

October 1, 2010

MEMORANDUM TO: Michael F. Weber  
Deputy Executive Director for Materials, Waste,  
Research, State, Tribal, and Compliance Programs  
Office of the Executive Director for Operations

Bradley W. Jones, Assistant General Counsel  
for Reactor and Materials Rulemaking  
Office of the General Counsel

Cynthia Carpenter, Deputy Director  
Office of Federal and State Materials  
and Environmental Management Programs

David C. Lew, Acting Deputy Regional Administrator  
Region I

FROM: Monica L. Orendi, Acting IMPEP Project Manager */RA/*  
Division of Materials Safety and State Agreements  
Office of Federal and State Materials  
and Environmental Management Programs

SUBJECT: TRANSCRIPT: September 23, 2010 KANSAS  
MANAGEMENT REVIEW BOARD (MRB) MEETING

Enclosed is the transcript of the MRB meeting held on September 23, 2010. If you have comments or questions, please contact me at (301) 415-3938.

Enclosure: Transcript of the Management  
Review Board Meeting

cc w/encl.: Thomas A. Conley, CHP, Chief  
Kansas Radiation and Asbestos Section

Gibb Vinson, Illinois  
Organization of Agreement States  
Liaison to the MRB

Management Review Board Members

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<b>NAME</b>	MOrendi			
<b>DATE</b>	10/01/10			

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TRANSCRIPT: MANAGEMENT REVIEW BOARD MEETING OF September 23, 2010

The attendees were as follows:

In person at U.S. Nuclear Regulatory Commission (NRC) Headquarters in Rockville, Maryland:

Michael Weber, MRB Chair, DEDMRT  
Brad Jones, MRB Member, OGC  
Michelle Beardsley, Team Member, FSME  
Duncan White, FSME  
Robert Lewis, FSME  
Kathy Schneider, FSME

Cynthia Carpenter, MRB Member, FSME  
Monica Orendi, FSME  
Shirley Xu, Team Member, FSME  
Janine Katanic, Team Leader, FSME  
Nicole Coleman, FSME

By videoconference:

David Lew, MRB Member, Region I  
Thomas Conley, KS  
Scott Bangert, KS  
Jim Harris, KS  
David Whitfill, KS

Randy Erickson, Region IV  
Kim Steves, KS  
Tom Langer, KS  
Isabelle Busenitz, KS  
Jay Schalansky, KS

By telephone:

Gibb Vinson, OAS Liaison, IL  
Charlie Hamilton, Team Member, FL  
Torre Taylor, FSME

Rachel Browder, Team Member, Region I  
Mike Stephens, FL

1. **Convention.** Ms. Monica Orendi convened the meeting at 10:15 a.m. (ET). She noted that this Management Review Board (MRB) meeting was open to the public; and one member (Mr. Stephens) introduced himself. Ms. Orendi then transferred the lead to Mr. Michael Weber, Chair of the MRB. Introductions of the attendees were conducted.
2. **MRB Consultation/Comments on Issuance of Report.** A full transcript of the MRB meeting minutes is attached. The MRB found the Kansas Agreement State Program “adequate to protect public health and safety” and “compatible with NRC’s program.” The MRB also agreed with the two recommendations made by the review team:
  1. The review team recommends that the State ensure that inspectors gain increased familiarity with the regulations in 10 CFR Part 35, as well as be provided appropriate formal training in addition to mentoring and/or on-the-job training to ensure familiarity with various therapeutic modalities involving byproduct materials such that these areas will be appropriately reviewed during inspections. (Section 3.1)
  2. The review team recommends that the State further develop the policy that was instituted during the onsite review and provide additional guidance for identifying, marking, handling, transmitting, and storing documents containing sensitive information. (Section 3.3)

Enclosure

3. Based on the results of the current IMPEP review, the MRB agreed that the next IMPEP review of the Kansa Agreement State Program should take place in approximately 4 years.

**Public Participation.** 1) Mike Stephens, FL

3. **Precedents/Lessons Learned.** The MRB established no new precedents during this meeting.
4. **Adjournment.** The meeting was adjourned at approximately 12:15 p.m. (ET).

## **FTS-NUCLEAR REGULATORY COMMISSION**

**Moderator: Karen Meyer**  
**September 23, 2010**  
**12:43 pm CT**

Coordinator: Excuse me. This is the operator. I did want to remind participants today's call is being recorded. If you do need any assistance, press star then 0. You may begin.

Monica Orendi: Okay. Mike, I'll send it over to you.

Michael Weber: Okay. Good morning everyone. Sorry for the delay. I'm glad we're all assembled now. I want to welcome the participants who have joined us by video, also by phone and in person for our Integrated Materials Performance Evaluation Program Review of the State of Kansas Agreement State Program.

My name is Michael Weber. I'm the Deputy Executive Director of Operations for Materials Waste, Research, State, Tribal and Compliance Programs. And we are meeting today at the Management Review Board to review the Integrated Materials Performance Evaluation Program for the Kansas Agreement State Program.

The IMPEP Team conducted a thorough evaluation of the Kansas Program earlier this year in June and a Management Review Board will make an

overall assessment of the team's review along with other information including the response by the state of Kansas. And by the end of the meeting the Board will determine the adequacy and compatibility of the Kansas Agreement State Program as well as appropriate follow on activities as part of the IMPEP program.

At this point I'd like to introduce the other members of the Management Review Board. To my left is Brad Jones from our Office of the General Counsel. To my right is Cindy Carpenter who is the Deputy Director of the Office of Federal and State Materials Management Environmental Management Program.

We have our Deputy Regional Administrator from Region 1, David Lew on the video. And Mr. (Gib Vincent) from the State of Illinois is on our conference call. And Gib is the Organization of Agreement State's Liaison participant.

I'd also like to welcome representatives of the state of Kansas to our MRB today. Understand that Mr. Tom Conley from the Kansas Radiation and Asbestos Section, the Chief of that section is with us. Mr. Conley, would you like to introduce the members you have with you there from the state of Kansas?

Tom Conley: Yes. Thank you Mike. On my right we have (Tom Langer) who is our Bureau Director followed by (Scott Bangor) who is the Supervisor of the Asbestos and X-ray unit. Off camera a little bit is (Jim Harris). He's one of our licensed Reviewers and...

Woman: Inspectors.

Tom Conley: ...Inspectors. Sorry. And then on my left is Kim Steves, Supervisor of the Emergency Planning and Environmental Monitoring Program. And then (Isabel Boosnets) who is our Regulatory Affairs Coordinator; (Dave Whitfield), Supervisor of the Materials Program; and (Jay Shelanski) who is one of the licensed Reviewers and Inspectors. Got your (unintelligible) and that's all we've got with us today.

Michael Weber: You've got your whole program there.

Tom Conley: Pretty much. There's a couple missing but...

Michael Weber: All right. Well that's great. Thanks for...

Tom Conley: One big happy family here.

Michael Weber: Thanks for your participation. And now our IMPEP Team, which was led by Janine Katanic of FSME. Jeanine, can you introduce your team members?

Janine Katanic: Absolutely. I'd be happy to. (Shirley Shu) was on the team. She reviewed status of Materials Infection Program and Technical Quality of Inspection. On the phone we have Rachel Browder of Region 4. She reviewed Technical quality of incident and allegation activities and did the compatibility review.

We had Michelle Beardsley also of FSME who helped us out a great deal by doing the accompaniments for us. And on the phone we have Mr. (Charles Hamilton) of the state of Florida who did our technical quality of licensing.

Michael Weber: Okay. And I guess from Region 4 we have Randy Erickson.

Randy Erickson: Yes sir.

Michael Weber: And also here in the room, Duncan.

Duncan White: Duncan White, FSME.

Rob Lewis: Rob Lewis, FSME.

Kathy Schneider: Kathy Schneider, FSME.

Nicole Coleman: Nicole Coleman, FSME.

Monica Orendi: Monica Orendi, FSME. And I'd also like to make an announcement that this is a public meeting and I am requesting that if any members of the public are on the phone at this time that they please announce themselves.

Mike Stephens: This is Mike Stephens. I'm with state of Florida's Bureau of Radiation Control.

Michael Weber: Welcome Mike. Okay. Well Janine, would you care to proceed...

Janine Katanic: I shall.

Michael Weber: ...with the presentation of the IMPEP Team's review?

Janine Katanic: I shall. Morning everyone. Thanks for coming out. I was the Team Leader for

the IMPEP Review. It was held in Topeka, Kansas the week of June 14. And just before we go on and discuss the team's review, I did want to just take a moment on behalf of the entire team to thank the Kansas program and the staff and the management of the Kansas program for all the support that they gave us and the courtesy provided to us during the week that we were there.

And I was mentioning to everyone this morning that we did have some severe weather while we were there in Kansas and we appreciate you guys keeping us informed on that.

Michael Weber: And safe.

Janine Katanic: And safe. Safe on that. We spent a great deal of time talking with the inspectors and the technical staff. And I'm sure we wore everyone down by the end of the week with how much time we spent with them. And we appreciate the time they afforded to us.

So I'll just get the brief synopsis, you know, for this review. The team will recommend that the Kansas program be found adequate to protect public health and safety and compatible with NRC's program. The team is making two recommendations, which we'll discuss during the individual performance indicators.

The team reviewed five common performance indicators and one non-common performance indicator. And for those performance indicators we'll be recommending satisfactory on all but one which we're recommending satisfactory but needs improvement.

So I just wanted to briefly talk about the previous IMPEP review, which was

in April of 2006. And at that time all indicators were satisfactory except for one, which was technical staffing and training which was that - what needs improvement.

And that review team did make two recommendations as a result of that IMPEP. One recommendation was related to staffing and the other one was related to reciprocity. During this current IMPEP review the team reviewed Kansas' actions related to those recommendations. And we concluded that both of those recommendations could be closed.

So I guess, you know, with that summary unless there's any questions at this point, we can just move on to the performance indicators.

Michael Weber: Please.

Janine Katanic: Okay. I'll start with the first performance indicator, which was technical staffing and training and I reviewed this indicator. Based on the IMPEP evaluation criteria, the team recommends that Kansas' performance with respect to this indicator technical staffing and training be found satisfactory.

I did want to mention that during the review period, Kansas Agreement State Program had a slight organizational realignment. Essentially their entire section was moved from one bureau into a different bureau within the same Department of Health and the environment.

And we found that this was basically a organizational change and it didn't affect any of their day-to-day operations and didn't require any legislative changes.

During this review period there were two individuals that left the program and there were two individuals that joined the program. We found that they were fully staffed at the time of the review, which is really good. There are five members of the technical staff who performs both licensing and inspections. And of those five at the time of the review, four of them were fully qualified and one individual was undergoing qualification and was making really good progress towards completing that.

During the review period the program did make a number of improvements to their training program. You know, one of which they developed an electronic training database where they could track everyone's training.

