

NWX-US NUCLEAR REGULATORY COM (US)

**Moderator: Karen Meyer
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Coordinator: Welcome. Thank you for standing by. At this time, all participants will have open and interactive lines into the conference. You may mute your lines by using star 6 to mute and star 6 again to unmute. Today's call is being recorded; if you have any objections, you may disconnect at this time. Now I'll turn the call over to your host today, Miss Karen Meyer. Thank you, you may begin.

Lisa Dimmick: Good afternoon, this is Lisa Dimmick. This is the management review board meeting for the integrated materials performance evaluation program review of the New York Agreement State Program. This is a public meeting. If there are members of the (unintelligible) calling in today, please identify yourself and your affiliation at this time.

If there are none, I'll turn the meeting over to the chair of this meeting, Roy Zimmerman.

Roy Zimmerman: Thanks very much, Lisa. Welcome to our partners, who I hope your trip down was uneventful. Go through some introductory marks before we get into the details. First let me wish everybody good afternoon. Again, my name is Roy Zimmerman. I'm the NRC's acting deputy executive director for (unintelligible) materials, leased research, state, tribal and compliance programs here at the NRC. Our meeting today is a management review board to review the integrated materials performance evaluation program review, known as IMPEP of the New York agreement state program.

IMPEP conducted a thorough review of the New York agreement state program in March of this year, which included examination of the New York program's response to the questionnaire, review of applicable New York

statutes and regulations, analysis of quantitative license inspection and allegation data, technical review of selected regulatory actions, fueled accompaniment of 11 in sectors, and interviews with New York staff and management. Today, the management review board will make an overall assessment of the team's review along with other information, including information presented by the state of New York in today's MRB.

By the end of the meeting, the board will determine the adequacy and compatibility of the New York state agreement program. It is our understanding New York's agreement state program is administered by three agencies -- the New York State Department of Health, New York City Department of Health and Hygiene and the New York State Department Environmental Conservation. New York's program is extensive, regulating approximately 1400 specific licenses authorizing the position in use of radioactive materials and approximately 30 permits for radioactive discharges and radioactive waste disposal from state regulated radioactive material licensees.

The period of the IMPEP review covered from June 16th of 2011 to March 27th of 2014. The IMPEP team discussed preliminary results of the review with New York state representative (unintelligible), who did the team review on March 28. The draft report was issued to New York at the end of April for factual comment. Comments from the three New York agencies were received in May and June. On the (unintelligible) report, then we appreciate the state representatives sharing their views, helping ensure the report's accuracy.

We look forward to further discussion today on the comments that you all provided. During the previous IMPEP review in June of 2011, the IMPEP team and MRB found the New York program was adequate (unintelligible) to protect public health and safety, but needs improvement, although deemed unsatisfactory in two performance indicators -- first technical quality of incident and allegation activities and second, compatibility requirements. Two

areas were found as satisfactory but needing improvement -- first technical staffing and training and second technical quality of licensing actions.

The 2011 IMPEP and MRB also results in six recommendations. I'm pleased to see that the 2014 IMPEP has seen progress and improvement, which will be discussed this afternoon. At this point, I'd like to introduce the members of the management review board. As Lisa indicated, I'll be chairing the board today. Jim Biggins, Deputy Assistant General Counsel for Reactor and Materials Rulemaking from the Office of General Counsel, Brian Holian, Acting Director Office of Federal and State Materials Environmental Management Programs.

By video conference, we have Darrell Roberts, Deputy Regional Administrator for (unintelligible) Region 3 Field Office. And hopefully by phone, we have Cheryl Rogers from Organization of Agreement State liaison state of Wisconsin. We have Cheryl?

Cheryl Rogers: Yes, Cheryl Rogers is here from Wisconsin, thank you.

Roy Zimmerman: Great. Thanks so much for joining us. Now I'd like to extend a special welcome to our partners from New York, (Bob Dansereau) -

(Bob Dansereau): (Dansereau).

