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NUCLEAR REGULATORY COMMISSION

Title: Impacts of Compatibility Changes
 In General License Regulations

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UNITED STATES OF AMERICA

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BEFORE THE NUCLEAR REGULATORY COMMISSION

+ + + + +

Regarding Impacts of Compatibility Changes
In General License Regulations

+ + + + +

TUESDAY

SEPTEMBER 20, 2011

+ + + + +

REGION III

2443 WARRENVILLE ROAD

SUITE 210

LISLE, ILLINOIS

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The above-entitled matter commenced
pursuant to Notice at 2:00 p.m.

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PRESENT:

WILLIAM "BUTCH" BURTON, Facilitator,

NRC Office of New Reactors,

PAT LOUDEN, Deputy Director,

Division of Nuclear Material Safety,

ED KULZER, Inspector, Material Inspection Branch,

JIM LYNCH, State Agreements Officer,

JEFF WARREN, Materials Inspector,

PATRICK SCHROEDER, Midwest Sales Representative for

Troxler Electronic Laboratories,

GARY CAINES, Radiological Operations Program Mgr.,

JIM BUCHENBERGER, QSA Global,

DENNIS SOLLENBERGER, State Agreements Program,

STEVEN POY, State Agreements Program,

AMY HARDIN, NRC-OIG,

MIKE STEVENS, State of Florida

DUNCAN WHITE, Branch Chief, State Agreements,

PAUL SCHMIDT, Chief of DHS Radiation Protection

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P R O C E E D I N G S

(2:00 P.M.)

1
2
3 MR. BURTON: Good afternoon, everybody.
4 My name's Butch Burton, and I work in the NRC's office
5 of new reactors. But, this afternoon, I'm wearing a
6 different hat. I'm going to be facilitating the
7 meeting today. And, my role as facilitator is to help
8 to ensure that we have a productive meeting. Before
9 we get started, my real name is William, but William
10 was my granddaddy. I go by Butch, so I definitely
11 prefer Butch.

12 This is a category III public meeting to
13 discuss and take public comments on the impacts to the
14 manufacturers, distributors and end users of generally
15 licensed medical and industrial devices, from
16 revisions to the compatibility categories of NRC
17 regulations. As a category III public meeting,
18 members of the public are going to be allowed an
19 opportunity to actively participate in the meeting,
20 and we do hope that they do so. We'll have a good
21 exchange of views and information.

22 To let you know, this meeting is going to
23 be transcribed. We have Adrian who will be doing
24 that, and we are also going to prepare an audio for
25 later listening. Hopefully, everyone is registered

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1 and has some of the materials. When you came in,
2 hopefully, everybody signed in and then we have some
3 of the handouts over on the chairs to the left. If
4 you haven't gotten them, you can get them now, or we
5 can get them to you a little bit later.

6 The meeting is intended to run until 5:30.

7 We may end early, we may not. We'll see how it goes.

8 But, we do have planned an interesting and
9 informative meeting. The agenda includes some opening
10 remarks, followed by some presentations, but the main
11 focus of the meeting is going to be an open discussion
12 between all of the participants. And we'll have, at
13 appropriate times, breaks in between, maybe about 15
14 minutes.

15 But, we do hope to have a healthy exchange
16 of information. And, judging by some of the
17 discussions we had in the earlier session, before the
18 meeting in the open house, I think we're going to have
19 that, so I'm looking forward to it. At this point, I
20 think it would be good if we just took a few minutes
21 and had some introductions. I think we have enough
22 people here that I don't think that would be overly
23 burdensome.

24 So, what I'm going to do is I'm going to
25 take, I'm going to start with the people here in

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1 Region III and we'll go around and I'll ask that you
2 give your name and your affiliation. And, in
3 particular, let us know if you're a, you know, a
4 distributor, a manufacturer or end user. That's good
5 to know. Then, I'll follow it up with some
6 introductions on the phone, okay? So, give me one
7 minute here.

8 MR. LOUDEN: Okay. Pat Louden. I'm the
9 Deputy Director of the Division of Nuclear Material
10 Safety here in the Region III office in Lisle,
11 Illinois.

12 MR. KULZER: Ed Kulzer, Inspector,
13 Material Inspection Branch. I handle GL devices.

14 MR. LYNCH: My name is Jim Lynch. I'm the
15 State Agreements Officer here in Region III NRC.

16 MR. WARREN: My name is Jeff Warren. I'm
17 a Materials Inspector in Region III. I handle
18 reciprocity.

19 MR. SCHROEDER: I'm Patrick Schroeder. I
20 am the Midwest Sales Representative for Troxler
21 Electronic Laboratories.

22 MR. CAINES: I'm Gary Caines. I'm
23 Radiological Operations Program Manager for Honeywell
24 International based in Duluth, Georgia.

25 MR. BUCHENBERGER: Jim Buchenberger, QSA

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1 Global, -- Technology, Product Manager and industrial
2 source manufacturer.

3 MR. BURTON: That was a mouthful, wasn't
4 it?

5 MR. SOLLENBERGER: Dennis Sollenberger.
6 I'm with the State Agreements Program in headquarters.

7 MR. POY: I'm Stephen Poy. I work with
8 the State Agreements Program in NRC, as well.

9 MR. BURTON: All right. Thanks everyone.
10 That's everybody here in Region III. We'll take a
11 minute now for the folks on the phone to introduce
12 themselves. I know you don't know how many people are
13 on just yet and where we're going, but go on and go
14 and we'll work it out. Go ahead.

15 MS. HARDIN: This is Amy Hardin, NRC-OIG.

16 MR. BURTON: Okay, thanks Amy.

17 MR. STEVENS: Mike Stevens, I'm with the
18 State of Florida.

19 MR. BURTON: Hi, Mike. Now, those were
20 the two that I knew about. Anybody else? Okay. I
21 think that'll do it. I've facilitated where we've had
22 50 people on the phone. And, actually, the
23 introductions worked out better than I thought they
24 were going to. So, this is good. Okay, let me give a
25 couple of logistics. First, we prefer that anything

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1 that you have that rings, buzzes, beeps, alarms and
2 talks back to you, if you could turn them off or mute
3 them, that would be good.

4 Because we are transcribing the meeting, a
5 couple of things. We need for one person to speak at
6 a time, and to use the mic so Adrian can pick that up.

7 You can either, we have a stand-up mic here. We have
8 the handheld. We have the podium where I'm speaking
9 now, and anything that's convenient for you that you
10 prefer, we can do that.

11 One thing, we are always looking to
12 improve our meetings, so one of the handouts that we
13 have is a meeting feedback form. And we really
14 encourage you, at the conclusion of the meeting, to
15 fill it out and return it to us. It really helps us
16 when we kind of do our post mortem of the meeting to
17 see how we can do things better. You can fill it out
18 and leave it today, or it's postage paid and you can
19 send it back to us a little bit later.

20 So, I think that's it for the logistics.
21 Questions about any of that? Okay, good. Pat's going
22 to let you know where the ladies' and men's rooms are
23 and all that stuff. So, he'll do that when he comes
24 up. So, let me go on and introduce Pat, and he was
25 already mentioned. Mr. Pat Louden. He is the Deputy

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1 Director of the Division of Nuclear Material Safety
2 here in Region III, and he's going to give us our
3 welcome. Pat.

4 MR. LOUDEN: Thank you, Butch. Again, a
5 Region III welcome. Welcome to Lisle, Illinois.
6 We've had a wonderful day here. Thank you all for
7 coming. Just a few logistics I wanted to go over
8 before we start really getting into the meeting. Many
9 of you have already been here for some time. The
10 restroom facilities are straight out the door behind
11 us here and they are open. I have checked. There's
12 no badge required to get into those on those sides
13 there.

14 As far as any type of evacuation or if we
15 have any type of emergency situations or alarms, it
16 looks like we've got some Region III NRC folks here
17 that will, certainly, assist you to make sure that you
18 get out of the building safely. And, I know we have
19 some badges on you all, mainly for accountability
20 purposes if we have a situation. But, that would be
21 toward the parking lot here on the backside of the
22 building. But, certainly, we have staff here who will
23 attend to you on that.

24 So with that, I wanted to welcome you, and
25 just to reiterate a little bit about what Butch has

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1 mentioned here. Welcome those from the industry,
2 welcome those from the Agreement States, both with us
3 and on the phone. I'm really looking forward, you
4 know, the reason we have these meetings is to get the
5 feedback and to get the exchange of the information.
6 That really is the reason why we have it, so I would
7 just encourage real active participation today. With
8 that, I turn it back to you, Butch. Thank you.

9 MR. BURTON: Thanks, Pat. We're going to
10 get into the formal meeting now. First, I'd like to
11 introduce Duncan White. Duncan is Chief of the
12 Agreement State Programs Branch in NRC's Office of
13 Federal and State Materials and Environmental
14 Management Programs. That's a mouthful. We,
15 generally, call that office FSME. He's been with the
16 NRC for 16 years, and has served in varying
17 capacities, from a Senior Materials Inspector and
18 License Reviewer, and then as the Regional State
19 Agreements Officer in Region I.

20 Before coming to the NRC, Duncan spent
21 nine years in New Jersey's Radiation Protection
22 Program as a supervisor and radiation physicist in the
23 areas of environment assessment and decommissioning.
24 He received his bachelor's degree in environmental
25 science and master's degree in radiation science at

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1 Rutgers University. And, he is a certified health
2 physicist. Duncan.

3 MR. WHITE: Thanks a lot, Butch. First,
4 I'd like to thank you all for coming to the meeting
5 today and thank you for Region III for hosting us here
6 from headquarters. We greatly appreciate that. We'll
7 do background why were here and why we're doing the
8 meeting today. Back in last December, the Commission
9 issued their staff requirements memorandum or their
10 final decision on a proposed rule with regard to the
11 limiting the quantity of by product material and
12 generally licensed device.

13 In that SRM, the Commission directed staff
14 not to publish the final rules, effectively
15 discontinuing the rule-make process. The second thing
16 that they did is they required, directed staff to
17 change the compatibility for 10 CFR parts 31.5 and
18 31.6 from compatibility category B to compatibility
19 category C. Another thing that they asked staff to do
20 is to revise two of the policy statements that oversee
21 the Agreement State Program and deal directly with
22 accuracy and compatibility.

23 And, the final thing that they directed
24 staff to do was to do an analysis of trans-boundary
25 impacts, focusing on any particular issues that affect

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1 companies that worked in multiple jurisdictions. And,
2 that is what today's meeting is to focus on. We are
3 here today to collect information with regard to the
4 Commission's decision on changing compatibility and,
5 particularly, collect information about what the
6 impacts are on the regulatory community and on the end
7 users, in particular.

