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UNITED STATES NUCLEAR REGULATORY COMMISSION
BRIEFING ON THE STATE OF THE NUCLEAR MATERIALS
AND WASTE SAFETY PROGRAMS

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MONDAY

March 16, 2009

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

NUCLEAR REGULATORY COMMISSION

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4 Research, State, Tribal, and Compliance Programs

5 MICHAEL WEBER, Director, Office of Nuclear Material Safety and

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CHAIRMAN KLEIN: Good morning. We have an exciting briefing today about fairly major programs. This is always good to remind a lot of individuals that the NRC does things other than just nuclear power reactors. We have another activity.

It's always great to be on a program with Marty. I think Marty wins the award for having the longest title that anybody can have.

We will be going through some very important programs today and we just finished a hearing on uranium and mining and recovery. We will have some upcoming meetings on low-level waste and also on source security.

So, as you go through your presentation it would be nice to take that into consideration. Obviously, what these hearings help us is it gives us a good high level view of some budgetary decisions we'll be making in the future as well as learning about the programs.

Any comments before we start? Bill, would you like to start?

MR. BORCHARDT: Good morning. This is really the first of three program overview briefings that the staff will be presenting over the next several weeks. If I can go to slide two.

The briefings are being structured using the 2011 budget structure. I just have two slides to introduce this new structure. There are three major programs that are shown in the middle of this slide and then nine business lines that fall under those three programs. You can see that today's discussion will discuss six of those business lines.

1 If you go to the next slide, under each business line are activities that
2 provide much more detail into the activities that are going to be conducted under
3 each of these business lines and that line is called product lines. And that is the
4 organization by which today's briefing and all the rest of the briefings will be
5 discussed.

6 So, it's our intent to discuss some of the major activities, some of the major
7 accomplishments and the challenges and potential policy issues over the next
8 year that we foresee.

9 So, I'll turn to Marty now, who will begin the briefing.

10 MR. VIRGILIO: Thank you, Bill. Good morning, Commission. Just
11 to add on to what Bill said, one of the things I like about this new structure is how it
12 integrates all the activities and particularly the way we look at our international
13 program activities now integrated right within the structure.

14 Slide four, as Bill had mentioned today, will focus on the six business lines
15 shown on slides four and five. As the Chairman has pointed out, we will move
16 quickly through those areas where we've had Commission meetings in the recent
17 past and when we look ahead to the next several months we've got a couple of
18 Commission meetings coming up. So, we're not going to focus a lot of attention
19 on those areas. Slide six.

20 As we address each of the business lines included within the Nuclear
21 Materials and Waste Safety Program what we're going to focus on is our
22 accomplishments, our priorities and our priorities looking ahead for the next couple
23 years and then we're also going to highlight potential policy issues.

1 Again, I think what we're going to be looking at is out toward 2011 as best
2 we can those issues for which we're going to need support from the Commission.

3 The background material that we provided before the meeting is organized
4 in a way that follows the presentation slide by slide and identifies the applicable
5 business line and product lines.

6 On slide seven we're going to be hearing primarily from Mike Weber for
7 NMSS and Charlie Miller for the FSME programs, but it's important to emphasize
8 all the work done by us is supported by many other offices, the regions and the
9 Agreement States.

10 We're really pleased today to have with us Julia Schmidt from OAS and
11 John Winston from CRCPD. We have Victor McCree from Region II, John
12 Kinneman from Region I and we have a number of staff and management from
13 both FSME and NMSS in the audience. They are our lifelines when the Q's and
14 A's start and you get to a level of detail through the second level well below us.
15 So, they'll be available to support the questions and answers.

16 So, with that, let me go to Mike Weber. Mike will start with the discussion of
17 the NMSS related activities. Michael?

18 MR. WEBER: Thanks, Marty. Good morning, Chairman,
19 Commissioners. It's always a pleasure to appear before the Commission
20 especially when we get to do a high level overview of our programs because we're
21 particularly proud of those programs and the accomplishments that they have
22 been able to achieve.

23 As Marty and Bill have stated I'm going to cover these quickly at a high

1 level to reserve time for the Commission for questions and comments because I
2 know that's often a priority of yours in these briefings. I'm on slide nine, so if I
3 could have slide nine come up.

4 In the new fuel facilities it's a growing business line for the Commission with
5 several new facilities either being developed, planned, under review or under
6 construction. The Commission was briefed on the enrichment program back on
7 February 5th, so I'll not dwell on those activities, but the Commission got a good
8 overview of the status and the challenges in the uranium enrichment area as well
9 as the accomplishments.

10 Now, as you heard at that briefing the staff is applying a risk informed
11 performance based approach to licensing and oversight to ensure the safe
12 development in thorough and timely licensing and oversight of the new fuel
13 facilities.

14 We're taking that same approach on other new facilities, such as the mixed
15 oxide fuel fabrication facility in South Carolina and, of course, we took that same
16 approach for the Congressional review of the Hanford Waste Treatment Plant
17 Report to Congress that we provided to the Congress last year.

18 We've implemented lessons learned so that they're not just learned, but
19 they're also implemented to improve our regulatory process including the
20 identification and development of new infrastructures and capabilities, such as
21 enhancing our information security program, reviewing the classified computer
22 networks and revising pertinent standard review plans and other guidance
23 documents.

1 I point out that the infrastructure that we put in place for the new fuel
2 facilities also applies to the operating facilities. So, we're applying and leveraging
3 the efforts in both of those program areas. If I could have the next slide please.

4 Looking forward, our priorities in this area for both current and upcoming
5 fiscal years include the licensing reviews for the proposed AREVA and GE laser
6 enrichment facilities, the oversight of the test loop enrichment facility that's under
7 construction at GE, as well as continued licensing and oversight of the
8 construction of the LES and USEC enrichment facilities including the operational
9 readiness reviews that have to be completed before those facilities come on line.

10 We're exchanging lessons learned with our reactor counterparts through
11 the Region and through headquarters offices. We're completing the request for
12 additional information for the MOX fuel fabrication facility. They should be
13 completed this month, March of 2009, and that should pave the way for the
14 completion of the safety evaluation report for that facility by the end of 2010.

15 And if the Commission receives an application for a proposed deconversion
16 facility, that would also be addressed as part of this business line.

17 Now, all of these efforts are contingent on the receipt of sufficient resources
18 to support these overviews and oversight and licensing of the new fuel facilities.

19 Next slide, please.

20 By way of potential policy issues that may be forwarded to the Commission
21 over the next several years, of course, there are the agreements to share and
22 protect sensitive nuclear technologies such as centrifuge enrichment, new
23 requirements for information security programs. I think we gave the Commission a

1 good overview of those activities as part of the uranium enrichment briefing.

2 There's adjudicatory oversight that's provided by the Commission through
3 the licensing process. And then there are the enhancements to the existing
4 regulatory framework for reprocessing, which has been a big focus of ours through
5 the media reporting and through various inquiries that we received from our
6 stakeholders.

7 This area poses a variety of potential significant issues that the Commission
8 may have to deal with over the next several years and they range from safety,
9 environmental, waste management, safeguards issues, non-proliferation, physical
10 protection, and material control and accounting. So, that pretty much spans the
11 gamut of the kinds of activities and issues that the Commission routinely deals
12 with.

13 We've actively engaged our stakeholders including the review of the NEI,
14 Nuclear Energy Institute white paper on reprocessing. We had a very successful
15 meeting with the industry and other stakeholders last month. And we see that as
16 we go forward this is going to be a significant focus area of ours.

17 We plan to complete the regulatory gap analysis this month and then inform
18 the Commission of the results of that gap analysis and the path forward with a
19 paper in May. And as we proceed we would be developing the technical basis for
20 a rulemaking in this area. Next slide, please.

21 Now, the staff assigns the highest priority on the continued safety and
22 security of the operating facilities. So, as we make the transition from new fuel
23 facilities to operating fuel facilities it's important to point that out.

1 Over the last year we've continued to accomplish the mission of the agency
2 through quality and timely licensing decisions, such as two significant license
3 transfers for the operating fuel facilities, as well as numerous license amendments,
4 a number of license performance reviews where we provide an integrated
5 assessment of licensee performance during operations and construction.

6 We completed the review of the integrated safety analysis for all the fuel
7 facilities last year, which is a significant milestone in the implementation of the
8 agency's what we call New Part 70 requirements, which, of course, were put in
9 place almost a decade ago now in the year 2000.

10 We recertified the Paducah and Portsmouth gas diffusion plants for
11 continued operation. We completed the redaction and release for a large amount
12 of information once we concluded it was no longer sensitive for the Category 1 fuel
13 facilities.

14 We worked to enhance security through a variety of upgrades that
15 comprised the Commission's response to the 9/11 events as well as the Energy
16 Policy Act of 2005 and we actively involve stakeholders all the way from individual
17 licensing actions up to the program level through such initiatives as the fuel cycle
18 information exchange.

19 I point out for the Commission's benefit the week after the Regulatory
20 Information Conference concluded that our RIC -- so to speak -- will be held on
21 June 23rd to the 25th here in Rockville. It's not the same scale as the Regulatory
22 Information Conference, but I think you'll find that it's become one of the more
23 important regulatory interactions both domestically and internationally. Let's go to

1 the next slide, please.

2 Priorities for the next several years. We will continue to implement a risk
3 informed performance based approach in our licensing and our oversight of the
4 facilities including the transition of the new fuel facilities into the operating fuel
5 facility base.

6 If we approve the operational readiness reviews for the Louisiana Energy
7 Services facility, which Commissioner Lyons was just at most recently and
8 Commissioner Jaczko as well, then that facility will transition to the operating base
9 and will become part of the routine oversight that the NRC provides.

10 Our regulatory framework, of course, is based on regulations and so we will
11 also be working during this same period to establish in the regulations various
12 post-9/11 security enhancements, material control and accounting requirements,
13 and risk controls for uranium conversion and deconversion facilities. These would
14 be patterned after the risk controls that we put in place in the revised Part 70
15 requirements.

16 We're working on enhancements to our oversight program for the operating
17 fuel facilities and that's underway to provide for more risk informed performance
18 based approach and increase the predictability, the transparency and the
19 objectivity that's reflected in that program.

20 We're also working to implement other infrastructure upgrades, such as
21 upgrades to our Standard Review Plans and Regulatory Guides, enhancements
22 that are applicable to the fuel facilities in the enforcement policy, and the fuel cycle
23 project managers handbook and qualification programs for both license reviewers

1 and inspectors.

2 I would like to highlight an area that we've made progress in over the last
3 year and that's to enhancing our incident response capabilities. We will continue
4 those enhancements as we work to ensure a high state of readiness to respond to
5 incidents that involve the fuel facilities as well as other non-reactor incidents.

6 Could I have the next slide, please?

7 I've already mentioned two potential policy issues that may come before the
8 Commission over the next several years, the security and the
9 conversion/deconversion rulemakings.

10 We're also working with the Department of Homeland Security and would
11 expect to present to the Commission in the near term a coordinated approach for
12 implementing the chemical security requirements to ensure public safety while
13 minimizing any unnecessary or duplicative regulation in this area.

14 The Commission will also be involved in establishing agency positions with
15 respect to external and internal safety culture and as we've seen over the last
16 several years safety and security culture is as important at the fuel facilities as it is
17 at the operating nuclear power plants.

18 Other issues which also could emerge during the foreseeable future might
19 include the implementation issues associated with the additional protocol to the
20 U.S. IAEA safeguards agreement for Commission consideration and decision.