Roy Zimmerman: (Dansereau), going (unintelligible) pronounce any more than I've done, I don't want to butcher your name.

(Bob Dansereau): (Densero).

Roy Zimmerman: (Dansereau), thank you. (Dan Samson) and (Chris Boyd), thanks for being here. The New York state department and environmental conservation is participating by phone and do we have that representative online as well?

Sandra Hinkle: Yes, this is Sandra Hinkle, New York State DEC.

Roy Zimmerman: Sandra, thanks for joining us.

Man: You should have others from the Department of Health on the call.

Roy Zimmerman: Okay, if there's other members from the Department of Health on the phone, could you take this opportunity to identify yourselves for us?

Steve Gavitt: Yes, yes, Steve Gavitt, New York State Department of Health.

Roy Zimmerman: Thank you Steve.

Adela Salame-Alfie: Adela Salame-Alfie, New York State Department of Health.

Roy Zimmerman: Thank you. Anybody else?

Man: (Unintelligible).

Roy Zimmerman: I'm sorry?

Jim Clifford: Jim Clifford.

Roy Zimmerman: Thank you Jim.

Man: A little bit faint, Jim, which is not like you.

Roy Zimmerman: But we can see and we'll listen closely for your comments. All right, let me introduce the IMPEP review team, led by Lisa Dimmick from FSME along with Donna Janda and Dennis Lawyer from Region 1, Ken Lambert from Region 3, Lizette Roldan-Otero from Region 4. (Maria Arribas-Colon) and (Joe O'Hara) from FSME and (Jerry Bai) from the state of Florida. And (Jerry), we do have you as well?

(Jerry): Yes.

Roy Zimmerman: Great, thank you. We thank you all for serving on the team and also want to welcome the MRB members today. So at this point what I'd like to do is ask for other attendees - we'll go around the table for other attendees that have not yet been introduced here in Rockville. And then we'll just confirm again anybody else on the phone and we can just go around.

Donna Janda: Donna Janda, Region 1.

Lizette Roldan-Otero: Lizette Roldan-Otero, Region 4.

Lisa Dimmick: Lisa Dimmick, FSME.

(Maria Arrives): (Maria Arribas), FSME.

Woman: (Unintelligible), FSME.

Man: (Unintelligible) in FSME.

(Ashley Cockerham): (Ashley Cockerham), FSME.

Woman: (Unintelligible).

(Steven Poy): (Steven Poy), FSME.

Laura Dudes: Laura Dudes, FSME.

(Ray Lorson): (Ray Lorson), FSME.

(Duncan White): (Duncan White), FSME.

Roy Zimmerman: Thank you.

(Michelle): And (Michelle) (unintelligible) as well.

Roy Zimmerman: We have you surrounded. But you are our partners and you're (unintelligible) outnumbered, even though it may look that way. Anybody else that we have not introduced before we start to get into the gist of the discussion?

Michelle Beardsley: Yes, this is Michelle Beardsley, FSME.

Roy Zimmerman: Thank you, (Michelle).

Darrell Roberts: This is Darrell Roberts, can you hear me?

Roy Zimmerman: We can hear you Darrell. A little faint, but we can hear you.

Darrell Roberts: Yes, I just wanted to take the opportunity to introduce myself and the other folks that are here, three (unintelligible). Yes, myself as you introduced earlier, Roy, Deputy Regional Administrator for Region 3. To my right is Ken Lambert, a member of the IMPEP review team you mentioned earlier. (Unintelligible) that guy entered the Deputy Director per diem (SCR) region 3. And the (unintelligible) we left is (unintelligible).

Roy Zimmerman: Very good, thanks Darrell. Okay, with that we'll go ahead and begin our discussion and I'll turn it over to Lisa.

Lisa Dimmick: Okay, thank you Roy. The review team and I first want to thank the state of New York for their support, patience, cooperation, during the inspector accompaniments as well as the onsite reviews. We recognize the disruption that an IMPEP review can take on a program and while the program is trying to do their routine activities and with the programs accommodating an onsite review. The staff were very helpful, very supportive and helped us achieve and get through our - the reviews that we set out to do. So again, thank you.