We did however, you know, during this review, and I think we'll discuss it further during the other performance indicators, that based on the team's review of inspection casework and incident casework reviews and discussion with the staff and managers and the company (meant) that was made that we identify a weakness.

And the technical staff evaluation of medical licenses and medical licensee performance against the requirements of (10 CFR) Part 35, which that's a requirement that Kansas has about (unintelligible) reference.

So based on that, and especially with respect to therapeutic modalities on (unintelligible) sealed sources or devices are unsealed materials. But based on the team's review and the information in those other indicators, we are making a recommendation in this area.

And the recommendation is that the state ensure that inspectors gain increased familiarity with the regulations in Part 35 and that the staff be provided with,

you know, whatever appropriate formal training in addition to mentoring or on the job training just to ensure their familiarity with those modalities and ensure that those areas are appropriately reviewed during their inspections.

So I guess I'm ready to take any questions or comments you might have on that indicator. I realize, you know, part of what we're discussing is included in the other indicators.

Michael Weber: All right. Cindy.

Cindy Carpenter: Just a couple questions thought. Janine, the organizational realignment, did you detect any impact with that or not really.

Janine Katanic: Not really. I think one day Tom was told this is the new person you're reporting to and their whole staff moved over. And I guess Tom you can extrapolate on that if you want to. But for the team's perspective, it didn't appear to cause any changes.

Tom Conley: Yes, that's correct. At about 2:30 in the afternoon on June 30 last year, I was told that the following morning I'd be reporting to Mr. (Langer) here. And actually the transition went quite smoothly; much more smoothly than we really anticipated. And I think it's been a fairly positive experience for us.

Cindy Carpenter: Thank you. I have a question with respect to - I noted that part of your organization also responds to the Wolf Creek in the emergency preparedness. Does that impact your program with respect to the material (unintelligible)?

Tom Conley: Yes it does. You know there is - each of the staff in the materials program, 5%

of their time is allocated towards the Wolf Creek emergency response.

Cindy Carpenter: Okay. And then...

Tom Conley: And that's the program's always been. And so we've, you know, we manage around that.

Cindy Carpenter: And the last question I had was with, you know, the piece on Part 35 that perhaps a little enhanced familiarity with Part 35 would be beneficial. What are you doing in that area?

Tom Conley: We're doing what we've always been doing which is basically growing our own inspectors. We have been getting them into the training that we can support sending staff to and get them qualified to perform all of our different types of inspections and is our intention to continue doing that.

We've been looking at - we will of course continue to put people into the NRC courses as they become available and staff are accepted into them. And also we plan on going to third parties where we can find them to enhance any training that we can give them in those areas as well as others.

Cindy Carpenter: All right. Good. Thank you. That's all.

Michael Weber: Okay. Brad, question, comments?

Brad Jones: Yeah, I guess a question for the team. I was wondering since this issue was developed on the medical inspections this time and I didn't anything identified in the recommendations from previously. Is this a situation where we had an

accompanied medical inspections last time or did the training change between the two IMPEPs so that the inspectors are being trained differently?

Janine Katanic: I'm not sure I can answer that. You know, what the previous team looked at or what they did or how they reviewed something.

Brad Jones: I was just curious if we knew what the root cause of what's - of this whether it was a change in personnel, change in training or just a change in our practice of looking at it.

Janine Katanic: Well I think, you know, the Kansas staff, the stuff that they are looking at they're doing a really good job. You know, the Part 20 requirements and other requirements, they're doing a really good job in that. And then you - when you go to a medical facility, there's also these other requirements. So there has to be some balance because they're both important, right. There has to be some balance. And maybe they were a little off balance or, you know, however you want to see that.

Brad Jones: That's all I have.

Michael Weber: Okay. (Dave), questions, comments?

David Lew: Yes. Just a couple of questions. And my name is Dave Lew. My screen may not have come up (unintelligible) so I'll introduce myself. First question. Well first comment and question I guess. I noticed that (unintelligible) a lot of individuals (unintelligible) I think was a very good practice, on that affords more flexibility and (fungibility).

I was curious relative to (unintelligible). Does Kansas have a program that governs their qualifications in a more global sense particularly if they (can go out and do) inspections?

Janine Katanic: Yes. Tom and (Isabel), I would defer to you. He's asking about, you know, how you have some individuals you're cross training from the asbestos group.

Tom Conley: They would be expected to meet the same qualifications that any other inspector for whatever type of licensee they were inspecting.

David Lew: Thanks. Also technically your program would all break down (unintelligible) databases and...

Tom Conley: (That's right).

David Lew: ...from one that (unintelligible).

Tom Conley: That's correct.

David Lew: Thank you. The other question that I had have to do with the training course, the (H) 313. And there is a statement in here that makes - that indicates more than one or more qualified inspectors (unintelligible) 313.

But accompanying memo that was (unintelligible) that cost. Just a question from the (unintelligible). Does the team see any other areas or other courses or other courses or available NRC long shots, which would help (unintelligible) here in the States and Canada?

Janine Katanic: I think that when someone gets qualified, you know, formal courses are only part of the equation. You know, there has to be accompaniments with senior inspectors and their program. You know, on the job training. So I think looking at someone's whole qualifications is the sum of all parts. And that 313 course is essential NRC's course for those therapeutic modalities, you know, that would require a written directive.

So we don't have another formal course, you know, that isn't to say that NRC wouldn't develop something in the future. But that is our formal course and we don't recommend - we don't have a process to recommend outside vendor courses.

David Lew: Thank you. I have no other questions.

Michael Weber: Okay. Thanks. Gibb Vinson, any comments or questions?

Gibb Vinson: Yes. Regarding the recommendation for additional training under Part 35, can you tell me if that recommendation was based on the training records or the training agenda that was used? I noticed that one course that Kansas went to NRC implied that that course was inadequate in hours and content. Or was it more based on the field accompaniments with the inspectors?

Janine Katanic: Well I guess just to address the course that some people took, you know, we - the team did not have any intent to make a judgment on the quality of the course because we didn't have the course materials. All we had was an agenda. So could just add up the hours and that's the only fact we were trying to present in that regard.

But as far as the recommendation, you know, it's based on the team's overall review. It's based on the inspection casework summaries, the incident casework summaries, the inspection accompaniment, our interviews and discussion, you know, with the staff while were on site.

You know, it would be based on all those things together. Not based on the course that someone did or didn't take or how many hours.

Gibb Vinson: Thank you very much.

Michael Weber: Anything else Gibb?

Gibb Vinson: No. That's all for me.

Michael Weber: I had two questions. One to the team and one to the state. A question for the team is have we talked to Kansas about what the expectations are under that recommendation? Right now it's written a little generally. Where I'm going with my question is are we prepared to provide support to Kansas to acquire this additional expertise or experience with Part 35?

Janine Katanic: We did talk with them while we were there and Rachel maybe, you know, you can extrapolate on that. In some times in the past we've had state people accompanying our (C) people go out and accompany them and not as an IMPEP accompaniment but kind of as a ride along in some sense.

And we did try to write this recommendation a little bit more broadly just to give the state some flexibility to determine, you know, what is best for the program.

I think in general just even sitting down as a group and going over Part 35 and going over those requirements and if they have questions about those requirements, you'd have to filter them back through their RSAO would be a very good place to start.

I mean I'm an inspector myself, right. You have to know what the requirements are to inspect again. So that's - I think that would be a very good start. Then whatever formal training that they want to do or mentoring they want to do, I think would just supplement that and add to it.

Michael Weber: So we're flexible and we would defer to the state judgment on what would constitute adequate training in these areas.

Janine Katanic: And in this case it is their function to determine...

Michael Weber: Right.

Janine Katanic: ...like the adequacy of course.

Michael Weber: Right.

Janine Katanic: It's not our function to determine the adequacy of course.

Michael Weber: Okay. Thanks. And for the state, any comments in response to the recommendation? Do you agree with this recommendation or do you have concerns about it?

Tom Conley: No. I don't have any major concerns about the recommendation itself. As I

said earlier, we have been continually working on training our staff and we have every intention to continue that and take that, you know, as far as we possibly can.

As was stated - I'm not sure who was saying this part of the report or later in the report, we've had a very strong support for training our staff both, you know, at my management level and upper management. And recommendation or not, we have every intention of continuing to train our staff with the best available training that we can get.

Michael Weber: Okay. Thanks Tom. Cindy, what's your view on the recommendation and the determination of satisfactory.

Cindy Carpenter: I agree with it.

Michael Weber: You agree.

Cindy Carpenter: Yeah.

Michael Weber: Brad.

Brad Jones: I agree.

Michael Weber: Dave Lew.

David Lew: I agree.

Michael Weber: Gibb Vinson.

Gibb Vinson: I agree.

Michael Weber: Okay. Let's proceed to the next one.

Janine Katanic: Okay. I'll turn it over to (Shirley) to talk about the status of the materials inspection program.

Shirley Xu: The portion I did was status of material inspection program. And the first I have to thank all the staff and the management of Kansas team and they was very helpful especially is amazing the database that Tom created. It worked just like a charm, you know. You go into the database. You put either your name - the name of the license or member or days, they pop up everything that I need.

So that's on - compared to the different other IMPEP, this save a lot of time because I only need to reference the hard copy instead of going through all the stacks, stacks of the hard copies so that was saving a lot of time. And I'm very impressed with that database.

So for this indicator basically we focused on the five factors and that's inspection frequency and overdue inspections, initial inspection of new licenses and a timely dispatch of inspection findings (with the) licensees and the performance of reciprocity inspections.

So based on the review of this area and we are only review this Priority 1, 2 and 3 based on the manufactured 2800. So during this review period and out of 100, 81 Priority 1, 2 and 3 inspections conducted, the sections conducted (unintelligible).

Seventeen inspections were conducted at overdue. So that's 88.8% of Priority 1, 2 and 3 initial inspections were performed overdue by more than 25% of the inspection (unintelligible) that was prescribed by the manufacturer. And there is no overdue Priority 1, 2 and 3 of the initial inspection, the time of the review.

So based on the review to evaluate inspections performance and the reciprocity inspection that's also discussed under the status of Recommendation 2 from the 2006 IMPEP report.

Based on the IMPEP evaluation criteria, the review team recommended that the Kansas performance with respect to the indicator status of material inspection program be found satisfactory.

Michael Weber: Okay. Thank you. Cindy, questions?

Cindy Carpenter: No questions.

Michael Weber: Comments? Brad.

Brad Jones: No questions.

Michael Weber: Dave Lew.

David Lew: Just one question. Instead of question, I guess (unintelligible), there was a (unintelligible) section was (unintelligible). I was curious, what's the ballpark in which inspections should be (unintelligible) more frequently on that?

Michael Weber: Tom, you want to take that?

