of the Agreements States positions given our close
6 interactions. The Agreement States believe strongly in the need to be
7 actively involved in the multiple ongoing efforts towards materials security
8 activities.

9 Towards that end, many Agreements State representatives
10 are serving on various working groups associated with 31 security
11 activities. I'd just like to take a moment to give you some of those
12 statistics and you'll hear more at the end of the presentation today.

13 We've currently got 31 working groups on both safety and
14 security activities in the materials area. The Agreement States have over
15 50 representatives supporting us on that.

16 COMMISSIONER JACZKO: Can you provide a list for us of
17 what those 31 working groups are?

18 MR. MILLER: We certainly can.

19 COMMISSIONER JACZKO: We don't have it in the
20 background material.

21 MR. MILLER: We can certainly provide that. That's very

1 easily done. We have that list.

2 The executive boards of both the Organization of Agreement
3 States and the Conference of Radiation Control Program Directors have
4 been staying up-to-date on evolving issues and directly engaging the state
5 radiation control programs when necessary and have provided comments
6 on the report of the Independent External Review Panel.

7 Secondly, with regard to Agreement State positions,
8 additional future regulatory actions with regard to security should be
9 prudently done in a timely manner, evaluated with respect to the impact on
10 public health and safety and health and safety and security must be
11 considered hand in hand.

12 I think that their participation in all these working groups is
13 evidence of their interest and willingness to work with us, but you'll hear
14 more later with regard to as we've got this many, it's becoming somewhat
15 of a challenge to make sure all the activities are integrated.

16 In the next slide, I'd just like to use this as a little bit of a
17 teaser for later in the presentation. What you see here is a chart that
18 we've put together that shows the staff's concept of a life cycle of
19 radioactive source components for security.

20 This cycle displays the security approach beginning with
21 source production all the way to disposal; sort of a cradle to grave

1 approach. In the final chart of this presentation at the end of the briefing
2 today, I'll demonstrate how each of the security activities fit into each
3 stage of this life cycle and trying to integrate these activities together.

4 Again, I'd like to emphasize the close coordination that NRC
5 staff is doing on this, especially between FSME and NSIR. In that regard,
6 I'd like to turn over the presentation at this time to Trish Holahan from
7 NSIR.

8 MS. HOLAHAN: Thank you, Charlie. Chairman,
9 Commissioners, good morning. The next slide indicates what we've
10 already been doing before 9/11. It was focused on mainly safety events.
11 It wasn't focused on malevolent actions.

12 We had regulations in place in Part 20, 20.18.01 and 18.02
13 to require licensees to secure from authorized removal of access licensed
14 materials that are in controlled or restricted areas and in 18.02 they were
15 required to maintain surveillance of those devices.

16 As a result of the orphan sources program, we put in place a
17 lost source enforcement policy. We implemented the general license
18 registration database and licensees were required to perform an annual
19 physical check to improve accountability.

20 The terms RDD, radiological dispersal device or radiological
21 exposure device weren't even considered. The IAEA code of conduct was

1 already in development well before 9/11 and it was actually published in
2 March of 2001.

3 And then in the Board of Governors meeting on
4 September 10th of 2001 it was said to go on to be revised and it was
5 finally revised in 2003. So, with that -- the next slide.

6 We've applied a risk informed graded approach to
7 enhance -- significantly enhance materials security. We believe that we
8 have significantly enhanced security since 9/11. We issued -- right after
9 9/11 NRC and DOE got together and issued a report on radiological
10 dispersal devices.

11 In June 2002, the Secretary of Energy and the NRC
12 Chairman met to discuss the adequate protection of inventories on nuclear
13 materials that could be used in an RDD.

14 The joint NRC/DOE report entitled "Radiological Dispersal
15 Devices: An Initial Study to Identify Radioactive Materials of Greatest
16 Concern and Approaches to their Tracking, Tagging and Disposition" was
17 issued in May 2003.

18 They were also dealing with revising the Code of Conduct
19 and we were instrumental in the Code of Conduct being what it is today.
20 And the U.S. has made a non-legally binding commitment to implement
21 the code recommendations.

1 We issued a risk informed approach to issue orders. We
2 issued orders to panoramic and underwater irradiators in June 2003. We
3 issued them to manufacturers and distributors in January of '04. And we
4 issued orders transporting radioactive materials quantities of concern
5 which were category 1 quantities of material in July 2005.

6 We also issued orders for access to safeguards for
7 fingerprinting requirements for those licensees that had access to
8 safeguards. We issued those orders in August of '06 and we issued
9 orders to those licensees, basically the panoramic irradiators the M&D's
10 and the RAM QC licensees, as well as others, for access to material in
11 October of 2006.

12 Then we're planning on issuing non-M&D orders to those
13 licensees, but those will only be upon request. We haven't done any yet
14 and the RIS will inform non-M&D service providers of this opportunity.

15 We also have increased controls and fingerprinting for
16 increased controls. Those will be dealt with in a later slide. Next slide.

17 We have three major efforts on interagency coordination.
18 We have the Radiation Source Security and Protection Task Force, which
19 came out of the Energy Policy Act of 2005. I'll get into that more later.

20 The Nuclear Government Coordinating Council. DHS leads
21 the Nuclear Government Coordinating Council for critical infrastructure

1 among the nuclear sector. NRC routinely coordinates and updates its
2 activities with its Federal partner through the GCC.

3 NRC supports an integrated and coordinated approach to
4 enhancing security. These activities are put in place through the GCC
5 matrix. I think you've all seen the radioactive source matrix that has
6 upwards of 41 actions on it. We are constantly updating that on a
7 quarterly basis. We meet with our Federal partners.

8 The GCC has now invited Agreement States and non-
9 Agreement States. There are four members all currently from Agreement
10 States, but they opened up the doors so that Agreements States and non-
11 Agreement States can participate in that.

12 NRC has also initiated periodic trilateral meetings with the
13 Department of Homeland Security and the Department of Energy National
14 Nuclear Security Administration to coordinate on source security issues
15 because we found out that when we coordinate we get a better product.

16 The purpose of these trilateral meetings is to enhance
17 coordination and awareness of each agency's activities.

18 Most recent issues of that group include enhancing security
19 of cesium chloride blood irradiators. And we had a meeting on Monday
20 with the Nuclear Sector Coordinating Council, which includes industry
21 about those efforts.

1 The Agreement States have been involved in the hardening
2 efforts and it's really what we're putting on cesium chloride irradiators to
3 delay adversaries getting in.

4 Also, there's securing the city's initiative, which is focused on
5 New York right now and the global threat reduction initiative, which is
6 focused worldwide, but also domestically.

7 And then NRC accompanies and participates in security
8 assist visits by DNDO and NNSA. They recommend things above the
9 increased controls. They're not doing anything to implement the increased
10 controls, but it's above and beyond what the increased controls require
11 and that's by request. The next slide.

12 The Energy Policy Act established the Radiation Source
13 Security and Protection Task Force. The Energy Policy Act specifically
14 named the NRC Chairman or designee to be head of that group. Charlie
15 Miller was designated by the previous Chairman to head up the Radiation
16 Source Task Force.

17 They also named 11 other agencies as members. Two
18 additional Federal agencies were invited to participate. The agencies
19 include the Department of Homeland Security, Department of Defense,
20 Department of Energy, Department of Transportation, Department of
21 Justice, Department of State, Department of National Intelligence, Central

1 Intelligence Agency, FEMA, the FBI, the Environmental Protection
2 Agency, HHS and OSTP as members.

3 And then also OAS and CRCPD were included in the Energy
4 Policy Act to be nonvoting members. So, we've included them as well.

5 As I mentioned, Charlie Miller was designated by the
6 Chairman to chair the task force and I'm a member of the task force. The
7 Energy Policy Act also specified eight areas that the task force was to
8 evaluate.

9 The first report was provided in August of 2006 and the task
10 force plans to systematically advance the information contained in the
11 National Academy's report for decision making and identification of
12 long-term issues.

13 What we're planning on doing is putting everything through
14 the interagency task force. So, the National Academy recommendations
15 will be part of that. It's a primary vehicle for advancing issues across the
16 government.

17 There are currently four active subgroups, which include
18 radiation sources, cesium chloride and alternative technologies. The other
19 active subgroup is the public education subgroup, which is chaired by
20 DHS and was tasked with developing an action plan for a coordinated
21 public education campaign that could be geared to reduce fears of

1 radioactivity.

2 Several parallel efforts, the Energy Policy Act also required
3 the NAS study to be developed and that's being submitted and DOE had
4 to submit a report on alternative technologies. The next slide.

5 The Radiation Sources Subgroups was tasked with
6 reevaluating the list of reflective sources that warrant enhanced security
7 and protection to determine if any changes are necessary.

8 The subgroups work will tier on DHS's National Infrastructure
9 Protection Plans and the subgroup is tasked with two specific tasks at the
10 moment. They're going to define a Federal definition of what constitutes a
11 significant RDD and RED and report to the task force by May 2008.

12 And they're also going to reevaluate the list of isotopes and
13 threshold values that warrant enhanced security and protection and that
14 report is due in November 2008 to the task force.

15 One of the things that the GCC matrix identified, we don't
16 have a Federal definition of a significant RDD or RED. So, that's the
17 charge of the group and all parties are involved in that including an
18 Agreement State representative.

19 The definition may be based on various consequences of
20 concern, which may include economic, physical, psychological and social
21 consequences as well as health impacts. So, it's a broader definition than

1 what we routinely looked at an RDD with. Next slide.