21 Next slide, please.

22 Turning now to our third business line, that of transportation of radioactive
23 material and spent fuel storage. We've made a number of accomplishments over

1 the last year in this area including licensing seven independent spent fuel storage
2 installations since the last briefing. Fifty-four spent fuel storage facilities are now
3 located in 33 states. So, almost every operating nuclear power plant in the
4 country will soon have an independent spent fuel storage installation.

5 In addition, we've completed a variety of transportation package reviews
6 and storage cask designs and ISFSI licensing reviews, as well as comparable
7 accomplishments in the inspection and oversight area. As you may know the
8 inspections in this program are carried out through a cooperative effort between
9 headquarters and regional inspectors. Both of the vendors and licensee programs
10 to ensure safety and security of spent fuel storage and of transportation.

11 Now as under the other business lines we work every day to ensure the
12 openness and the engagement of stakeholders in our regulatory process. This
13 includes a variety of fora such as the Dry Storage Information Forum, which is
14 coming up in a month or so, the PATRAM International conference, numerous
15 public meetings and then there's outreach with our state and local counterparts.

16 Other stakeholder interactions include the development of a joint
17 Canadian/U.S. guide on the approval of Type B packages and that guide will soon
18 be published as a final document.

19 We testified last September before the Senate Science, Commerce and
20 Transportation Committee on the safety and security of spent nuclear fuel
21 transport and the Commission paper we've provided on how to improve risk
22 communication associated with transportation of radioactive materials. Can I have
23 the next slide, please?

1 In terms of priorities for the next several years, we're facing in this area
2 something that we're seeing in other areas and that's bundling together of
3 individual case work items as licensees and vendors seek to enhance the
4 efficiency and the effectiveness of the regulatory review process. That also adds
5 increased technical complexity as margins reduced and as the complexity of the
6 applications, the license submittals with certification reviews increases.

7 We're dealing with turnover of our staff members, so we have a large
8 number of new staff members in this program area. We've had resource
9 reductions to accommodate agency priorities in this area. All these things
10 conspire to make it more challenging to ensure continued quality and timeliness of
11 those certification reviews, but that is absolutely essential to delivering on the
12 security and safety of the American public so it receives our highest priority.

13 That does mean that it's going to be more challenging for us over the next
14 several years to continue to meet our licensing or certification performance
15 metrics.

16 We're also increasing the number of independent spent fuel storage
17 installation inspections over the next several years. Some of that is due to the
18 growth in the number of facilities. That's not a negative performance trend it's just
19 you have more facilities to go and inspect and we want to make certain that the
20 licensees continue to do what they need to do to ensure safety and security.

21 We're working to enhance the regulatory framework in this area, such as
22 the Part 71 rulemaking to harmonize the U.S. transportation requirements with
23 those of the IAEA; the Part 72 rulemaking to enhance the efficiency and

1 effectiveness of our certification reviews for spent fuel casks; various rulemakings
2 upgrading the requirements for the independent spent fuel storage installation
3 securities.

4 We're refining the technical basis through a variety of guidance documents
5 including addressing burn up credit and how to handle high burn up fuel. And, of
6 course, we're conducting outreach with stakeholders to ensure that we understand
7 their ideas and their suggestions for how we can work to improve the effectiveness
8 and efficiency of our regulatory process.

9 We held, for example a workshop last fall with NEI industry and other
10 stakeholder groups and we're working to plan more of those in the future because
11 we find them beneficial in soliciting ideas on how we can improve our regulatory
12 program. Next slide, please.

13 In terms of potential policy issues the first issue I'll mention is one that the
14 Office of Nuclear Regulatory Research has the lead on and that's the Package
15 Performance Study. This program has been delayed somewhat since the
16 Commission last rendered its policy direction and that's both through changes in
17 the program for the high-level waste program as well as to accommodate funding
18 constraints.

19 I'm happy to report that in the interim we continue to make progress in this
20 area by leveraging the testing and analysis work that's being done overseas by
21 our regulatory counterparts so that we learn from their experience and they benefit
22 by us sharing our analytical capabilities at the same time.

23 We're also closely monitoring industry, Congress and the Administration for

1 changes that you may have heard about that may affect the high-level waste
2 program. Any of those changes and the alternatives we would anticipate would, to
3 some extent, involve continued reliance on interim spent fuel storage for some
4 foreseeable future. So, it's important that as we go forward considering those
5 alternatives we continue to ensure the safety and security of spent fuel that's being
6 stored. Next slide, please.

7 As I turn to the high-level waste business line I'd point out, of course, this is
8 an active adjudicatory matter pending before the Commission, so I'll keep my
9 remarks at a high level.

10 We formally docketed the license application from the Department of
11 Energy for the proposed repository at Yucca Mountain last September and that
12 was done on schedule. We also adopted the Environmental Impact Statement
13 with supplementation on schedule.

14 We placed priority before we received the application on ensuring the
15 infrastructure was in place to deliver on our requirements in the Nuclear Waste
16 Policy Act. That's become more challenging with the funding constraints that
17 we've operated under this program for the last couple of years and for the
18 foreseeable future, but we're endeavoring to do our best with the resources that
19 we have to keep our program moving forward.

20 On infrastructure development I'm happy to report was the completion of
21 the final requirements in Part 63. The Commission affirmed those requirements
22 back in February and last Friday they were published in the Federal Register. So,
23 we continue to make the progress needed there to do what we can.

1 Turning to the next slide our priorities for the foreseeable future include
2 continuing forward with the licensing review, supporting the hearing process
3 which, of course, goes on concurrent with our technical review. Should we receive
4 applications for transportation, aging and disposal canisters we would support
5 those reviews to the extent that we can afford.

6 And we're also striving to maintain the viability of the program despite some
7 of the funding constraints that we're operating under.

8 And my last slide on potential policy issues, I've already alluded to the
9 potential changes and the consideration of alternatives in the nuclear waste field.
10 If the Congress changes the national policy with respect to disposal of spent
11 nuclear fuel and high-level radioactive waste the NRC will make the changes
12 necessary to implement the law and we're anxious to learn about the details of
13 some of those efforts.

14 So we know Secretary Chu and Senate Majority Leader Senator Reid
15 reported out last week their expectations for how this high level review would be
16 conducted. We're learning those details and preparing to support the Commission
17 should any of those activities require the regulatory advice from the Commission.
18 Not that we would be in position to select the technology, but we might be able to
19 opine on some of the ramifications of the different decisions from a regulator's
20 perspective.

21 And related to this is, of course, the waste confidence rulemaking. Public
22 comment period on that closed on February 6th and so now we're working with the
23 Office of General Counsel and with the other staff offices to analyze the comments

1 and prepare recommendations on an expeditious basis to come back to the
2 Commission for consideration.

3 With that, let me turn it over to Charlie Miller.

4 MR. MILLER: Thank you, Mike. Good morning. Before I delve into
5 the specific business lines that FSME deals with, which are material users and
6 low-level waste and decommissioning, I'd like to spend a few moments discussing
7 two items which crosscut everything that FSME does.

8 The first is Tribal interactions. We will continue our efforts to implement a
9 comprehensive approach to interacting with Native American Tribes. To that end
10 we intend to develop an internal agency protocol and provide the Commission with
11 the results of our assessment of what other federal agencies are doing.

12 The second crosscutting area deals with our international activities. We
13 must continue to influence the development of the IAEA standards in waste
14 management, environmental radiation safety standards to serve the U.S. interests
15 and to establish harmony with NRC policies and safety requirements. May I have
16 the next slide, please?

17 With regard to our accomplishments, the NRC has met its safety and
18 security goals in the nuclear materials program in the past year through a
19 collaborative partnership between numerous headquarters offices, the Regions
20 and Agreement States and over 20,000 materials licensees.

21 A large quantity of the completed and timely licensing and inspection work
22 in the Agreement States and in the Regions was a major contributor to our
23 success.

1 Pennsylvania became an Agreement State last March. Virginia is on track
2 to become an Agreement State at the end of this month, and New Jersey is right
3 behind hopefully to become an Agreement State by the fall of this year.

4 The staff has completed a number of proposed rules in the past year: Part
5 35 as it relates to the definition of a medical event, decommissioning planning,
6 categorical exclusion environmental review, general license restrictions and
7 expansion of the National Source Tracking System.

8 Staff has also completed the following final rules: regulatory changes to
9 implement the additional protocol for the U.S. International Atomic Energy Agency
10 safeguards agreement, lower reporting thresholds for special nuclear material and
11 source material, and the Nuclear Materials Management and Safeguards System
12 otherwise known as NMMSS. Next slide, please.

13 We've also made significant strides to improve our materials and waste
14 infrastructure. The deployment of the National Source Tracking System in
15 December of 2008 was a major milestone. The system will provide a greatly
16 enhanced accountability for the IAEA Code of Conduct category I and II sealed
17 sources held by the NRC, Agreement State licensees and the Department of
18 Energy.

19 Following the Commission approval of SECY-07-0144 in September
20 of 2007 NRC resumed funding for the Agreement State staff training and
21 associated travel to attend NRC sponsored courses for materials licensing and
22 inspection. In the past 12 months the NRC will have sponsored 43 training
23 courses and trained over 487 Agreement State attendees. Next slide, please.

1 Our priorities continue to evolve as operational events and external factors
2 demonstrate the need for regulatory flexibility. The next three slides will highlight
3 some of our highest material program priorities.

4 The proposed rule that we developed on generally licensed devices would
5 improve accountability and control of the devices. In its May 30th, 2008 SRM, the
6 Commission instructed the staff to make improvements in the security of cesium
7 chloride sources a priority and to that end consider the efficacy of existing
8 technical alternatives. We've recently developed a SECY paper and will be
9 implementing the Commission's decisions once made.

10 The Commission and the staff are well aware of the international and
11 domestic production issues associated with medical isotopes. Our staff is working
12 to consider the licensing issues and is working to identify and address regulatory
13 changes. May I have slide 25, please?

14 Our other priorities include -- we are currently leading a
15 multi-organizational, which comprises of 13 agency task force, which is
16 legislatively mandated by the Energy Policy Act of 2005 and is chaired by the NRC
17 and it's working to advance source security issues across the federal government
18 as it evaluates the inputs it receives from various subgroups and working groups.
19 The next report is due to Congress and the President in August of 2010.

20 Continuing need to maintain the materials programs focus on the materials
21 security issues, including issues such as fingerprinting, increased controls,
22 enhanced security rulemaking, pre-licensing guidance, cesium chloride security
23 enhancements are also high on our radar screen.

1 A number of security rulemakings including the creation of a new Part 37 as
2 well as spent fuel transportation fuel cycle facilities security of decommissioning
3 plants and others need to proceed in their development. Next slide, please.

4 In addition, staff efforts to eliminate any potential or perceived vulnerabilities
5 in the materials program through timely implementation of the U.S. Government
6 Accountability Office action plan recommendations will continue.

7 With regard to the deployment of web based licensing system we need to
8 modernize the existing legacy system that is used in the materials program to
9 provide integrated comprehensive license information system for the byproduct
10 material area.

11 Although the NRC funding of the assistance to the Agreement States
12 helping immensely to meet their training and qualification requirements there's still
13 a significant need for us to focus on the efforts of staff turnover and retention in the
14 Agreement State programs. Next slide, please.

15 With regard to potential policy issues, as we move forward there are some
16 key areas which need or may need the Commission's policy guidance. I'd like to
17 mention three in particular.