Tom Conley: Yes. Basically we feel that quite frankly some of the frequencies that NRC inspects that is - are not adequate. We find that seeing our licensees more often keeps us better in touch with them and keeps us - keeps them in touch with us in that when you wait five years or more between inspections a lot can happen in that timeframe and that it just keeps us in better touch with them.

Some of the other ones that are higher priority, we feel that those are a higher priority and more - and take more frequent inspection frequency.

David Lew: Thank you. So as I understand that it is really a function of understanding about specific licenses in Kansas in terms of the risk and have a touch on these on a more frequent basis. Is that...

Tom Conley: That's correct.

David Lew: ...(unintelligible) consideration for us to capture in terms of context of that statement. It's sort of like (unintelligible) look at and I'm not sure what the situation in Kansas is but (there's a bunch of implications) as they're looking at that kind of move some of the effort clearly to (unintelligible).

Michael Weber: I think Dave's suggesting that some text be added just to state the basis for why the States...

Janine Katanic: Okay.

Michael Weber: ...decide to inspect more frequently.

Janine Katanic: We can certainly do that.

Michael Weber: I don't think you're talking about a major change in...

Janine Katanic: (Unintelligible) too.

Michael Weber: And as I understand the comment in the team report it's not a matter of inspect annually versus once every five years. It's more like these are inspected under the IMC every other year but they just...

Janine Katanic: Maybe...

Michael Weber: ...decided to inspect them every year.

Janine Katanic: Right, or for example maybe for our broad scope licenses we go every two year. They may go every year. I think that was one of the ones Tom that you guys had different than us.

Tom Conley: Yeah. That's correct. And we feel that, you know, a broad scope license needs a little more oversight.

Janine Katanic: So maybe not even necessarily someone with the increased controls...

Michael Weber: Right.

Janine Katanic: ...it's just - or radio pharmacy, we go every two years and I think they were going every year.

Michael Weber: Duncan, you want to...

Duncan White: I was just going to ask from a broader perspective this is what Kansas is doing with regard to inspection frequency, which is not unusual (unintelligible).

Janine Katanic: It's common.

Duncan White: They will sometimes inspect more often than would be prescribed. Again, that's based on - and I think Tom very well put that in the need to keep as much as (unintelligible) keep them on their toes. Again, that's what Kansas is doing, not unusual with other (unintelligible).

Michael Weber: Okay. Anything else Dave?

David Lew: No that was all.

Michael Weber: Okay. (Gib Vincent).

Gibb Vinson: Yes. I agree with the finding and I - we have similar restrictions on our inspection frequency. They're a little bit more tied on some aspects. But with the additional security inspections that we have to do, how - who knows how long that will last? That's my only comment.

Michael Weber: Okay. And you've already agreed with the findings.

Gibb Vinson: Yes. I agree with the findings.

Michael Weber: Okay. Thanks. (Dave). Go backwards.

David Lew: I'm (fine). I agree.

Michael Weber: Okay. Brad.

Brad Jones: I agree.

Michael Weber: Cindy.

Cindy Carpenter: I agree.

Michael Weber: Okay. I agree. Let's go on.

Janine Katanic: Okay. (Shirley) also did technical quality of inspections and Michelle did some inspector accompaniments. So we'll work them both in here.

Shirley Xu: Okay. This is second are of inspection that's technical quality of the inspections. As I mentioned earlier, I run this through with the database. It was very easy to go through.

They have reporting there. They have dates and they have, you know, the source and the search system so that makes it very easy to look there are inspection based on the base and (mains) and all sorts of good stuff in there.

In this area we looked at - we reviewed and (unintelligible) - I should mention first that Janine mentioned earlier that the staff was very supportive. So we take a lot of staff time and talk to them, some specific cases, and some of them many are always a year or two ago so they are very patient with us and explain what is the situation as the inspection and (unintelligible) report. So

thanks for that support.

So the review team evaluated the inspection report enforcement document, inspection field (loads) and interviewed with the technical staff for the 31 radioactive material inspections come out during the review period.

The casework exam consisted of inspection conducted by the five current inspectors and the two former inspectors. And the casework is then covers the (examic) broad scope, medical broad scope, industrial radiography, self-shooting radiators, service providers and (agominized) HDR nuclear pharmacy and the (unintelligible) gauge.

From the report we can tell that the staff were very diligent on their inspection in the -we call it NRC Parts 20 area. They check everything. They check their inventory, their survey, the (neat) tested, the dates and so that was a very thorough inspection in that area.

And we also checked the - basically as mentioned earlier that there is some area was lacking that specifically is the Part 35 area that we call it medical area.

Those areas were checked - the earlier Part 20 safety issues. The lagging part is the specifically in the therapeutic area that they're, you know, they're like some of the specifics written directives and make sure that the dose was prescribed was matched the ones that the end results so in that area.

That's all - that mainly, you know, the training part of it. And also like Dave mentioned to us when we were there that he's the - that was a very good

suggestion that - he mentioned that when we renew or revise the new Reg 1556 Volume 9, that's the medical volume that we could also incorporate, you know, how the medical inspection should be down in, you know, in what areas so that if that could be a more specific, that may be helpful in this area.

So just the site know that we are planning to revise the new Reg 1556 Volume 9 and the name the older volume. So we will also contact the state participate with those revisions.

And then I will refer to Michelle talking about the accompaniment that we did for this IMPEP on Section.

Michelle Beardsley: Thanks (Shirley). Previously to the (unintelligible) onsite review, we accompanied three of the state's inspectors. And during medical broad scope inspection, industrial radiographer both field site and office and a cyclotron production facility.

From observation and the interviews with the inspectors, we observed that they performed a compliance type inspection meaning that they have very detailed inspection checklists. They also did performance based and observed a lot of the activities that the licensee was performing that would have significant affects on health and safety. They were all very well prepared, very professional.

During the medical broad scope inspection since they had different activities ranging in scope from what we would consider low risk significant activities such as general nuclear medicine cardiac facilities where unit doses are used.

There isn't much manipulation of doses so that there wouldn't be the risk of exposures to the workers or the public to a range of the high-risk significant activities such as high dose right after loading breaking therapy.

I noticed that a lot of effort was put more in the low risk significant activities. And when I questioned the inspectors on all these sections about this whole term of risk significance, they really didn't appear informed as to centering their inspections on that. Now with the industrial radiography and the cyclotron production facility, I mean they're only performing one activity.

So they did regardless of whether they do or not the term risk significant, they did do a risk significant informed inspection. However, during the medical I noted - the team noted that there wasn't a lot of emphasis on observing the activities such as with HDR you like to observe them performing their spot check procedures.

You like to question both the physicians and anyone involved as to what are your roles when you have emergency procedures and looking at patient written directions to make sure that the prescribed does matched the administered dose within a certain percent.

So I - you know, we noted that that seemed to be a weakness that we identified in that there wasn't the emphasis on risk significant activities. And the same inspector who performed that inspection had performed the previous inspection. So we were just concerned that maybe these areas hadn't been inspected in a while.

So this was discussed with the management at the state and they started right

away in changing their procedures to include the risk significant issue and factors and re-training the staff.

Shirley Xu: As Michelle mentioned that, the state already started, you know, the improvement in this area and I noticed that they already have a couple people signed up for the NRC some area in the medical area classes. So that's improvement and it's already started and it's already in progress.

The other area we checked that about this - the sensitive and the security related information. That we noticed that some of the hard copy and the files that related to increased control information that were not marked or identified as such.

So when we were there the team already made improvement in that area. They already removed the file and already have the security measures for those, you know, the sensitive security related information in risk control and all that. So that's already - I'm assuming already complete that area of the improvement. Tom can correct if I am not accurate.

So based on the IMPEP variation criteria, the review team recommends that team's performance with respect to the indicators, technical quantity of inspection be found satisfactory but needs improvement. And I will read this recommendation now and so people can give the comments.

The review team recommends that the state ensure that inspector - the review teams recommends that the state further develop the policy that was instituted during the onsite review and provide additional guidance for identifying, marking, handling, transmitting and storing documents containing sensitive

information.

Michael Weber: Okay. Anything else? Cindy, question, comments.

Cindy Carpenter: No because I asked in the first one and you've addressed that they're already taking some actions with respect some of the modalities in Part 35. So no, I don't have any other questions. Thank you.

Michael Weber: Okay. Brad.

Brad Jones: The documentation - the sensitive documentation, did that rise to the level of safeguard information.

Janine Katanic: No. No. But this is just increased control files, which would be sensitive, not classified, not safeguard.

Brad Jones: And - let me see. As I understand it, they're separating it but if they got a request for it they would have to release it under their statute.

Janine Katanic: Right. And that wasn't our real concern was withholding documents. Our concern was more of making sure the documents were properly marked. If they needed to be segregated, desegregated that the staff would be able to identify what is or isn't sensitive information. Those were more our concerns for the inadvertent release rather than complying with the state statutes.

Brad Jones: You know, if they do get safeguard information particularly since they have reactors...

Janine Katanic: I don't know. Tom, I would defer to you on that if you guys have any safeguards information.

Tom Conley: No we do not. We do not get safeguards information.

Brad Jones: That's all I have.

Michael Weber: You don't have any safeguards modified handling information.

Janine Katanic: (SGIM).

Tom Conley: I have - we received some many years ago. That has since been shredded.

Janine Katanic: They don't have any of those left.

Tom Conley: We have not received any in many years.

Michael Weber: Okay.

Janine Katanic: There were no licensees in Kansas that were subject to these M&D order of the irradiator order.

Michael Weber: Oh. Okay. Okay. Thank you. Brad. Dave Lew.

David Lew: Yes just one question. I assume that in this area there's some overlap with the training. (I was wondering if) the whole process for this area being guide lined and (unintelligible) versus the (unintelligible)? Can you folks tell me (unintelligible).

Janine Katanic: We reviewed the criteria and the Management Directive 5.6 and this is something that we discussed as a team and, you know, how does it fit in. And really going through this criteria really forces you to have to really give it a lot of thought.

And if you look at the criteria in 5.6 under staff needs improvement for this indicator for technical quality of its sections, it says review indicated that some inspections do not address potentially important health and safety concerns.

So that's what we base our judgment on. And, you know, it is a recommendation that the team. It's MRB that makes the final decisions.

((Crosstalk))

David Lew: I don't have any other questions.

Michael Weber: Okay. Thanks. Gibb.

Gibb Vinson Yes. I noticed between the first draft of the report and this last draft that we got that a lot if not most of the comments regarding meeting the inspection requirements for therapeutic modality got withdrawn. What was the reason for that?

Janine Katanic: Well, you know, the comments are always one of those things that cause questions in a sense that, you know, the protocol for those comments is to make them very brief, very short and very concise.

And that the team doesn't write a laundry list of stuff that they think was missed. So that's one thing is that our goal was to make the comments concise, which is what the protocol is for these types or reports.