2 The cesium chloride subgroup was tasked with conducting a
3 study to assess the feasibility of phasing out the use of cesium chloride in
4 a highly dispersible form. This study was to consider the availability of
5 alternative technologies for the scope of current uses, safe and secure
6 disposal of existing material, international safety and security implications.
7 So, they have a broad range of recommendations all the way from
8 phasing out cesium chloride in its entirety to enhanced security of cesium
9 chloride. The subgroups final report is due in August.

10 In the next couple of months, we're working with the
11 Government Coordinating Council to have a public workshop on the NAS
12 recommendations as well as on the cesium chloride recommendations
13 and that will feed into whether or not we need to do a rulemaking.

14 Also, there are vendor site visits being conducted by an NRC
15 and Agreement State working group to determine the physical and
16 chemical forms of cesium chloride that are currently used. Next slide.

17 The Alternative Technologies Subgroup was tasked with
18 evaluating financial incentives, research needs for alternative technologies
19 and designs and the cost benefits of potential alternatives for category one
20 and two sources.

21 The NAS study was being used as a starting point for that

1 effort. They've had two meetings since the NAS report has come out and
2 they've almost finalized a charter. Then they're going to have the report
3 due by April of 2009.

4 The National Academy Study significantly advanced the
5 NRC's knowledge of alternative technologies to radiation sources and
6 addresses the Congressional mandate in Section 651 of the Energy Policy
7 Act.

8 This effort started in July 2006 with a grant from NRC and
9 the National Academy completed the study and issued the public report on
10 February 20th. This report in combination with two other studies
11 mandated by the Energy Policy Act -- I referred to them previously. The
12 DOE report was specifically targeted to deliver a report to Congress in a
13 year. That was delivered in August of 2006.

14 Also, the Chairman's Task Force or the Interagency Task
15 Force on Source Security and Protection was chartered to look at
16 alternative technologies.

17 There are five recommendations; four for the government
18 and one for a professional society. We're looking to the Radiation Source
19 Security and Protection Task Force Subgroups on cesium chloride,
20 alternative technologies and radiation sources to deal with those
21 recommendations.

1 Also, we're involving the ACMUI as the vehicle for getting
2 medical community input on the NAS study. The NAS study deals with
3 cesium chloride broader than just the medical community. Next slide.
4 Can you go to the next slide, please?

5 I wanted to touch on a number of materials security
6 rulemakings and progress for a plan to enhance security in public health
7 and safety. NSIR is developing the technical basis for three of the
8 rulemakings and working with FSME to promulgate the rulemakings.

9 So, we're chartered with developing the technical basis
10 because we have the security expertise and working with FSME to
11 implement the rule making.

12 There are new regulatory requirements to replace existing
13 orders. The accessibility and background checks including fingerprinting,
14 the proposed rule is due in June of '09.

15 Enhanced security at materials facilities. The proposed rule
16 is due to the Commission in February '09. In the area transportation
17 security, the technical basis for the radioactive materials quantities of
18 concern -- I signed off on it today. So, it will go to FSME and public
19 meetings have been conducted to solicit public comments already. So,
20 that proposed rule is due in February of '09 as well.

21 In addition, NSIR has provided technical support for the GL

1 restrictions rule making to limit the maximum activity allowed in a GL
2 device and that's really based on the Code of Conduct where it's going
3 and where it's headed.

4 The Agreement States encourage rulemaking in future
5 security activities because it provides the most effective way to obtain
6 input from a broad base of stakeholders.

7 I know you've heard that before, but the Agreement States
8 feel very strongly that orders are fine, but we need to do rulemaking.

9 And now I'd like to turn it over to Rob Lewis.

10 MR. LEWIS: Good morning, Mr. Chairman and good
11 morning Commissioners. Generally speaking, my part of our presentation
12 moves from issues that are in the formative stage to issues that are in the
13 implementation stage. Although as Commissioner Jaczko pointed out in
14 his opening remark, it's sometimes a gray area in all these activities.

15 And everything I will talk to you today about is really the work
16 of the NRC staff, especially the regional staff and the Agreement State
17 staff.

18 On increased controls, as Trish mentioned, we have issued
19 increased controls to all licensees authorized to possess a Category 1 and
20 2 materials as defined by the IAEA Code of Conduct.

21 The States and NRC have issued increased controls

1 requirements at this point to 348 NRC licensees and over 1,700 licensees
2 nationwide. The increased controls focus on things such as unescorted
3 access and detecting or preventing unauthorized unescorted access.

4 They also require coordination with local law enforcement,
5 increased attention to transportation and increased accounting of material.
6 They also focus on trustworthiness and reliability in determining who
7 should have unescorted access to larger quantities of radioactive material.

8 The orders were, as I mentioned, issued to all licensees
9 possessing Category 2 or higher quantities as defined in their license and
10 many of the licensees, of course, didn't actually possess those quantities,
11 so that's the reason we issued over 1,000 orders and we only have about
12 350 licensees implementing them.

13 The initial inspections for the increased controls have been
14 completed for all of the high priority licensees. And the remaining
15 inspections are scheduled to be completed by June 2009 in accordance
16 with our inspection manual.

17 The first round of inspections were done through a
18 temporary instruction. The second and subsequent periodic inspections
19 will be done through revisions to our manual chapter and inspection
20 procedures, which are under way right now.

21 Future security inspections are envisioned to be a

1 component of the routine safety inspections, so we won't need to have
2 special inspections.

3 I would note at this point on the issue of cesium chloride that
4 the NRC regions have accelerated their inspections of the irradiators and
5 expect to be done by the end of -- I believe its September. Those were
6 originally would be due in June of 2009.

7 That's one of the specific actions we took in recognition of
8 the NAS findings being issued. We are also not only inspecting the
9 increased controls, but we're also inspecting the higher priority orders that
10 Trish mentioned about manufacturer and distributor and irradiators,
11 panoramic irradiators and RAM QC transportation.

12 Between NRC and Agreements States, approximately 1,100
13 increased controls inspections were completed in the first year. About 272
14 out of the -- about 272 licensees by NRC have been inspected. We have
15 about 50 to go; a little more than 50 to go.

16 We also have sponsored training. In addition to our efforts
17 to train the Agreement States under the routine manual chapter for
18 qualification we have had special increased controls training for NRC and
19 Agreement State personnel.

20 We have trained under our routine program for training have
21 trained almost 200 Agreement State people since January. And under the

1 increased controls program we have trained a total of 353 individuals.

2 We held sessions this year in Florida and in New Mexico on
3 increased controls training. The performance of the regions and
4 Agreement States in implementing the increased controls regulatory
5 program is being reviewed through our IMPEP program. May I turn now
6 to fingerprinting?

7 As directed in SRM 2007-011, the NRC issued orders on
8 December 5th imposing fingerprinting requirements and criminal history
9 checks on anyone allowed unescorted access for Category 1 and 2
10 materials. So, essentially these supplemented the T&R, the
11 trustworthiness and reliability aspects of the increased controls orders that
12 had been previously issued about two years prior.

13 About 1,000 fingerprinting orders were issued in December.
14 Of these, about 350 NRC licensees will be required to implement
15 fingerprinting and they're required to have it implemented by June 2nd, so,
16 about a month from now.

17 We're working with a very small set of licensees. We think
18 the great majority of the 350 are on track to implement. We're having
19 conversations with about 10 to 15 licensees that are having some
20 implementation problems, but we think we can work through those before
21 June.

1 The Agreement States have until June 5th to issue their
2 compatible fingerprinting requirements. To date, 33 Agreement States
3 have submitted packages for NRC to review their legally binding licensing
4 conditions for fingerprinting. Twenty-one have been reviewed and
5 approved by the NRC staff.

6 One remains; one Agreement State has indicated they will
7 be late, but they do have a plan to have fingerprinting in place by
8 September. And actually, we have a briefing of the Commission technical
9 assistants scheduled next week to update the Commission offices on that.

10 COMMISSIONER JACZKO: Which state is that?

11 MR. LEWIS: The state that has told us they will be late is
12 New York.

13 I'd like to acknowledge at this point the State's efforts to get
14 the fingerprinting requirements in place. Several of them even had to
15 pass emergency legislation. It was a great effort and we're on track due in
16 part to their efforts.

17 The 33 States and one late is a total of 34. And of course,
18 we have 35 Agreement States. Pennsylvania was issued the
19 fingerprinting orders by NRC before the transition.

20 In December, all the nationwide licensees will have to have
21 fingerprinting in place. As I mentioned under increased controls, there's

1 approximately 1,800 licensees affected.

2 If you take an average of 10 staff per licensee -- we heard
3 yesterday from ACMUI some hospitals may have many more than that,
4 but radiographers maybe have a lot less than 10. So, a rough guess of
5 10, you can imagine that we'll have 20,000 people fingerprinted by the end
6 of the year and background checks nationwide.

7 Those 20,000 people would be the only people with
8 unescorted access to the radioactive sources.

9 We've also done training on fingerprinting quite extensively.
10 We held five workshops around the country in February. These
11 workshops were focused for licensees. They were supported by NRC, all
12 the offices at headquarters as well as the region's and Agreement State
13 staff. The staff has also supported Agreement State workshops and we've
14 offered the Agreement States that if they want to hold workshops after
15 June when they have their implementation we'd be more than happy to
16 support them in those workshops as well.