8 With that, a couple things about our
9 meeting today. As I said, the commission's already
10 made a decision about the compatibility. That is, we
11 won't focus on that today. They've changed that from
12 B to C. That decision has been made. Again, what
13 we're really interested in today is to collect
14 information on what the potential impacts of that
15 change are. And, we're particularly interested in
16 hearing particulars, either economic, regulatory.
17 Again, we think it's appropriate and are very
18 interested in hearing that.

19 What we're going to do with that
20 information is we're going to, we have the meeting
21 today. We have a meeting on Thursday in Mansfield,
22 Massachusetts. We have comment period that's open
23 until the end of October and, with that information,
24 we will add that to the information we've collected
25 from the Agreement States and we will be preparing a

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1 report that's due next June to the Commission. That
2 report will summarize the findings of the public
3 meetings, the information that we receive. And, as
4 directed by the Commission, we will summarize the
5 information that we've heard, and make any
6 recommendations for any corrective actions we see.

7 What the Commission does with that report,
8 we will see. Again, we are asked to report the
9 findings from our inquiries today and this public
10 comment period. Just to make sure, we appreciate you
11 people coming, everyone coming out today and making
12 comments. Again, if after you leave here and you
13 think you would like say some more or have some
14 additional information, we would welcome that.

15 Again, the comment period, again, I stress
16 is open until October 30th and, again, we look forward
17 to hearing any additional information you may have.
18 Again, additionally, if you know other people who
19 would like to comment on it, please make sure that
20 they have the opportunity to do that.

21 With that, I would like to turn the
22 meeting over to Paul Schmidt. And, Paul will be
23 discussing the meeting state perspective on the change
24 in compatibility. Paul is the Chief of the Radiation
25 Protection Section for the State of Wisconsin. He was

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1 involved with the rule making to revise 10 CFR parts
2 31.5 and 31.6, and has served on the Joint NRC
3 Agreement State working group on the promulgation of
4 the regulation. So, Paul.

5 MR. SCHMIDT: Thank you Duncan. As was
6 mentioned, I was asked to provide the Agreement
7 State's perspective on the compatibility for GL device
8 regulations, and I have one precise, concise slide
9 here that summarizes all the points I'm going to be
10 making here. And I do want to expand upon a number of
11 these. The Agreement States, overall, I'm kind of
12 looking at this from the organizational standpoint,
13 from the organization of Agreement States which
14 represents all of the Agreement States that regulate
15 the radioactive materials under agreement to the NRC.

16 They came out in strong support of the
17 compatibility change from B to C and for 10 CFR 31.5
18 and 31.6. From the Agreement State regulatory
19 standpoint, our main concern is accountability for GL
20 devices. Not just accountability from the standpoint
21 of us as a regulator do we know what the people that
22 have these devices actually have from our standpoint,
23 but also do they, as users, know what they have and
24 track those things appropriately over the use period
25 of those devices while they have them.

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1 So the regulatory accountability, as well
2 as the user accountability, focusing on both of them.

3 We have some issues along those lines, primarily
4 looking at the front-end and the back-end of the life
5 cycle, the distribution as well as the end-of-life
6 transfer. But, also some issues with the use. So
7 that's what I want to expand upon a little bit here.

8 If you look at the GL device life cycle,
9 all the way from the front-end distribution to the use
10 periods, which can extend over a very, very long time
11 period, as I understand, depending on the type of
12 device, decades in some cases, and all the way to the
13 end-of-life transfer. If you look at the front end,
14 distribution, of course there's information. There
15 are requirements for the users. There's information
16 that the manufacturer distributors give to that
17 particular company that purchases that particular
18 device.

19 The users are supposed to be looking at
20 the labels, making sure they know that they're and
21 what they say, they understand what the testing
22 requirements are over time. The manufacturer
23 distributor is supposed to be giving information to
24 the user of what the requirements are, the things they
25 need to be aware of and all that.

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1 The user is supposed to identify a
2 responsible individual that understands what those
3 requirements are and make sure, that point of contact
4 to make sure things get done over time. And then, the
5 manufacturer distributor is required to notify the
6 regulator of that transfer, which means that the
7 regulator really gets the information of who's given
8 what where after the fact, after things have already
9 occurred.

10 From the use standpoint, the user is,
11 which the requirements of this are in the course of
12 general licensing, 10 CFR 31.5. They're supposed to
13 be performing periodic tests on those devices, as
14 established in regulation, really referring to shutter
15 and lead tests, depending upon the specific type of
16 device. There are supposed to be records that are
17 supposed to be maintained. They should be tracking
18 those devices over time, so they know what they have
19 and how things change. They're supposed to notify the
20 regulator of reportable incidents.

21 Also, where you have issues with
22 continuity of information. Again, referring to the
23 potentially lengthy period of time when these devices
24 are used. Whoever that responsible individual is that
25 is receiving that information from the manufacturer

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1 right when they initially receive that device, is that
2 information being transferred to new people as they
3 come in and replace those original individuals? So as
4 people change, is that information being transferred
5 from person to person to person over that potentially
6 lengthy time period of that device?

7 Not really sure if that's going on or not,
8 but it's an issue that we have. And we received some
9 information from some folks that says that may not be
10 reliably occurring all the time. We would also like
11 to know, ideally, would like to know when the
12 manufacturer distributor or service provider is
13 performing maintenance or sourcing exchanges to ensure
14 the radiation safety requirements are met. And also,
15 an example to get in there and check accountability.
16 Does everything still match up? Are things being
17 done? That type of thing.

18 That's not something we, as regulators,
19 always do. In fact, a lot of states don't necessarily
20 do that. But it's, ideally, it would be something
21 that would be nice to do. From the end-of-life
22 transfer standpoint, ideally, that device should be
23 only transferred, or it's a regulation, it should be
24 transferred only to an appropriate party, a specific
25 licensee, or in some specific cases, a general

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1 licensee, as is allowed in regulation.

2 These devices are not supposed to be
3 disposed as scrap. They're supposed to be only
4 disposed of in certain ways. They are not supposed to
5 end up in the scrap cycle, which unfortunately does
6 occur. And I'll mention a little bit more about that
7 here in a minute. And then, of course, the user is
8 also supposed to, by regulation, notify the regulator
9 of the final transfer. I can only talk about my
10 specific state, but in my experience, that rarely
11 happens. We rarely hear about when a device's life
12 cycle ends. From what we know, we don't believe that
13 that occurs very often. We just don't hear about
14 that.

15 So there's a database, a national
16 database, called the Nuclear Material Events Database.

17 All Agreement States, as well as NRC, are supposed to
18 document certain types of incidents that are reported
19 to them into that database. As far as I know, the
20 regulators look at this. I'm not aware that licensees
21 and other have access to this. So it's really just
22 for us, but it's a nationwide database of all types of
23 incidents, including those involving generally
24 licensed devices.

25 I did a search of the NMED database for

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1 the last five years, and with very specific criteria,
2 looking for only incidents involving loss of control,
3 abandoned or stolen GL devices for the past five
4 years, and only involving devices containing cesium
5 137 or americium 241 sources, period. If I had
6 expanded that further, it would have been a much
7 larger, I would have had a lot more information. But
8 I just focused on that very, very narrow criteria.

9 And when the NMED database said was that,
10 in the past five years since September, 2006, there
11 have been 44 documented incidents involving loss of
12 control, abandoned or stolen GL devices containing
13 those two isotopes that I mentioned. The most recent
14 report in this database was from just a little under
15 two weeks ago, September 9th, in particular, of this
16 year. So this is not just a historic problem. This
17 is a current problem, as documented by NMED.

18 And, at least again, focusing just on my
19 experience from my state, I believe that this is just
20 a tip of the iceberg-type of problem. We've seen a
21 number of incidents of sources found in scrap
22 facilities where, because of the condition of the
23 device, it had simply been mangled beyond recognition,
24 we couldn't really verify that it was a generally
25 licensed device, but because of the activity and the

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1 isotopes that we saw, we suspected that was the case.

2 But again, we just couldn't verify it.

3 The incidents that I mentioned here in
4 NMED, those are verified generally licensed devices.
5 But again, we feel that what's in NMED is just the tip
6 of the iceberg. Now multiple Agreement States have
7 adopted, to address specific issues in their state,
8 stricter control of generally licensed devices than
9 what is in NRC regulations. And this is within a
10 range, a certain range, or allowable options.

11 In some cases, states register additional
12 devices than, maybe, NRC does, goes a little broader.

13 In some cases, states have gone to specifically
14 licensing some of those devices, instead of
15 registration, but it's essentially within that range.

16 And they do that to improve accountability, as I
17 mentioned earlier, as well as protect public health
18 and safety. That's really where we're coming from
19 from the Agreement States regulatory perspective.
20 That's where we're coming from.

21 And I think a goal here, whatever changes
22 a state makes, and I think this is a common goal that
23 not only should be with the regulatory agencies, but
24 the users, as well. Is that, ideally, we do not want
25 to see lost or stolen or improperly disposed general

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1 licensed gauging devices. I think that is the common
2 goal we should all be working toward.

3 That's really what I wanted to mention,
4 just from the Agreement States perspective, and I'd
5 like to turn it back over to Butch. Thank you.

6 MR. BURTON: Thank you, Paul. Okay, we're
7 going to go into discussion mode now. I think the way
8 that we are going to do this, we're going to, there
9 were several questions that were included in the
10 Federal Register notice. There were three or four
11 general questions that applied to manufacturers,
12 distributors and end users. And then, there were two
13 sets of additional questions. One set of particular
14 relevance to manufacturers and distributors, and then
15 another set of particular relevance to end users.

16 I think we are going to have many of those
17 questions up on the board, or one of the handouts was
18 the Federal Register notice that contains the
19 questions. And there was another separate handout
20 specifically with the questions. So, if you guys can
21 grab a hold of that, that's going to be the source of
22 much of our subsequent discussion for the rest of the
23 meeting.

24 We had originally thought that we would
25 focus, initially, on distributors and manufacturers

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1 and some of those questions, and then later on do the
2 end users. But I think, given the number of folks we
3 have and the composition of the participants, I don't
4 know that we necessarily need to have that kind of
5 bifurcation. I think we can just start to discuss all
6 of it at once.

7 So what I've done here is we have a flip
8 chart, and I'm going to, I'll move it in a second.
9 But what I want to do is capture two types of
10 feedback. One is, one type of feedback are going to
11 be issues that are directly related to the focus of
12 today's meeting. And I want to capture those main
13 aspects.