And so in making it concise, you do lose that level of detail that maybe some people are looking for. And after I got the state's response and, you know, that they had concern about those comments, you know, I don't think we needed to put a laundry list of, you know, what we thought was maybe missing or not reviewed.

And because in fact we had discussed all of our comments specifically in detail with the inspectors and with their management, we felt like well, we've already discussed this with them in detail. They already had the detail. It's just not here in this report. So that was why we took them out.

Tom Conley: I'd like to address that (Gib)'s question also. Reading through the report and looking at the case studies, with the exception of the one where Michelle accompanied the inspector, every other of the inspections dealing with therapeutic modalities half of those the facility had not performed any of those modalities and the other half the inspector's report clearly discussed the Part 35 requirements.

And as Ms. Katanik stated, Management Directive 5.6 does state that some inspections do not address potentially important health and safety concerns. Based on our review of the inspections that the team reviewed and our knowledge of our inspectors and their work, we don't feel that one inspection equals some.

And therefore - and also we're talking about a group of facilities that comprise approximately 6% of our licensees. And so we feel that this evaluation really does not support elevating this indicator to the level of needs improvements.

((Crosstalk))

Tom Conley: Go ahead.

Janine Katanic: I would just add that, you know, IMPEP is performance based and, you know, Shirley reviewed files but also spent a great deal of time, you know, speaking with the inspectors about those issues.

Michael Weber: Anything else (Gibb)?

Gibb Vinson: Well, I'm just looking at the common performance indicator for obtaining quality inspections were satisfactory and it says a review of inspectors field notes or completed reports indicates that most inspections are complete and reviewed promptly by the supervisors or management. I mean based on what Tom is saying, it sounds like most were complete.

Janine Katanic: No we - team only reviews the sampling of reports. You know, and we base that on our view and taking everything into totality. But it is, you know, a recommendation and those criteria and the management directive, you know, sometimes can be finely split one way or the other.

Tom Conley: Well since, you know, as (Gib) stated, the team reviewed 31 inspection files or 31 licensees in their casework reviews. I think you need to look at what Management Directive 5.6 states as satisfactory. And I believe that (Gib)

makes a very good point in that these, you know, our performance we feel is satisfactory.

Now I don't disagree that our staff will benefit greatly from additional training and experience in the medical areas and they are going to get that. That's always been our intention and will continue to be our intention as well as all the other areas that they inspect and license. We just don't feel that it warrants elevating it to the needs improvement category.

Michael Weber: That's the MD there.

Janine Katanic: Oh, I have it here.

Michael Weber: Gibb, any other questions or comments?

Gibb Vinson: No. Not at this time. I kind of support what Kansas is saying on that finding. That's all really I have to say.

Tom Conley: And I would also...

((Crosstalk))

Tom Conley: ...like to make a comment about the sensitive information when you are (as I'll put) ready. It's more of a request than a comment.

Michael Weber: Okay. Brad, you have a question.

Brad Jones: Yeah. For the team. Would you agree that they said that these medical types

of inspections are about 6% of your total inspections (unintelligible)?

((Crosstalk))

Janine Katanic: I don't know. (Shirley).

Shirley Xu: The medical?

Brad Jones: Yeah.

Janine Katanic: I don't know out of all their licensees how many are medical.

Shirley Xu: Yeah that's good. (Unintelligible).

Brad Jones: That area? And this was the only area found problems with the inspection?

Michael Weber: So I'm looking at the Management Directive and under satisfactory for technical quality inspection. I'm just going to go through them one by one.

The first one is review team members accompanying inspections can find with the onsite review of a representative cross section of completed inspector reports indicates that inspection findings are usually well founded and well documented throughout the assessment.

Janine Katanic: When they had findings, they were well documented. I mean I can only speak to the findings they had which may have been Part 20 findings, whatever.

Michael Weber: So that one's satisfied. Is that right?

Janine Katanic: I mean if you - if there were no findings in medical, right, I don't have - I can only judge based on the findings that were reviewed.

Michael Weber: Yeah. Right. So you're not questioning whether they met that. You're saying well, there may be more to the story than what's addressed by that criteria.

Cindy Carpenter: Yeah. I think we're concerned that during these medical inspections (could have) been findings perhaps that weren't because (unintelligible).

Michael Weber: But that's not captured by this.

Janine Katanic: Right. I mean that's saying - just one thing it's looking at all of the inspections that they have which cover all different modalities and then looking at his subset and the quality of this subset.

Man: Management directives (unintelligible).

Janine Katanic: So, you know, we didn't just look at the inspection report. So let's say an inspection report says review patient release, we talked to the inspectors and said well what types of things would you look at under patient release? That performance partner that...

Michael Weber: Okay. Because satisfactory but needs improvement is review indicates that some inspections do not address potentially important health and safety concerns or indicates periodic problems with respect to completeness, adherence procedures, management reviewed, technical quality and (unintelligible).

So the team sounds that they...

Janine Katanic: The first part of that.

Michael Weber: ...than the one I read under satisfactory.

Janine Katanic: Because that one you read under satisfactory I think it's more talking about the...

Michael Weber: (Quality).

Janine Katanic: ...quality of product.

Michael Weber: The documentation of the findings.

Janine Katanic: Right.

Michael Weber: Yeah. And the next one is the review of inspector field notes are completed, reports indicates that most inspections are complete and reviewed promptly by supervisors or management.

Janine Katanic: That their reports are being reviewed properly and, you know, it's they're field notes, you know...

((Crosstalk))

Janine Katanic: I mean our field notes aren't. We don't (unintelligible) on our field notes NRC wise. But, you know, they say patients release reviews.

Michael Weber: Right. Procedures are in place and normally used to help identify root causes and/or licensee performance.

Janine Katanic: I didn't see any problems. (Shirley), did you see any problems in that area?

Shirley Xu: No.

Michael Weber: Most instances follow up inspections address previously identified open items and/or pass violations.

Janine Katanic: (Shirley).

Shirley Xu: Those I mean one instance that I think I might noted it - oh, I think I talked to Tom. I don't think I put it in the report that there is one inspection citation was meets quota. And also Tom already explained that because they have this database have a dropdown menu. Then I just take the dropdown menu without knowing what is behind that task of that, you know, because you dropdown menu is very short. Only one sentence.

So when they said the peak - any of the citation quotes so they - so the person may not know what's behind that one short sentence. The, you know, the completed task. So that's when in terms of the citation of the enforcement and the violation.

Janine Katanic: I guess, you know, I don't want to necessarily jump ahead but in the incident review, one of the incidents that Rachel reviewed was about a lost source. And they, you know, correctly cited that - correctly pursued that issue of lost source. But the source was lost because it wasn't inside the patient. Right. But

they didn't identify that maybe there was a potential medical event.

So what they did cite and what they did review and the inspector is the one that found that during the inspection that the source was lost. So they did that - they cited licensee for I guess not reporting it.

But then that next step of where was the source, the source wasn't - perhaps wasn't in the patient and could be a medical event, that wasn't reviewed.

Michael Weber: But that's a completeness issue, right?

Janine Katanic: Well I think that's, you know, part of this big issue here is taking that next step. Where was the source? It was supposed to be in the applicator inside of the patient. And the hospital thinks it wasn't.

Woman: Right. And that would be more with the written directive, the Part 35 requirements, which we didn't observe great familiarity with.

Janine Katanic: Was it a medical event? You know, was the inspector able to identify? There could possibly be a medical event here and then pursue those issues. Now I realize that that's covered under another indicator and I don't want to jump ahead. I'm just trying to put it all in perspective.

Michael Weber: Then the last criterion example is inspection findings generally lead to appropriate and prompt regulatory action.

Janine Katanic: They take enforcement actions when they identify findings.

Michael Weber: Supervisors accompany nearly all inspections on a manual basis.

Janine Katanic: (Unintelligible).

Michael Weber: So it seems like out of that list, first one the one that's being raised as the primary...

Janine Katanic: Yeah. I mean, you know...

Michael Weber: ...focus.

Janine Katanic: Yeah. Maybe it is borderline, right. Then you have to look at the next, you know, the next set, you know, the set that needs improvement and, you know, it's - the teams are instructed and are in (PEP) training to make the hard call, right.

Michael Weber: Yeah.

Michelle Beardsley: It's always hard to fit it in those boxes when it's more of a performance thing where we all discuss what we found, what we saw and we felt that it rose to the point where we're going to let this drop. We wanted to (unintelligible) on that indicator. Wasn't the right, you know, it's hard to fit it into those boxes but the overriding issue I think is (the inspection).

Michael Weber: Okay. Thanks. Any other questions from the board, or should we decide on the findings?

Monica Orendi: Well I think Tom had a comment about the...

Michael Weber: Oh, I'm sorry.

Monica Orendi: ...sensitive information.

Michael Weber: Okay. Tom, go ahead.

Tom Conley: Sorry. It's not really a comment. It's really more of a request with regard to the sensitive information. In order for us to make decisions on whether something is sensitive and can be released to the public or whatever, it's necessary to have a sound regulatory basis for making those decisions.

And therefore we request that the report include a clear and concise regulatory framework for what is considered sensitive information so that we can take that to our - to the Kansas Attorney General and get a legal interpretation of our Open Records Act and determine what truly is sensitive and is releasable to the public.

And I might add as I said many times in the past and will continue to say that guidance documents and impact statements are not law. So what we're asking is that you please include in the report the specific regulations that we can reference in our discussion with the Kansas Attorney General.

Monica Orendi: Tom, this is (Monica). Question for you. Would it also be acceptable - because normally that's not something we incorporate into this type of report because it's not fully with the IMPEP review that happened, if we sent you a separate letter containing that information signed by like (Charlie), would that also be acceptable? I mean or is there a reason it needs to specifically be in this report?

Tom Conley: Well I think that would be acceptable. However, since it is brought out so prominently in this report and it was addressed in my comments to the report, I think it's appropriate to have something in this report that not only Kansas can refer to but the other states also. This is something that the agreement states have asked for over quite some time.

Janine Katanic: I at least want to, you know, just talk a little bit about why the team looks at this - why are we looking at this. And it's part of the TI 002, the implementation, the increased controls - and it asks the team under technical quality of inspections, you know, to verify and document the sensitive maintained or possessed by the agreement states it's properly controlled.

And it goes further to say that agreement states are expected to protect sensitive information from unauthorized disclosure in a likewise manner to Increased Control Number 6. And Increased Control Number 6 is quite broad. It basically says...

Man: Probably why he's asking.

Janine Katanic: It's saying you, you, you develop - you develop - you go through and you develop. And so it is quite broad and what the team provided to the state during the review was our risk. There's a risk that was issued about this and it gives some screening criteria.

And we don't have a specific list that this is sensitive, this is sensitive. We have this criteria and it's up to the state to develop their own policy and their own procedure what they think is sensitive based on, you know, their program.