17 All the issues regarding fingerprinting. There are several
18 implementation issues; people asking questions about exactly how it
19 would work. Many of them are simple, many of them are complex. It's a
20 very large breadth of licensee's activities and licensee sophistication.

21 That's resulting in a lot of questions and we have the

1 implementation of increased working group working, which includes NRC
2 and Agreement State staff working on implementation, Qs&As. We have
3 those Qs&As posted on the web site for everybody to see at any given
4 time. You need a password to get on there. We seem to be on track.

5 I'll turn now to the GAO investigation from last year and the
6 NRC actions since then. In May 2007, the Government Accountability
7 Office issued a report describing an investigation they did in which they
8 applied for and obtained an NRC license.

9 They subsequently altered that license and ordered material
10 from one of the suppliers of portable gauges. They altered the license in
11 such a way that they could order enough material, in their opinion, to be a
12 consequence of concern.

13 They also had a parallel investigation under way in an
14 Agreement State that was aborted when the state asked to come out and
15 visit the applicant's site.

16 In July of 2007, there was a hearing in the Senate on this
17 issue as well as the permanent Subcommittee on Investigations' report
18 that was closely paralleled to the GAO investigation.

19 Furthermore, the NRC Office of Inspector General had
20 issued a report regarding this activity. Those reports were taken on by the
21 staff in developing an action plan which was presented to the Commission

1 in SECY-07-0147 on August 25th of 2007 followed by a Commission
2 briefing and all of the activities that I'll mention in the next several slides
3 resulting from that action plan.

4 Since the action plan was issued, the NRC and Agreement
5 States have continued to pursue both short-term and long-term solutions
6 and actions on these issues.

7 Regarding our action plan, immediately after and actually
8 even before the GAO report was issued we took several immediate
9 actions to revoke the license that we had mistakenly issued as well as
10 review all the existing licenses for an extent of condition and see if there
11 were any other possibilities as well as several other actions, including, we
12 began immediately doing pre licensing meetings and visits.

13 The action plan itself was divided into three discrete
14 activities: an independent external review panel, a pre licensing working
15 group and a materials program working group. The NSTS, the National
16 Source Tracking System, and Web-Based Licensing were also rolled into
17 the action plan in a way because we viewed -- we revisioned those
18 activities and kind of view those as the long-term solution to solving the
19 issues that were identified by the GAO in the Senate and the IG.

20 We have a staff identified issue as well as part of the action
21 plan, which is general licensing rulemaking in which our current

1 regulations would allow general licenses for sources that could be
2 Category 2 sources even.

3 That's a theoretical situation, but we don't believe there
4 actually are any Category 2 general license sources, but nevertheless it's
5 a gap in the Regs that someday needs to be fixed.

6 The most pressing issue from the action plan was the
7 trustworthiness of new applicants and interim actions necessary to stop
8 that immediately. I'll mention some of the actions we have taken in that
9 area.

10 But first, the Independent External Review Panel has just
11 briefed the Commission in March. The Independent External Review
12 Panel provided us with eight multi part specific recommendations focused
13 really around three themes.

14 The first theme was that the good faith presumption must be
15 suspended for new applicants and those without a record of performance.

16 The second theme was that NSTS and Web-Based
17 Licensing systems should be integrated to allow real-time and seamless
18 tracking of risk significant radioactive materials.

19 The third recommendation was that security culture must be
20 fully integrated into our licensing program so that when we do licensing
21 reviews we have a security mindset.

1 For example, if someone has committed to implementing the
2 increased controls, they would say we should go visit the place and see
3 that the increased controls are implemented before we let them order the
4 material.

5 The staff has fully embraced all of these findings, although
6 there are some of the findings that may be necessary to have as long-term
7 solutions, such as the integration of Web-Based Licensing and NSTS.

8 We have already revised the licensing guidance for
9 pre-licensing. It requires pre-licensing site visits and background
10 investigations. I'll mention that on the next slide, I believe.

11 The Independent External Review Panel -- we'll go to the
12 next slide; I'm sorry. The pre-licensing working group issued a report in
13 January and it was endorsed by the NRC and the Agreement States in
14 February for a three month trial period. That three months trial period
15 ends next month.

16 We have in place a process by which we do 100%
17 pre-licensing visits for new applicants. Nationwide, we have done 108
18 pre-licensing visits under this procedure since February; 18 of which by
19 NRC.

20 I would supplement that by since last June when the GAO
21 report, the immediate corrective actions were issued for that, we've done

1 57 more pre-licensing visits.

2 The guidance also includes instructions for processing new
3 applications to determine which applicants are unknown entities and
4 require further checks, such as check through the web site or local
5 business organizations.

6 The pre-licensing guidance, as I mentioned, we have done
7 many visits. It is being implemented by NRC and Agreement States and it
8 will be reviewed through the IMPEP Program, the Integrated Material
9 Performance Evaluation Program. The IMPEPs we have done in the last
10 several weeks have already reviewed that for those states and as the
11 states come due they'll be reviewed for their implementation of that
12 program.

13 The materials program working group is the sole remaining
14 working group alive after the action plan. The material program working
15 group is chaired by NRC and Agreement State representatives. It has
16 three objectives in its charter.

17 The first is to identify short-term solutions regarding transfer
18 of radioactive material to unknown entities.

19 The second is to consider the recommendations of the
20 Independent External Review Panel explicitly. They have delivered their
21 report on that to me last week.

1 The third is to review the materials program with an
2 independent mind set to identify any additional gaps that may exist.

3 These are people with quite a bit of licensing experience,
4 both in NRC and Agreement States. They have made their initial
5 recommendations. They delivered them to NRC and Agreement State
6 management. They're currently under review.

7 The initial recommendations involve regulatory approval
8 prior to transfer of certain radioactive material to classes of licensees that
9 may not be well known. For example, a new licensee, of course, but also
10 a place that hasn't ordered anything in several years, the contact has
11 changed.

12 There's several conditions under which their proposal would
13 require regulatory approval prior to transfer.

14 The implementation of this -- oh, and the other aspect of
15 their orders is to address the aggregation issue. They've gone below
16 Category 2 sources into Category 3 sources and even some Category 4
17 sources.

18 So, the policy issue would be whether to issue orders to
19 licensees down to that level beyond which the NRC hasn't to date issued
20 any security orders.

21 The implementation of this has a lot of cost benefit issues, I

1 believe, that we need to work through within NRC management and also
2 with the Agreement States. We owe, I think, the Commission -- we owe
3 you a Commission paper to fully describe the issue and present all the
4 options before you so you can make a fully informed decision.

5 I will now turn it over to Joe Holonich. He's going to present
6 NSTS and Web-Based Licensing.

7 MR. HOLONICH: Thank you, Rob. If you would go to slide
8 24, please. The National Source Tracking System -- what it is a system
9 that's designed and built to track transactions of IAEA Category 1 and 2
10 material between different licensees.

11 The system has been designed and it's in development.
12 We're nearing the operational phase getting ready for deployment of it. As
13 we walked through the design and development of it we coordinated
14 extensively with our stakeholders and our partners.

15 This included licensees, the Department of Energy, other
16 Federal agencies and, of course, the Agreement States. Our folks
17 participated in different groups, for example, the Interagency Coordination
18 Committee, which helped lay out the design requirements for the system;
19 the NSTS Working Group which followed it development; and then NSTS
20 Steering Committee.

21 Because the system is nearing operation and is in fact

1 operational and can be operated, we've had seven demonstrations for the
2 stake holders. Those demonstrations have been very successful. Am I
3 missing the mic? Is that better? Okay.

4 We've received seven demonstrations to the stake holders.
5 As a result of those demonstrations we've got some good feedback of
6 ways to enhance and improve the system, so we've had some good
7 development and design work as we work with our stakeholders towards
8 getting the system operational. If we could go to slide 25, please.

9 The status of the system is essentially we're nearing
10 completion and ready to deploy it looking towards the end of the year.
11 Our expectation is that we'll deploy it in December of this year.

12 The design and functionality of the system is done. We're
13 currently in the testing phases. We're testing how well it works. We're
14 testing its reliability and we're testing its security.

15 In addition, the contractor has begun to set up the production
16 environment or the operation environment for the system. That will be up
17 at Hanford, Washington. They're installing the production environment
18 right now and they're also hardening the production environment.

19 We will have and OIS has a contractor who has gone out
20 and done a preliminary look at their hardening, but when they're done with
21 the hardening, we will go out and check the hardening of those servers

1 and of that system.

2 We're also working with the Office of Information Services on
3 the Managed Public Key Infrastructure Program. This is the program that
4 will give stakeholders and individuals, the users, the credentials to be able
5 to get in and use the NSTS system.

6 This is the first large-scale MPKI effort at the NRC and this is
7 working with a system that is one of the highest levels of user
8 authentications that the NRC has. It's a very complicated process but
9 again, we're in coordination with OIS and we're working with the OIS
10 contract and contractors as they get that in place to be able to get the
11 credentials to the individuals to be able to use the system. Slide 26.

12 The next steps on NSTS. As you know, we have a draft rule
13 that we published that was issued on April 11th. That rule would require
14 the tracking of transactions for Category 3 and one tenth of Category 3
15 materials in the NSTS. The regulatory analysis for that was presented in
16 SECY-08-0031, which was the rulemaking package.

17 What we're trying to do with that rule is to try to get better
18 control and accountability over those Category 3 and one tenth of
19 Category 3 sources so that there's not a potential for people to aggregate
20 those amounts and get them into quantities that would be Category 2
21 quantities.