18 The staff's recommendation to defer the National Source Tracking System
19 rule expansion.

20 The second is with regard to the staff proposal for options to revise
21 radiation protection regulations and guidance with respect to the 2007
22 recommendations of the International Commission on Radiological Protection and
23 where we go with this for ultimate changing of Part 20.

1 The third area is one that's currently in progress. What lessons from the
2 Wal-Mart incident tell us with respect to the adequacy of our regulatory treatment
3 of tritium exit signs? For example, does the general license rule work, especially
4 for licensees with a significant number of signs? Are regulations adequate in light
5 of the number of signs and properly disposed of? These are issues that we'll likely
6 be bringing to the Commission for your attention. Next slide, please.

7 Let me shift gears now to the low-level waste and decommissioning area.
8 In the waste management program it's also been a very busy and productive year.
9 Our monitoring activities and our infrastructure improvements have been very
10 important regulatory advances that enhance the safety and protect the
11 environment.

12 As examples I'd like to cite the Draft Generic Environmental Impact
13 Statement for In-Situ Leach Uranium Milling Facilities, our Saltstone monitoring
14 activities at the Savannah River site, and progress made by DOE and NRC at
15 West Valley.

16 We continue to engage licensees early in the decommissioning process
17 and license termination process and this has led to a completion of at least eight
18 sites decommissioned each year since 2005. Of course, the Regions play a major
19 role in what we do in this area. Slide 29, please.

20 In the next several years we've identified a number of projects that will
21 require our highest degree of attention. As you heard in our December 2008
22 Commission briefing we have a number of uranium recovery licensing challenges
23 and a heavy anticipated workload.

1 We plan to implement the low-level waste strategic plan tasks and initiate
2 revisions to Part 61 in accordance with Commission direction in a forthcoming
3 SRM.

4 We also plan to maintain a role as the U.S. regulatory body for the
5 purposes of the Joint Convention, while also looking for opportunities to transfer
6 our skills of working effectively within the international community to a new
7 generation of our staff. Next slide, please.

8 We will be looking forward to presenting to the Commission a range of
9 issues for important Commission policy decisions. Some of these include
10 low-level waste blending. A paper that will soon reach the Commission analyzes
11 the policy, regulatory and safety issues associated with blending and will provide
12 options and a recommendation.

13 Remediation of radium at non-national priority list sites. Staff is preparing a
14 paper that is scheduled to come to the Commission this summer. The paper will
15 evaluate issues associated with the NRC jurisdiction and involvement with military
16 remediation of radium 226 at non-NPL sites.

17 Next, a draft rule is expected to reach the Commission by the end of
18 calendar year 2009 on the applicability of the 2007 Part 50 and 51 Limited Work
19 Authorizations rulemaking as it pertains to Part 40 licensees. These are primarily
20 the In-Situ leach facilities.

21 The decision will generate considerable interest especially within the
22 uranium recovery community.

23 On the previous slide I mentioned Part 61 as a priority. It's also a potential

1 policy issue. Staff will evaluate the West Valley Environmental Impact Statement
2 in terms of the ability of the preferred alternative to meet the Commission-defined
3 criteria for decommissioning.

4 Given that the preferred alternative contemplates a phased approach with
5 the ultimate end state unknown at this time until the later phases are defined, the
6 NRC staff may consult with the Commission on the results of its review of the
7 preliminary final EIS.

8 With that, I'll turn it to Marty.

9 MR. VIRGILIO: Thank you, Charlie. Run down the clock here. In
10 view of the time period that we had available we didn't talk about all of the product
11 lines, but there are a lot of additional information that we provided in the
12 background.

13 Nor did we talk about things that are not directly spoken to in the product
14 line, such as investigations, enforcement and some of the security work.

15 What I would like to do is talk for a few minutes in concluding about some of
16 our efforts toward continuous improvement.

17 One of the things that we've been working on is the implementation of a
18 methodology called Lean Six Sigma. I think we've provided some information to
19 the Commission about that back in time. What we're looking for is are there
20 opportunities to improve the way we conduct our business? Are there
21 opportunities to streamline our processes to save resources, to save time?

22 We adopted the Lean Six Sigma -- there are many methods out there -- we
23 adopted Lean Six Sigma as one method that we thought would work and we've

1 applied it to a number of our processes and we've actually had some noteworthy
2 improvements as a result. If you step back and look we've applied it to 11
3 processes. We've finished two.

4 Those two that we finished, one was just basically halfway into the program
5 we realized that we didn't have enough data in order to support the kind of
6 analysis that we wanted to do. And the other one we realized that the impressions
7 that we had that the system was not optimized were false impressions and that the
8 system is operating pretty well near as well as we could operate it.

9 If we look at two others, the next two in-line, one is placing NRO task order
10 contracts. What we find, although this is not finished yet, we can save about 20
11 hours per task order and contract. That might seem like a small amount, but once
12 you look at that across a year's time we're talking about saving in excess of an
13 FTE, which I think is pretty noteworthy.

14 The hiring process is another example where although we haven't finished
15 the assessment, we realize that we can save about 30 hours per vacancy on the
16 internal hires that we do. This has got a tremendous benefit to us if you think
17 about the number of internal transfers. I know Bill has talked about that number at
18 the RIC and we're dealing with about 900, 960 people changing jobs in one way or
19 another over the course of the last year and the year before that. The statistics
20 weren't that much different. So, it's a great opportunity to save resources.

21 We have seven more in the process -- seven more systems under review
22 right now and we hope to achieve some significant resource savings there as well.
23 It's not just the resource savings that we're realizing. We're realizing closer

1 cooperation among staff across organizational lines.

2 There are many intangible benefits associated with the Lean Six Sigma
3 process, but I think the ones that you tend to focus on is does it save resources
4 and does it save time? I think we're doing both of that and I just wanted to make
5 sure that we conveyed that to you; that we are striving for continuous
6 improvement.

7 With that, let me turn it back over to Bill.

8 MR. BORCHARDT: Thanks, Marty. I'd like to simply acknowledge
9 the leadership role that Marty and the two other colleagues at this side of the table
10 play in implementing this program. I think they've done a really tremendous job.

11 Their leadership is only recognized because of the hard work of not only the
12 individual offices that they represent, but the many other offices that all play very
13 important roles in supporting the program objectives of the agency in these two
14 areas.

15 It's a very challenging area as you heard from this overview because there's
16 so many separate little programs and business lines, product lines. It's in some
17 respects more challenging than the reactor area that gets the majority of our
18 attention and the majority of our budget. But today's discussions are no less
19 important than the reactor program area.

20 This concludes the staff's briefing and we're ready for questions.

21 CHAIRMAN KLEIN: Well, thanks, Bill and all of the presenters. That
22 really gave a good overview. These are very dynamic and certainly very important
23 programs. I'd also like to thank and acknowledge those in attendance that are

1 representing other organizations in the states because it's very important that we
2 keep those close ties. So, thank you for your attendance today.

3 We'll begin our questioning with Commissioner Jaczko.

4 COMMISSIONER JACZKO: Thank you, Mr. Chairman. I probably
5 thought I'd start with National Source Tracking. I was just reviewing -- we got the
6 latest update of the credentialing on Friday. And it looks like we're getting there,
7 but we still have a lot of -- I shouldn't say -- we still have several Agreement States
8 that do not yet have certifications downloaded and then we have really very few of
9 the manufacturing distributors who are there.

10 What's your sense, I guess Charlie, of where we are and when we'll likely
11 see more of that filled out?

12 MR. MILLER: We continue to find that this is a challenging task and
13 I can -- since you identified two areas let me address those.

14 With regard to the Agreement States I think what Agreement States are
15 experiencing is the same kinds of things that we see internally and that is they
16 have IT security aspects within their state government. And in order for them to be
17 able to download certificates in some cases what they're finding is that their IT
18 people have to be collaborative and give them permission to be able do that
19 because of the IT security of their computers.

20 I think that that was probably something that we didn't fully anticipate as we
21 set out. My staff continues to try to keep -- if you don't mind a basketball
22 analogy -- a full-court press on this with regard to the Agreement States. The
23 leadership of the Agreement States is here today and I know that they fully support

1 us trying to get this stood up.

2 With regard to the licensees, we really try to pay first order priority attention
3 to the manufacturers and distributors because it's a smaller population of
4 licensees and they're the ones that are making multiple transactions. So, it's
5 important since they're going to be making many transactions to get them into the
6 system.

7 They experience some of what I talked about with the IT security aspects
8 depending upon the size of the company, but also we have to continue to make
9 sure that we encourage them to report electronically.

10 Currently, they're reporting, but they're reporting through paper. And I think
11 what they really want to get is the opportunity for batch uploading. We're working
12 with our contractor to try to allow for an interface that gives batch loading. We're
13 pretty close, I think, to getting something done on that.

14 I think that will go a long way to continue to encourage them. We have to
15 bring them in to realizing that electronic reporting is the wave that we need to get
16 to for the future. I think, quite frankly, if it's going to be paper reporting at some
17 point in time we're going to be overwhelmed.

18 COMMISSIONER JACZKO: I guess I thought we were closer on the
19 batch processing then I guess you're saying now. So, that's a little bit of a step
20 backwards. As it is right now we have, I guess, 20% of the M&D -- the
21 manufacturing and distributors have certifications downloaded.

22 Do we know that those that have certifications downloaded are actually
23 reporting electronically? There should be four companies. It's Halliburton, Probe

1 Technology --

2 MR. MILLER: I don't know that off the top of my head if they've
3 reported electronically or not. We can get that information.

4 COMMISSIONER JACZKO: If you could get that to us so at least
5 those people that have certificates we know that they are reporting.

6 MR. MILLER: And we want them to use them. We know that they've
7 got them, but we want them to use them once they have them. It has been a
8 challenge to get them to get on board. We have to keep our eye on the ball in that
9 regard.

10 COMMISSIONER JACZKO: You mentioned, then, that it will be a
11 challenge if we have to do all paper reporting. Currently, we are able to keep up
12 with the pace of paperwork.

13 MR. MILLER: The contractor has been able to keep up with the
14 pace, but to be quite frank this is not something we anticipated at this magnitude
15 for a long time. So, if we continue on this for a long time contractor's resources
16 are going to be eaten up a lot faster than what we thought.

17 COMMISSIONER JACZKO: Okay. Well, I appreciate that. Another
18 aspect on National Source Tracking, back in June of 2006 the Commission did ask
19 the staff to move forward on including Category III into the National Source
20 Tracking within three years. I know the staff as you alluded to in your presentation
21 has sent up a paper on that.

22 I think, as we've talked about, Charlie, until or if the Commission makes any
23 changes in policy the previous Commission direction was for the staff to move

1 forward on a rule within three years. So, we're getting close to that three year time
2 period and I would hope to see certainly a rule package being prepared and ready
3 to go if the Commission doesn't make any changes in direction.

4 I think that was the original intention. I'm not sure that anything has
5 changed dramatically from that at this point.

6 MR. MILLER: We're anxiously awaiting a Commission policy
7 decision on our proposal, but absent that, we've had to continue on with working
8 on the rule and we have been.

9 COMMISSIONER JACZKO: Do you think it's possible to beat that
10 June date for having a rule?

11 MR. MILLER: I wouldn't sit here and say it's possible to beat it,
12 Commissioner, no. I wouldn't make that commitment.