There was another aspect about the New York program that I wanted to note. As already stated, New York is one of the more complex agreement states,

with three agencies comprising the agreement -- Department of Health, the Department of Environmental Conservation, and New York City's Department of Health and Mental Hygiene.

It is important to note that the regulatory authority for New York City is delegated from Department of Health under the state - under the New York state health code. And then for the Department of Environmental Conservation, the New York environmental conservation law provides DEC with the authority to implement its radiation program, which applies to environmental releases and disposals of radioactive material.

I point this out because in New York, Department of Health in New York City authorize radioactive materials for some of the same types of licenses or same types of uses, like medical. So that's an important distinction for the New York Agreement State program. Also with DEC, DEC issues permits to some of the same licensees -- licensees in both New York City and in DOH. So it's important to understand how the program is structured and interrelated.

And that's important with this particular review on how we tried to incorporate and integrate the whole review as one program. The review for 2014 was conducted in a similar fashion as 2006 and 2011. Basically it's one agreement state program with one outcome. The indicators readings have one finding of one rating per indicator as well as one overall finding for the program.

So we used the same approach as 2006 and 2011 with some modifications. We did try to reduce the number of onsite days for the reviews. We tried to reduce the baseline case work for New York so we weren't doing as many inspection - or licensing and inspection case work. And when possible, we tried to fully integrate the review of the program as well as the report write-up I just wanted to make those distinctions about this particular review if you

were to review past reports in comparison to the way this report was structured.

So at this time, the team and I will summarize the results for the eight indicators that we reviewed. It's also to note that there are six open recommendations from the last review and the team will also be making three new recommendations. The recommendations will be addressed in line with the corresponding indicator, so the team member responsible for that section will discuss the former recommendations as well as any new recommendations in presenting the indicator summary.

Roy Zimmerman: This is Roy Zimmerman. Just sort of a logistical check before Lisa really launches into the indicators, I want to make sure that everybody can hear her. We're in a different room right now, so is anybody having any difficulty hearing?

Sandra Hinkle: Hello, this is Sandra Hinkle for DEC. I just wanted to let you know that (Tim Rice) has joined us also.

Roy Zimmerman: Okay, thank you.

Man: (Unintelligible).

Roy Zimmerman: All right, it sounds like we have good audibles, so we're good. Thank you very much.

Lisa Dimmick: Okay. So the first indicator -- technical staffing and training -- that indicator was reviewed by (Joe O'Hara) from FSME. He could not be here today, so I will present the indicator. It's - I wanted to note that there was not any previous recommendations for this indicator over the prior review. This indicator was previously found satisfactory but needs improvement and the team will also have two new recommendations as a result of this review.

So in reviewing the indicator technical staffing and training, the team looked at the New York response to the IMPEP questionnaire relative to the indicator. The team interviewed program management and staff, considered any possible backlogs in licensing or compliance actions. The team wanted to note that the ability to conduct effective licensing and inspection and maintaining (unintelligible) qualifications of staff to avoid adverse IIMPEP on other performance indicators is really dependent on a program having sufficient number of technical staff.

So subsequent to the last IMPEP in 2011, DOH had requested eight waivers to fill vacancies from the last review period. DOH was able to hire four staff early in the review period, but in the meantime lost three staff. It's - the team wanted to know too that the lead time to train technical staff at DOH is about 18 months. There is currently no backlog in inspection activities, but there is a backlog in licensing actions and also in the timely adoption of regulation.

The increase in timely renewals and backlog in the DOH program has more than doubled since the last review and there were also more than 30 amendment requests greater than a year outstanding in The IMPEP team noted that the increased number of inspection reports communicated to licensee between the metrics of 30 days had increased. In the 2014 review over the 2011 review.