1 In addition, we're working on the interface of NSTS and
2 Web-Based Licensing to look at licensing verification activities. We're
3 developing procedures on how to get individuals access to the information
4 and then we're working with the interim inventory as a method for loading
5 the NSTS originally informing the basis for the NSTS so that when it
6 becomes operational in January of next year it's got the information in it.

7 Going on to Web-Based Licensing. We can move to slide
8 28. Web-Based Licensing was originally envisioned as a system for use
9 by the NRC and by the staff. It was built primarily to modernize legacy
10 systems that the staff was using. That included the license or licensing
11 tracking system, the reciprocity tracking system and the inspection
12 integration system.

13 When Web-Based Licensing was developed we did some
14 coordination with the Agreement States, but because it was mainly an
15 NRC system our coordination with Agreement States for that system
16 wasn't as extensive as it was for National Source Tracking System.

17 Right now, what we're doing is we're looking at changes to
18 the Web-Based Licensing system to get it into -- have it perform functions
19 that would respond to recommendations from the GAO study.

20 Our plan is with the contract is to go forward with a sole
21 source contract to use the system that was currently developed to 65% of

1 its capability, use the contractor who developed that to complete that
2 system, make the system compliant with the Americans with Disability Act
3 Section 508 and then be able to give access to other agencies as we
4 release the first version of Web-Based Licensing.

5 We've begun the procurement process for Web-Based
6 Licensing by issuing the notice of intent to use a sole source contract in
7 the Fed Biz Opps this Monday which says to people we plan to go with a
8 sole source and use this contractor who helped us develop the system.

9 Phase Two will give licensees the ability to apply for licenses
10 and application to their licenses. That was the original intent of
11 Web-Based Licensing, but now we've moved that back to the second
12 release of the system.

13 We'll also have the reciprocity tracking and inspection
14 integration function moved into there and then tracking of import and
15 export licenses will be done and released to the system. Going on to the
16 next slide.

17 Talking about the third component or system, the Automated
18 License Verification Service or system. This entity was intended to be an
19 automated way where individuals could check the legitimacy of licenses
20 and determine whether licensees could receive the amount of material
21 they wanted to get.

1 It was in response to both the GAO report and the IERP
2 recommendations. What we're looking to do is develop the system and
3 have it deployed hopefully in -- have it developed in fiscal year '10 and
4 deployed in early fiscal year '11. Right now, we don't know what is the
5 best way to do this.

6 Our first phase of this approach is to ask a contractor to look
7 at some design and give us a recommendation of is it better to have a
8 third system that extracts the data from NSTS and Web-Based Licensing
9 and tells you the answers to the questions? Or is it better to embed this
10 into one of the two systems: Web-Based Licensing or NSTS.

11 We don't know what the best approach is and so what we
12 want to do is this year starting soon go to a contractor and ask them to
13 look at some design and give us some recommendation of what's the best
14 way to do it.

15 The process in doing it then would be to go forward with the
16 contract and get the system developed. It would rely on information of
17 Web-Based Licensing. Because Web-Based Licensing was originally an
18 NRC system, we would now have to look at adding Agreement State
19 licensing information to be able to use the system for all Category 1 and 2
20 licensees -- or all licensees, not just Category 1 and 2 that were in NSTS.
21 And so we would have to look at that.

1 That's part of what we're doing with the working group
2 pulling that together, getting input and having the Agreement States
3 participate in the working group to help us with the design of that system.

4 That's it for me. I'm going to now turn it over to Charlie who
5 will give us a summary and wrap it up.

6 MR. MILLER: Thank you, Joe. I believe as an agency we've
7 made considerable progress in the past seven years to enhance the
8 security and control of radioactive material usage without losing any focus
9 on the safety issues that have been our primary consideration prior to
10 9/11.

11 As we've just described, there are a number of efforts which
12 have involved multiple offices within the agency: external working groups,
13 independent panels and other Federal and State partners.

14 In the past year alone, we've had an internal/external
15 program audit by our own Inspector General and by GAO. Our response
16 has required a huge amount of collaboration, which has been and
17 continues to be an ongoing challenge.

18 That said, I think we've been highly successful and have
19 made considerable progress within my office, within the NRC and
20 externally with our licensees, Agreement States and a number of Federal
21 partners, as well as participating in trilateral activities with the Department

1 of Homeland Security and NNSA and the Government Coordinating
2 Council.

3 Over the next year, I think our biggest challenge will be to
4 integrate these efforts and leverage each of them to enhance each other.

5 Finally, I think it's worth noting that as I stated earlier in the
6 presentation today, I noted the number of working groups that we have
7 and the number of Agreement State participants that have working
8 groups.

9 This work has proliferated over the last number of years due
10 to all the work that we have on our plate. I think it's time to take a step
11 back and work with the Agreement States to try and determine and try to
12 put some prioritization on all of these efforts because it's just getting to the
13 point where resources are getting strained for both the Agreement States
14 and for us in this regard.

15 Within the next 12 to 18 months, I'd like to take a longer-term
16 and more proactive look at the materials program as I said and integrate
17 these security enhancements into our overall base program so that
18 security and safety go hand in hand.

19 I'd like to ensure that the safety and security interfaces are
20 working as intended and as I stated reprioritize these efforts. I think that
21 in many areas we need to consolidate our gains.

1 For example, many of our actions needed to be done
2 through orders so that we did it very quickly. I think the time has come for
3 the consideration of actually making sure that these are permanently put
4 into rulemakings and codified in that way.

5 For example, making several thousand materials licensing
6 decisions, conducting regularly scheduled safety and security inspections
7 and evaluating the adequacy and consistency of Agreement State
8 programs in that regard continues to receive attention and the focus that it
9 deserves.

10 I think that we have to make sure that our program is
11 integrated and make sure that we have a focus on all of these. If I could
12 get the next slide, please.

13 As I mentioned earlier, this slide shows the life cycle of
14 sources. What we've attempted to do here is to try and show -- and I
15 know it's hard to project up onto the screen -- but what we've tried to show
16 here is how all of the activities that we focused on, both internally and
17 externally with our Federal partners and with the Agreement States fits
18 into each phase of the life cycle.

19 If you look at the chart, what you will see is you will see what
20 we've been able to do by today within the inner ring, what we hope to
21 accomplish by the end of this calendar year and then what we hope to

1 accomplish in years after that and how each of these interface together in
2 the total life cycle of materials.

3 With an explanation for the colors to make it easier to read,
4 the Energy Policy Act Task Force activities are outlined in blue. The GCC
5 activities and the matrix activities that Trish talked about earlier are in
6 green. The National Academy's recommendations are in red. The GCC
7 activities themselves including the DHS and trilateral activities are in black
8 and the white includes the NRC activities.

9 If you look at some of the examples, you'll see irradiators
10 hardening, source security design and manufacture, the cultural mindset
11 for security, licensing and inspection, the National Source Tracking
12 System, et cetera.

13 I think by using this as a template it helps us to integrate the
14 longer term vision and make sure that we're focused on the challenges
15 ahead. Thank you.

16 MR. REYES: That concludes our prepared remarks and we
17 look forward to your questions.

18 CHAIRMAN KLEIN: Thank you very much for a
19 comprehensive and integrated presentation, both on safety and security.
20 In a comment to Commissioner Jaczko's question about the 31 working
21 groups, I think when I look at slide 31, which happens to be 31 working

1 groups, I guess -- I'm surprised there's only 31 working groups after
2 looking at that particular picture that you had.

3 We'll begin our questions with Commissioner Jaczko today.

4 COMMISSIONER JACZKO: I guess I would say that with 31
5 working groups, I'm surprised that anything has been accomplished. I
6 think that certainly as we get that list, I think it would be useful to see if
7 there isn't a way we can trim that down. I've got to believe that there's
8 probably a lot of overlap or unnecessary groups that we're dealing with in
9 the effort.

10 That is a very involved program, I think, as the staff has
11 described and a large number of coordinating groups, collaborative
12 organizations, task forces. I think we do have to be very careful that we
13 don't fall into a position of studying everything to the point that we never
14 get to the decision-making.

15 Certainly, looking at this slide that you've presented I would
16 look at what I think would be the west northwest quadrant, I think, around
17 there. Those are certainly areas that are of interest of me; the EPA Task
18 Force Cesium Chloride Subgroup, the definition of RDD, the identifying
19 potential changes to the radio nuclides that may be of significance.

20 I think it's great that we work with the task force to come up
21 with those things, but the important point is going to be what we're going

1 to do with that information and how we're going to take that information
2 and translate it into regulatory decision-making.

3 That is what, as I said at the beginning, I was hoping to hear
4 it and did not hear a lot about that. I heard a lot about the potential for
5 reports to be issued by the end of this year, but again, this is not new
6 information here. We don't need to reinvent the wheel.

7 We had a National Academy study report on cesium
8 chloride. We're anticipating a Defense Safety Board study -- I'm sorry;
9 Defense Science Board report on cesium chloride. I don't think there's
10 that much more information that exists out there on cesium chloride that
11 we don't already have.

12 Issues of developing a methodology to look at how we deal
13 with consequences and looking at a broader scope of consequences.
14 Those are not new issues. Those are issues we simply need to get to the
15 point of making a decision about.

16 I don't think we need more study and I don't think we need
17 more discussion. We need to put this in a process where we can get to
18 decision-making. I do not see that in particular on the issue of cesium
19 chloride.