13 COMMISSIONER JACZKO: It's not possible to beat it?

14 MR. MILLER: I would not be confident in saying we can beat that
15 date, no.

16 COMMISSIONER JACZKO: But you can meet that date, though?

17 MR. MILLER: We're working towards trying to do that should the
18 Commission not change its policy.

19 COMMISSIONER JACZKO: What would be the challenges to
20 meeting that date?

21 MR. MILLER: I think the challenges to meeting that date would be
22 continued focus on getting all of the rulemaking package together, what's in the
23 package. Without getting too much into the details of the staff views on that

1 because we are going to have a forthcoming Commission meeting on material
2 security, I think the staff feels pretty strongly that we want to make sure that the
3 lessons that we learned from the stand up of the first system are reflected in any
4 expansion that we do so that a rulemaking is fully informed.

5 If we need to make some changes in our rulemaking that weren't reflected
6 in the first rule or weren't reflected in the proposed rule as a result of the lessons
7 that we've learned we want to be able to capture that so we're not in a continuous
8 rulemaking process with regard to that.

9 COMMISSIONER JACZKO: What kinds of changes then would you
10 suggest -- as I understand the process of National Source Tracking right now it's
11 generally with the credentialing process?

12 MR. MILLER: For example, I think when we originally promulgated
13 the first rule we allowed for paper reporting.

14 COMMISSIONER JACZKO: So would you say that the suggestion is
15 to eliminate paper reporting?

16 MR. MILLER: No, not necessarily. Because I think there's always
17 going to be licensees who don't have the wherewithal to report electronically. But
18 at that time the materials security IT aspects of that were completely unknown.
19 Unknown is probably a reasonable word. We just didn't anticipate the magnitude
20 of that. So the question becomes as we go down further in categories if the
21 Commission wants us to go there, then --

22 COMMISSIONER JACZKO: The Commission in the past does want
23 you to go there.

1 COMMISSIONER LYONS: First, my thanks to you folks for excellent
2 presentations and representing the work of I know of a lot of your staff and also my
3 thanks to Julia and John for being here representing the states. Very, very
4 pleased to see the state's continued very active participation in these issues.

5 Maybe starting with a question for Bill. I think I'm right that this is the first
6 meeting where we've tried the new layout of business and product lines. Marty,
7 you made a positive comment on it and from my perspective it's seems like a good
8 way of proceeding.

9 But I'm just curious, Bill if you would add any comments from your
10 perspective about how you see this as a way of organizing such presentations?

11 MR. BORCHARDT: Well, this new budget structure was the result
12 of, I think, unprecedented cooperative effort between the CFO's office and all the
13 offices that report through the EDO's office. We think this lays out a much more
14 orderly transparent way of looking at all of our activities.

15 I think this is a dramatic improvement, especially when you get down to the
16 product line area. A lot of those areas, international programs being one that has
17 been an important activity, but it was very hard to be able to look at the budget and
18 our activities and really be able to add it up in a way that you understood what the
19 total cost of those activities were at the office level.

20 We knew for the Office of International Programs, but we didn't know for
21 each of the individual offices how much effort was going into that. So, we didn't
22 have an integrated view at an agency basis, at least not as easily as this new
23 structure allows.

1 I think today's briefing illustrates how when we have these three groupings
2 of these three business lines that it really lays out a very organized and structured
3 way of overseeing our activities. I think it holds great promise.

4 COMMISSIONER LYONS: Thank you and I share your optimism.
5 Mike, you mentioned that I had recently been out to LES. In fact, I had the
6 privilege of traveling with Marty and several others on that visit. This isn't really a
7 question, but just a comment that it brought home to me the challenge that you
8 face in terms of the situation where parts of the facility are being dedicated and
9 evaluated from a security standpoint.

10 At the same time that other parts of the same facility, sometimes separated
11 only by a thin wall, are starting to move towards operation. It just brought home to
12 me as I hadn't understood before how complex that can be when you've got that
13 range of activities within a relatively small facility.

14 By way of a question, page 10, I guess, referred to the MOX facility. There
15 has been some discussion lately about Duke no longer being interested in burning
16 the MOX fuel. Are you having an opportunity for discussions with DOE sort of on
17 the subject of now what? Where do they go from here? I assume that influence is
18 potentially where the MOX facility goes.

19 MR. WEBER: We are -- every indication we've had from DOE is it's
20 full speed ahead. They're anxious to complete the licensing for the facility using
21 their contractor, of course. We're informed that they are looking for additional
22 potential users of that material, but many of those discussions take place, of
23 course, between the Department and the prospective utility that might use that fuel

1 and are held as proprietary information until such time as an announcement is
2 made.

3 COMMISSIONER LYONS: Okay. I hope that they do keep you as
4 informed as possible as this develops. And then just a comment on your slide 11
5 about the regulatory framework for reprocessing. I just wanted to add my
6 encouragement that, yes, that's a very appropriate area for the agency to be
7 moving forward.

8 I think it's well recognized that we need significant work in terms of updating
9 the regulatory framework there and I think the handwriting is on the wall that in
10 some form, some way there's going to be activity interest from companies in
11 moving in that direction.

12 And then a question on slide 14 where you talk about the chemical security.
13 I'm just curious if cooperation and coordination with Homeland Security is going
14 reasonably well in that area and if you're getting a better feeling as to how our
15 approaches in this area will complement or at least not clash with DHS interest in
16 chemical security?

17 MR. WEBER: We are having good conversations with the
18 Department of Homeland Security. Their staff and management are certainly
19 committed to trying to avail themselves of existing security framework that's in
20 place for NRC licensees and to implement the legislation as enacted by the
21 Congress.

22 Roy is here and might want to comment on this, but we continue to make
23 progress forward on delineating the extent to which NRC licensees are excluded

1 from the application because they already have in place the significant security
2 programs to ensure protection of the public.

3 COMMISSIONER LYONS: Thank you. I don't know if you need to
4 add to that, Roy, or not.

5 MR. ZIMMERMAN: Good morning, Commissioner. Roy
6 Zimmerman, Director of Office of Nuclear Security Incident Response. The only
7 thing that I would add is that we are working on a regulatory information summary
8 that will put in writing and help clarify for the recipients what is expected in their
9 interactions with DHS.

10 This is well coordinated with DHS so that we make sure that we don't put
11 them in a situation of potential dual regulation. So, there's only a number of cases
12 like that, but I think the generic communication will go a long way. Again, as Mike
13 indicated the communication and coordination with DHS is very good.

14 COMMISSIONER LYONS: Thank you, Roy. I too will have more
15 questions for another round, but if I can cram in one more for Charlie. You noted
16 the increased interest to add additional Agreement States and as the number of
17 Agreements States continues to grow certainly the balance, the perspective of the
18 National Materials Program between our agency and the states I would think
19 needs to continue to evolve.

20 I was just curious if you could comment on any long range planning
21 activities that you're undertaking perhaps in coordination with the states, I'd say
22 ideally in coordination with the states, as to how the National Materials Program
23 will evolve as the number of Agreements States appears to continue to increase?

1 MR. MILLER: First of all, as it continues to increase as you know as
2 you've pointed out our number of licensees get smaller and the states number of
3 licensees get larger. So, one of the things that I think that we have to do in the
4 National Materials Program is to make sure that as states do become Agreement
5 States that we keep a close eye on the state budgets and the resources that are in
6 those states. Budgets are very tight right now. I don't think I need to tell anyone
7 that. And so, to try to do everything that we can do to make sure that the states
8 have the resources that they need.

9 And that includes as new states become Agreement States as part of the
10 National Program providing them the training that they need. I mentioned the
11 support that the Commission agreed to give us in the budget area with regard to
12 that, but we have to keep a watchful eye on that because state staff is constantly
13 turning over also. So, we have to make sure that the focus isn't all on getting new
14 Agreement States trained at the expense of getting new people in existing
15 Agreement States trained. So, that's one aspect.

16 The second thing is expanding into the other areas of the program. You
17 heard me talk about our business lines here. The low level waste area is an area
18 that we're getting more and more cooperation and work with the states on. It's so
19 that we get better information and sharing information on what's going on in the
20 states in that regard, especially in the materials area where, of course, they have
21 the licensees.

22 And as you well know, there are no low-level waste sites regulated by the
23 NRC at this time, but we still have programmatic responsibility for policy and

1 oversight of this. So, that's something we need to keep a close eye on in the near
2 future with the states.

3 Thirdly, getting the states to continue to support and cooperate on our
4 initiatives as they relate to the National Source Tracking System and web based
5 licensing. As we get more and more Agreement States, that's going to bring new
6 people into the fold who haven't been dealing with this. Their cooperation and
7 sharing that information with us is critical to have a National program. So, there
8 are just some thoughts of some initiatives in the near term that we're trying to think
9 about.

10 COMMISSIONER LYONS: Well, I certainly agree with all the points
11 you made and certainly strongly support the training activities. But I can't help
12 thinking that, again, in coordination with the states that it is worth asking how this
13 program will evolve over significant numbers of years because very clear trends as
14 decreasing number of licensees within the NRC and it may be appropriate to look
15 at some different models of how the agency's contributions relative to the state's
16 contributions are all coordinated. I would just encourage that there be that kind of
17 plan.

18 MR. MILLER: And we do. And I think one area that we've looked at
19 some increasing models is, of course, making sure that the states are involved in
20 our working groups as we contemplate policy decisions. They're very active in
21 that. This puts an extra resource burden on them, too.

22 And so, it's continual encouragement to not have just a few states
23 participate in this, but have all the Agreement States involved so that their

1 resources can be shared and used efficiently. And that brings more of a National
2 focus rather than just having a few states who have large programs necessarily be
3 the ones that always step up to support us.

4 So, we try to continue to encourage the Agreement States to have people
5 participate. That also helps towards a National program and perspective.

6 COMMISSIONER LYONS: Thanks, Charlie.

7 CHAIRMAN KLEIN: Commissioner Svinicki?

8 COMMISSIONER SVINICKI: Thank you. Well, I add my welcome to
9 our state partners who are here today. Thank you for coming. And I add my
10 thanks for the staff presentations. I think there had been some debate about
11 perhaps trying to have these State of the Program Briefings the week before the
12 RIC and now I'm realizing that maybe having it the week after the RIC was just as
13 difficult for staff because they provide a tremendous amount of information to the
14 Commission in preparation for this. So, I thank them. I'm not sure if we made it
15 more painful or less painful, but we had good intentions in any event.

16 Some of the topics have been covered, so I'll start maybe with a comment.
17 On the new budget structure Marty used the example of international program
18 support as a benefit of where we can see that spread across the different
19 programs.

20 I would say -- I would pick out rulemaking as my favorite. It's that in years
21 past I understand the agency couldn't indicate a resource amount affixed to our
22 rulemaking activities. I think that kind of fidelity will serve us well going forward;
23 however, someone has to then split the budget out with that level of fidelity.

1 Mike, you and I participated in the Chairman's Advisory Group on the
2 budget. You were one of the participants representing a larger program. I know
3 that Bill responded of the benefits of the new budget structure, but how is it going
4 in terms of all of your folks who have to try to split the budget out? Is that going
5 pretty smoothly? I'm assuming we'll get better at our estimating over time?

6 MR. WEBER: I would say it's going well, Commissioner. We're still
7 learning the new process, so when we apply the new structure that raises new
8 definitional issues about what exactly do you mean by international activities, for
9 example, or rulemaking? Where does rulemaking end and guidance development
10 begin? How do you draw that line between the programs?

11 In my particular case being the responsible manager for both -- or two of
12 the business lines, the new fuel facilities and operating fuel facilities, how do you
13 split between those two business lines the work that we do on upgrading the
14 Standard Review Plan that applies to both?