14 There may be some issues that folks want
15 to raise or bring out that aren't, specifically, the
16 focus of the meeting, but yet we may want to follow up
17 and address at a later date. So I'm also going to
18 have a sheet here that I'm going to call the parking
19 lot. We're going to try and capture some of those
20 things. We won't be able to address them in depth
21 today, but we may want to do some follow up. So I'm
22 going to pull up the flip chart and do that. I'll do
23 that, like I said, I'll do that in a second.

24 We do want to make sure that when you're
25 speaking that you do speak into a mic, and I think

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1 we're going to have to do some coordination of the
2 microphones. Probably I will come to you with this
3 hand held, and we'll probably use the other mic for
4 the folks at the table if they need to speak. Is that
5 going to be okay with you guys? Okay. So let's get
6 started.

7 These first set of questions were
8 applicable, I think, across the board with
9 manufacturer/distributor or end user. What are the
10 impacts of changing the compatibility categories in
11 31.5 and 31.6 from B to C? What are the distribution
12 impediments? And if there are any other impacts
13 brought about by changes in the state regulations?
14 And, if so, please talk about them.

15 As Duncan had said before, we're looking
16 for, you know, health, safety, economic impacts. We
17 want to get a sense of what folks are going to be
18 dealing with. So that applies, regardless. The
19 second set, these are the questions that really more
20 are focused more on manufacturers and distributors.

21 What are the current practices used by
22 companies to address multiple jurisdictions and the
23 registration requirements of generally licensed
24 devices and 31.5 and 31.6, or the state equivalent?
25 What are the costs incurred by companies by doing

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1 business in multiple jurisdictions with regard to the
2 registration requirements of generally licensed
3 devices and 31.5 and 31.6, again, or the state
4 equivalent?

5 What are the costs to health and safety in
6 doing business in multiple jurisdictions with regard
7 to the registration requirements of generally licensed
8 devices and 31.5 and 31.6, or the state equivalent?
9 Do you have any comments on the regulation of generally
10 licensed devices associated with 31.5 and 31.6, or the
11 state equivalent, that affect you with regard to where
12 your company is located or where your customers are
13 located? Those are questions that are, I think, could
14 have particular relevance for manufacturers and
15 distributors.

16 And then, there are another set of
17 questions more relevant to end users. What is the
18 difference in cost of generally licensed devices
19 purchased by you in comparison to devices without
20 radioactive material with regard to the registration
21 requirements of generally licensed devices and 31.5
22 and 31.6, or the state equivalent? What regulatory
23 costs influence your decisions in the generally
24 licensed devices that are purchased?

25 What choices are made by you regarding

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1 health and safety and security with regard to which
2 generally licensed devices are purchased by you? Do
3 you have any comments regarding the regulation of
4 generally licensed devices associated with 31.5 and
5 31.6, or the state equivalent, that affect you with
6 regard to where you are using your generally licensed
7 devices?

8 I wanted to actually read those, because I
9 don't know whether the folks on the phone have all the
10 questions in front of them. We do here, but I wanted
11 to make sure that everybody knew what we were talking
12 about. Okay. So I guess, to get some of this
13 started, I know in some of the discussions we had
14 before we had the formal meeting, it was clear from
15 Paul's presentation, that the Agreement States,
16 generally, like the idea of B and C.

17 I don't, is there a sense that that's
18 generally shared among the regulated community, or is
19 there a different view? Good question to get started
20 off with. Anybody want to --

21 MR. STEVENS: I'm sorry. We can't hear
22 the question part.

23 MR. LYNCH: The question is are people
24 aware of what the differences are between
25 compatibility category B and C?

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1 MR. BURTON: Good, basic, first question.
2 Are people aware? Is that something we should take a
3 couple of minutes and talk about?

4 MR. WHITE: I think we had a discussion
5 about this early on. I think it's definitely worth
6 repeating for everyone's, to make sure we all come to
7 an understanding of that. We talked about
8 compatibility category A and compatibility category B.
9 From the standpoint of the Agreement States, the NRC
10 regulation are a benchmark. Everything is compared to
11 the NRC regulations. Compatibility category A and B
12 require the same action for the Agreement States.

13 They have to adopt regulations that are,
14 essentially, identical to the NRC's. This, literally,
15 means word for word. The difference between A and B
16 is that category A involves basic radiation protection
17 terminology and fundamental philosophies. Category B
18 involves what is called significant trans boundary
19 impact. Significant trans boundary impact could
20 include things such as transportation regulations. It
21 includes things like the use of a sole source of
22 device registration sheet.

23 Compatibility category C requires the
24 Agreement States to adopt what's called the essential
25 objective of the section of the regulation. As a

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1 simple example of that, that would include for a
2 state, if there was a requirement to do a survey of an
3 area, that the state would require the survey, but how
4 that survey was done exactly and frequency of that is
5 up to the state. But there is a requirement to have,
6 in the regulations a requirement to do the survey.

7 Essentially, category C allows the states
8 to have flexibility, and allows the states, if they so
9 desire, to be more restrictive than the NRC is. They
10 cannot be less restrictive, they can be more
11 restrictive with this thing if they choose to do so.
12 Another category, which is not required for
13 compatibility, but is part of the regulations and
14 they're important from a health and safety standpoint,
15 health and safety requirements.

16 Again, the requirement for the states is
17 the same as category C. Again, they're not
18 compatibility requirements, but they're what's called
19 an adequacy requirement that are health and safety
20 based vision of the regulations. And that requires
21 the state to adopt regulations that, again, embody the
22 essential objective. Again, there's some flexibility
23 allowed in that, and they can adopt a more restrictive
24 type of regulation if they choose to so. But, again,
25 it cannot be less restrictive and it has to embody the

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1 essential objectives.

2 MR. BURTON: Good. I hoped that helped.
3 Excellent way to start things off. One thing I do
4 want to say as we move through, my background is not
5 materials. I'm more a reactor guy. So when I'm
6 putting feedback and parking lot items up here, I do
7 not always know what should go up here. So I'm going
8 to look to you all to let me know. I'll probably
9 break in, perhaps frequently, saying is this something
10 I need to put up here, and that fine. But if you find
11 that there is something I should be putting up here
12 and I'm not, please let me know, okay? Folks on the
13 phone, are you hearing okay?

14 MR. STEVENS: Yes.

15 MR. BURTON: Okay, good. All right. Oh,
16 also when you are speaking, I think it's going to help
17 the transcriber if they give their name?

18 COURT REPORTER: Yes.

19 MR. BURTON: Okay. So we'll do that.
20 That first question came from?

21 MR. LYNCH: Jim Lynch.

22 MR. WHITE: And Duncan White provided the
23 response.

24 MR. BURTON: Okay. So, given that, are
25 there comments and questions? I had originally asked

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1 whether there were people who had a different view
2 from the Agreement States that they thought that
3 moving from B to C was a good thing. Is there anybody
4 who would like to, maybe, speak something contrary to
5 that?

6 MR. CAINES: Gary Caines, Honeywell
7 International. There are several things that need to
8 be taken into consideration if you go from
9 compatibility level B to C. One of them involves
10 trans boundary implications, because of the advantages
11 that a service provider in one state where a customer
12 is located, where a general licensee is located, would
13 have an advantage over somebody from another state,
14 because they may or may not have to apply for
15 reciprocity.

16 Or if the Agreement States has gone to
17 less than 180 days reciprocity, come to say 30 days or
18 10 days or whatever, they may have already used up
19 that 10 or 30 days and then have to apply for
20 reciprocity and pay reciprocity fees. So the end
21 charge, this cost would be passed on to the consumer,
22 onto the customer. So a licensee service provider in
23 the state where the device is located would have an
24 advantage.

25 There are health and safety

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1 considerations, because the more differences you see
2 in the regulations, leads to confusion, leads to
3 mistakes, leads to violations of the regulations or
4 potential violations. That's a consideration. And,
5 well I guess that's it on the first one. Thanks.

6 MR. BURTON: Okay. Did you want to
7 respond to that, Duncan?

8 MR. WHITE: No, I just, I wanted to ask,
9 this is Duncan White. I wanted to ask Gary to
10 elaborate a little bit on one of his answers. I
11 thought it was a good answer. You mentioned that the
12 variation of regulations from state to state can cause
13 confusion from a health and safety standpoint. Could
14 you elaborate a little bit more on that, please?

15 MR. CAINES: Yes. Some states, an example
16 would be before the compatibility level to B from C
17 initially, approximately 10 years ago or whatever,
18 there was a lot of confusion as to what was required
19 before you could go to visit a customer to do repair.

20 Different states had different rules and regulations
21 as to whether you, when you applied for reciprocity.

22 Some states, using Florida as an example,
23 they had 365 days reciprocity. And in the vast
24 majority of cases, all I had to do was make a phone
25 call to the State of Florida and tell them where I was

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1 going, and they said, oh, fine go ahead and go. Thank
2 you for calling. Things have changed now, obviously.

3 The other extreme would be states that set
4 180 days reciprocity, but then they said no we don't
5 really like you to do that. We lowered it to 30 days.

6 You've already been here 30 days, even though the
7 regulation said 180 days. And so, we went ahead and
8 did it anyway and we get in trouble. You know, that's
9 a case of where states were not following their own
10 regulations.

11 And I should say these are the minority of
12 cases. The vast majority of Agreement States follow
13 their regulations and there's no issues there. But
14 there's a lot of confusion as to exactly how the
15 regulations are interpreted. In fact you, in earlier
16 discussions, we were talking about the vast majority
17 of Agreement States, if there's an emergency
18 situation, you can call them on the phone and they'll
19 waive the three-day period, which makes, it's kind of
20 common sense. Some states do not do that.

21 Or you think that's going to be the case,
22 you send it in and you go ahead and go there, and then
23 a different person addresses the, you know, the
24 violation or the situation, and has a different
25 opinion as the last guy that did it, maybe six months

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1 before. It's sometimes very difficult to stay out of
2 trouble.

3 MR. WHITE: This is Duncan White, again.
4 In terms of, you said a minority of states, you're
5 talking like three or four states, something like
6 that, being the minority. Is that what you're
7 referring to when you say minority?

8 MR. CAINES: Yes, three or four states or
9 so. I don't want to name states, because that lends
10 nothing
11 to --

12 MR. WHITE: I just want to make sure I
13 understand when you talk about majority.

14 MR. CAINES: And I should also say in the
15 states where we had difficulties, we have a very good
16 working relationship with all of them. There's no
17 issues like that. It's actually quite pleasant in
18 these cases, so.