Michael Weber: And their law.

Janine Katanic: Right.

Michael Weber: Yeah.

Janine Katanic: Right.

Michael Weber: Duncan, were you going to say something?

Duncan White: No, I was just - yeah. I would stay with Janine said. We provide the risk factor in 2006 I believe again how we categorize - how we review stuff. It was given to the states as a starting point where they may choose to do that. But I think it's was (unintelligible) said, is we have to conform with their state laws, their state statutes. Those vary from state to state.

And they're going to have to go, you know, I don't know what it is in Kansas particularly but those - that's what they're going to have to determine is, you know, what we may say is these items may be sensitive. But Kansas law may say something different, and that's my - at the end of the day, Tom's got to comply with Kansas law with his sensitive information.

Janine Katanic: And as I stated before, our goal wasn't to prevent information from being released - prevent it from being inadvertently released, you know.

Duncan White: Sensitive information.

Janine Katanic: Exactly. Exactly. Not to violate Kansas law but, you know, to protect

information that just shouldn't be maybe left out on the table or whatever the case may be. Properly mark it, staff can easily identify what is or isn't sensitive information.

Michael Weber: Brad, you want to comment on the legal citations. I don't recall the risk off hand in whether that's contained.

Brad Jones: I believe that's NRC policy.

Duncan White: It's NRC policy. It's not a regulation. That's partially why I was asking if state cards or safety cards if (M) was involved because that's where...

((Crosstalk))

Duncan White: ...legal requirements line is. And the policy is designed not to say whether it will or will not be released when it's asked for. It's designed to put what are we going to make an effort to put out to the public versus what we'll not volunteer but will provide if it's asked for.

And if Kansas has a law that doesn't allow them to make that distinction, then that's a different situation. If they can - if they can segregate it and say we're not going to put this in our daily announcement of documents that we have but if somebody asks for it, we'll give it to them; that's great. That's kind of where we are.

Michael Weber: So how does that inform the IMPEP review? The reason I asked that question is what I hear is Tom saying well, if they think that they're complying with Kansas law, then do they really have a problem with how they've been

marking and handling sensitive information.

Or is this a matter where the IMPEP is finding that they haven't taken adequate steps to protect against inadvertent release of information. But the dispute revolves around what is sensitive information, not whether it's properly marked or controlled.

Janine Katanic: I mean I think when the team arrived on site, you know, they just had a big file room with - many different organizations had access to that file room and that's where their files were. And some of those files probably contained what any reasonable person would think sensitive information or security related information.

So, you know, we pointed that out to them and they did take some steps and said well we're going to remove these files and keep them somewhere separate. But then we're left with okay, well here's the file and it's maybe on someone's desk. How would someone know this is sensitive information and maybe just shouldn't be left on a photocopy whatever to keep it.

So we tried taking it to the next step. When you send out an inspection report that may site a violation of the (ICs), that marked, it's sensitive information that the licensee can know maybe that they need to protect it. Likewise for licensing documents would be the same way.

Our problem wasn't with Kansas releasing information in accordance with their law. It was just internal to them. Even asking the staff, you know, what do you think is sensitive information, they deferred back to Tom. You know, just the familiarity with, you know, to make it the system of information.

Maybe I shouldn't feed this out or - that was our basis. So I said we reviewed it because the TI asked the team to review that.

Michael Weber: Did you take that into account in formulating the recommendation that the program be found satisfactory but that needs improvement for technical quality?

Janine Katanic: That wasn't part of our thought process.

Michael Weber: Without - independent of the findings.

Janine Katanic: Right.

Michael Weber: So we have two items on the table. One is the protection of the sensitive information. And then we have the overall recommendation from the team with respect to the adequacy and technical quality of the inspection.

Tom Conley: Well just to be clear, make sure we're all on the same page here, I'm not arguing about sensitive information. I'm simply making a request that you identify the regulatory basis for what is sensitive information so that I can be sure that I am protecting the information that needs to be protected.

Janine Katanic: And Tom you thought that...

Tom Conley: That's all I'm asking for.

Janine Katanic: Right, and you...

Tom Conley: I'm not...

Janine Katanic: You thought that that would be okay if it was in a separate letter.

Michelle Beardsley: And we can put it in our report. That's fine.

Janine Katanic: You would rather the report, right Tom, rather than a separate letter?

Tom Conley: Well I think since it is so prominently covered in the report, I think that is a piece of information that is missing from the report in my opinion. If you would - if the board decides that it should be in a separate letter, I, you know, I'm not going to argue that.

Michelle Beardsley: Okay. I mean this has...

Tom Conley: I just feel that that is an important piece of information that is missing from this report.

Janine Katanic: This has come up on other IMPEPs with other states and I mean maybe it would be helpful to put something like that in a letter and share it with everyone.

Woman: Yeah. With an agreement state letter. Get it out to everybody.

((Crosstalk))

Michael Weber: Or you could do it in both places. You could do it here. Here's the basis of what sensitive information and then address it more generically through a

letter to all...

((Crosstalk))

Michael Weber: That seem reasonable? That sounds okay to you Dave.

David Lew: Yes. Sounds fine. Thanks.

Michael Weber: How about Gibb?

(Gib Vincent): Yeah. Well all I can do is relay our own history. We adopted the RIS Number 2005-31 pretty much as our own, which is that the document that defines what essentially sensitive information is.

And from Tom's perspective, it is quite restrictive in many areas and slows us down in transferring information and FOIAs and reciprocities. And it could well fowl up his own public documents requirements. So you need to be careful if you're going to adopt that in it's entirety.

Michael Weber: I don't hear (Steve) proposing or Tom proposing that he adopt that. I think he's just looking for a definition for what constitutes sensitive information...

Man: Right.

Man: ...from the perspective of the team.

Gibb Vinson: As far as I know that's the only document that has any kind of a definition in it. But NCR will know that better than I.

Michael Weber: Yeah.

Janine Katanic: But what the risk describes is very broad.

Michael Weber: Right.

Woman: It's just a category.

Michael Weber: Right.

Woman: Information which the, you know, unauthorized disclosure which could be harmful. And then it gives screening criteria.

Michael Weber: So we could insert a reference here to the risk.

Woman: If the board believes that would be acceptable.

Man: Yeah.

Michael Weber: I think that'd be fine. But then we'll have to address this more generally because as you point out, this is not just a Kansas issue; this is a much broader issue.

Man: Right.

David Lew: The programs that we have been working to clarify to what constitutes sensitivity (unintelligible) several years. And...

Michael Weber: Nine.

David Lew: ...it's an issue that's not only very difficult; it's also not always (unintelligible) of the NRC (unintelligible). So - but within the (region), I think that (unintelligible) is right. We're looking at this point and even in the regions, the NRC regions, that a process is established to say what - in our system what are we going to control and how? And then the IMPEPs are reviewed against that.

Michael Weber: Okay. And as we may or may not be aware, there is the federal initiative to consolidate the various types of sensitive unclassified non-safeguards information under one heading with one standard set of handling procedures. But that will continue forward.

So we've addressed the sensitive information aspect. Now let's go to the vote on the findings. Cindy.

Cindy Carpenter: I agree with the change recommendation.

Michael Weber: Brad.

Brad Jones: I agree with the change recommendation in terms of focusing on the medical training and the recommendation. I think I would rate this category satisfactory though.

Michael Weber: Without a need for improvement.

Brad Jones: Without the need for improvement, but still the recommendation to look at the

(FD) medical inspections.

Michael Weber: Under the first...

Brad Jones: Yeah.

((Crosstalk))

Michael Weber: ...these over from the first time (unintelligible).

Brad Jones: Yeah.

Michael Weber: And Dave.

David Lew: I agree with the team. I guess my time to (unintelligible) a gap (unintelligible) area but not isolated.

Michael Weber: Okay. (Gibb).

Gibb Vinson: Yes. After looking at the common (forrence) indicators, I think the requirements are borderline enough such that I would like to see Kansas given the benefit of the doubt and given a satisfactory. If those comments had remained in the - from the original report, I probably would have gone the other way.

But since they've been withdrawn, I just don't think the report reflects that kind of finding and that combined with Tom's efforts to improve the training and improve the documentation, I think they should be given a satisfactory.

Michael Weber: So we have two for this teams, two for satisfactory, two for satisfactory needs improvement. Is that where we are?

Monica Orendi: Yes.

Michael Weber: So I'm the tiebreaker.

Monica Orendi: Yes.

((Crosstalk))

Monica Orendi: Just to clarify though, I know that (Gibb) is requesting that they be (sat) but he's not a true vote, correct?

Michael Weber: Any difference to the - (OAS) liaison.

((Crosstalk))

Woman: Yeah.

Monica Orendi: Yeah. A technicality.

Woman: Yeah.

Michael Weber: Yeah. Well if you want to strictly go with votes, then I think I'm in the satisfactory camp. I think while the team's identified issues, it is not clear because of the way the examples are written in the Management Directive that they fall into the realm of needs improvement.

Now to be fair though, I hadn't seen the draft report. So when (Gib) says well if you saw the draft report, it would have convinced you that they needed improvement. And you said we took those out to make the report more concise.

Janine Katanic: The comments were brief because that's the procedure for writing these reports. You make a brief comment.

Michael Weber: Right.

Janine Katanic: You know, and Kansas' response was, you know, you didn't give us enough detail. But the team felt like we gave them that level of detail when we were there on site. We went through all those things and we didn't feel it was necessary to put the...

Michael Weber: Yeah.

Janine Katanic: ...laundry list of items in the comments and...

Michael Weber: No. I think it's appropriate...

((Crosstalk))

Janine Katanic: ...the protocol. That's not the protocol to do that. So...

Michael Weber: Yeah.

((Crosstalk))

Tom Conley: ...clarify my comments to the draft report. I did not say that you did not give enough detail. What I said in my comments was the therapy inspections that you looked at that you said we did not review the relevant Part 35 requirements, half of those the facility had not performed any therapy procedures.

The other half the inspector's report specifically stated about looking at doctors' orders, at interviewing doctors, interviewing staff, observing procedures. And after those comments you rightfully removed the comments from the draft report.

Janine Katanic: After the comments that were in the draft report just were very broad. The inspection did not cover relevant requirements related to Part 35 for various therapeutic modalities. So, you know, we didn't specify this type therapy, that type of therapy.

So, you know, we didn't want to go back and split hairs over it at this point because the comments that we had we discussed with the inspectors. And the team's review wasn't just based on the inspection records. It was based on discussions with the inspectors. So we - after getting Kansas' comments it was their response, we...

Michelle Beardsley: And if it would help, when I discussed with the inspector about the medical inspections, it was indicated to me that perhaps - and he acknowledged basically that yes I don't really know a lot about that area. Maybe that's why I don't look at it. And he - I was told that this was their main medical inspector out of them and it may be only 6% of their licensees but, you know, we've seen deaths from improper HDR, not knowing

emergency procedures offering that up.