15 So, these are some of the implementation challenges, but I would say a
16 challenge for the agency -- and you'll have the opportunity to grapple with this as
17 you formulate the budget for 2011 -- is to control the creep because what's
18 happening is as you make the budget more granular you start realizing, "Wow, we
19 really don't have many resources on some of these line items or some of the
20 product lines."

21 And then that's going to fuel the question, don't you need more? But at the
22 same time we're trying to be fiscally responsible, so we're trying to maintain a
23 level. I think we're going to have a lot of back-and-forth on that as the staff

1 formulates the budget.

2 COMMISSIONER SVINICKI: Bill had closed with a comment about
3 all of the organizations and support not represented at the table today. I'm
4 struggling. I know that these briefings are done in preparation for receipt of the
5 2011 budget and the Commission's consideration of the staff's proposal on that,
6 but I'm working hard to understand how some of these essential elements like
7 OGC, other elements of all of these initiatives are spread.

8 And certainly, I don't think -- it's not an objective of the new budget structure
9 to hamper some fungibility where it's appropriate, but I think it will give us a lot
10 more transparency into all of these elements of all of this, say a rulemaking, that
11 requires so much support outside of a programmatic office to get a better
12 understanding of how we're going about that. And so, I appreciate that it won't be
13 probably pretty in the beginning and we'll do the best that we can.

14 This is in preparation for the budget and so I appreciate you've mentioned
15 the adjudication on high-level waste. These are all budget oriented questions and
16 not substantive.

17 For example, you've mentioned the potential for budget challenges of
18 moving forward on the high level waste proceedings and there is significant
19 involvement, you mentioned the hearing process that runs parallel to the staff's
20 technical review.

21 As we look at budget constraints there can you share any sense of how
22 staff would propose we look at reduced budget scenarios between say
23 Commission appellate adjudication, OGC, other offices that would have a strong --

1 they would have a lot of resources they would need to dedicate to the hearing
2 process versus the technical review?

3 Is staff beginning -- obviously, we're moving forward on FY-11 so you're
4 having to work your way through that. Is there any kind of overall guideline that
5 you could share?

6 MR. WEBER: Absolutely. We've been working to respond to the
7 most recent February SRM that we received from the Commission, so we're
8 formulating that comprehensive plan that was requested of us.

9 We get great cooperation from all the offices and under Lawrence Kokajko's
10 leadership. Lawrence serves as the group that pulls the different offices together
11 to formulate the budget. There are very clear ground rules for those discussions.
12 They don't get into substantive technical discussions about any of the issues that
13 are under adjudication. It's clearly from a program resources perspective.

14 And at the same time a number of those offices maintain their own reporting
15 lines to the Commission so that if they have substantive issues to discuss with the
16 Commission they can avail themselves to those channels.

17 But by and large the cooperation has been very good. Lawrence puts the
18 core group through their paces on a fairly frequent basis as we plan for different
19 contingencies with more or fewer resources depending on how the case plays out.

20 COMMISSIONER SVINICKI: Okay. Thank you. That's helpful for
21 me to kind of peer into that process. We just see the final product, but I know that
22 there's a lot of work that goes on.

23 I would ask you we're to a point now where the CR is in its very final steps

1 here. I think soon we will have coordinated with OMB and we can have our final
2 '09 number and move forward.

3 There were some applicants, Mike, in your area, say AREVA for the Idaho
4 Enrichment Facility where the applicant was notified that the CR as long as that
5 was pending we couldn't really work on a definitive schedule for them.

6 Are you to the point now where you should be able to communicate to
7 applicants in that circumstance how we might move forward?

8 MR. WEBER: Yes and we did so for AREVA last week. We
9 accepted their application for review and we also communicated with another
10 licensee that we've accepted their environmental report for review. So, we're
11 making progress.

12 I'll count on Jim Dyer to deliver the resources once he gets them from the
13 Office of Management and Budget, but we should be good to go on those two
14 particular cases. Thanks.

15 COMMISSIONER SVINICKI: Okay. Charlie, I want to acknowledge
16 since this is the first time I think that you've been in a briefing like this since I had
17 an opportunity to attend one of the Chairman's task force on radiation source
18 protection and security. I have to read it every time. It's so long; I can never get it
19 right.

20 You have a really significant co-lateral duty there as the Agency's lead and I
21 came away from the meeting that I participated in recently so impressed with the
22 work of you and your staff and all the other individuals that you draw on; that is, I
23 think you said 13 agency participants. It's a significant undertaking.

1 Your presentation talked about gearing up for the 2010 report to Congress
2 that will be due and I appreciate it. I know that others built a solid foundation for
3 you prior to getting that responsibility of being the lead.

4 I just wanted to publicly compliment you and your folks. I came away from
5 that with a much greater appreciation of all the moving pieces that you have in
6 play and when it's interagency it's always that much harder because we've got to
7 move things through concurrence. And I look forward to being a part of those
8 activities with the Chairman's indulgence moving forward.

9 Is there anything you'd share as far as challenges moving forward on that?

10 MR. MILLER: Yes, I think our challenge is going to be we've had a
11 lot of good work from some of the subgroups and I think one of the things that it's
12 done is really moved the ball forward in this area. It's got the federal agencies
13 working together on this and trying to head in one direction.

14 I think when we started out a few years ago everybody was kind of siloed.
15 It's gone a long way.

16 The big challenge I'm going to see is getting that report written in a form
17 that satisfies everyone and where I'm going to need your help is when we get to
18 the signature time and getting -- especially in some agencies -- the heads of those
19 agencies would be the signatory to endorsing the report. And in large Cabinet
20 agencies those heads have changed and may not have been intimately involved
21 up until almost the time of the report writing and knowing what's in the report. So,
22 it's important that we --

23 COMMISSIONER SVINICKI: And I acknowledge that while that's

1 painful and I know you raised this at the meeting I attended that some of our other
2 federal partners indicated that there is also a plus side of having the concurrence
3 and buy-in at that level for moving forward. So, I look forward to working with you
4 on that.

5 MR. MILLER: It's a very important step.

6 COMMISSIONER SVINICKI: Thank you, Mr. Chairman.

7 CHAIRMAN KLEIN: Thank you. Well, Mike, since we're looking
8 towards budgets we noticed that in the area of ISR activities there was a huge
9 increase as the price of uranium went up. Are you in close consultation with those
10 individuals as the price is coming down? Is the workload changing?

11 MR. WEBER: I'm in close consultation with Charlie Miller --

12 MR. MILLER: I have the lead for that, Chairman.

13 MR. WEBER: -- who's responsible for that business line.

14 MR. MILLER: Yes, as you mentioned it's a dynamic situation. What
15 we've done this year in preparation for the budget is we've gone back out as we
16 did last year and asked for the prospective licensees to state their intentions again
17 and give us letters of intent, inform us as to what's gone on. We found some
18 changes. We found some companies that are going to hold off for a bit. So, it
19 gives us more current information as to what to expect on the near-term horizon.

20 CHAIRMAN KLEIN: I think it's good just to keep track of that to see
21 where the real work load needs to be accomplished.

22 MR. MILLER: Right. One of the things that I have to continue to
23 focus on is what's the work that's before me currently? And when those

1 applications come in and then it puts the work on my staff's laps. So, I try to really
2 make sure they have good intelligence on what's coming in in the near-term
3 because if everything did come in on time it's more work than we could possibly
4 handle in this budget time.

5 MR. WEBER: There are similar but smaller magnitude increases for
6 the fuel cycle facilities, too, in the proposed fee rule. So, yes, we work with
7 licensees on that.

8 I think another related issue that the Commission frequently has to deal with
9 is how far do we go in planning and preparing for the receipt of new applications
10 when perhaps some of those applications might be a little less certain? Because it
11 does have fee ramifications as the agency prepares for taking on that work.

12 As you know with the funding constraints that we operate under sometimes
13 we actually will take resources from established programs, again assuring
14 continued safety and security to prepare for the new operations. So, it's a tough
15 balancing act and I'm sure through the EDO we will keep the Commission
16 informed through the budget process.

17 CHAIRMAN KLEIN: You had indicated, Mike, that NEI had
18 submitted a white paper and they had talked about a Part 7X. Could you comment
19 on how those meetings have gone and where we're headed?

20 MR. WEBER: We've had one open meeting so far and that was last
21 month. I would characterize it as a very constructive discussion. I attended part of
22 it and my staff attended all of the meeting.

23 The white paper itself has been helpful to the Agency because it brought

1 together a number of different private concerns who were actively working on this
2 issue. And so, they pooled their resources and helps give the NRC a jump-start
3 by allowing us to know what their perspectives are.

4 I would also say that their introducing that white paper has stimulated other
5 stakeholders in coming forward and sharing their views. Just last week at the
6 Regulatory Information Conference I know Dr. Ed Lyman from the Union of
7 Concerned Scientists shared his perspectives or the Union's perspective with
8 respect to some of the challenges associated with reprocessing. So, that puts it all
9 on the table.

10 And knowing what the issues and concerns are in advance puts the agency
11 in a much better position to thoughtfully consider that information as we go forward
12 wherever we go in that area in formulating the rulemaking process.

13 The 70X question -- this has been debated for a long time and I think we're
14 far from resolving that issue. There are clear benefits to making the reprocessing
15 safety rule part of the 70 series, but it's again something that the Commission
16 needs to thoughtfully approach and that's what we're trying to do through the
17 regulatory gap analysis and the development of the technical basis. But if other
18 stakeholders have views as well it's beneficial to know those.

19 I will say on behalf of the participants in that last meeting we also heard that
20 even the industry recognizes there are other areas that need to be addressed. So,
21 we were informed that they plan to come forward with additional white papers or
22 other submittals to the Agency to have us have the benefit of their thinking early
23 on in the rulemaking process.

1 CHAIRMAN KLEIN: Thanks, good. Well, Charlie, you had talked
2 about you had some good interactions with a lot of trainings with the states. I'd
3 like to compliment you on those activities.

4 In terms of training and interactions between the NRC and the Agreement
5 States are there any more things we should be doing in terms of training and
6 meetings and coordination?

7 MR. MILLER: I think one of our challenges is how to supply the most
8 training with the money that's available. I think one of the things that the states
9 would like to see is the opportunity to attend a five-week health physics course.
10 But the five-week health physics course is a very resource intensive endeavor, so
11 we are constantly trying to think of ways that we can get the benefits to the states
12 for that training without having to have too many people attend that course.

13 Because if one person attends that course it kind of takes away from three
14 people's chances to get a one-week training course or four people's chances. It's
15 pretty resource intensive. So, that's one area. If we had more resources to
16 devote to that that would be one area that I think the states would be very active
17 in.

18 And continue to try to be fair and equitable with regard to providing the
19 states the opportunities to take those courses. I think if resources were unlimited,
20 of course, the states would love to have all the training needs met that they could.
21 They recognize that that's not the case. So, they work very well with us in trying to
22 make sure that their needs are met as best they can with the people that have
23 those training needs the most.

1 CHAIRMAN KLEIN: Thanks. Well, obviously, we've all been
2 watching with great anticipation the implementation of the NSTS and the
3 challenges that have occurred. I guess as you indicated there were unknown
4 unknowns in that process.

5 Are you hopefully taking some of those lessons learned and implementing
6 that into the web based licensing?

7 MR. MILLER: Yes, sir. That's probably one of the biggest insights
8 we have as we're going forward with web based licensing to make sure that we
9 know what we know. I think one of the things that we're really taking is really
10 taking a strong look at what level of security do we need to have there, recognizing
11 that the higher the level of security the more daunting it becomes for a large
12 number of users. I think that's the big lesson.