20 I think in some of the other areas we've made progress in
21 doing that, but again, at this point talking about getting into rulemaking is,

1 of course, a long-term process. Just I think, Charlie, what you closed on
2 with the issues of moving into rulemaking for some of the increased
3 controls and those issues, I think, are certainly a lot of work that we will
4 have in front of us to do that.

5 I think it's the right thing to do, absolutely, but again, it is a
6 long-term project. I think these are things at some point we need to get to
7 a conclusion on and I still think we have a long way to go and I think that's
8 unfortunate.

9 I look at the GAO sting and the external review panel report.
10 One of the things that came out of there was modifying the sense of the
11 good faith assumption on the part of our staff. We should, in my view,
12 have an immediate action plan for how we're intending to address that and
13 incorporate that into our training.

14 Maybe we do and maybe you didn't cover that, but again, I
15 think that was a good recommendation. I think everyone here would
16 agree that that is an important issue to address. So, moving forward in
17 addressing those is the most important thing. I think we need to not be
18 afraid to do that.

19 I had a couple specific questions. Joe, I think you touched
20 on it a little bit, but I think it perhaps was lost in what you said. It really
21 gets to the heart of Web-Based Licensing. We talk about this as solving

1 some of the issues with license verification.

2 I think that's very important; however, the real issue there is
3 right now Web-Based Licensing system is only intended to cover NRC
4 licenses, which by the day or the year become the smaller and smaller
5 subset of all the licenses that are out there.

6 You made, I think, a brief comment on the need to ultimately
7 incorporate the Agreement States into that program. That is, I think, the
8 biggest challenge right now with the technical challenges of actually
9 developing the infrastructure side of how we're going to do that and I think
10 we need to start thinking about that now so that when 2011 comes around
11 and we have a system, we're not then addressing the issue of how are we
12 going to incorporate Agreement State licensees into that system because
13 it will not be useful if it only covers the very small percentage of licensees
14 that are NRC licensees.

15 So, we talk about that as a solution to that problem, but
16 fundamentally the solution is going to be having a national licensing
17 system that will be able to interface with National Source Tracking, not
18 Web-Based Licensing because that will not cover all the licensees, nor
19 even the majority of the licensees that are out there.

20 So, I think that's going to be an important issue and maybe
21 you can comment a little bit on what the thinking is right now about how

1 we're going to do that.

2 MR. HOLONICH: Actually, Rob, I think you might be better
3 in terms of talking about how we can accomplish that through the policy
4 side.

5 MR. LEWIS: Your point was right on. We need to involve
6 the Agreement States now in Web-Based Licensing and in NSTS, but
7 even more so in Web-Based Licensing while it's in its formative stages,
8 rather than when we get too far along.

9 I met with the Agreement States last week and I think we
10 have a plan. The first part of that plan is to have a meeting with all the
11 state people, a special session at the upcoming CRCPD meeting, which is
12 in two weeks in North Carolina.

13 At that meeting we will first of all explain to all the state
14 people what exactly is Web-Based Licensing and how we think it would be
15 used, both the initial release and the long-term vision of how it would be
16 used because it is the -- as I mentioned in my talk the solution -- in the
17 future, all the interim actions we're taking with the working groups and
18 checking transfers and all those things can be done automatically and
19 they should be done automatically through a system such as that.

20 So, professional session at the CRCPD. We would follow
21 that by a working group, a new working group --

1 COMMISSIONER JACZKO: Maybe we could have an add
2 shed process for the working groups --

3 MR. LEWIS: -- to develop the ideas that come out of that
4 special session and we would kind of tie the bow on it at the OAS meeting
5 which is in August and we'll have another special session to have a joint --

6 COMMISSIONER JACZKO: Will that ultimately require
7 rulemaking in your view? Do we need to establish a rule that all
8 licensees -- that we have a national regulatory policy that all licensees or
9 all states and all Agreement States will use an electronic license --

10 MR. LEWIS: I'm not sure we've concluded that yet. That's
11 one of the issues we need to explore, especially how the states will use it
12 comes into that question. I think that as we envision the first phase, it
13 would not require rulemaking.

14 MR. MILLER: Commissioner, if I can augment what Rob
15 said. If you look at NSTS and you look at Web-Based Licensing, NSTS is
16 a system that's reported by licensees, both NRC and Agreement States.

17 The Web-Based Licensing aspects require Agreement State
18 participation, our co-regulators, in that regard. One of the things that has
19 become apparent to me in my discussions with the leadership from the
20 Agreement States is that states have their own systems for storing their
21 licensing information.

1 The one thing that they can't afford to have is us to stand up
2 a system that we say, "Now here's another system that you've got to take
3 your information and make it go into that system and not use the systems
4 that you have."

5 So, we have to explore with them how can we do this in a
6 way that's not onerous on the individual states, but yet get the information
7 that we need for the national system. That's why we need them right up
8 front.

9 That's why now is the time to get them engaged and we
10 have the advantage of the CRCPD meeting and the state's willingness to
11 make a special session in that meeting to be able to address this.

12 COMMISSIONER JACZKO: I agree. I think that is the
13 important point and I think this may be a more challenging task than it
14 appears right now. I think it's one that we're going to have to really work
15 through and work hard because we have been touting this as the solution
16 to these issues.

17 I think this will take a lot of work to get us there. I have some
18 more questions if we have another round. Thank you

19 CHAIRMAN KLEIN: Commissioner Lyons?

20 COMMISSIONER LYONS: Well, that was an impressive set
21 of briefings on an equally impressive set of challenges. If I were to pick

1 just a few areas to compliment, I'd probably start with the work that the
2 staff and the states have done on the fingerprinting, the implementation of
3 that.

4 The status that Rob described, I think, is very, very
5 impressive and that certainly is attributed to the state's involvement and to
6 our staff.

7 I think also the actions we've taken after the GAO sting --
8 you can always wish we'd done them before the GAO sting, but I think a
9 series of very important actions have taken place. Again, my
10 compliments.

11 Perhaps by way of a first question and it's to some extent
12 following on the direction that Commissioner Jaczko was going. We heard
13 about 31 working groups. We heard about 50 Agreement State
14 participants and certainly the Agreement State participant numbers is very
15 impressive, but we also heard about the challenge to integrate the outputs
16 from all of these working groups.

17 I can only imagine how many interfaces there must be as
18 you start to look at the ways in which these working groups share many
19 common aspects.

20 I guess I'm very curious for suggestions on how we can try to
21 seek efficiencies and identify those interfaces and perhaps even reduce

1 the number of working groups, which I think would be very positive.

2 By way of one suggestion, I'd wonder about -- maybe of all
3 things a working group on working groups involving the senior staff and
4 the Agreement States to try and sort through this.

5 I almost wonder if we've been adding a working group to
6 solve each new problem when in fact the number of problems do have
7 many commonalities. But Charlie, Marty, I don't know who would want to
8 comment on this?

9 MR. MILLER: I'll take it on. You're right. I think what's
10 happened is if you look at the history of the Agreement State program and
11 our interaction, we're at an all-time high with regard to Agreement State
12 participation in these activities.

13 If you go back many years, I think that during some of the
14 cloudier days of our interactions, the NRC would plow forward, put
15 something in place, impose it on the Agreement States and then they'd
16 have the burden and that didn't cause the best in relations.

17 I think in order to try and improve that a lot and try to have a
18 continuous improvement in the program, the states have got ever
19 increasing involvement in working groups.

20 We stand those up by management directive, so that we
21 make sure that we follow the process. So, we have taken what I'll admit is

1 probably -- if you take a step back, a stovepipe look at a lot of this and that
2 was fine when we only had a few working groups going at any given time.

3 But because of all the activities, both in safety and the
4 security, that there's been so many working groups stood up. What we
5 find is that we've really come to the realization that a lot of these working
6 groups do overlap in their activities.

7 And if you have a working group who's working diligently
8 over here to get something done that isn't talking to this group over here,
9 you're going to lose that integration.

10 I think that that's something that's become a reality both for
11 the staff, but it's really been brought to our attention by the Agreement
12 States.

13 That said, any individual member of any working group from
14 any given state cannot necessarily speak for the whole 35 Agreement
15 States at any given time. So, it's important that we try to make sure that
16 there's an oversight and the leadership of the OAS does this all the time.

17 They have their challenges with their constituencies trying to
18 get alignment amongst the Agreement States. They do a wonderful job in
19 that regard.

20 All of that said, I think it's time to take a step back and see if
21 there's a way that we maybe can have some kind of senior management

1 oversight so that we can maybe not only -- if it reduces the number of
2 working groups, but get better interactions and decide if they can be
3 merged, do we need that many.

4 But more than that, I think there's going to be a need,
5 Commissioner, to have to prioritize some of these activities. We simply
6 can't just work on them all simultaneously.

7 In that regard, we may be coming back to you for some
8 guidance in that regard as we gel that.

9 COMMISSIONER LYONS: Do you want to comment,
10 Marty?

11 MR. VIRGILIO: I think Charlie covered it.

12 COMMISSIONER LYONS: I appreciate those comments,
13 Charlie. I really think we should move ahead with something, whether you
14 call it a working group on working groups or have a better name for it.

15 You referred to senior management oversight. I think that's
16 important, but I'm sure you included in that the senior management of the
17 OAS.

18 MR. MILLER: Absolutely. Whatever we call this would have
19 the leadership, I think, of the OAS involved in this or their representative
20 so that it truly is a group that reflects not only on NRC activities, but
21 Agreement State activities.