Michael Weber: Yeah. I don't disagree with...

Tom Conley: There have been no deaths in Kansas.

Michael Weber: I don't disagree with the...

Tom Conley: And I'm sorry. I've got to say that I don't see how the team can make the statement even in the draft report that we did not look at Part 35 requirements when there were no Part 35 therapy modalities performed at that facility.

Janine Katanic: Tom, I don't have the...

Tom Conley: Now I'm not...

Janine Katanic: ...individual file in front of me.

Tom Conley: ...questioning the recommendation at all. What I'm questioning is the fact that the Management Directive directs the team to look at the program as a whole. And as a whole the program is good and sound.

Is there one area where we need to improve? I agree. And that is what we have always been struggling for and will continue to work towards. I just don't believe that you've met the criteria of Management Directive 5.6.

Janine Katanic: The team made its recommendation. It's up to the board.

Michael Weber: So where are we on both...

((Crosstalk))

Man: I guess you could have to (unintelligible).

Monica Orendi: Well I was just going to say I mean we're at (2.2) with (OAS) support of going up to the satisfactory category. You know, I'm going to turn back to Cindy and Dave at this point to see if you guys have any change in your thoughts on the recommendation or maybe your findings for the category.

Cindy Carpenter: I'll start. I still believe - I still agree with the recommendation by the team that it should be satisfactory but needs improvement.

Monica Orendi: Dave?

David Lew: Maybe I could just get a little more clarification. (Unintelligible) is whether in this particular area (unintelligible) isolated or (unintelligible). I guess I'm hearing (unintelligible) at this point. Hearing on both ends that we haven't identified any other areas or (unintelligible) shows that has been done (unintelligible) at this point is (discretionary).

((Crosstalk))

David Lew: Is it our sense - it is the sense that more issue that have (unintelligible) that is the proper time period or is this more isolated?

Janine Katanic: I think, you know, the recommendation from the earlier indicator is about Part

35. I mean that's where we were focused on when we - the team made this recommendation.

Michael Weber: Part 35 therapy?

Janine Katanic: What the report says is specifically or especially with respect that not only with respect that - especially with respect. Because as Michelle noted earlier, you know, we have to look at the, you know, higher risk significant stuff which are the therapeutic modalities and things that require written directives.

Michael Weber: Yeah. Yeah.

David Lew: I guess I must (unintelligible) I'm going to ask you a question. But is there a (unintelligible) more broad than (unintelligible) of the (unintelligible)?

Janine Katanic: Well as I indicated just from interviewing the inspector, it gave me the impression that there was a weakness in this area with his familiarity with the risk significant medical modality. That was my impression from doing the accompaniment and I disused that with the team because that's (unintelligible) the accompaniment. But...

David Lew: Right.

Janine Katanic: ...that's what we observed in saying that was a finding during the inspection (unintelligible). I'm going distinctly by the interview with the inspector.

David Lew: Well, some of underlying (unintelligible) extrapolation in there on the interview as opposed to (unintelligible) that may support the (unintelligible)

issue?

Janine Katanic: Guess you could state that.

Woman: I think that would be all right.

Monica Orendi: Dave, it sounds to me like...

David Lew: Okay.

Monica Orendi: ...you're still kind of wavering a little bit.

David Lew: Well, I didn't know they had the (slightness on this) - I was under the impression that they were specific (unintelligible) examples in which they identify areas (unintelligible) where the significant aspects of the area is - was not looked at. But...

((Crosstalk))

Janine Katanic: Because we only have...

Tom Conley: Let me see if I...

Monica Orendi: Hey Tom, hold on one second.

Tom Conley: Okay.

Monica Orendi: We only have 20 minutes and we need to get through the rest of the report.

And while I think this is good, I just want to let Mike know that is there is a tie, you get the final decision. And since you are leaning towards the sat, you know, I just want to throw that out there because I don't want to have to have this carried over and I'd like to try to get through the report in a timely manner because it is difficult to get us all pulled together. I'll throw it out there.

Michael Weber: Okay.

David Lew: I think I'm going to (unintelligible). I'll be quick. But it sounds like the, you know, the actual factual (unintelligible), I can live with it. So there is a little bit of a (unintelligible) here and I think there is a question of the benefit of the doubt at that point. And I would (unintelligible) by shifting over the more like satisfactory. Let's go with satisfactory.

Janine Katanic: Okay.

David Lew: I just want to say that some things (unintelligible).

Janine Katanic: Sounds good.

Michael Weber: So just to paraphrase what you were understanding Dave, if I can, we found this with a licensee and an inspector, right, in an inspection.

Janine Katanic: Right. In accompaniment.

Michael Weber: In and accompaniment. And then when you interviewed the inspector, you got the impression that it was not an isolated matter.

Janine Katanic: Correct. And then (Shirley) reviewed files.

Michael Weber: Right.

Janine Katanic: We - (Shirley) spoke to inspectors and I spoke to inspectors. And that was our judgment on that.

Michael Weber: So it could be as broad as medical therapy under Part 35.

Shirley Xu: Yes. The reason that I stated this is because the way of the report set up inside a dropdown menu. Then under there's one category for example with (ranking) therapy. So there is a dropdown menu saying did you check this, check this. So then that's the reason I have to talk with inspector, you know, what did you check under this or this that when you say check the chart, what do you mean by that?

So based on the discussion with the inspector same as Michelle did, so we come to the same conclusion that there is a weight missing that area. And the reason that means the training is because they are very diligent workers. It's not because they - they're not - they don't do it. It's because they lack some specific training like couple people already signed up with our therapeutic classes.

So that's the reason. It's not like (a waste). Just look at the report because it thinks the licenses with the report does not have anything, did not indicate anything. It's overall review of the program, of the inspection.

Janine Katanic: I mean I think you guys have made your decision. I mean am I correct in

saying the decision's been made? So...

Michael Weber: Yeah.

Janine Katanic: I mean it seems to be to be in our interest to just move...

((Crosstalk))

Janine Katanic: ...we could move on.

Michael Weber: I would just want to make certain because we were kind of interrupting David presenting his basis for his understanding of the current situation. So I wanted to make certain that we captured that.

Janine Katanic: Okay. Well (Charlie) - (Charles Hamilton) from the state of Florida has the next indicator which is technical quality of licensing actions and I know I can count on you (Charlie) to cut to the chase.

Charles Hamilton: I'll make up some time in the air. My indicator was technical quality of licensing and we reviewed 32 specific licenses out of the 300 that the state has, everything from Portal gauge to medical broad scope and everything in between. The review team found that licensing actions were thorough, complete consistent and at high quality with health and safety issues properly addressed.

The recommendation in the previous indicator regarding marking and protection of sensitive information also applies to this indicator. Based on the IMPEP evaluation criteria, this team recommends that Kansas' performance

with respect to the indicator technical quality of licensing be found satisfactory.

Michael Weber: Thanks. Cindy.

Cindy Carpenter: No questions.

Michael Weber: Brad.

Brad Jones: No questions.

Michael Weber: Dave.

David Lew: No questions.

Michael Weber: Oh my goodness. (Gibb).

Gibb Vinson: No comment.

Michael Weber: I had a question.

Janine Katanic: Yes.

Michael Weber: Did scope of the review include medical therapy.

Charles Hamilton: Yes sir. The thing is with the - they've had - they have good checklists and good licensing guidance for all the applications. I definitely - I had a cyclotron. I had academic broad scope. We went through medical institutions

and private practice medical. I didn't find those issues there because they do have very good licensing guidance.

And also with the licensing, it's more of the procedures for the facility itself and it doesn't get into reviewing patient records and stuff like that. So I think that's why you won't find similar findings in the licensing.

Michael Weber: Okay. Thank you very much. Cindy.

Cindy Carpenter: I agree with the recommendation.

Michael Weber: Brad.

Brad Jones: I agree.

Michael Weber: Dave.

David Lew: I agree.

Michael Weber: (Gibb).

Gibb Vinson: I agree.

Michael Weber: Okay.

Janine Katanic: Okay the next indicator is technical quality of incidents and allegation activities and Rachel's actually at a course this week and I know she's anxious to get back to her course.

((Crosstalk))

Rachel Browder: That's okay. I'll take it. Can you all hear me okay over the phone?

Michael Weber: Loud and clear.

Rachel Browder: One thing I'll just tell you real quickly. (Monica), while (Charlie) was talking, I called the pass code, the bridge line people and they said that they won't cut us off, that we can continue to talk if we go over a little bit.

Monica Orendi: Yeah, we had it - I had it a little bit extended past, so.

Rachel Browder: Okay.

Monica Orendi: Thank you though.

Rachel Browder: So the team did review the technical quality of incidents and allegations. I'll address those two elements separately. Eighteen incident case files were reviewed to determine the timeliness of the response to evaluate that the level of effort extended in the review was commensurate with the health and safety significance of the event, and that the staff understood the incident sufficiently to ensure that the licensee implemented adequate corrective actions and that extended conditions was address as necessary as well.

And the team also verified that the NRC was notified of all reportable incidents and that those events were updated to (NMED) as required by procedure. And based on the team's review of the incident files and the supporting documentation, the review team determined that this state

responded promptly to events. They had safety significance.

The state followed up with other events with the license as warranted by the safety significance and they reviewed the event report that was submitted by the licensee to the state. And the state ensured that adequate corrective actions were addressed.

In reviewing the documentation it was apparent that as the staff matured over the review period that the level of detail provided in the investigation reports also increased.

The review team did identify two events that had not been reported to the NRC during the review period. One of them involved a lost static eliminator containing Polonium 210 in excess of ten times the limit. And the second event was identified by a team member while reviewing the inspection folder.

This particular event involved a lost (CBM) 137 source at a medical facility in excess of ten times the (Appendix C) quantity. And the licensee had not reported this to the state. Like I said, the state identified it during their inspection and documented it as part of the inspection but it was not reported.

The (cesium) source was used for manual brachytherapy. The state then reported the event to the NRC and it's captured in (NMED) under Item Number 100315. And the (NMED) report indicated that the source didn't reach its destination in the patient and most likely fell in the bed linens. It was recovered at the end of the procedure in the bed linens in the hospital's laundry facility.

The review team did inquire whether the state felt that this was a medical event. The state indicated that the licensee had examined the patient and did not identify any clinical complications and the licensee did not identify it as a medical event.

And as we discussed during this MRB, the review team believes that with the state addressing the medical training issues that have been identified that another benefit of this increased training in Part 35 with the staff would be the increased capability in identifying and responding to potential medical events in the future.

So overall the incidents had a significant health and safety issue were responded to promptly and incidents were followed up on with the licensee to ensure necessary corrective actions were implemented. There was significant detail in the documentation, which the review team identified as improving over the course of the review period.