13 It's a large number of users that are going to be using this, not a small
14 number of users. And getting a large number of users that have very high
15 credentials for security is part of the daunting task.

16 A lot with the web based licensing may not need that level of security
17 hopefully in order to be able to interface with the system. I think that will help a lot.
18 That's one of the bigger lessons.

19 The other lesson learned is hindsight is 20/20, but if I knew what I knew
20 now I think we would have got the credentialing in place well ahead of the
21 stand-up of the system. So, that's something that I'm looking for. What kind of
22 security measures are we going to need in trying to work with the potential users
23 and making sure we have those in place well ahead of the implementation of the

1 system so that we're not fighting one against the other when the system is stood
2 up? Those are two big insights I think that we've gained.

3 CHAIRMAN KLEIN: Based on the number of sites that we cannot
4 access through the NRC's computer, I find it fascinating that some of the states
5 might not have been able to access ours. I could definitely relate to that one.
6 Commissioner Jaczko?

7 COMMISSIONER JACZKO: I guess I'll follow up on the issue we
8 talked a little bit about the development or really the response to the white paper
9 on reprocessing facilities in the regulatory infrastructure for that. We did get a
10 paper from the staff in September and since, I guess, we are dealing with budgets
11 a little bit here I thought I would touch on some of the issues with that.

12 Mike, maybe you can talk a little bit about -- I think one of the things the
13 staff indicated in that paper and as we know I think we haven't budgeted resources
14 for that activity right now, partially I think because at the time there wasn't a clear
15 understanding that we had somebody coming forward with a clear intent to build a
16 facility. I'm not quite sure that we actually have that yet.

17 We do have a letter. I'm not sure that the letter -- I think if we take lessons
18 learned we can probably learn from the reactor as well as the uranium recovery
19 industry that letters are not always the best indicator of true level of commitment.

20 I think as part of that the staff indicates several FTE and a significant
21 amount of resources that will be needed. Maybe you can talk a little bit about
22 where you intend to find those resources and what you think -- what other work
23 won't get done that was budgeted and then we would have resources for that.

1 MR. WEBER: To date, Commissioner, we've been reprogramming
2 those resources from a variety of sources including work that did not materialize
3 because there were delays in the applicant's schedules.

4 COMMISSIONER JACZKO: What was some of that work?

5 MR. WEBER: Proposals to construct new parts of the operating
6 facilities and then the licensee deferred it. It was also some new work that didn't
7 materialize.

8 COMMISSIONER JACZKO: Can you give me specifics on what
9 those were?

10 MR. WEBER: There was a proposal to change a conversion facility,
11 not at the conversion facility, but at an operating fuel fabrication facility. So, we
12 budgeted resources for that work because it was a major amendment and we
13 were prepared for it. We had a high confidence it was going to come in. And then
14 the licensee decided to defer that submittal for their own reasons.

15 I'm not privy to all their reasons, but if it results in a higher quality license
16 application that better withstands our regulatory scrutiny I'm all for that.

17 COMMISSIONER JACZKO: Is that new work in the budget? Will
18 that show up in the '11 budget?

19 MR. WEBER: I think it shows up in the '10 budget, but that's
20 presuming the '10 budget comes out in a way that supports that work, which is still
21 at play through the Office of Management and Budget Review.

22 So, it's efficiency improvements that we were able to achieve in other
23 ongoing fuel facility licensing work. To some extent, we have an overage in that

1 program area, so we've been using those resources. We're not talking about a
2 large number of resources; it all on the order of less than an a FTE to support that
3 work.

4 As we go forward with the development of the technical basis document the
5 resources required for that work will increase. I think it's on the order of four FTEs
6 over a year-and-a-half timeframe between now and March of 2010. That's not just
7 NMSS. That's also the Office of Nuclear Regulatory Research.

8 COMMISSIONER JACZKO: Where are we anticipating finding the
9 resources for those four FTE?

10 MR. WEBER: Out of efficiency improvements, out of work that
11 doesn't materialize.

12 COMMISSIONER JACZKO: That's not been identified yet?

13 MR. WEBER: Right.

14 COMMISSIONER JACZKO: We're just talking about the '09
15 resources that have been identified?

16 MR. WEBER: '09 and into '10 based on however '10 comes out
17 through the congressional appropriations process.

18 COMMISSIONER JACZKO: Okay. Thanks.

19 MR. WEBER: I would point out, of course, and this should come as
20 no surprise, but should the Commission ultimately elect to go forward with the
21 rulemaking that's when the resources will really kick in due to the complexity and
22 the breadth of that rulemaking.

23 And instead of talking one or two FTEs we're probably talking tens of FTEs.

1 So, that will be a significant step and I think the Commission will have its first view
2 of that in the 2011 budget process.

3 COMMISSIONER JACZKO: Thanks. Charlie, maybe I'll go back to
4 Charlie and then I'll come back to you, Mike.

5 The Chairman did bring up web based licensing. Whenever I think of web
6 based licensing one of my favorite operas is "The Flying Dutchman". It's about this
7 ghost ship that constantly appears and reappears out of the mist. I'm not sure
8 how much -- for the life of me I can't remember the name of the ship. I can't
9 remember what it is. Do you know what it is? I don't know what it is. Well, it's a
10 German opera.

11 COMMISSIONER LYONS: De Vliegende Hollander?

12 COMMISSIONER JACZKO: Well, the De Vliegende Hollander is the
13 German word for Flying Dutchman, but I don't think that's the name of the ship. I
14 can't remember the name of the ship.

15 MR. MILLER: We can look it up for you, Commissioner.

16 [LAUGHTER]

17 COMMISSIONER JACZKO: That will not be a necessary item. The
18 point of my question -- where are we with web based licensing? The Chairman
19 asked some questions about it as if it was a fait de compli and I'm not sure that
20 we're anywhere close to having even a plan for web based licensing at this point.
21 Is that a fair assessment?

22 MR. MILLER: No, I think we do have a plan and I'm going to say
23 some of what I'm going to say carefully in a public forum because I have to

1 because we are trying to get to a point where we can initiate a procurement. One
2 of the things that we've gone out --

3 COMMISSIONER JACZKO: Again, to the extent we can talk about
4 it, maybe the most important question I'm looking for an answer to because I do
5 want to get back to a question to Mike is when do you think we'll have a web base
6 licensing system that can interface with National Source Tracking? Rough
7 approximation. Five years? Ten years?

8 MR. MILLER: No, no. Certainly, I think it will be less than five years.

9 COMMISSIONER JACZKO: Less than five years?

10 MR. MILLER: Yes.

11 COMMISSIONER JACZKO: Thanks. That's fine.

12 MR. MILLER: Yes. I'm confident of that.

13 COMMISSIONER JACZKO: Okay. Good. Thank you. Mike, this is
14 an issue that's kind of been festering for a long time. Back about four or five years
15 ago the Commission changed Part 71 and as a result phased down a series of
16 transportation certificates. I think we've done a lot of effort to communicate to
17 licensees or certificate holders that these certain classes of certificates are no
18 longer usable from a transportation perspective.

19 Periodically, I see that we are approving -- I don't know that they're
20 necessarily exemptions or what it is that we're doing. Where do see that issue?
21 Are we going to move forward to the point where we will phase out all of those
22 certificates? How do you see that issue going forward in the next couple years?

23 MR. WEBER: Yes, I do Commissioner. I understand that about 45

1 packages were expired on October 1st of 2008. And out of the 45 we received
2 applications based on our regulatory information summary for 15 to extend the
3 operating lifetime of those packages provided that the necessary safety controls
4 are in place to safely use those packages.

5 We've approved those 15. So, roughly a third were allowed to continue use
6 for very limited applications, in a variety of settings it was a function of the
7 package. There wasn't any safety issue with the package and therefore there was
8 no reason to cease its use.

9 The licensees did come forward or the vendors and submit additional
10 measures that they would take to ensure the safe use of those packages. We
11 heard hardship cases that this is the only package that can be used and if we can't
12 use this package, then that's going to disrupt commerce or cause untoward
13 circumstances. We took all of that into account and we just approved the last one,
14 I think within the last week or so.

15 COMMISSIONER JACZKO: Now, of those other 30 do we know that
16 they're not being used?

17 MR. WEBER: They can't be used.

18 COMMISSIONER JACZKO: We know that they're not being used?

19 MR. WEBER: As far as I know. I don't know if Bill Brach wants to
20 add to that?

21 MR. BRACH: Bill Brach, NMSS. We don't have specific
22 confirmation on their non-use, but as you've noted we did make over a quite a few
23 years now notification to licensees and to certificate holders on the expiration of

1 those certificates October of 2008.

2 I have reasonably that the licensees and certificate holders are respective
3 of the end of life, if you will, for those packages and are no longer using them.

4 As Mike had noted we have with special exceptions on 15 requests looking
5 at the expediency issues involved as well as the additional measures to be put in
6 place, authorize limited use so the few packages for a near-term period of time.

7 COMMISSIONER JACZKO: As we provided information, I think the
8 licensees, one of the things we indicated was that this was not to be considered as
9 a renewal of any way, shape, or form. Will these packages then be phased out
10 within the next two years completely?

11 MR. BRACH: Yes. The packages have expired so there's no --
12 beyond the specific 15 cases that we have authorized the limited use, but there's
13 no --

14 COMMISSIONER JACZKO: Of the 15, what's happening with those
15 15? Are they permanently in use?

16 MR. BRACH: No, these are for limited use limited periods of time.
17 Some of these were one time only exclusive use. Others were over a very
18 specified period of time. For a number of these packages vendors are coming in
19 to us with requests for new applications, new certificates to take the place of those
20 packages for which the use has expired.

21 COMMISSIONER JACZKO: For those that are coming in how come
22 they didn't do that three years ago?

23 MR. BRACH: Very good question. The notice to the licensee

1 certificate holders has been over about the last eight years. So, there was really
2 ample notice. Clearly, a vendor in coming to the NRC has market, if you will,
3 interest that guide many of their decisions. So, I suspect it was deliberations
4 between the vendors and potential users with regard to timing and need for such
5 new packages.

6 COMMISSIONER JACZKO: What was the original purpose of the
7 rule change that we made?

8 MR. BRACH: Two reasons, sir. One, our 10 Part 71 regulations and
9 DOT's regulations that regulate the U.S. transport activities are based on the
10 international standard IAEA document standard TSR-1. That's the international
11 standard adopted worldwide to facilitate international commerce in the area of
12 radioactive material transportation.

13 The other aspect -- the international regulation includes the phasing out of
14 packages to old -- what we refer to as previous issuance of the standards and
15 regulations.

16 There were some significant changes that occurred to the transportation
17 standard back in the 1960's, the late '60s, early '70s that enhanced the testing
18 requirements and quality assurance requirements necessary in the design and
19 certification of transportation packages.

20 These packages that were phased out had been previously certified and
21 approved to the previously older standards and not the more -- I'll say --
22 contemporary standards we have in place now.

23 COMMISSIONER JACZKO: Well, I guess at some point hopefully

1 we'll bring this to closure. Just one final follow-up question on this. Is this an
2 exemption or how do they come in for these requests? What's the regulatory
3 basis for this?

4 MR. BRACH: We issued you -- you may recall, Commissioner, a
5 regulatory information summary back in late summer of last year that laid a
6 process out for licensees or vendors to come into us and request a limited use.
7 We were looking at these as a limited use authorization.