1 Many of the activities, the Chairman knows this very well and
2 he reminds me from his Agreement State times that a lot of the expertise
3 in certain areas is in the Agreement States and in some cases it's more in
4 the Agreement States than it is here. So, to seek their insights is
5 extremely important as we go forward.

6 COMMISSIONER LYONS: Well, I think it's very important
7 that we establish -- exactly what we call it we can debate later. But some
8 sort of entity that looks for efficiencies, looks for overlaps, looks for
9 interfaces. I would hope it also looks for perhaps in the name of efficiency
10 in reducing the number of working groups, but that's probably best left to
11 the group as it works ahead as to how best to organize this.

12 I think it is a situation that certainly has positive attributes
13 because it demonstrates the amount of involvement of the Agreement
14 States with the NRC. I think that's very, very positive, but it also is
15 increasing the management challenge and that needs to be looked at, too.

16 I'm over time and I have questions for a next round.

17 CHAIRMAN KLEIN: I think we may have a second round.
18 Commissioner Svinicki?

19 COMMISSIONER SVINICKI: Thank you, Mr. Chairman and
20 I want to thank all the presenters for a lot of wonderful information that
21 they've provided this morning. I think being the rookie here my reaction

1 and my perspectives are a little different because I didn't live through the
2 development of a lot of these plans with my fellow Commissioners.

3 I am reflecting a little bit -- and this may be a theme. I don't
4 know if this was part of what Commissioner Jaczko was expressing, but
5 there is a lot of activity described and activity doesn't always translate one
6 for one to progress.

7 I think two of the really important statements I heard this
8 morning were from Charlie and from Trish. Trish, you made a statement
9 that we have significantly improved security and Charlie talked about
10 we've made significant progress in the last seven years.

11 I think it's really important not to lose that thread of
12 communicating that. In the blizzard of activity and things yet to be
13 implemented, I think it's important to communicate crisply what has been
14 achieved; not what's planned to be done, but what has been done, what is
15 being done.

16 So, I appreciate that both of you -- it seems so obvious, but I
17 think it's so important to state. That's something I bring with a more recent
18 perspective to this that I think that that's important to communicate.

19 So, the other thing I think about is that we all approach
20 things with plans, but when we embark upon something, we begin to learn
21 the hard lessons of doing it. And for each of you that have some piece of

1 this, I'd be curious if you would like to share anything.

2 What are the hard lessons and the sticking points of moving
3 forward from here on your pieces of it that you're working on?

4 MR. LEWIS: I'll try to start. I think that -- that's a good
5 question. The difficulty before us is as Marty started off with is integration
6 and showing the effectiveness. There is, especially in the interagency
7 working groups, there's different perceptions of what would be effective
8 and the basis from which we're moving forward.

9 A lot of those issues are being funneled now through the
10 Energy Policy Act Task Force and we bring them to the table to all the
11 different agencies.

12 The pressures on cesium chloride, I think, will increase in the
13 next year or so. I think that if we make progress on that particular nuclide
14 we'll have to show somehow that that progress was effective and people
15 may start to turn to the next nuclide. What's the next nuclide?

16 It's important to be grounded in a firm basis across the
17 government on what are our foundations? Is it public health and safety?
18 Is it social economic issues? All of those questions and common
19 definition of an RDD is a project that's going on that will be a fundamental
20 piece of that.

21 The EPA Acts have been issued now. I think that's another

1 fundamental piece of that. All the pieces are coming together, but keeping
2 everybody on the same page moving toward is the challenge.

3 COMMISSIONER SVINICKI: Since you raised that topic, I'll
4 just add if anyone else wants to comment. Another question I had is on
5 this notion of -- I like folksy sayings, so I have this saying that says, "If all
6 you have is a hammer everything starts to look like a nail."

7 If your only objective is risk elimination, as other agencies I
8 think are very focused on eliminating risk, this agency uniquely is
9 obligated not to unnecessarily obstruct or frustrate the beneficial uses of
10 these materials. So, I think in your trilateral working group, in your
11 intergovernmental work, that's something that I think you uniquely have
12 to -- you're obligated to represent that.

13 So, if that's another frustration that you want to throw into the
14 mix with hard lessons, go ahead.

15 MR. VIRGILIO: I would say that that was one of the biggest
16 lessons learned for me. When we started into this, I always knew that we
17 needed to partner with the Agreement States. There was no question
18 about that and maybe it was an issue of implementation and how we could
19 do it better, but what has struck me through the course of the last seven or
20 so years is the need to partner with other Federal agencies; be it DNDO,
21 be it DOE, be it whoever.

1 We have developed a network and we've developed strong
2 partnerships today. So, I think we've learned the lessons, but it's come as
3 hard lessons learned.

4 I also would like to comment on your observation new to this.
5 As we went through the presentation, I started writing a list because it is
6 really imbedded and it's really subtle of all the things that we have done,
7 but I think -- I looked at it and thought about the orders that we issued: the
8 controlled access, the alarms, the ties to the local law enforcement
9 authorities.

10 These are very tangible things. The protection of
11 information, the orders that we've issued around transportation,
12 fingerprinting requirements, the interim database that we have today. We
13 talked about the National Source Tracking System, but we didn't touch on
14 the database that's in place today that's used by customs and border
15 protection when they have questions about a source or the legitimacy of a
16 source.

17 We've conducted training. We've had workshops. We've
18 implemented the new policy about pre-licensing guidance. And so we're
19 actually conducting site visits and evaluations for every new license that
20 comes before us.

21 We've issued the rulemaking to expand the National Source

1 Tracking System, just to name a few. So, you're right, it is very subtle and
2 we need to do a better job of communicating about the things we have
3 done while we talk about the things that are coming in the future. Thank
4 you.

5 MR. MILLER: Commissioner, if I could just add to that.
6 Your comment about our unique role was very important and I think that
7 that's something that the staff deals with every day.

8 If you take cesium chloride, for example, everybody's got a
9 view and the views can be very polarized. We have views all the way
10 from we need to eliminate it right now, to you can't do this because you're
11 going to really injure people.

12 What we need to do as regulators is to make sure that we're
13 fair and that we don't inhibit the safe use of this, but nevertheless have
14 appropriate requirements in place to make sure it's safely and securely
15 done.

16 I think the Commission is in receipt of a letter recently from
17 NSTS give some of their perspectives on the matter, which go to the other
18 end of it.

19 So, we have to make sure that we try to gather all the facts
20 so that we present the Commission with information to allow you to make
21 good decisions on this, but it is very important because we have to make

1 sure that we take a balanced approach so that all of our stakeholders are
2 adequately represented. And they do have diverse views depending upon
3 where they come from.

4 MR. REYES: If I could add one more at a very high level.
5 The lesson for me and as I depart to my new position is that the staff had
6 a vision on Web-Based Licensing. Three times we cut that out of the
7 budget. We would not be here talking about that today if we had approved
8 it.

9 So, now I have a mental flag in my head when we're doing
10 the budget process what have we cut three times and the staff keeps
11 saying, "This is going to be a problem. We need to do it."

12 So, the staff has a lot of vision and I'm sorry that we did what
13 we did three times in a row, but we would have had Web-based Licensing
14 if we would have listened to the staff.

15 So, just a comment for the future when you get your budget
16 you may want ask why did we cut for the third time before it becomes a
17 crisis. That's a hard lesson for me.

18 MS. HOLAHAN: I'd like to echo what Charlie and Rob said
19 is I think the important thing is we now have this trilateral initiative ongoing
20 and they bring in different perspectives, but it's very strong and we can
21 work well with our partners.

1 Also, the interagency task force as you mentioned they
2 come in with very different views; like the FBI and the CIA come in with an
3 intelligence aspect and the NRC is looking at it from a public health and
4 safety as well as common defense and security.

5 COMMISSIONER SVINICKI: Thank you.

6 CHAIRMAN KLEIN: Marty, I think you started off with a
7 comment about balancing safety and security. Luis, you talked about
8 budget cuts. We have budget issues and having lived in a small
9 Agreement State, I also understand that they also have budget
10 constraints.

11 So, I guess the question is in our safety, I think in general,
12 we do a pretty good job of risk informed when we look at safety aspects
13 because we've been doing that for a long time. We have a good
14 understanding.

15 I'm not sure we have a good understanding of how we do
16 risk informed security. And so, as Commissioner Svinicki said, if you're in
17 security and you have a hammer, then that's the most important thing and
18 you basically -- you don't worry about other applications.

19 So, I guess the question is when Commissioner Lyons
20 indicated we needed to integrate a lot of our working groups we also need
21 to integrate safety and security and prioritize those as well. Any thoughts

1 on how we can do that?

2 MR. VIRGILIO: Yes. One of the tools we developed early
3 on was a framework for looking at the best we could. It's mostly done
4 qualitatively as opposed to quantitatively, but we can look at security
5 issues using that framework.

6 Looking at what we think about the likelihood of the attack or
7 whatever to be, of the event to be, and the consequence of the event. We
8 do have some tools that I think can be brought to bear to help in
9 prioritizing some of these security issues.

10 The challenge, again, as you've said is then making sure
11 that as we move forward we don't lose our focus on safety; that we don't in
12 any way detract from the safety that exists today or needs to be in place
13 today.

14 So, there's a challenge of integrating all of these security
15 activities and then with a deck of cards making sure that we don't lose the
16 safety focus.

17 CHAIRMAN KLEIN: Thank you. Well, Trish, what's going to
18 be the next GAO sing? I should point out the only times we've gotten
19 stung has been by GAO, not in those that have been using it, but there
20 have been two. What's the third?