And for allegations the review team evaluated the one allegation that was forwarded to the state during the review period. And the state followed up immediately and performed necessary inspections and closed the allegations sufficiently. And the state did identify and issue violations as a result of that particular allegation.

The review team also reviewed six other allegations received by the state. The team determined that the state took allegations seriously. They promptly followed up on allegation concerns. They had sufficient document in the file and they closed the allegation with the concerned individual.

So based on the review criteria, the team recommends that this performance indicator for technical quality of incident and allegation activities be found satisfactory. Any questions.

Michael Weber: Thanks Rachel. Cindy.

Cindy Carpenter: I do. On this incident with the source, was this identified as a medical event?  
No. Should it have been identified as a medical event?

Janine Katanic: I don't think we have enough data.

((Crosstalk))

Janine Katanic: ...says it's there. You know, we got this information from the state.

Cindy Carpenter: Right.

Janine Katanic: That there were no clinical complications and they didn't report a medical event.

Cindy Carpenter: That's what caught my attention.

((Crosstalk))

Janine Katanic: ...evaluation they did, I...

Cindy Carpenter: Right. That's what caught my attention. Because it says it was not - no further follow up because of general length of time. I don't think there's a time limit

on whether it's a medical event. We know there's a time limit on whether it's a medical event or not. So I guess...

Janine Katanic: I would defer to the state on any follow up.

Cindy Carpenter: Tom, do you know if this was - if this was looked at as a medical event?

Tom Conley: We - no. We looked at the - what the hospital reported to us. We did, you know, some onsite investigation. As far as looking at specifically the medical event criteria, there's, you know, as was stated, there were no clinical complications and so basically no. This was one that we did not follow that through, as we should have.

Cindy Carpenter: Do you plan to follow this one through to see if it meets the criteria for medical event and whether it's reportable as such?

Tom Conley: I'm not sure if we have the information necessary to do that. We can certainly speak to the facility again.

Cindy Carpenter: No further questions. Thank you.

Tom Conley: Okay.

Michael Weber: Brad.

Brad Jones: No questions.

Michael Weber: Dave.

David Lew: Yes. I was curious. There was a couple - given that there was a couple of (unintelligible) identifies a question. (Unintelligible). Was Kansas trying to take a look at all those roles - issues (unintelligible) large population of (unintelligible) it wanted a follow on?

Janine Katanic: Hey Dave, it's Janine. I'll just clarify with Rachel because I think Rachel when you went through the incident files, there weren't any medical incident files for you to review for the review period. Is that correct?

Rachel Browder: Correct.

Janine Katanic: So we didn't have any other medical events for Rachel to look at during the review.

David Lew: So is effectively 100%.

Rachel Browder: I'm sorry. I can't - if it's directed to me, I can't - that's one person I can't hear on the line is David, sorry.

David Lew: (Unintelligible).

Janine Katanic: He's saying this is the only one Rachel that was related somehow to medical.

Rachel Browder: Yes. That's correct.

Tom Conley: Most of our medical events occur on the X-ray side.

Rachel Browder: Right, I mean they had some portable gauge accident...

Tom Conley: (Unintelligible) followed up on...

Rachel Browder: ...scenarios and they responded immediately. They had some, you know - some of those were significant safety issues in the incidents and the state responded promptly.

Janine Katanic: So there weren't any...

Rachel Browder: Medical.

Janine Katanic: Right. And the team thought about that too because they wanted to kind of probe that area further ourselves to see if there were any other medical events. But during the review period there were none reported, so. None reported by the licensees for - byproduct material.

David Lew: Thank you.

Rachel Browder: Right.

Michael Weber: Okay. Gibb.

Gibb Vinson: Yeah. I guess the only comment I have is that when something like that happens a lost (CBM) source or a near medical event, it's really good to get in touch with your local NRC liaison. They're the ones that remind us continuously to make sure that it gets reported and you follow up on the plus or minus 20% of the written directive and things like that. So they keep us on track with whether or not it needs to be reported in then.

Janine Katanic: Right and I think in this case if it's a lost source wasn't reported, you know, so there wasn't like a tickler to inquire about it.

Michael Weber: Cindy.

Cindy Carpenter: I agree with the findings.

Michael Weber: Brad.

Brad Jones: I agree.

Michael Weber: Dave.

David Lew: I agree.

Michael Weber: (Gibb).

(Gibb Vinson): I agree.

Michael Weber: Great. Go on to compatibility.

Janine Katanic: Okay. Rachel you're up again with compatibility requirements.

Rachel Browder: Okay. The team reviewed the compatibility requirements of the state's regulations.

Janine Katanic: Wait. Wait. Rachel wait a second if you can. Go ahead Tom.

Tom Conley: We had this room scheduled until 10:30 our time and I think (Isabel) is trying to fight off the people wanting to take over. So I just wanted to give you a heads up. What?

Woman: There's another meeting in here (unintelligible).

Janine Katanic: We're so close.

Tom Conley: There is another meeting in this room in five minutes.

Woman: We'll talk fast.

Janine Katanic: We're very close. Talk fast, Rachel.

Tom Conley: I understand.

Janine Katanic: Rachel, they only have five minutes...

Rachel Browder: Okay.

Janine Katanic: ...for their conference room, so.

Rachel Browder: Okay. Okay. The review team did find that the documentations were well organized. The individual also that did the compatibility also organized and maintained the incident and event records. The state promulgates their own regulations and they adopt by referenced Part 35, which is the medical and Part 36, the panoramic irradiators.

The rulemaking process takes approximately 16 to 25 weeks. The NRC typically receives a copy of the rule when it goes out for public comment period. And at the time of the IMPEP review there was one regulatory package that was overdue. However, that package contained only minor changes that wouldn't result in any significant compatibility issue.

That package is contained with five other regulatory packages that are coming due and the state submitted those packages to the NRC in August for the compatibility review.

So based on the information that was reviewed, the IMPEP evaluation criteria, the review team recommends that this indicator for compatibility requirements be found satisfactory.

Michael Weber: Cindy.

Cindy Carpenter: No questions and I agree.

Michael Weber: Brad.

Brad Long: No questions. I agree.

Michael Weber: Dave.

David Lew: No questions. I agree.

Michael Weber: (Gibb).

(Gibb Vinson): No comments. I agree.

Michael Weber: Okay.

Janine Katanic: Okay. I'll be real quick. I'm from the Bronx. I can talk fast. There were two additional non-common performance indicators, which Kansas has the authority, which are skill source and divide for low level waste and they don't have any activity in either of those programs so we didn't review them.

I guess so in summary they will be satisfactory on all six of the indicators reviewed. The team has two recommendations. The team does recommend that Kansas be found adequate to protect public health and safety and compatible within our (unintelligible) program. And we'll recommend that the next full IMPEP review be held in four years.

And I do once again want to thank Kansas for all their support and their staff, staff support and thanks to the team. I had a very strong team for this and thank them. And turn it back over to you.

Michael Weber: Okay. Cindy.

Cindy Carpenter: Nothing further.

Michael Weber: You agree with the team's...

Cindy Carpenter: I agree.

Michael Weber: ...overall recommendation? Brad.

Brad Jones: I agree.

Michael Weber: Dave.

David Lew: (Aye).

Michael Weber: (Gibb).

Gibb Vinson: I agree.

Michael Weber: Okay. Agree. Any additional comments from the state?

Tom Conley: Yes. I did have one and in the interest of time here I will be very brief and refer to the attachment on the comment letter that I wrote in response to the draft report.

I'll just read this real quick here. That we feel when taking enforcement action, consistency and reproducibility are very key elements and that our staff has created an evaluation tool that analyzes the severity of a violation based on the cause and effect in a very consistent reproducible manner.

And once the bounds of that severity has been identified, the tool can be used to determine the overall severity level of the violation and therefore the level of enforcement action that needs to be taken.

It's extremely flexible and stable tool that can be applied to virtually any situation. It is very easily adapted to changing situations.

And once you identified a particular situation and worked it into the tool then you've got a very consistent and reproducible method of determining a severity level. Therefore we believe that this tool should be recognized as a good practice to be shared with the agreement states and regions.

Okay. So...

Tom Conley: And there's more detail in the comment letter...

Janine Katanic: Right.

Tom Conley: ...from, you know, my comments to the draft report.

Janine Katanic: Okay. And the team - we did sit down just - they had shown it to us and spoke with them about it and spent time one on one and it - I mean it certainly is a useful enforcement aid to determine severity levels of violations.

Now with respect to the team, what do we look at? You know, with respect to enforcement, you know, we look at what are violations as they're written can be substantiated, whether they're appropriately documented, whether they're dispatching them in a timely manner, whether the licensees take proper action as a result of enforcement.

So we didn't identify this as a good practice and one of those reasons is we don't really get into the level of depth that is in that document. But the second reason is there is no guidance for the team on what constitutes a good practice.

There's a list of good practices. But the team, you know, reached out to the

project manager. We reached out to other people. And there's no guidance for us to judge.

So we put in our comment letter that we defer to the board. Because there's no way for us to judge what is or what isn't a good practice. We don't have a criteria.

Michael Weber: I don't even know what he's talking about.

((Crosstalk))

Janine Katanic: I think the one comment that I would make is that enforcement is very, very safe specific, yes. And for that reason I would - that's one area I wouldn't go to endorse something as a best practice because every state has - some states don't even have enforcement on - have enforcement capabilities. So I - that's something that really hesitates from my perspective.

Tom Conley: I'm sorry. We're going to have to call in. I'm going to have to retire to my office and call in and finish this meeting because the people that have the room reserved now are beating down the door. So if you will give me a few minutes, I will go back to my office and call in on the bridge line.

Michael Weber: All right. Tom I don't think...

Tom Conley: And in the meantime, take a look at the time comment letter that I said and the statement that is very state specific. I do not agree with is extremely flexible and adaptable to any situation. And I will call in in just a few minutes. Thank you.

Woman: Some states do not enforce...

Janine Katanic: It's what they call enforcement. They have something on enforcement. They have to have it to become an agreement state but it may not look anything like ours.

Woman: No.

Kathleen Schneider: So I would caveat that to say that's quite that way because they'll all argue that they have enforcement. Let me jump into what a good practice is like. Good practice came about - started IMPEP when the then chair of the MRB, (Constance) said ooh, I like what North Dakota's doing. We should make that a good practice.

(Unintelligible) with no specific criteria it's going to call for the team that is or isn't - the only guidance we used over the years and then something that can be exportable out and be of use to others within the IMPEP world. And then (fortunately) kind of outside that.

Janine Katanic: You know, and then another thing is, you know, this was first presented to Michelle when she the accompaniment and then Michelle forwarded it to me and I looked at it. Then when we got there on site, it had been revised, you know, it was tweaked. It was different. And since the IMPEP it's been revised.