8 The packages have expired. So, based on the request and the justification
9 by the submitter, the licensee or certificate holder, we made a determination based
10 on the basis of their request coupled with the additional compensatory measures
11 that the licensee or vendor putting in place with regard to assure the safe transport
12 and use of these packages we issued what I'll refer to as a limited use or limited
13 authorization for a very defined specific use of the package.

14 As I mentioned many of these were for a one-time exclusive use only at a
15 certain point in time to ship material from Point A to Point B.

16 COMMISSIONER JACZKO: Does the licensee that actually uses --
17 do they get some kind of license amendment to do that?

18 MR. BRACH: They have a letter authorization from us, which is
19 authorized under Part 71 to provide that authorization for that limited one-time -- in
20 many cases one-time -- the limited use of that package.

21 COMMISSIONER JACZKO: I guess I don't know what a letter of
22 authorization is. Maybe we can talk about that off line. Thanks.

23 MR. WEBER: If I could, Commissioner, just briefly. We're sensitive

1 to this as well and Bill Brach and his leadership role on the TRANSSC Committee
2 briefed me recently that they are looking at this transition process as well because
3 this isn't just an issue that we face in the United States. It's an issue that's faced
4 around the world every time the transportation safety requirements are upgraded.

5 And the second compound to that is fair warning for those vendors and
6 licensees that are out there using packages that, as the Commission is aware,
7 we've also embarked now on the next phase of revisions to the transportation
8 safety requirements through the IAEA process.

9 While that's not imminent, it is in progress. So, just like we face it this time
10 there will be future opportunities like this to ensure that we provide ample warning
11 to the people who --

12 COMMISSIONER JACZKO: Do you think four years was ample
13 warning?

14 MR. WEBER: Four years is ample warning.

15 COMMISSIONER JACZKO: At the end of four years we have 15 of
16 the 45 that didn't know or didn't want it.

17 MR. WEBER: Weren't in a position to rely on a new package.

18 COMMISSIONER JACZKO: I guess I would just have to say maybe
19 four years isn't ample warning, then. I don't know. We probably can't have it both
20 ways. Well, thanks. I appreciate your explanation. And as I said I think perhaps
21 I'll follow up with a briefing on this afterwards just to get some more detail. Thank
22 you.

23 CHAIRMAN KLEIN: Commissioner Lyons?

1 COMMISSIONER LYONS: I think with all the discussion I'm down to
2 only one question, but at least a few other comments that I'd like to make, too.

3 Mike, I appreciated your reference to the high level commission on
4 high-level waste, I guess. Senator Reid's introduction of a bill; Secretary Chu has
5 made a number of comments. I have no idea, of course, what this Commission
6 will eventually turn out to be, but I do think that just as you said it's very, very
7 appropriate for your offices to be planning ahead as to how it's going to be
8 necessary to support whatever form this Commission takes because I can't
9 imagine that such a Commission could proceed without significant input from the
10 regulatory perspective. I'm glad you're folding that into your thinking.

11 Along that same line, since at least any long-term solution on high-level
12 waste that I know of will involve at least some form of geologic repository, I just
13 wanted to again add my comment that depending on how resources from
14 Congress are allocated I remain concerned and interested that we support the
15 excellent staff we have in the area of evaluation of repositories and that includes
16 the staff at the Center.

17 And we've talked in the past about depending on workload at the Center,
18 perhaps looking at other funding sources to the Center and just in general I think
19 we are very much going to need those resources in the future.

20 Another subject that's already had a lot of discussion, so I don't want to add
21 questions to it, but Charlie, you're well aware of my interest in the credentialing
22 process. Greg delved into that, the Chairman did. I, too, share a very, very strong
23 interest, again, as you know in how the credentialing is moving ahead.

1 And I was particularly interested in your comment, Charlie, that based on
2 this experience there will be certainly lessons learned applied to web based
3 licensing. I think that's very appropriate. Exactly what those lessons will be I'm
4 sure can be talked about in future meetings.

5 I think your suggestion of perhaps relooking at the impact of different
6 security levels on web based licensing or looking at different aspects of web based
7 licensing that you at least hinted might require different levels of security. I think
8 all those approaches would be very solid lessons learned coming out of the
9 credentialing process.

10 And then by way of a question and maybe start with Charlie, but I think this
11 probably will go to Bill, too. On your slide 24, Charlie, you referred to facilitate
12 medical isotope production and use. I -- and I think all of us -- have been very,
13 very concerned by what we see as a very fragile supply chain and certainly I think
14 we're all very interested, too, in ways to render that supply chain far more robust
15 and effective.

16 But I am curious as to how you see -- and maybe Bill can add, too -- how
17 far we should go in facilitating -- which is the word you used -- I can see a very,
18 very strong role for us in certainly the safety and security of anything that's
19 proposed. I see a strong role for us in efficiently moving ahead with regulatory
20 actions that may result from proposals. But I'm not sure how we go much further.

21 I was just curious whether, Charlie, you had ideas for how one goes further
22 with that comment on your slide and then it may come back to you, Bill. I don't
23 know.

1 MR. MILLER: Yes, I'd be happy to answer that, Commissioner. It
2 gets to the issue of this. What is the role of the regulator in all of this? I've had the
3 opportunity to represent the Agency at a big meeting in France that the French
4 regulator put together where it drew in the regulators from the countries who have
5 medical isotope production capabilities as well as the United States.

6 Secondly, I've had the opportunity to have some extensive collaboration
7 with the Nuclear Energy Agency who is now picking up a role in this respect.

8 Thirdly, I've had the opportunity to discuss with both French regulator and
9 Canadian regulator quite extensively last week at the RIC how we move forward.
10 And again, it's an issue I think it's the regulator has -- right now it's the regulators
11 that are driving this to some degree in these countries.

12 I think we have to continue to make sure that awareness is out there. From
13 our perspective I think as far as we can go is to make sure that we are prepared to
14 take any regulatory action that's necessary and not be a regulatory impediment
15 should some situation change in the United States where we're called upon to
16 have to license or an Agreement State is called upon to have to license some kind
17 of production facility.

18 Of course, if it's a reactor facility the NRC would license it. If it's an
19 associated materials facility to process the targets it could either be an NRC
20 regulatory responsibility or the Agreement States.

21 We just have to be in a position to stay abreast of everything that's going
22 on, stay close to everything that's going on and make sure that we don't provide
23 any regulatory impediments in this regard.

1 COMMISSIONER LYONS: I very much agree with the way you
2 phrased it. I will admit that I was slightly surprised at some of the recent meetings
3 which seemed to look like it was a regulatory drive in this direction. And it seems
4 to me that there are other agencies from the medical side and the patient interest
5 side that should be perhaps driving the proposals that then come to us for
6 hopefully very efficient review. Anyway, the way you said it I was very
7 comfortable.

8 MR. MILLER: I think also to leverage a little bit farther one of the
9 challenges that we're going to face especially if we move towards domestic
10 production is the challenge that some of our federal or international counterparts
11 are facing who have these facilities is the need to have to balance the safety of
12 those facilities with the need for the medical production of the isotopes.

13 As you all well know the reactors around the world are aging. And so, there
14 is that continued need. I think it's no surprise to anyone as to what happened up
15 in Canada the last year or two, but we can't abdicate our safety responsibilities
16 and making sure that whatever facilities that we regulate are regulated and are
17 producing these materials in a safe manner.

18 So, that's something that will be the constant challenge I think as the
19 regulator to make sure that it's done safely, but to make sure that we're not any
20 unnecessary impediment to the production of these facilities.

21 COMMISSIONER LYONS: Bill, would you want to add to that? I
22 think Charlie said it very, very well.

23 MR. BORCHARDT: Only that in my discussions last week with my

1 international colleagues that although the regulators served as the catalyst for
2 addressing or beginning the discussion of this important topic I think there's a
3 united view that someone else needs to take the ownership of the issue for
4 bringing new facilities online.

5 I agree with all the comments Charlie made about maintaining our focus on
6 safety and having an efficient and effective regulatory process, but that we ought
7 not to become the promoters of these new facilities.

8 COMMISSIONER LYONS: And that's my concern.

9 MR. BORCHARDT: And that's well agreed to by all the other
10 international regulators, but unfortunately because especially what happened in
11 Canada not too long ago, they felt obliged to be the catalyst to generate this
12 discussion.

13 COMMISSIONER LYONS: I hope that out of this discussion comes
14 a sufficiently robust international production capability that we never get into a
15 situation of having to juggle safety with production. Our focus has to be on the
16 safety side. Any case, thank you for the discussion on that.

17 CHAIRMAN KLEIN: Commissioner Svinicki?

18 COMMISSIONER SVINICKI: Thank you. Charlie, you've been
19 willing to give some estimates at various confidence levels on some specific
20 activity, so I'll ask you now that again we're out of the CR is, in your opinion as you
21 sit here today, is the draft GEIS on In-Situ Leach still on track for issuance in June
22 of 2009?

23 MR. MILLER: Yes, it is. We're confident that we'll be able to finalize

1 that by June of 2009. The staff has worked very hard at trying to analyze the
2 comments. We've had the support from the Center in San Antonio who is working
3 with us on this and I think we're getting pretty close to having the final EIS drafted
4 and then it will go through, of course, the concurrence process. But we're
5 confident we're going to meet the June deadline.

6 COMMISSIONER SVINICKI: Okay. Thank you. We've talked quite
7 a bit about Agreement States and Agreement States to be added and others who
8 may be interested. An interesting aspect, though, is that I think by some estimates
9 that your office provided soon as much as 85% of the total number of materials
10 licensees would be regulated by the Agreement States.

11 Are you working with the CFO at all in terms of what it means for that
12 remaining 15% to support the regulatory framework and how we work on
13 fee-related issues? Is that something at least that you've -- you're forward-looking
14 on that?

15 MR. MILLER: The CFO and I had a discussion on this briefly last
16 week and this is something we're going to have to face for the future budget years.
17 As we get fewer and fewer licensees, of course, the way our fee structure works
18 those licensees bear the burden of the cost. We're always going to have
19 infrastructure costs that are going to add to that.

20 Jim Dyer and myself agreed that we need to take a hard look at how do we
21 do fees for the future. Historically, I think fees are done -- who's the benefactor of
22 the work that we do? The materials licensees being the benefactor it's fallen on
23 them.

1 So, we're going to have to look for some unique ways that we can look for a
2 fee structure to possibly deal with this so that the fewer and fewer licensees we
3 have don't get a bigger and bigger and bigger burden.

4 COMMISSIONER SVINICKI: I think I asked this in my question as
5 the future impact, but actually if we look at the latest promulgated fee rule some of
6 the materials users are looking at a rather significant increase in that area.

7 I know that Jim works to look across the fee rule and do make the
8 appropriate adjustments, but still in all for some of those smaller licensees it will be
9 a significant impact to them. So, I appreciate that you're continuing to work that
10 I'm not sure what the answer is.

11 MR. MILLER: The CFO and I will have to work together closely on
12 that. We face that issue with uranium recovery this year, but we solved the
13 problem I think to the satisfaction of everyone. We'll see what we can do for this in
14 the future. It is a concern that's been on the table, though, for a number of years,
15 Commissioner, as we get more and more Agreement States.

16 COMMISSIONER SVINICKI: Okay. Thank you. Mike, something
17 you mentioned just in passing in your presentation, but in the area of
18 transportation and spent fuel storage you mentioned dealing with staff turnover. I
19 think when put that way it sounds like it is similar to many offices. But I noticed in
20 some of the data that you provided it's actually a rather exaggerated situation in
21 that area of expertise for you.