21 MS. HOLAHAN: If I had to guess, it would be general

1 licenses. That's my speculation.

2 CHAIRMAN KLEIN: So what that probably tells us is we
3 should have our antennas up.

4 MS. HOLAHAN: We're working on enhancing the security
5 for general licenses.

6 CHAIRMAN KLEIN: Joe, since you escaped all the
7 questions, I figure it's your turn. One of the -- and I know that our IT
8 person is back here as well. It seems like we had a fairly significant
9 increase in our National Source Tracking System from what our initial
10 estimates were to what it's ultimately going to cost.

11 Any lessons learned there that will prevent the same thing
12 from happening with Web-Based Licensing?

13 MR. HOLONICH: I think the big lesson learned was that as
14 we were developing NSTS, FSME was also developing and NIST and
15 OMB were developing their guidance and their requirements that these
16 systems were supposed to have.

17 That was probably the main driver that increased the costs.
18 We spent a lot more on security than we ever anticipated so that we didn't
19 do the design work that we were expecting to do and thus we had to get
20 more funds to be able to complete the design work.

21 So, I think the big lesson learned was know and understand

1 the security requirements and I think like the nuclear industry 25 years
2 ago, we may be through all of the guidance that we're getting or through a
3 majority of the guidance that we're getting so that we now know and have
4 a better and more stable environment that allows us to understand the
5 security requirements as we go forward to enhance and release Version 2
6 of NSTS and complete Web-Based Licensing.

7 That was my big lesson learned. It took a lot -- we were
8 changing almost constantly. We would do something and then all of a
9 sudden NIST would have new guidance or there would be something new
10 from OMB and so we were constantly going back and revisiting and
11 changing work that we had done to get these security requirements met.

12 MR. REYES: The first contract for National Source Tracking
13 System did not have the dimensions of security that were being
14 developed. So we got caught into a situation where we started a product
15 and started a design and halfway through it additional requirements that
16 were imposed from the IT security point of view and we have to, in the
17 middle of the road, kind of change the whole process. It was a challenge.

18 Perhaps we could have anticipated, but some things are
19 hard to anticipate. We're still vulnerable. We have things going forward
20 into automating a lot of things in the agency and we don't know -- we think
21 we know all the IT security requirements, but there's always something in

1 the horizon that could be changed. We may face these, unfortunately,
2 again.

3 CHAIRMAN KLEIN: One of the things that Commissioner
4 Jaczko had talked about is rulemaking on cesium chloride. I guess my
5 view is sort of like some of the votes. I agree in part and I disagree in part.
6 I think at some point we clearly need to do a rulemaking on cesium
7 chloride. I just don't know if we know enough information yet to go down
8 that path because I still believe that the form of cesium chloride if we do
9 some research we can find some options that don't say just get rid of it.

10 From a security standpoint, it's easy just to say eliminate it,
11 but then that prevents the beneficial uses. So, I do think we still need
12 some technical knowledge of what our real options are as well as better
13 understanding of the alternatives that may be proposed.

14 I think, clearly, at some point we do need to go for the
15 rulemaking, but I think before we get there we still need some technical
16 information.

17 MR. REYES: As you know, there's only one form of -- one
18 chemical form that's being used. There may be others that have the same
19 benefits, not the same vulnerabilities, still being cesium chloride. You're
20 right. I think we can't throw science out the door yet. I think we need to
21 take a look at that as part of our broad look at this issue.

1 CHAIRMAN KLEIN: I think Charlie indicated that there are a
2 lot of different views out there on cesium chloride. One aspect, though, is
3 clear is that it is a risk concern from security. Therefore, how we approach
4 it, I think, is what we have to look for in terms of minimizing that undue
5 risk. Commissioner Jaczko?

6 COMMISSIONER JACZKO: I would just follow up on that. I
7 certainly appreciate the Chairman's comments and I would say that I think
8 the beauty of rulemaking is it is a form and an opportunity to get all these
9 pieces of information, all these views in a way and have a process to
10 resolve them, rather than getting letters from NIST, getting letters from
11 other groups, hearing from ACMUI that they have concerns.

12 We should put out a proposal and let people comment on it.
13 That is why I think it's something we can move forward on quickly. It
14 doesn't mean we have the ultimate answer, but that's the whole point of
15 rulemaking, though, is to propose something and get feedback on it.

16 I think we have to be careful with this that we do not try and
17 wait for all the information to come in until we have the perfect answer and
18 then go on into a rulemaking. I think if we do that we will be here by for
19 five or 10 years before we can get there.

20 Part of this, I believe there will need to be motivation for
21 people to look at alternative technologies. The only way we'll have that

1 motivation is if we put in requirements at some point that people need to
2 consider alternate technologies.

3 That is, I think, something that's doable and feasible in a
4 rule. I think we could put together a rule that says within 10 years cesium
5 chloride needs to be eliminated in a form that is dispersible unless there is
6 a demonstrated health and safety reason why we can't do that. That's rule
7 language that I could write today.

8 You could put that out for comment and see what we get
9 back. Ten years gives us time to develop the technological solutions. It
10 gives us an opportunity to develop -- to really look at what the situation
11 would be and furthermore it gives us a motivating factor for people to have
12 to address this issue.

13 As I said, my concern is that -- when I used to work on the
14 hill, I remember one of my old bosses, Congressman Markey, used the
15 phrase all the time and it was "paralysis by analysis". I worry that we're
16 stepping a little bit into that realm, with all of our working groups, with all of
17 our task forces, with all of our trilaterals now that we have in addition that
18 we have gotten to the point where we don't want to make a decision, we
19 just want to talk about it some more.

20 I think that's a very real danger here. These are tough
21 decisions and I'm not saying that they're not, but postponing them isn't

1 going to make them any easier. In the end, we will still be faced with the
2 same decision which is what is the appropriate use and the appropriate
3 replacements for cesium chloride?

4 I certainly appreciate the Chairman's interest. I think we can
5 move faster, perhaps, than he believes we can and I think we sometimes
6 sell rulemaking short. That's what it's for. It's to get all these views out
7 there and to resolve them in some way. That's what we have to do on the
8 Administrative Procedures Act.

9 I don't want to belabor that. I think I've hammered that one
10 too much and I don't want everyone to feel like a nail.

11 One question I had -- now, I understand we have the interim
12 database. When was last update that we did to the interim database?

13 MR. MILLER: We do it on an annual basis.

14 COMMISSIONER JACZKO: When was the last --?

15 MR. MILLER: We completed our activities on that early last
16 fall, I think.

17 COMMISSIONER JACZKO: So, fall will be the next one?

18 MR. MILLER: Yes.

19 COMMISSIONER JACZKO: Any significant changes that
20 we anticipate this year with licensees were there responses from
21 licensees in terms of their providing information from the database?

1 MR. MILLER: No, I think what we found is an ever
2 increasing improvement in their supplying that information. The one thing
3 some licensees are doing, of course, is taking a hard look at their
4 inventories and determining if they can reduce their inventory to the point
5 that they no longer possess Category 2 quantities and not possess them
6 and so they would no longer be subject to the increased controls.

7 So that's how I think they're using that interim inventory to
8 really focus their attention.

9 COMMISSIONER JACZKO: The question -- and I can't
10 remember who talked about it -- Trish, maybe you did. The fingerprinting.
11 Right now we have, I guess, 33 of the 34 have submitted their plans --

12 MS. HOLAHAN: Rob did.

13 COMMISSIONER JACZKO: Rob, you had talked about it?
14 Sorry. You said right now we've approved 21. The remaining, I guess, 12
15 that we have that we haven't -- is there a problem with those 12 or we just
16 haven't gotten to the review of them yet?

17 MR. LEWIS: No. Well, they're under review, so I don't know
18 if there's a problem.

19 COMMISSIONER JACZKO: We haven't rejected any or
20 anything?

21 MR. LEWIS: No. Normally, the states will submit their draft

1 regulations for our review of license conditions in this case and we have
2 up to 60 days. Of course, we're not going to use 60 days in this case. We
3 have been getting a lot. In fact, I got one last night. The final one came in
4 last night.

5 We will be on track with those all things being okay with
6 them to get them out so the state's can start doing it by June.

7 COMMISSIONER JACZKO: And the last question I have. I
8 don't know if anyone here can answer this. DHS is also developing a
9 database of sources. Maybe you can comment on what the latest is that
10 the staff is aware of DHS's database. How that will interface with the
11 things that we're doing and what the status is of that?

12 MR. MILLER: Are you referring to the pilot program?

13 COMMISSIONER JACZKO: I don't know. All I know is that
14 there is some DHS database.

15 MR. MILLER: Trish, do you want -- I can try.

16 MS. HOLAHAN: I can address it. DHS is moving forward.
17 They have three signed agreements with different Agreements States.
18 They're waiting for one more to be signed and they're going out and
19 they're getting information for all sources.

20 The agreement is for all categories of material. And then
21 they're going to keep that in place until we get the National Source

1 Tracking System up and running.

2 COMMISSIONER JACZKO: Will that duplicate information
3 we have in the interim database?

4 MS. HOLAHAN: It will duplicate part of it. It's Category 1
5 and 2, but it's all other categories as well.

6 COMMISSIONER JACZKO: So, it will add information? Is
7 that compatible with our interim data base? Is there a way that we can
8 leverage those two systems together so that if for potential Web-Based
9 Licensing or other systems that we wanted to eventually deal with lower
10 categories of sources?