19 MR. BURTON: Okay. I'm going to try and
20 capture at least some of the key things that you're
21 talking about. I assume this is something under input
22 and feedback versus parking lot, right? This is
23 relevant to the meeting? Okay. Trans boundary
24 issues, reciprocity, I hear economic advantage. What
25 I'm going to do is I'm going to put very general terms

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1 up here.

2 But what I'm also going to do is put the
3 name of the person who made the comment. And what I'm
4 going to ask everybody to do is I will probably follow
5 up with you after the meeting to flesh that out a
6 little bit more, because we're going to probably need
7 it for the meeting summary. So what I will do is
8 there are a few enough people here in Region III. I'll
9 give you my business card, so you'll have the contact
10 information.

11 For the folks on the phone, if you have a
12 pencil and paper, I'm going to give you my e-mail.
13 It's william.burton@nrc.gov. So if you are going to
14 be providing any input and feedback, you can e-mail it
15 to me, okay? But for Gary's first comment, I'm going
16 to put trans boundary issues/reciprocity/economic
17 advantage. Does that capture the essence of your
18 comment, would you say?

19 MR. CAINES: Yes.

20 MR. BURTON: Okay. He said yes, so let me
21 do that. And if I'm not summarizing or characterizing
22 things appropriately, let me know. And, forgive my
23 spelling right from the beginning, okay? Okay, next
24 comment, question, concern that people may want to
25 share with regard to any of these questions or any of

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1 the other questions? Oh, Gary again.

2 MR. CAINES: I'd like to make one other
3 comment on the first one. The list of goals that were
4 presented by Paul earlier, the device manufacturers
5 and distributors have exactly the same goals. I mean,
6 I would have been proud to sign my name at the bottom
7 of what you have there. We have exactly the same
8 goals. It's, I don't think there's any issue. I
9 think we're all on the same side, with the same, if
10 something goes wrong, that impacts our industry. We
11 may have more regulations that aren't, that don't
12 bring anything, any positive improvement, so we have
13 all the same goals.

14 MR. BURTON: Good, good. Others?
15 Comments, questions, issues to share in terms of what
16 you think might be the impact to you or others with
17 regard to this change? Yeah.

18 MR. KULZER: Ed Kulzer, NRC Region III. I
19 can't help but feel like economics, at this time, is
20 having a severe impact on a lot of the general
21 licensees. They have economic problems throughout the
22 industry, of course. But the fact is they may have
23 some general licenses that are no longer useful and
24 can't afford to get rid of them. And a lot of our
25 problems that have come up lately are bankruptcies,

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1 where people are going out of business and, again,
2 faced with the fact that they have to eliminate and
3 return or dispose of these gauges that are quite
4 expensive at times. So it has, it's an effect.

5 MR. BURTON: Okay. Good comment. Thank
6 you. Others? Strong feelings pro or against, or
7 things that you may want us to think about or want the
8 Commission to think about?

9 MR. STEVENSS: Yeah, this is Mike Stevens
10 in Florida. On the economic advantages, I can
11 definitely understand that perspective from a provider
12 coming in from a different state into the service
13 state. But it also kind of works the other way, as
14 well. Because the providers that's in the existing
15 state are currently paying fees that they would have
16 to pass along to their customers, as well.

17 MR. BURTON: Okay. Thank you, Mike. What
18 I'm putting down here is economic, and make sure if
19 I'm missing this, because I want to make sure I
20 characterize it. Because right now, I'm just putting
21 down economic impact. Do I need to make that a little
22 more specific?

23 MR. WHITE: This is Duncan. I would, I
24 think what Mike was particularly alluding to was
25 economic impact with in-state licensee, in-state

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1 versus the out-of-state. Again, as Mike said, the in-
2 state licensees have to pay the, you know, the fees
3 and such. Those are passed on to their end users,
4 where somebody coming in from the outside the, you
5 know, unless they are, from a reciprocity standpoint,
6 they may not be charged the same fees. They may be,
7 maybe or maybe not have an economic advantage.

8 MR. BURTON: Okay. I got it. It's kind
9 of the flip of what Gary was saying. So economic
10 impact for in-state versus out-of-state licensees.
11 Okay. Thank you, Mike. Okay, we seem to have a focus
12 here on the economic impacts.

13 MR. WHITE: I have another question to
14 ask. Again, this is Duncan White. Gary mentioned
15 that the, you know, particularly getting into states
16 turning around, getting into states, do you think that
17 the, you said for the most part, it's not a problem to
18 get into states, you know, particularly on short
19 notice, to get in. And again, there's most states
20 like you to have a minimum wait, have a three-day
21 period or something similar to that to get in.

22 You know, has this, have you run into a
23 problem where you were not able to just go into a
24 state, you know, like an emergency? Did that cause,
25 could you describe what you sort of, if there was such

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1 an issue that that happened, if you would kind of
2 describe what it is, was there an economic impact?
3 Was there a health and safety impact doing that?

4 MR. CAINES: There could be both. A few
5 have a situation where the general licensee is down.
6 Their production is down. Obviously, there's an
7 economic impact, because they're losing the benefit of
8 that nuclear gauging on their process. It either
9 shuts them down completely, or their product, product
10 quality suffers, and then they have a lot of waste
11 that they generate.

12 From the health and safety standpoint,
13 let's say, like you have a shutter stuck open that
14 can't close. That's a situation that definitely, or
15 has potential health and safety implications. And if
16 you can't get permission to go in and remediate that,
17 that's not good. And, in a case like that where we
18 think there's something dangerous, if I can't get a
19 hold of the state or I get no response from a
20 particular state, we go in anyway. I just make that
21 decision and say it's worth suffering the consequences
22 in safeguarding the public.

23 And, so far, I think every state has
24 agreed with us in that aspect. But a couple times
25 over the years we've had issues in that regard. But

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1 some states, again I'm not going to name states, we
2 needed to apply for reciprocity to get in and do some
3 work. We couldn't get any phones answered. Zero. I
4 mean, we even called their emergency number and no
5 response, no answer. And again, we just went in and
6 did what we needed to do.

7 And those are few and far between. And
8 that was probably a technical problem with their
9 telephones, not a, you know, nothing against that
10 state, that particular state.

11 MR. BURTON: Can I follow up just for my
12 own interest? You said you suffered the consequences.
13 What were the consequences?

14 MR. CAINES: In that case, there were no
15 citations or fines issued, but we had a dressing day
16 by the state.

17 MR. BURTON: All right. So what I'm going
18 to try and capture here is, I'm going to say,
19 basically the, because this is both an economic and
20 health and safety impact with the waiting period. I
21 think that's what I'm hearing. Am I saying it right?

22 Okay. Okay. Got it. Okay, others? Gary's been
23 doing most of the talking so far. Ed chimed in a
24 little bit. Jim started us off well. Others?
25 Comments? Views? Points of views, either do folks

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1 agree with what they're hearing that Gary's saying?
2 You know, Ed has a lot of experience from the
3 inspection side. Oh, no that's good.

4 MR. CAINES: I hate to monopolize here.
5 We would really like to see a state compatibility
6 level B, however some of the Agreement States that
7 have come up with some of their ideas, have legitimate
8 ideas. I mean, I think they're actually good ideas.
9 In my mind, what ought to be done is a concerted
10 effort be made to identify all the issues that the
11 Agreement States have, try to incorporate the ones
12 that make sense into 31.5 and 31.6 and amend those
13 regulations, and amend those regulations to address
14 those concerns.

15 If there's a real reason to do something
16 in Florida or New York or wherever, and it makes
17 sense, why would that not make sense for all states
18 that leave it compatibility level B. I mean, I can
19 fully understand why some states have some of the
20 concerns they do. Some states have almost no
21 industry, no nuclear devices to speak of, other than
22 exit signs.

23 Some states, like New Jersey, are just
24 absolutely loaded with generally licensed devices.
25 They have different concerns, but if something makes

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1 sense in New Jersey, why would it not make sense in
2 Wyoming or wherever. Wyoming's a bad example but,
3 another Agreement State. Why would that not make
4 sense in all Agreement States?

5 MR. BURTON: Can I summarize that, maybe,
6 survey states for best practices? Is that a good way
7 to summarize what you're proposing?

8 MR. CAINES: Yes. Specifically regarding
9 31.5 and 31.6, I would survey the states and ask them
10 if they're happy with the way they are now, and what
11 they would recommend to be changed. And then, put all
12 that together.

13 MR. BURTON: Okay. All right. Got it.

14 MR. WHITE: This is Duncan again. I
15 guess, Gary, what you're talking about is, you know,
16 find out what the best, you know, what states think
17 are the best practices or what would work well for
18 them and see from, you know, from a national
19 perspective what would possibly work. Is that kind of
20 what, I'm paraphrasing what you're saying. Is that
21 kind of where you're going?

22 MR. CAINES: Yes.

23 MR. WHITE: Okay, it is. Thank you.

24 MR. BURTON: So can I say best practices
25 and thoughts on the compatibility change, or am I

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1 missing that? Just leave it.

2 MR. CAINES: Or beyond that. Anything in
3 those two regulations that needs to be --

4 MR. BURTON: Okay. All right. Got it.
5 Others?

6 MR. KULZER: Ed Kulzer again. One more
7 thing, not really a criticism or anything, just the
8 opposite. I deal with a lot of the general licenses
9 that are lost or misplaced from the states. And I
10 work with Jim Lynch with a lot of the Agreement
11 States, and the cooperation and help I've gotten from
12 the Agreement States has been outstanding.

13 They've been very helpful in finding and
14 locating and tracking down these generally licensed
15 devices, which before the registration nobody ever
16 paid any attention to. And, as a consequence, they
17 were out there in industry.

18 MR. BURTON: That's good feedback. So I
19 can say, Ed, your experience has been that the
20 Agreement States have done well in terms of trying to
21 oversee these, or how should I characterize it?

22 MR. KULZER: Well, their assistance and
23 cooperation with NRC has been outstanding. They've
24 been very helpful, when we've tracked devices into the
25 Agreement States, in cooperating with us and looking

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1 into the situation and providing input for us in terms
2 of manpower and so forth, and obtaining the
3 whereabouts of these generally licensed devices.

4 But again, a lot of the problems have come
5 from the fact that they weren't require to be
6 registered in the past, and people forgot they were
7 there. Equipment was sold with the generally licensed
8 devices on them, and completely lost track of these
9 devices. So, that's part of the situation we're
10 running into right now.

11 MR. BURTON: Just for my own information,
12 what is your sense of, and from what you were saying
13 before, Paul, the scope of this problem? You were
14 talking about it being, you characterized it as the
15 tip of the iceberg. Is that, Ed, kind of your sense
16 from what you've done here. And is that the sense, do
17 other people tend to agree with that assessment?