So I'm not, you know, I'm not sure it's a final product. Maybe it is. But we as the team, you know, we as the team like are looking at different aspects of enforcement and as (Cathy)'s saying, you know, not that level.

Woman: (I'm off) of it.

Michael Weber: They have a hang up on their end.

Woman: We'll have to ask those people there in that room. (Unintelligible) be the second one.

((Crosstalk))

Michael Weber: Maybe we need to tell them that they're on camera. They don't realize it.

Monica Orendi: Kansas, can you turn your VTC off please?

((Crosstalk))

Michael Weber: They did it before he walked out. They don't know they're on camera.

Woman: They should still be able to hear us.

Man: Someone else will...

((Crosstalk))

Woman: We wouldn't be able to hear them.

Man: Yeah.

Woman: But they can't. So when he gets back on the line, we can just tell him like

somebody go run in and tell them because the (unintelligible) will cut off.

Man: (Unintelligible).

Michael Weber: Hey Dave, can you say something?

David Lew: Yeah. I can say something but...

((Crosstalk))

Woman: That's the idea. That's the point. That the idea.

David Lew: Oh, okay. If - I guess what - am I the only one (unintelligible).

((Crosstalk))

David Lew: (Unintelligible) back in as well so that we're not on the scene for another (unintelligible).

Michael Weber: Yeah, that would be best.

David Lew: Okay. What's the number?

((Crosstalk))

Monica Orendi: You ready?

David Lew: Yes.

Monica Orendi: It's 888-566-6350 and the code is 15938.

David Lew: Eight eight eight five six six six three five zero, and the code is 15938.

Monica Orendi: Yeah, that's it.

Woman: Yeah and...

David Lew: Okay. I'm calling right back.

Michelle Beardsley: You know, Mike, I think we all acknowledge that they put a lot of work into this but it's just not something we would review as part of our...

Michael Weber: Right. (Hang up) yeah.

Woman: Do I just push the power button do you think?

Michael Weber: Push that drop call. There they go. They dropped it. The ceiling in Arlington.

Woman: They told me that was...

Woman: No, that's our own...

((Crosstalk))

Woman: Hi (Randy).

Michael Weber: Yeah. Hang on (unintelligible). Phone hang up. And call.

Woman: Hello.

Woman: Hey.

David Lew: Hello. This is Dave Lew. I'm back online.

Michael Weber: Hi Dave. Thanks for joining us. We're still waiting for Tom to come back.

Monica Orendi: Hope he has the number. Oh.

Michael Weber: Well...

Monica Orendi: Oh no. You don't have an email from him do you?

Michael Weber: Yeah. Why don't we conclude our board meeting? As to the best practice, it sounds like - some of us are seeing it for the first time. Others say well there's not enough information. I don't think we want to identify this as a good practice. That's what I would suggest.

Woman: It's a...

Michael Weber: Dave, have you seen this?

David Lew: I have not seen the best practice.

Michael Weber: Yeah. It was not in the packages that we received.

Rachel Browder: This is Rachel. And I had looked at it while I was there and talked with Tom a

little bit. I mean it is geared along the enforcement policy that the NRC has. And he has run a lot of, you know, different cases through it to see if it would fall out in the same severity Level 3, 4, you know, 2 like what we have.

I mean I immediately saw it as something that may be beneficial for the MNLs because the MNLs are supposed to implement our enforcement policy and our manual that it could, you know, foreseeable be a tool that they could use whether other agreement states could use it or not.

It would necessarily have to be a good practice through our process but maybe through the CRCPD have it available that, you know, other agreement states could possibly look at it.

Janine Katanic: Well it is a matter of public - since Kansas responded to the draft report, you just made a public record, right?

Woman: I think one - I think one of the things is what they attached to their response is an example of how the tool can be applied, right.

Rachel Browder: Right. They used actual cases...

Woman: This is not the tool. This is an example.

((Crosstalk))

Rachel Browder: ...and processed it through the tool to come up with what severity level you would get.

Woman: And maybe some people find the enforcement policies manually cumbersome and this is a way to kind of say...

Woman: It's out there as a public record now.

Woman: Right. Right. Right.

Woman: I mean my biggest concern is, you know, is this database something that is exportable to another state. Or are they saying another state would have to create a database based off of what they're showing here? Like they would give them examples. Because Dave's not going to have time to go through it unless it's something they can burn to a disk.

Woman: Well it's an electronic...

Woman: Would they send it to him?

Woman: It's an electronic thing that can be clicked on and...

Rachel Browder: By it's Access database. I mean it's a...

Woman: It's like an Excel spreadsheet...

Woman: Spreadsheet, yeah.

Woman: ...really is what it is.

Woman: And Texas has something very similar because they talked to us a couple

years ago about how they go about doing theirs.

Woman: Yeah. I mean it's do that in NRC we, you know, we maybe take different things into account, mitigating factors and stuff. This will just come out at a one, two, three, four.

((Crosstalk))

Michael Weber: ...it did rise to the level of a good practice.

Woman: And we don't have any guidance to determine what is or is not a good practice, so without that, I...

Michael Weber: Yeah. Well that's a process.

Woman: Yeah. I don't feel like we're in a position to say it is or it isn't. Just that...

Michael Weber: Yeah.

Woman: ...as part of the - as part of the IMPEP review, we wouldn't get into this level of their (imported) process.

Michael Weber: Okay. So Dave, having not seen what we're talking about...

David Lew: Yeah. I guess my initial reaction is that, you know, it's hard to identify this as a good practice in this context particularly without understanding what implications it has on other frameworks, other states. So I'm sort of hesitant to identify this as a good practice.

Michael Weber: (Gibb), are you still with us?

Gibb Vinson: I'm still here. I do like the way it standardizes the assessment of civil penalties. We may possibly implement something like that here as well if it works.

The business of good practices has always been nebulous to me. I would almost like to see it be removed from the IMPEP process and used as another guidance tool under, you know, one of the new regs or something like that.

And it - when good practices are identified here, it seems like it's kind of a random process. That's really the only comment I have.

Michael Weber: I don't recall this being raised as part of the self-assessment. Did we get feedback on good practices?

Woman: I think so.

Man: They reviewed it.

Michael Weber: They did review it. Okay. Duncan, what were you going to say?

Duncan White: One thing we can offer Tom, we don't call it good practice, one I think it should be finalized whatever we're going to do. It's not finalized yet and that would be based on (unintelligible) time and that's when you really want to roll it out.

The other - if we don't really want to call it good practice, we offer him we

will (unintelligible) gives him a platform to send it out, you know, to the other states and it's not to the good practice (unintelligible).

Monica Orendi: Tom?

Tom Conley: Yes.

Monica Orendi: Yeah.

Tom Conley: You guys changed the number on me.

Woman: Yeah, I don't know what happened with that. We had a couple people who had problems with it.

Tom Conley: Okay. Well I'm back. Hey, I would like to apologize for that. We had that room reserved until 10:30 and the other people were pounding at the door.

Michael Weber: That's not a problem. That happens around here too.

Tom Conley: Yeah. Yeah, conference rooms are in high demand here.

Michael Weber: Yeah. We've been in - while we've been offline, we've been talking about the tool that you developed in Kansas to support consistency amount your enforcement actions. And I don't know how much of the conversation you previously heard. What the team assessment was, you know, they were unclear on what a good practice should be. So what's the threshold?

And I guess there was some question about whether it's ready for prime time

because it seemed to continue to change slightly during the course of the review and since. And some of us hadn't seen it before you brought it up. So we have it in front of us now.

And I guess the thought is since it didn't come out of the team review that the board does not wish to identify it as a good practice. But having said that, it may be something that you'd want to share with the other state agencies.

So there may be some sort of forum to do that whether it's through a CRCPD or OIS or even if you wanted to send it into us and then we shared it with the other states somehow.

So I think the sense back from the board is good innovation by the state of Kansas and but not quite at the level of a good practice designation.

Tom Conley: Okay.

Michael Weber: So anything else you want to raise?

Tom Conley: No. That was it.

Michael Weber: Okay. Any process changes? We heard a couple I think. One was if good practices stays in the IMPEP, there ought to be some guidance on...

Tom Conley: Yes. There does need to be guidance and also I would suggest taking a look at Management Direction 5.6. And obviously there sounds like there's a need for clarification there, you know, with the lengthy discussion we had this morning on the criteria for satisfactory and needs improvement.

I think that is something that could be clarified to avoid that kind of, you know, those types of discussions that it's a little clearer for - not just for the team but for the States too because the States look at those and evaluate their own programs against those same criteria.

Michael Weber: Yeah. I understand your comment. Frankly I'm not surprised that we had the discussion or the length of it because those criteria just guide the decision-making.

Tom Conley: Yeah.

Michael Weber: But fundamentally it comes down to the specifics of the situation.

Tom Conley: Right.

Michael Weber: And I don't ever expect that we will have criteria so defined that it will be kind of a no-brainer that will determine if you're satisfactory.

Tom Conley: Yeah. Well and I agree with you. But it's probably worth taking a look at and seeing if there's, you know, a little more clarity that could be provided.

Michael Weber: I see heads nodding in the affirmative back here.

Tom Conley: Okay.

Man: As part of the IMPEP self assessment review, we will have to update Management Directive 5.6 and states will be involved in that update and there'll be a comment period where you can provide...

Tom Conley: Okay.

Man: ...you think would be important there. But, you know, I personally thought it was a good discussion that the Management Directive points us to having this discussion.

Tom Conley: Yeah.

Man: To me it worked.

Tom Conley: Yeah. I, you know, I can't disagree. I think, you know, the process works.

Michael Weber: Are there any other comments from the board members? No. (Gibb).

Gibb Vinson: Just to clarify what is the final finding on the Kansas program?

Michael Weber: Satisfactory. They're adequate and compatible.

Gibb Vinson: Okay. And on the indicator that there was a question on for technical quality of inspections?

Michael Weber: Satisfactory.

Gibb Vinson: Okay. Great.

Michael Weber: With two recommendations. I think there's a member of the state of Florida on the phone.

Man: Go ahead.

Mike Stephens: Yeah. This is (Mike). I don't have any comments.

Michael Weber: Okay. Well I just wanted to close out our board meeting by thanking the state of Kansas for supporting the IMPEP review process. I want to thank the team members including Janine who led the team and (Shirley) and (Charles Hamilton) and the state of Florida; Rachel Browder from Region 4 and Michelle.

And by thanking the MRB members including (Gib Vincent) from the state of Illinois and who served as our (OAS) liaison; Cindy Carpenter; Brad; and Dave Lew. I think Dave's on the phone.

David Lew: Yes I am.

Michael Weber: Okay. And with that, we are adjourned. Thank you. Have a great day.

Gibb Vinson: All right. Thank you.

Man: Thanks.

Woman: Thank you.

Man: Thank you. Bye bye.

END