11 MS. HOLAHAN: Possibly.

12 COMMISSIONER JACZKO: At this point we don't --?

13 MS. HOLAHAN: No.

14 COMMISSIONER JACZKO: Is that a topic for discussion in
15 the trilateral meetings?

16 MS. HOLAHAN: Yes, it's a topic of discussion in the
17 trilaterals and also we have DNDO coming up biweekly to brief us on the
18 efforts. I can ask them next time they come up. Our detailees down at
19 DNDO come up and brief us, not DNDO themselves.

20 COMMISSIONER JACZKO: So, the latest right now -- they
21 have three Agreement States that they're working with?

1 MS. HOLAHAN: They're going to have four. They've signed
2 agreements with three Agreement States. They're still waiting for the
3 fourth.

4 COMMISSIONER JACZKO: Thanks.

5 MR. MILLER: But again, the idea here is that once NSTS is
6 stood up, that program should get sunset. That's what we're trying to work
7 with our Federal partners on.

8 COMMISSIONER JACZKO: NSTS won't include category
9 four and five sources?

10 MR. MILLER: That's correct.

11 COMMISSIONER JACZKO: Will they maintain that piece of
12 it that deals with the lower --?

13 MR. MILLER: I'm not sure. We'd have to talk about that.
14 That's a significant burden on states if that maintains that way.

15 COMMISSIONER JACZKO: Again, I don't -- my sense is -- I
16 want to try to put the hammer away. Again, there continues to be despite
17 all our working groups and our task forces and our trilaterals and our
18 bilaterals, what I sense and I think certainly Commissioner Svinicki
19 commented on the progress we've made, but I think there is a -- the reality
20 is that there's a sense, I think, from others that we have not made
21 progress.

1 I continue to see efforts that appear to duplicate things that
2 we're doing from other Federal agencies and I'm not sure exactly what the
3 cause of that is. I would certainly understand why that's a burden. But by
4 the same token, someone feels that there's a need and someone has
5 talked to Agreement States who feel that they want to provide that
6 information.

7 So, somewhere there is a need that people feel that they
8 need to fill. In the end, I would hope that -- this agency does, I think, have
9 the best people to do these kinds of things and I worry that if we do not act
10 decisively enough, quickly enough, that others will fill that void.

11 So, I certainly hope that we can continue to work with our
12 Federal partners and have single systems. We don't need multiple
13 systems to do this. There should be a way to coordinate all these efforts.

14 CHAIRMAN KLEIN: I'm sure from your previous assignment
15 that you never encountered any turf issues that might have come up.

16 COMMISSIONER JACZKO: It never came across my desk.
17 The issues were always easy. They were never issues. Everyone always
18 understood their turf.

19 CHAIRMAN KLEIN: There are some duplication efforts that
20 is not a result of our inactivity.

21 COMMISSIONER JACZKO: I would just certainly say that in

1 the end with all of these efforts, the Energy Policy Task Force was set up
2 provide recommendations to Congress and the administration. It has no
3 regulatory authority. The regulatory authority continues to reside with this
4 agency.

5 We are the source security agency in this country and I think
6 part of the problem we find ourselves in right now is we have not come up
7 with our own definition or understanding of how to look at consequences
8 of dealing with land contamination issues.

9 The Commission made a decision early on that we would
10 focus only on the certain segment of consequences. I think that has
11 turned out to be a decision that from a broader policy perspective others
12 are questioning.

13 So, again, we've had discussions about this in the past and I
14 would encourage the staff to develop that methodology and develop
15 something that we can then begin to make additional judgments about
16 what changes we need to make, if any, from a regulatory perspective in
17 this area.

18 We continue to lag in that area and I think that is an
19 unfortunate situation that does not allow us to be able to provide good
20 information sometimes about some consequences that others may be
21 looking at and investigating. Thank you.

1 CHAIRMAN KLEIN: Commissioner Lyons?

2 COMMISSIONER LYONS: Just to follow up on

3 Commissioner Jaczko's last point. We did hear, and I'm not sure who said
4 it, that economic consequences -- I think Marty said it -- that economic
5 consequences are now being evaluated. I don't question the value --

6 COMMISSIONER JACZKO: I think it's being discussed
7 within the task force about what a methodology would look like.

8 COMMISSIONER LYONS: At least I think there's -- I believe
9 there's clear guidance from the Commission now at least that we do need
10 to move in that direction. I'm personally very interested in that.

11 Just to add a sentence or two on the cesium chloride, which
12 has had a lot of discussion today. I certainly don't want to wait 10 years
13 for whatever the rulemaking and/or solution on cesium chloride may turn
14 out to be. But, I also tend to think that somewhat more research on
15 alternative forms can go a long ways towards informing rulemaking.

16 I think there's plenty of motivation right now. Rulemaking, as
17 you said Greg, would certainly provide motivation, but I think there's plenty
18 of motivation which is being provided from any number of directions right
19 now.

20 I know there's strong efforts going on that we're involved with
21 DOE in looking at alternative forms of cesium which may well not be

1 cesium chloride. In any case, in my mind having a little bit more
2 knowledge on alternatives would probably lead to a better informed
3 rulemaking process.

4 Certainly, in my mind we're not waiting 10 years to do it. But
5 a few months, perhaps a year -- I think to be better informed. The main
6 question I wanted to get to, though, was we've heard a lot about the
7 challenges that all of you are facing in this particular area. We heard
8 about many, many accomplishments and many activities. Certainly, we're
9 hearing from the management here today, as we should.

10 But all of these accomplishments, activities, challenges
11 derive from a strong staff base. I've heard comments from the
12 Agreements States on the challenges they face with staffing within the
13 Agreement States.

14 I was curious if any of you would want to comment on the
15 challenges that we face here at the agency on staffing in these areas. I'm
16 curious where we stand in terms of recruitment, attrition, knowledge
17 management in the key areas that under pin the areas we've discussed
18 today.

19 MR. MILLER: I think that we face a lot of challenges,
20 Commissioner. Let me give you some of the information. With regard to
21 budgeted resources, I think that my office has sufficient budgeted

1 resources as we move forward with the budget process and what we've
2 had in years.

3 The challenges that I've had in FSME are getting us to the
4 budgeted resources. For example, we hired 29 people into FSME this
5 year. I've lost 30. Now, I'm experiencing about a 14% attrition.

6 If you look the historical attrition rate of the agency, that's
7 about double. That's the bad news. The good news for the agency is
8 most of the people aren't leaving the agency.

9 We're kind of in an unprecedented time of opportunity within
10 the agency and people are seeking those opportunities for promotional
11 aspects to broaden themselves and are taking advantage of that.

12 So, I've always been a proponent of people being able to run
13 themselves through the agency and take advantage of those opportunities
14 to enhance their careers within the agency. That's why I'm sitting at the
15 table today. I had those opportunities.

16 But at the same time it presents challenges because you
17 can't just get people off the street immediately to fill those positions. What
18 we're trying to do within FSME to address that is I'm having my Deputy
19 Director George Pangburn, he meets biweekly with my Division Directors
20 and with the Office of Human Resources to make sure that every posting
21 gets up in a timely manner, that we're moving forward with rating panels

1 and trying to get the positions filled as fast as we can. But it is a
2 continuing challenge.

3 MR. REYES: On the high level, we're going to reach again
4 this year the 400 number of new employees. We had some concerns at
5 the beginning of the year. The housing market has thrown a challenge to
6 us. Recruitment by other entities as businesses in this field has gone up
7 is a challenge. We're going to hit 400 new employees again.

8 But I think Charlie said it right. We have to invest in those
9 individuals in training, not only in some technical training, but in training on
10 how our processes work, et cetera, et cetera.

11 The good news that we have unprecedented opportunities
12 for a lot of people. Every week there's announcements where people can
13 be promoted and seek other experiences within the agency.

14 The challenge is to keep the pipeline going in and train them
15 and develop them so they're successful in getting our mission going. So,
16 we do have a challenge in that arena.

17 COMMISSIONER LYONS: I appreciate what you're doing,
18 but I also hope that to the extent you identify things that the Commission
19 could be doing to help you in this, I'm not sure what it could be, but I trust
20 you won't be shy.

21 MR. REYES: We won't be shy.

1 MR. MILLER: If we could promulgate a rulemaking for
2 cloning.

3 COMMISSIONER LYONS: Thank you.

4 CHAIRMAN KLEIN: Commissioner Svinicki?

5 COMMISSIONER SVINICKI: Thank you. I just wanted -- I
6 neglected to say earlier that I appreciate that I think all of the presenters
7 talked about the involvement of our Agreements State partners on all of
8 these issues and I just wanted to second that. That is a key foundation for
9 success, I think, in moving forward on any of this.

10 I appreciate that you're keeping us, the Commission,
11 apprised of those activities which are essential. Thank you.

12 CHAIRMAN KLEIN: Well, I'd like to thank you for a very
13 comprehensive program. We look forward to continuous activities in this
14 area. I think we do have to balance the safety and security, so I thank you
15 for all you're activities and all the staff and certainly the Agreement States
16 and others that have, obviously, mutual interest in this area.

17 Just on a final note, since I have tenure I can irreverent. I
18 noticed that Commissioner Jaczko made the comment that
19 Representative Markey had made "paralysis by analysis". That must be
20 why he sends us all these questions that we have to analyze so much.

21 MR. REYES: That helps with paralysis.

1 CHAIRMAN KLEIN: Thank you very much. Meeting is
2 adjourned.
3
4 (Whereupon meeting was adjourned.)