18 MR. KULZER: I think so. And, coupled
19 with the fact that the economics that is present right
20 now. People, companies are hurting right now. They
21 don't have the funds to get rid of the generally
22 licensed devices. I found generally licensed devices
23 in the basement of a previous business that they
24 didn't even know they owned.

25 So, it's a problem in the past, and we're

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1 trying to catch up with it and address it now. But
2 the fact that we're now certifying these things and
3 demanding some attention from the generally licensed
4 end user, has been very helpful in terms of actually
5 looking at the devices, doing the required leak tests,
6 shutter checks and so forth, which in the past, very
7 doubtful that they've ever done.

8 MR. BURTON: Okay. So, well, let me get
9 Gary.

10 MR. CAINES: I agree with what was just
11 said. That's the tip of the iceberg. We continually
12 find licenses that have been abandoned or lost at
13 sites, and that will continue. One of the problems,
14 you mentioned the economy, one of the problems is
15 there's no real good way to dispose of a lot of this
16 stuff at the present time. There's no low-level waste
17 sites. We have to, we end up storing a lot of
18 material and do everything we can to find a legitimate
19 way to transfer that to somebody else. But then, in
20 turn, store it to. So that's an issue.

21 I also think that things improved a little
22 bit when they started registration, but I think that
23 ought to be expanded. I think all devices, all
24 generally licensed devices should be registered,
25 regardless of the activity or isotope. It's easier to

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1 treat everything the same, than to split it up. And I
2 also think that the NRC and the Agreement States
3 should actively perform inspections on generally
4 licensed devices.

5 I've seen inspectors go in and inspect
6 specific licensed devices, and ignore the generally
7 licensed devices sitting right next to it with the
8 same isotopes, same activity, same model. It was just
9 distributed as a GL, instead of an SL. And I think
10 that that should take place. Charge inspection fees,
11 but start inspecting.

12 MR. BURTON: Okay. Now, again, someone
13 who is not in this field, I guess I'm kind of
14 surprised. We don't do that? Okay.

15 MR. STEVENS: This is Mike in Florida. We
16 do register all the GL devices, except for the exit
17 signs in Florida, and we do inspect 10 percent of them
18 a year. And I'd like to kind of repeat what Paul had
19 mentioned earlier. We do find a lot of, due to
20 personnel changeovers, a lot of accountability, you
21 know, a whole host of reasons that people really don't
22 know the regulatory requirements. They don't know
23 where these things are.

24 We've always, we've had an accounting each
25 year for how many they've had, because our fees are

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1 based upon, like a \$30 per device fee per year. So
2 they get a bill telling them how many devices we have
3 on record that they have and, when we inspect, we find
4 sometimes that the accountant is just writing the
5 check. Nobody's going out and eyeballing these
6 things. So it is really a tip of the iceberg issue.

7 MR. BURTON: Okay, okay, well that seems
8 to be, oh I'm sorry, Duncan.

9 MR. WHITE: I guess I have a kind of
10 general question for both Gary and Paul or, well, with
11 regard to the registration. You know, do you think a
12 registration program that's more universal than the
13 one that, I guess, NRC only requires registration of
14 certain devices, GL devices. It's rather limited
15 compared to the overall population of GL devices. The
16 sense I'm hearing is that having a more broader
17 registration program would be helpful in the sense it
18 would, it sounds like -- accountability would be one
19 thing. And I guess that's also, as you said by
20 inspecting, I guess you know, that's one reason to
21 ensure further compatibility. Am I characterizing
22 that correctly?

23 MR. CAINES: Exactly. That forces the
24 general licensee to keep track of what he has, and it
25 allows oversight by the regulatory agencies. And

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1 Florida, as far as I know, is one of the only states
2 that really does inspect a certain number of generally
3 licensed devices every year. I think it's a very good
4 idea. I think everybody should do that.

5 MR. WHITE: A question for Mike, Mike
6 Steven, do you happen to know how, in terms of
7 resources, how much you expend on your GL program a
8 year?

9 MR. STEVENS: No, I have not run that,
10 because you know, our inspectors not only do
11 radioactive material inspections, they also do x-ray
12 machine inspections. So we have a very large program
13 and the FTE's are really spread out over a lot of
14 different areas. So I really don't have that answer.

15 MR. WHITE: This is a question for Paul.
16 You went through the NMED database and compiled stuff.
17 I mean, in terms of where you saw these events
18 happening, was there anything that struck you, for
19 example, was there nothing from Florida, for example,
20 in that database. Or was some other, some way to
21 generally characterize it some way? Paul is looking
22 through his data right now.

23 MR. STEVENS: Duncan, this is Mike again
24 in Florida. You know, we've been registering and
25 inspecting these since, oh gosh, I started to work for

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1 the state back in the mid-'80's. So for us, it's not
2 really a new thing, whenever you call, registering
3 devices. It's just kind of expanding on what we've
4 currently been doing.

5 MR. SCHMIDT: This is Paul Schmidt,
6 Wisconsin. I do have the data here with me, that we
7 extracted the -- And the vast majority of the
8 incidents that were reported appear to be GL devices
9 found in scrap facilities. Loss of control and,
10 ultimately, ending up in scrap. I think there's a
11 couple of them in here that were a little bit
12 different, but the vast majority here was scrap-
13 related incidents.

14 I do want to make mention of one thing
15 that had been mentioned earlier about individual state
16 differences. Referring to the difference in the State
17 of Florida with additional registration, correct me if
18 I'm wrong but I believe it's the compatibility C that
19 allows the state to be more restrictive and different
20 than the NRC, that allows that type of additional
21 registration in the current environment. I suspect
22 that there are some reasons that Florida, because
23 they've been an Agreement State for a longer period,
24 along with the older Agreement States, Wisconsin for
25 sure.

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1 That there were some reasons why they felt
2 it was necessary. Some individual state differences,
3 they felt it was necessary to make that change to
4 improve accountability or to adjust to whatever was
5 going on in the state at the time. I'm not sure if
6 Mike would like to address that. But I think it's
7 important to make that distinction about what the
8 compatibility C allows the state to do. In this case,
9 allowed Florida to be more restrictive than the NRC to
10 address a state-specific issue or issues.

11 Mr. BURTON: That was very good. Mike,
12 did you want to speak to that?

13 MR. STEVENS: I really, like I say,
14 they've been doing this since before my time. I do
15 know that it does, we really lack flexibility to be
16 able to help look for the accountabilities. The fees
17 that we charge in Florida, you know, it's based on a
18 per device fee, so it's not a flat fee. So, you know,
19 the numbers that you have, you know, kind of help
20 offset, you know, the program in terms of cost to the
21 end user.

22 You know, compatibility setting is a funny
23 thing, because as one of the persons mentioned
24 earlier, we used to have an annual fee for
25 reciprocity, and we went to a 180-day requirement for

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1 notification. And the reason we had to make that
2 change was a change in compatibility to a
3 compatibility B designation of another rule. So
4 whenever changes are made, it goes across a lot of
5 different industries.

6 MR. BURTON: I wanted to ask a question,
7 again, because I'm the least knowledgeable of this
8 stuff in the room. You said the majority of the
9 things that you found in your NMED database, you found
10 them at the disposal facilities or scrap facilities?

11 MR. SCHMIDT: At scrap facilities.

12 MR. BURTON: Scrap facilities. When you
13 find them there, what happens?

14 MR. SCHMIDT: Again, Paul Schmidt,
15 Wisconsin. Ideally, the facility contacts the
16 regulatory agency, who then can respond to assist the
17 facility with managing that material appropriately.
18 Again, documenting that it occurred, entering it into
19 NMED. Sometimes, if the device is in appropriate
20 shape, potentially finding out where it came from,
21 getting it back to the facility that, potentially,
22 lost control of the device, disposing of it as
23 appropriate. It's whatever the appropriate management
24 is. To investigate it further, and determine the best
25 management option for that specific item or items.

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1 MR. BURTON: Okay. For that particular
2 aspect, what is your sense for how well that is being
3 done at the scrap facilities? Are they pretty good
4 about doing that? Has that been your experience or --

5 MR. SCHMIDT: I can't speak for all
6 states. I know in Wisconsin we have aggressively
7 reached out to the scrap industry, provided them
8 training on what to look for, how to reach us. To
9 make sure they know our numbers and can reach us 24/7
10 if they have to. And the fact that we will respond.
11 The fact that we don't charge them for the response.

12 And so, it's been a good cooperative
13 working relationship, because a lot of the devices
14 that, at least again in our experience, a lot of the
15 devices that are lost in facilities with the GL
16 devices, tend to end up in the scrap stream. They end
17 up at the scrap facilities. The facilities
18 aggressively monitor for radiation sources in their
19 loads of scrap.

20 So, if they show up, they tend to be
21 pretty good about finding them. And if they bring us
22 into the picture early on, we can most effectively
23 work with them to manage those particular items the
24 best way we can.

25 MR. KULZER: Ed Kulzer, again. The last

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1 scrap report we got from Detroit, I think it was, they
2 found a source in their scrap yard in Detroit
3 somewhere. We were able to track down the owner
4 through the serial numbers and so forth, and they
5 properly disposed of it. So, I think that the affect
6 is pretty good. We're able to keep track of these
7 things.

8 MR. BURTON: We had a happy ending there.

9 MR. SCHMIDT: One additional point,
10 though, they are not supposed to end up in the scrap
11 stream.

12 MR. KULZER: It was stolen.

13 MR. SCHMIDT: There you go. Ideally,
14 they're supposed to be transferred to specific
15 licensees, to another general licensee in some very
16 specific conditions. But they are not supposed to end
17 up in the scrap stream. The fact that there is a
18 process when they do, is a good thing. But the fact
19 that they're showing up there in the first place, is
20 something that's not supposed to be occurring.

21 MR. BURTON: Let me, a couple of things I
22 heard in relation to, I think, the scrap facilities,
23 as well as some of the end users, I heard about the
24 need for outreach and improved education. I think I
25 heard that in some of the discussions. You kind of

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1 gave us a feel for what you guys are doing with your
2 scrap facilities.

3 You mentioned about the need for end users
4 to better understand what they're responsibilities
5 are. And I guess I'm going to go to Mike, because
6 again, you said Florida was one of the older, has one
7 of the older programs and they've accumulated a lot of
8 knowledge and experience there. Did you find, Mike,
9 that at some point you needed to do improved outreach
10 and that's a big part of your program?