22 I have some data that says 60% of the staff there have less than two years
23 experience in working on these things. Transportation and spent fuel storage

1 amendments and applications are an area where candidly in the two budgets I've
2 looked at were often more managing a backlog than we are able to stay current
3 with that work.

4 How are you, again, given that 60% of the staff there having less than two
5 years' experience. I think that you are doing some mentoring and other things, but
6 is there anything that you would point out about managing what I think is kind of
7 one of our more extreme cases of where we have a lot of new folks?

8 MR. WEBER: Great question. It's something that we struggle with
9 on a daily basis. First of all, we're able to bring in very talented people. So while
10 they may have limited NRC experience they may have extensive external
11 experience. And that really helps when they come on board to hit the ground
12 running.

13 We're doing a lot on knowledge management so that we share within the
14 program so that some of the more experienced reviewers can share their insights,
15 their experiences. We do work on the qualification program. We have brown bag
16 luncheons. It goes on and on.

17 I might add that at the same time we're also looking to enhance the
18 effectiveness and the efficiency of the review process. So, it's kind of a triple
19 whammy. You've got a backlog that we want to cut back on although that's a
20 challenge along with the reducing resources. You've got this turnover challenge
21 that we're dealing with. And then you're trying to concurrently streamline the
22 processes while enhancing the quality and the effectiveness of the reviews.

23 There are opportunities that we're pursuing to do that, but we're fortunate to

1 have the leadership of Bill Brach and his deputy directors as well as the very
2 competent qualified branch chiefs and staff in that program to step up to the plate
3 and handle that kind of a challenge.

4 COMMISSIONER SVINICKI: Okay. And that was a little bit of a
5 perfect setup. My last question was going to be for Marty who had talked about
6 Lean Six Sigma opportunities. I would ask at this point as you've had very
7 productive results in some areas do you feed that back into target the areas for
8 your next Lean Six Sigma review that would have the highest potential providing
9 us efficiency and effectiveness harvesting those benefits there?

10 MR. VIRGILIO: The short answer is yes. The longer answer is one
11 of our big challenges is targeting those areas that are going to be most beneficial.
12 We've just recently put a call out to the offices and we've laid out a set of criteria
13 as to how to select these processes. We've asked each office to come forward
14 with maybe two or three areas where they'd like to apply Lean Six Sigma.

15 The challenge -- there are a number of challenges in that and we're trying
16 to take the lessons learned and move them forward as we go along. One of the
17 things is stability of the program. We've actually started into one of our Lean Six
18 Sigma to a program that was not very stable and we had to terminate the review.

19 Another one is availability of data. So, we're constantly learning lessons
20 about where can you actually apply this technology and where can you make a
21 difference and where can't you. And so, all of the lessons learned that we have up
22 to this point went out in that data call in terms of these are the criteria we would
23 like the offices to consider as they nominate the potential candidates for the next

1 round.

2 COMMISSIONER SVINICKI: Have we been making good progress
3 on getting our own black belts, NRC staff with the Black Belt certification?

4 MR. VIRGILIO: Yes, we have. We've got a team now. There's sort
5 of a dynamic where we believe the best approach is to keep that team whole in
6 one location, but we are turning over some people, bringing some people back into
7 the office to lead Lean Six Sigma within those program offices that they came
8 from.

9 COMMISSIONER SVINICKI: Have we been able to involve the
10 Regions in these activities?

11 MR. VIRGILIO: Not up to this point. Most of it has been headquarter
12 focused, but I think now the call has gone out, so we'll look for an opportunity to
13 focus on a Region or more than one Region-based program.

14 COMMISSIONER SVINICKI: Okay. Great. Thank you,
15 Mr. Chairman.

16 CHAIRMAN KLEIN: Mike, you had mentioned in your presentation
17 that you're spending more time looking at the independent spent fuel facilities
18 because there's more of them getting there. I guess this is probably a question
19 both for you and for Bill. Are you looking at transitioning some of that work into the
20 ROP at some point in time?

21 MR. WEBER: We look at that on a frequent basis. In fact, we had
22 an inspector counterpart meeting in February. I came away from that meeting
23 saying, "There ought to be a better way that we can do this."

1 Part of what we live with are legacy decisions, but I think we do have the
2 opportunity going forward to try to leverage the capabilities that exist in the reactor
3 program to cover some of the independent spent fuel storage installation
4 inspections. But it works both ways because from the reactor program perspective
5 maybe it would be better to shed some of that work to the independent spent fuel
6 storage installations business line.

7 It is challenging because if we take a recent case there's a lot of close
8 coordination that has to take place between the operating reactor and the storage
9 of the spent nuclear fuel, especially as the licensees prepare for the campaigns
10 that offload the fuel out of the pools into the dry casks.

11 But it's something that we have been looking at and we're going to have to,
12 as we go forward -- and I think the new budget structure is going to shed a light on
13 that. It's going to show us, "Gee, what are we spending and why are we spending
14 it in that way and is that the best way to accomplish the outcome for the
15 agencies?"

16 MR. BORCHARDT: Mike gave a good answer. I have nothing to
17 add.

18 CHAIRMAN KLEIN: Charlie, on your slide 27 this may be a question
19 where you'll start and Marty and Bill may follow up. You mentioned ICRP 103.
20 Could you talk about where you think we're headed on that?

21 MR. MILLER: I can. We've got a paper up with the Commission on
22 this. I think that we want to do a number of things, Chairman. If you'll just indulge
23 me for a second I can cover a few of them.

1 NEI has indicated, for example, that it's moving forward to have all reactor
2 workers below the two rem limit. It's not so easy to do for materials facilities. And
3 so, we have to take a hard look at that, especially in the medical area.

4 So, what do we want to do on that front? We're going to need to think
5 about -- we want to think about international harmonization in that regard, not only
6 in the reactor area, but there's an increased international movement of doctors
7 and individuals in various industrial applications as well. So, we have to factor that
8 in.

9 We need to engage licensees in the discussions on the options and the
10 impacts of dose limits early and that's why we want to get started now. It's going
11 to take a number of years, I think, based upon our history of major changes to Part
12 20 to get there. I think it took 12 years the last time. We'd like to be able to do it in
13 less time than that now, but a lot of the work with regard to those conversion
14 factors and other areas of the technical aspects of it still have to be worked over
15 the next few years. We just can't plow forward and change the regulations at this
16 time.

17 We need to be actively involved with our Agreement State partners and the
18 states. They're going to have a big say. We think that the CRCPD needs to weigh
19 in on this as well as the public. So, there's a lot of work that we can do to start to
20 set the stage for the future by beginning the interactions.

21 I don't want to forget our federal partners. If you look across the federal
22 government all kinds of generations of ICRP recommendations are used. OSHA,
23 for example, still uses ICRP II in some regard. So, through our interactions where

1 we take a leadership role on the Interagency Steering Committee on Radiation
2 Protection this course, we're going to want to bring the federal family together to
3 see how best that we can harmonize that for the future so that at least we can get
4 on some common plane.

5 Those are just some thoughts on how we plan on proceeding in the near
6 term to try to position us for a change to regulations that likely won't come for
7 several years yet. I think it will put us in a position that we'll be ready when the
8 time comes to do a timely rulemaking on that activity.

9 CHAIRMAN KLEIN: You had mentioned federal partners.

10 Obviously, Naval reactors is also an area that I'm sure has interest, so I assume
11 you're communicating with them as well?

12 MR. MILLER: They are federal partners and they're part of it. One
13 of the biggest educations I got was many years ago when I was in NRR when we
14 dealt with Naval reactors with regard to some of the activities that they do.

15 We had some modern technologies that we wanted to apply to some of the
16 things that they were doing. We needed to make sure that we stay close to them
17 so they fully understand what we want to be doing. So, they'd be a key part of it
18 under the duties under the Department of Energy.

19 MR. VIRGILIO: Chairman, if I could, I'd just like to take the
20 opportunity to acknowledge a couple of the staff members that have been working
21 on this. One is Vince Holahan who did the early work, but more recently Don
22 Cool, two of our SLS folks have really done a lot in terms of moving us forward in
23 this area.

1 I would agree with Charlie. I think what we're trying to do is look to the
2 future, maybe 2015 to have rulemaking in place to start the technical basis
3 development. I would recognize that we're not in complete agreement with some
4 of the provisions of ICRP 103. The whole notion of protection of biota still leaves
5 me wondering. I just don't see the scientific basis that drives us down that path.

6 Until we see such basis and I don't think we will, Don has been working
7 rather heroically through his work at the IAEA and the basic safety standards to
8 ensure that the framework there is the right framework.

9 There are provisions of 103 that I think the industry -- the reactor industry is
10 very supportive of. The new release limits, the effluent release limits is an area
11 where there's broad support for us moving forward.

12 So, I think there's a lot of it Charlie mentioned that we still have a lot of
13 holes to fill, a lot of background and technical information that will be developed
14 and presented to us over the next couple of years. But the time to start is now if
15 we're going to have a rulemaking in place in the 2015 timeframe. Thank you.

16 CHAIRMAN KLEIN: Any final questions?

17 COMMISSIONER JACZKO: I just have one more question. Charlie,
18 I think this is for you. This is a question on WIR. We know, I think, where we
19 stand right now. Some of the work we've done -- we did our performance
20 assessment on the Saltstone facility. We've done some monitoring visits on
21 Saltstone.

22 I think the last general communication we had was we had sent a letter to
23 DOE asking for additional information about some of the concerns I think the staff

1 had expressed with the performance of the Saltstone vaults.

2 Can you just update me maybe on where we stand with that or are we
3 making progress on those issues? What are the net steps for the NRC?

4 MR. MILLER: We've had a number of meetings with the Department
5 of Energy. I think we've made a lot progress with the Department of Energy. I'm
6 going to ask Larry Camper to go to the microphone because his staff has spent a
7 lot of time working with the Department of Energy on WIR activities including a
8 number of periodic trips to Savannah River. I'll let him update you.

9 MR. CAMPER: Thank you. Larry Camper, Director, Division of
10 Waste Management Environmental Protection. Commissioner, I think the program
11 interface with the Department of Energy is going very well. There's no question
12 historically we got off to some stress points, if you would, but, of course, two
13 agencies were put into positions they had never been in before under the Act in
14 '05.

15 We have identified two outstanding issues and that is the long-term
16 performance of grout, as well as some flush water being on top of the Saltstone
17 formation. DOE has provided information to us on those questions. We expect to
18 complete our review by the end of March.

19 I think they were very forthcoming with that information. Obviously, we'll
20 continue to monitor that situation there in perpetuity, frankly, to ensure that the
21 performance objectives are being met consistent with what the Act requires us to
22 do.

23 COMMISSIONER JACZKO: Do we have another visit scheduled?

1 MR. CAMPER: We do. In fact, we've done three visits. We've also
2 been to Idaho National Laboratory as well. But the Saltstone, of course, has been
3 the area of greatest focus and questions. We've been there three times, I think.
4 We are going down again in March.

5 COMMISSIONER JACZKO: Okay. I appreciate the update and I'd
6 certainly be interested in seeing what we find in March as well. Thanks.

7 MR. CAMPER: Thank you.

8 CHAIRMAN KLEIN: Well, thank you for a good presentation. Very
9 broad, very important program. So, thank you and all your staffs for all the hard
10 work. And again, thanks for the Agreement States and other organizations that
11 interact with the NRC on a regular basis. So, thanks for your participation. The
12 meeting is adjourned.

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(Whereupon, meeting was adjourned.)