11 MR. STEVENS: Well, when we inspect our
12 facilities, part of the job, we always try to talk to
13 management about their responsibilities. Making sure
14 they have an individual knowledgeable of what the
15 requirements are and they have contact information and
16 stuff like that. So that's always kind of happening
17 all the time. In terms of the industry, in general,
18 you need to really look at each state somewhat
19 separately.

20 Because you know, Florida does have some
21 industry, but it doesn't have any where near the
22 industry, you know, a state like New Jersey would have
23 or a state like Ohio would have. You know, they have
24 a lot more heavy industry. They're going to have a
25 lot more of these generally licensed devices out

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1 there.

2 So you know, in terms of you know, each
3 state's perspective, it's going to be a little unique
4 in terms of what their needs are and, you know, the
5 flexibility required. I don't know if that really
6 answers your question or not, but I gave it a shot.

7 MR. BURTON: Yeah, but in the Florida
8 experience, did you find that there was a need at some
9 point to do additional outreach and education of some
10 of the impacted folks, and you saw benefits from that?

11 MR. STEVENS: Yeah I mean very often,
12 because you know, we inspect 10 percent every year,
13 you know due to personnel changes. And a lot of the
14 personnel changes are due to economic issues in the
15 industry. You know, often we're walking into a
16 situation where they just aren't aware of what the
17 requirements are. Sometimes they're not even aware of
18 where their devices are or what they even look like.

19 So you know, that doesn't happen often,
20 but it happens often enough that it raises some red
21 flags, you know, to help get out there as much as we
22 can to keep them informed. The registration program,
23 you know, has always been good, because from our
24 perspective, even before anyone in NRC started
25 registering their devices, they would get a bill from

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1 us each year based upon the number of devices that
2 they had. And, you know, at least we were hoping that
3 they would go out and count them and eyeball them,
4 because if they got rid of some, they didn't have to
5 pay us as much.

6 So you know, outreach from that
7 perspective definitely is needed, accountability and
8 just, overall, you know, just what do you have, and do
9 you know what the requirements are?

10 MR. BURTON: Okay. Good. I know this is,
11 the purpose of this meeting is not to educate Butch,
12 so I'm going to try and keep my questions down. Other
13 comments, questions?

14 MR. LYNCH: This is Jim Lynch. We've been
15 having a number of discussions about the GL program.
16 But, if we go back to the first question there on what
17 are the impacts of change in the compatibility
18 categories of 10 CFR 31.5 and 31.6, as everyone knows,
19 the compatibility for these regulations was
20 compatibility level B. Which means the Agreement
21 States have to have, essentially, identical
22 regulations.

23 Some states, Florida for example, has not
24 met that compatibility. We've had, we've withheld the
25 compatibility finding for Florida and at least one

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1 other state that I'm aware of. So there's been a
2 couple of states that have really not gone to the
3 compatibility level B level. They've been a C for
4 some period of time, because they wanted to be more
5 aggressive in this area. Felt that, as Mike Steven
6 mentioned, that for health and safety reasons, they
7 want to get out and inspect these things and know
8 where they're at.

9 So now the Commission has changed the
10 compatibility level from B to C. So now Florida is,
11 they're legal now, I guess you could say. Other
12 states that did more than the NRC did are legal. But
13 my question is, and Steven Poy and Dennis Sollenberger
14 may be able to answer this question. How many other
15 states have changed their regulations, or will change
16 their regulations, to be more restrictive than what
17 NRC's regulations are?

18 So, in other words, are they going to take
19 advantage of that change of compatibility from B to C?

20 I'm not sure I've heard any states that I've
21 discussed this with, that they're going to change. So
22 it may be sort of a moot point. A couple of states,
23 like Florida, will stay, they're doing what they've
24 been doing for years. And most of the other states
25 are not going to do anything. Is that true or not?

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1 MR. BURTON: Yeah I must admit, I got the
2 same sense of that when I read the Federal Register
3 notice. Oh, Duncan?

4 MR. WHITE: In answer to your question,
5 there's a table that was, it's available for everyone
6 to pick up and look at. Just counting through
7 quickly, I see 16 states that have equivalent
8 regulations to NRC, as they currently existed before
9 the change in compatibility. Now, again, the chart's
10 very interesting because it does provide the number of
11 sections of the regulations or areas where they may be
12 less restrictive or more restrictive.

13 And if you look at Florida, for example,
14 the only difference that they're more restrictive is
15 at the time when it was compatibility B, was the one
16 area that, essentially, broadens their program to
17 register all GL devices except for exit signs. Again,
18 it's more expansive than the NRC's equivalent of that.

19 So that gives you an idea.

20 So we can say 16, almost half the
21 Agreement States, have essentially what NRC has, you
22 know, before the Commission votes on the change of
23 compatibility. And again, the remaining states, some
24 are less restrictive, some are more restrictive, and
25 the numbers of sections of the regulations which are

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1 different, varies from anywhere from one to it looks
2 like to eight or nine.

3 MR. LYNCH: Okay. So do we see any
4 changes in what the states are doing? Or are they
5 just going to keep doing what they've been doing?
6 This is Jim Lynch again.

7 MR. WHITE: What will happen is, when we,
8 this will be issued as a compatibility requirement for
9 the states. We'll issue this and the states will have
10 to decide if they need to change their regulations or
11 not. Clearly, some of the states have more
12 restrictive requirements than NRC, even with the
13 change from B to C. They would have to change the
14 regulations, become compatible.

15 Some states have to do nothing. They may
16 choose to do nothing. I don't know. That's up to the
17 individual states. But, as of today, with the
18 Commission's decision back in December, going from
19 compatibility category B to C, 16 states don't have to
20 do anything. Several states here, you know, have more
21 restrictive requirements, and just looking through
22 here quickly it looks like there are eight or nine of
23 them it looks like, just to me. I'm not counting very
24 accurately, but it looks, some of them may be able to
25 just leave it as is. But again, they all have to

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1 decide what they will want to do with their
2 regulations.

3 MR. LYNCH: But, Duncan, this is Jim Lynch
4 again. But, I mean, they already have the same
5 regulations in place. But are they going to actively
6 change their programs because of this compatibility
7 ruling?

8 MR. WHITE: I will, again, let Paul answer
9 that question. He raised his hand.

10 MR. SCHMIDT: I will respond for
11 Wisconsin. I cannot respond for all states. But from
12 our perspective, this really, this compatibility
13 change is not going to change anything that we
14 currently have or are planning to. We're not planning
15 on making any changes. The reason is, is that right
16 now, when we became and Agreement State, it was
17 compatibility B, and our program was developed under
18 that compatibility. So basically, we are doing what
19 the NRC currently has in place at this point in time,
20 with one addition, is that because we have a
21 registration program, however our fee structure is a
22 little bit different in that we charge a per device
23 fee rather than a flat fee, so our fee structure's a
24 little bit different.

25 Recognizing that fees can be paid by an

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1 accounting group, not by our responsible individual,
2 we also include with our annual bills a one-page form
3 that the responsible individual has to fill out that,
4 basically, says take a look at your devices. Does
5 what we say you have match what you think you have?
6 Can you see the labels on them? Can you see the
7 radiation signs, et cetera?

8 Basically, it requires them to really take
9 a look at their devices, and hopefully improve
10 accountability. It reminds them, yes, there are
11 requirements. There are certain things that need to
12 be in place. Are they in place, and does what we say
13 you have match what you say you have, basically? So,
14 it requires them to do that. If they do not return it
15 to us, that tells us that something has changed.
16 Either there's no responsible individual anymore, or
17 that something has changed that warrants us to take a
18 little closer look, which could include up to and
19 including a site inspection.

20 So that's kind of the difference that we
21 have. Again, same basic program as NRC, but a little
22 bit different in our fee structure and that forcing
23 them to take a look at their program license. But
24 again, from the standpoint of what we're planning on
25 doing as a result of this compatibility change,

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1 barring some change that we can't foresee, we're not
2 planning on making any change to our program at this
3 point.

4 MR. LYNCH: Just one point of fact, Paul.

5 Which generally licensed devices do you register?

6 MR. SCHMIDT: We register the exact same
7 ones that NRC registers.

8 MR. LYNCH: Just the very higher level --

9 MR. SCHMIDT: Just the very higher
10 activity --

11 MR. LYNCH: Not the rank and file GL's.

12 MR. SCHMIDT: Exactly what NRC does --

13 MR. LYNCH: A very small percentage of the
14 actual GL devices out there.

15 MR. SCHMIDT: It's definitely not the,
16 it's not the whole universe, that's for sure.

17 MR. SOLLENBERGER: As a result of the SRM,
18 we sent out a letter to the Agreement State program
19 directors and asked them, as a result of the
20 compatibility change did they intend to change their
21 regulations. A majority of the states said they were
22 not going to. Steven kind of whispered in my ear here
23 that four said they were going to, they likely would
24 change their regulations, not specifying what
25 direction or anything that would be going on.

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1 As a result of this being an issue for the
2 last 10 years we, in looking at the regulations, had
3 issued what we call compatibility resolution or, is
4 that what we call them? I think it is resolution,
5 which said until this issue is resolved, we will not
6 make a finding on 31.5 and 31.6. As a result of that,
7 several states I know said, well then, we're not even
8 going to amend our regulations in this area until you
9 guys get done making a decision on this.

10 I don't know if those correspond with the
11 four states that said they were now going to change
12 the regulations and what that change would be. But
13 that's why part of what we did here in the Federal
14 Register notice said, we felt that the regulatory
15 environment for GL licensing and registration,
16 including you know, the service provider requirements,
17 would be essentially the same as they are not in the
18 regulatory schemes.

19 So it kind of gives you a little
20 background. As we went out and tried to help, because
21 understanding without knowing where you're starting
22 from, how do you do an impacts comparison? So we did
23 develop that to help look at that. Like Duncan said,
24 equivalent or more stringent requirements to NRC's,
25 the majority of the states already are in that

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1 environment.

2 And so, there are a number, when you look
3 at that chart, some states are more restrictive in
4 some aspects of the regulations, and less restrictive
5 in others. So those you would expect having to go in
6 and address those areas of where they're less
7 restrictive than NRC regulations to come up with
8 something equivalent to.

9 So, obviously, over the next five years,
10 we would expect some changes in the regulations. But
11 from, I think the big picture, there's going to be
12 only a few that would have any significant changes.
13 The rest would be more in the specifics, especially
14 those that didn't adopt.

15 One other comment that I'd like to make is
16 that in 2001, prior to the 2001 rule making, where the
17 Commission directed -- there's a little history there.

18 And this kind of reflects back on the Florida
19 comment, that they had a registration program that
20 went into place many, many years ago. And the
21 compatibility for that, I looked it up using the
22 compatibility finding in 1997, when we went to the new
23 compatibility categories under the policy statement.
24 We went through it and re-categorized things.

25 The 31.5 section of the rule was

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1 classified at that time as a D matter of
2 compatibility. The states did not have to address
3 that section in their regulations. Even in that
4 environment, Florida had developed their registration
5 program. The 31.6 was compatibility C at that time.
6 So that's prior to the 2001 rule making, where the
7 Commission made it a B.

8 So I think it's just a little bit of a
9 perspective that it wasn't going from a C to a B in
10 2001. It was actually from a D to a B, from not
11 required to be adopted to must have an identical
12 program. So just a little perspective in the sense
13 that that's what happened. The staff proposed, in
14 their rule of 2001, we go from the D to a C and the
15 Commission then said, no it's going to make it a B.
16 So the C to B was from what the staff recommended to
17 what the Commission actually approved, not from what
18 it was prior to that rule making being initiated.
19 Just a little clarification.

20 MR. BURTON: That's good. Good history.

21 MR. CAINES: I'd like to ask a question,
22 actually. There is one Agreement State that I know
23 of, and possibly more, that have, oh sorry, Gary
24 Caines, Honeywell. There is one Agreement State that
25 I'm aware of, possibly more, that have identical

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1 regulations 31.5 and 31.6 that, how they've gotten
2 around it is requiring a vendor license. So they
3 passed a separate regulation, not incorporated in the
4 radiological regulations, that says to either sell or
5 service a nuclear gauge, general license or otherwise,
6 in that state, you have to register as a vendor and
7 pay a permit, pay a fee each time you do that.

8 And that's a way of circumventing the
9 compatibility. I mean I think that, in my mind that
10 violates either B or C. But, I'm not sure if you're
11 aware of that.

12 MR. WHITE: This is Duncan White. I'm not
13 aware of that and, certainly would like to you know,
14 talk later and get some more information about that.

15 MR. CAINES: Sure.

16 MR. BURTON: We've been hard at it now for
17 about an hour and a half. I have not written anything
18 down for a while. Anything in this discussion the
19 last few minutes I need to capture here? Anybody?
20 Because I didn't get a sense that there was, but I
21 could be wrong. No? Hearing nothing, okay, you want
22 to take a break? Fifteen minutes, does that sound all
23 right?

24 Okay and then, when we come back just one
25 thing that's been on my mind, I have been, I've heard

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1 in several conversations the issue of fees. And I
2 guess, again, for my own curiosity, is there any,
3 have you seen or do you anticipate any impact on fees
4 from any of this? Do the fees that we impose now,
5 does it help with compliance or does it hurt with
6 compliance? I mean, is there any impact at all now or
7 with what's being proposed with the current fees and
8 fee structure? So maybe we can explore that a little
9 bit when we get back.

10 Okay. Let's take about 15 minutes, and
11 we'll come back about quarter of.

12 (Off the record.)

13 MR. BURTON: Mike and Amy, you okay? You
14 still with us?

15 MR. STEVENS: I am.

16 MR. BURTON: Okay, great. I think we are
17 going to get started again. And I think, you know,
18 we've had a pretty free-flowing discussion. And I
19 think we've probably touched on a number of the
20 questions, but I'm going to try and be a little more
21 systematic and specific about the questions and the
22 responses in discussion.

23 So I'm going to the set of questions for
24 manufacturers and distributors. So what I'm going to
25 do is I'm going to go through each one of them and ask

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1 for specific responses to each one, if there are any.

2 So let me go to the first one. What are the current
3 practices used by companies to address multiple
4 jurisdictions and the registration requirements of
5 generally licensed devices and 31.5 and 31.6, or the
6 state equivalent?

7 I think we touched on issues about
8 registration and stuff in the previous session, but
9 I'll just bring this up, specifically, to see if
10 anybody has any comments, feedback they want to give
11 on that.

12 MR. CAINES: Gary Caines, Honeywell. I'm
13 going to address the first and second issue. They're
14 almost identical. Current practices used by companies
15 that address multiple jurisdictions and registration
16 requirements for GL devices. The situation is that if
17 you're, which we are, we're distributing devices,
18 hundreds of devices in all 50 states.

19 And what you have to do, if you're
20 distributing a device in a state and it's actually,
21 the service implications are actually more important
22 here than the distribution piece of it in most cases.

23 But in a lot of cases, we actually have to open up a
24 specific license in a particular state and maintain
25 records there. And it may even be an unmanned site.

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1 We don't do anything there except keep records there
2 and pay a fee to the state, because of restrictions on
3 being able to distribute devices in that state.

4 Maybe it's a portable licensed device, or
5 in the case of some states, we've exceeded the amount
6 of material that's in a particular device that's
7 distributed in that state. And so, we have, I think
8 we have five Agreement State licenses right now, in
9 addition to where our home base is, strictly to get
10 around the regulations. And, obviously, that's why
11 the second issue is the same. That adds costs,
12 obviously.

13 And the third one, what are the costs to
14 health and safety in now doing business in multiple
15 jurisdictions. Basically, there's no difference. It
16 doesn't matter. We spend a lot of money on health and
17 safety concerns, radiation safety concerns. But it
18 doesn't matter. Every Agreement State has, basically,
19 the same regulations involving protecting the customer
20 and our own employees, so that really, we spend a lot
21 of money, but it doesn't make any difference that
22 we're in multiple jurisdictions.

23 And on the regulation of generally
24 licensed devices that affect you with regard to where
25 your company is located. That, again, can make a big

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1 impact. For instance, if you're having to pay
2 reciprocity fees in a lot of different states, and
3 this used to be more important than now, if you were
4 located in an NRC state, you didn't have to pay
5 reciprocity fees in any other NRC state.

6 But if you were in an Agreement State, you
7 had to pay reciprocity fees every time you went to an
8 NRC state or another Agreement State, if you worked on
9 a specifically licensed device. And since some states
10 have been requiring us to pay reciprocity fees for
11 generally licensed devices, that, you know, that comes
12 into it, as well. So that wherever you're based can
13 have a big impact on you.

14 MR. WHITE: This is Duncan White. One
15 thing you should point out is as far as the
16 compatibility B or C or A change to it. What the
17 state decides to charge in terms monetary, in terms of
18 registration and such is outside of compatibility.
19 Again, that's strictly up to the state's discretion to
20 do that. Again, the only requirement NRC has, I
21 guess, even related remotely to monetary is that they
22 have to provide adequate resources to run and fund the
23 program. Again the state, ultimately, determines
24 that. And again, compatibility would have nothing to
25 do with the cost that the state decides to charge for

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1 activity, whether it be reciprocity, general license
2 or specific license.

3 MR. BURTON: Okay. Yeah, I think that
4 kind of answered my question that I had, I had posed
5 just before the break. So that helps. Okay. With
6 regard to what Gary just said, I want to make sure I
7 capture the essence of Gary's comments for the four
8 questions. He went beyond just the first question,
9 but actually tackled all four of them.

10 I guess what I'm getting is that for
11 question three, the cost to health and safety, no
12 impact. For number two, cost of doing business in
13 multiple jurisdictions and regulation of generally
14 licensed materials associated, significant impacts, it
15 sounds like. Okay. And I think that the significant
16 impacts one and two is what you were saying? They're
17 kind of rolled together, in your view of it, right?

18 MR. CAINES: Yes.

19 MR. BURTON: So, I'm going to say
20 questions one and two, significant impact. One, two
21 and four. I made a mess of that. Okay. Three, no
22 impact. Okay. Any other comments, thoughts, feedback
23 on the manufacturer and distributor questions from
24 anybody?

25 Okay. Then we're going to go onto the set

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1 of questions for end users. I read them before. I
2 don't know. Mike, do you have a set of the questions
3 in front of you?

4 MR. STEVENS: No I don't, but I'll see if
5 I can Google it to find the Federal Register here, or
6 if you have the Federal Register number, I can get it.

7 MR. BURTON: Let's see. Do you have that?
8 Yeah, Duncan's going to give it to you.

9 MR. WHITE: Yeah, Mike, it's 76 FR 56124.

10 MR. STEVENS: Okay, 76 FR 56124.

11 MR. WHITE: Correct.

12 MR. STEVENS: Thank you.

13 MR. BURTON: Okay. So we've got four
14 questions, specifically, relevant to end users, having
15 to do with costs of various kinds. I read them all in
16 the beginning, but I'll just go straight to
17 participants. Comments? Questions? Gary?

18 MR. CAINES: I hate to monopolize this.
19 Gary Caines with Honeywell. The cost of a lot of
20 devices, nuclear gauging devices are sold either as
21 generally licensed or specifically licensed, and
22 obviously, some don't meet the qualifications for GL
23 devices, so they're sold as specific. In our case,
24 the vast majority of everything we sell can be sold
25 either way. The cost is identical.

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1 Since it's the same product, it's
2 identical. So the end user is paying exactly the same
3 fee. Where the difference is is that if it's a
4 specifically licensed device, the end user is required
5 to have a radiological safety program. With an RSO,
6 there's more training costs associated with it. If
7 it's a gauging device that really has a lot of radio
8 active, I'm sorry, a radiation field around it, they
9 may be required to put light barriers in or other
10 safeguards to keep personnel away from that area,
11 which adds cost.

12 But in those cases, that type of device,
13 they have no choice. So it's, they have to buy it as
14 a specifically licensed device. If it's something
15 that can be bought or sold, distributed, either way
16 the cost is identical for the product. It's just a
17 radiation safety program has expenses associated with
18 it.

19 MR. BURTON: All right. So what I'm
20 hearing in, this is in response to question number
21 one, right?

22 MR. CAINES: Yes.

23 MR. BURTON: Let's see. Okay, that in
24 general there isn't a difference in cost, except with
25 regard to some of the radiological training or

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1 aspects. Now help me here. Make sure I'm
2 characterizing this right.

3 MR. CAINES: I specifically left out the
4 next question, which was what regulatory costs
5 influence your decision, because there are increased
6 regulatory costs. If you buy a specifically licensed
7 device, then you have license fees, inspection fees,
8 things of that nature, whereas you wouldn't, or you
9 would have it much more with a specifically licensed
10 device than a generally licensed device.

11 MR. BURTON: Okay. Let me go back,
12 because I didn't finish capturing the first one. In
13 general, no impact except you were saying with regard
14 to the specific licenses, I think is what you were
15 saying?

16 MR. CAINES: No impact if it's a device
17 that can be sold either way. Now, with question
18 number one, we're talking purchase price of the device
19 itself. There is no difference if it can be
20 distributed either way. There are regulatory costs,
21 but that would come into the second question. And if
22 it's a specifically licensed device, you do have a
23 radiation safety program that you have to put together
24 to handle that program.

25 As far as purchasing the device itself, no

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1 difference. It could be sold either way, or
2 distributed either way.

3 MR. BURTON: I'm sorry. Say that last
4 part again.

5 MR. CAINES: If the device can be
6 distributed either as a generally licensed device or a
7 specifically licensed device, there's not cost
8 different. I mean, it's exactly the same product. It
9 has a different label on it. That's the only
10 difference. You just have to have a safety program if
11 it's an SL device, and then you've got more regulatory
12 costs in question number two.

13 MR. BURTON: All right. What was three?
14 Regarding health and safety and security with regard
15 to which, okay. Did you want to --

16 MR. CAINES: Yeah, number three, what
17 choices are made by you regarding health and safety
18 and security with regard to which generally licensed
19 devices are purchased? Some generally licensed
20 devices by different vendors, different models, have
21 different isotopes, different activities, and can have
22 a considerably radioactive, radiation fields around
23 them.

24 Some devices you may be able to install
25 and not have any, basically, any safeguards beyond the

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1 shielding in the device itself. Others from another
2 vendor, another model, may require light barriers,
3 guards to keep people aware from that area. Both
4 products may do exactly the same job. So that can
5 definitely impact which generally licensed device is
6 purchased.

7 MR. BURTON: So is it fair to say that it
8 depends on the specific isotope that's used in the
9 device? Varies by isotope. Can I say that, or is
10 that too simple?

11 MR. CAINES: No the isotope itself, that's
12 a little bit too general, because the same isotope can
13 have different activities in two different products
14 that do the same thing. Some devices are shielded
15 much better than other devices. It's, there's a lot
16 of different things to be concerned with there.

17 MR. BURTON: So help me out. How do I
18 need to characterize this here? Isotope/activity?
19 How should I --

20 MR. CAINES: Isotope would be more
21 important regarding security, because of isotope
22 concerns, because of a deviation into the wrong hands.
23 For instance, americium 241 is an example. Strontium
24 90. So that would be more of a security concern.

25 The biggest concern you would have as far

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1 as health and safety is the radiation field around the
2 device once it's installed. If it's something like
3 sitting on a bench top and somebody's working in front
4 of it, that's a lot more critical than something
5 that's remotely located that nobody can get near.
6 That whole question really depends greatly on the
7 application of the device.

8 Unfortunately, a lot of general licensees
9 that have these devices don't really compare different
10 vendors or different models based on the radiation
11 field around it for what they might have to do. A
12 vendor comes in, convinces them to buy a device, and
13 they haven't compared that with others that may have
14 lower radiation fields around it. That may require
15 less investment for the health and safety aspects.

16 I mean, a lot of people in this room have
17 seen using cesium 137 density gauges or level gauges
18 as an example. Some of those things weigh just a few
19 pounds. Same isotope, same activity in another model,
20 weighs so much it takes two people to pick the thing
21 up. And the radiation levels are much lower around
22 those, or tend to be around those types of devices.

23
24 MR. BURTON: That's good insight. So to
25 respond to number three properly really is a lot

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1 broader than you might think. It depends on a lot of
2 factors, and I just captured isotope, which you say is
3 more a security concern. Exact activity level, the
4 radiation field around the device and the exact
5 application. I mean, it's pretty broad in terms of
6 what the impacts could be, and the choices that you
7 have to make. Okay, good. That's good.

8 Anybody else, feedback on number three?
9 All right, number four regulation that affect you
10 where you're using generally licensed devices?

11 MR. CAINES: I'm not sure I understand the
12 question.

13 MR. BURTON: Ah, okay. I may need to turn
14 to Duncan for that. The question is do you have any
15 comments regarding the regulation of generally
16 licensed devices associated with 31.5 and 31.6, or the
17 state equivalent, that affect you with regard to where
18 you are using your generally licensed devices? Again,
19 from the end user perspective.

20 MR. WHITE: Yeah, this is Duncan White
21 again. I think this is, the key thing is from the end
22 user's perspective. Again, I think one of the things
23 that we had to address as part of the Commission's
24 tasking was to look at multiple jurisdictions. So,
25 where there are end users who may have devices, use

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1 similar devices say in multiple jurisdictions, because
2 they had such facilities. So I think that question
3 was kind of geared towards that. So again, where they
4 use it could impact, excuse me get feedback with
5 regard to their experiences with that.

6 MR. CAINES: I thought that's what the
7 question was, but I thought I better get it clarified.

8 And that does have an impact, because a lot of end
9 users have plants in different states. And they
10 usually are administered at each plant from the plant
11 level in the different states. Some end users have a
12 central headquarters that tries to oversee their
13 entire program.

14 Nationwide, they may have 50 plants
15 scattered all over the country, with different rules
16 and regulations. Some require registration of all
17 devices. Some, only the ones that are required to be
18 registered. Some states like Florida inspect certain
19 numbers of generally licensed devices. There's fees
20 involved there. So there are definitely issues
21 involved with generally licensed devices in different
22 jurisdictions.

23 MR. DUNCAN: Let me just be clear about
24 that, Gary. You said most plants do it from the plant
25 level. Even if it's a large corporation, they will

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1 still do it from the plant level, not have a corporate
2 officer administer to the program?

3 MR. CAINES: I would guess, maybe 90
4 percent are in that category. Some companies are
5 using, I don't know if I should name companies or not,
6 but 3M is a good example. It has a very, very tight
7 radioactive, I mean control program that they really
8 oversee on every single little aspect, actually
9 globally. Others, very large companies, don't. Like,
10 Georgia Pacific is a good example. It's all done from
11 the local level.

12 And in some cases it's all done from the
13 local level, and they will have one person of a higher
14 level that will go around and oversee at the local
15 level, just to make sure they're doing what they're
16 supposed to. But they really don't get involved in
17 the day-to-day tracking or anything else. It's
18 probably 90 percent.

19 MR. WHITE: That's good information. In
20 terms of, getting back to terms of the fees and stuff
21 like that, is the local plant responsible for paying
22 the fee? Again, if there's a particular fee, they'll
23 pay that state fee and then the next plant, the next
24 state will pay their fees and the next state? Is that
25 generally how they work it.

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1 MR. CAINES: That's correct. About 90
2 percent of them pay all their fees and everything at
3 the local level, at the plant level.

4 MR. POY: This is Steven Poy from NRC.
5 So, do you interact regularly with end users that you
6 distribute to? And do you consult with them regularly
7 with respect to regulations involved, that might
8 involve end users directly?

9 MR. CAINES: Yes. The answer is yes. We,
10 on an average, probably talk to between 25 and 50 end
11 users every day that have questions concerning, you
12 know, regulatory-type questions. And on the other
13 side, we kind of fit all these categories, because we
14 are an end user, as well. We have many, many plants
15 that have hundreds and hundreds of nuclear gauging
16 devices in production capacity throughout the company.

17 So when I'm answering these questions, it's really
18 from both ends.

19 MR. BURTON: Okay. I want to try and
20 capture the essence of what you're saying. Is it fair
21 to say varies depending on the oversight structure,
22 local versus centralized? These are big factors?
23 Okay. Oversight structure, local versus centralized
24 is a factor. Am I capturing that right, Gary? Okay.

25 Okay. Other comments, thoughts on that

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1 from end user perspective? No? Okay. Well,
2 actually, I think we've, yeah, we've gone through all
3 the questions. And, yeah, I think we were kind of
4 answering them even as we went in the first session.
5 So, I think we captured it pretty well. Okay. We're
6 on the downside of the mountain here.

7 Before I start the wind-up activities,
8 anybody have anything else they want to add or
9 contribute with regard to any of the questions that
10 we've gone through? Seeing and hearing nothing, at
11 this point we'll need to, category III meeting open it
12 up to any members of the public who may be here who
13 would like to add anything. Again, hearing nothing.

14 Okay we're going to start to close the
15 meeting then, and I'm going to turn it over to Duncan
16 to do that. Before we do, I just wanted to remind
17 everyone and encourage you, we have the meeting
18 feedback forms. We have a stack over near that door.

19 We really encourage you to fill it out and provide it
20 to us. We really do look at all of them to try and
21 improve the way do our meetings.

22 I think Duncan's going to talk more about
23 the meeting summary and the record and how you can get
24 access to those things, and talk more about how we
25 take additional comments from hereon out. So I think

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1 with that, I'll just turn it over to Duncan.

2 MR. WHITE: Thanks, Butch. Before my
3 closing comments, I'd first like to thank a number of
4 people. First, I'd like to thank Paul and Mike from
5 Agreement States coming and spending the afternoon
6 with us. We greatly appreciate it. Gary from
7 Honeywell, you know, for answering a lot of questions
8 and providing a lot of good insight on how, you're in
9 the business, how things work from your perspective is
10 really valuable to hear that. It was a great
11 discussion. Thank you very much.

12 Thank you to Region III for hosting us and
13 participating. We greatly appreciate it, Pat, Jim and
14 everyone else. And a special thank you to Butch, who
15 ran a very good meeting. Thanks for getting through
16 the whole thing. Appreciate it very much. Again,
17 I'll repeat this again, the comment period is open
18 until the end of October. Please file any written
19 comments you may have afterwards. Again, anyone who
20 would be interested in comments, make sure that they
21 get the notice and that they provide some input for
22 us.

23 With regard to the meeting summary and the
24 recording, my understanding is we will, the transcript
25 of this will be made public when it's completed,

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1 whenever that is. We do, assume that we will put this
2 on our public, FSME public website to make it
3 available to people. We'll work on that and we will
4 notify people at the meeting here when that is so you
5 can have access to it.

6 We have another public meeting two days
7 from now in Mansfield, Massachusetts in similar
8 format. And if you're inclined to go to Mansfield,
9 Massachusetts, it is near Foxboro Stadium. We won a
10 slight point there. But, again, Steve, Dennis and I
11 will be out there, and we'll be the Massachusetts
12 program will be there helping us.

13 So, we'll be closing, as I said, closing
14 the public comment period on the 30th, and at that
15 point we'll be analyzing all the input we've received
16 from these meetings and from written comments. And
17 then we'll start working on a published report at that
18 point. With that, I have nothing else. Again, thank
19 everybody, and I guess that concludes our meeting.

20 MR. BURTON: Very good. Thank you. All
21 right, Mike, we'll see you later.

22 MR. STEVENS: All right.

23 (Whereupon, the meeting went off the
24 record at 4:19 p.m.)

25

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