So, in looking at DEC's, staffing and training, it was - we on the team noted that there were two vacancies, but one position had been eliminated during the review period. In DEC, all but one staff are fully qualified for their permitting and inspecting activities. It was also noted that there is - the one person that's not fully qualified in DEC, it's intended that that person will perform some of the field site work at West Valley. But until that person's fully qualified, the section chief is performing (unintelligible) at West Valley. The other area in DEC where there's a little bit of challenge and backlogs concerns regulation development. Wanted to know that. While there's no

backlogs in permitting an inspection but we do have the back log with regulations.

In New York City, in the New York City Program, there were three vacancies. In the review period, one of those physicians has since been eliminated. Since the on-site review, the program did fill the program director physician and a technical position was also built into the onsite review.

Lisa Dimmick: Currently, New York city license reviewers are fully qualified. There are two fully qualified license removers but one of the license reviewers is the primary reviewer for the program in New York City. And the staff on site at the time of the licensing - I'm sorry, the inspection staff were all fully qualified. The New York City does have a cross-training program that they've implemented where they are cross-training staff from the X-ray machine side of the program to work in the materials section.

So it is their plan to cross-train X-ray staff and they have been working through the qualification process and attending NRC training courses. So that's part of their staffing plan. So in light of some of the vacancies and the challenge with filling staffing and at the state health agencies, the New York - the team recommends that New York be found satisfactory but needs improvement with respect to the indicator technical staffing and training.

A satisfactory but needs improvement rating is considered with some staff turnover, could adversely upset the balance in staffing and licensing and inspection programs when vacant positions aren't readily filled. Based on the existing vacancies, (unintelligible) positions at DOH and the one position of Dec and the restricted high (unintelligible) in place and you are looking this concerned that any additional losses in staff could certainly impact the state's performance. The team made recommendations and with this rating for the indicator, the team has two performance recommendations. The first one, the team recommends that DOH and DEC develop and implement a strategy to

address current and future staffing vacancies in order to maintain effectiveness and efficiency of the program.

The team made this recommendation in the consideration of the restricted hiring and neighbor process for New York coupled with a lengthy training and qualification process for technical staff. And again, the team is concerned that additional losses in staff could severely impact both performance of DOH and DEC.

The second recommendation was offered for New York City in that New York City updated training qualification program to be consistent with inspection annual Chapter 1248. NRC has updated this training manual and had informed agreement states of its update. The team is recommending that New York City apply this program to all its technical staff currently going through a qualification process and any new staff that are hired.

The team made this recommendation because New York's current training qualification program isn't consistent with 1248 and because New York is cross-training staff with the intent that they will fill in the materials program with inspection and licensing. Any questions?

Man: Good rundown, thank you. We will proceed as we'll go through the question concerning the individual MRB members and then (0:19:26.0 unclear).

Man: (Unintelligible) after this so then we can have a quick - get a request (unintelligible). So based on what Lisa indicated, Brian, let me turn to you first for any questions or comments on (unintelligible).

Brian Holian: Well, good - good summary. Really, really good oral summary of it. I want to compliment the state right away on the cross-training aspect. I see that on a few different states, you know, doing that and it seems to be, you know, the most logical thing to do now with tightening budget. So I applaud you taking that step to cross-train X-ray. You've got similar folks. A lot of times I know

states take people from their program for replacements anyway, so you're getting ahead of the curve with at least one source of employment for the red section. So, you know, I think that's good.

I get lost a little bit in this section often on MRBs. Lost meaning I think it's a prime area for a quantitative indicator that I know (Duncan)'s looking at. So I repeat that on all the MRBs. And where I get lost is on the FTE that you have and comparing it over time. And my one complaint in the write-ups all the times is I can't tell exactly how stressed you were during the period. I mean I see a couple vacancies, I see filled, I see filled from within, so it's just one of my pet peeves and I'm hoping to improve the write-up so that we can status, you know, the stress if I only see every two years or four years.

So with that in mind, my question is, you know, these vacancies and in the write-up, you know, I'm trying to get - I see the write-up with two positions eliminated from even the midpoint. I have my notes in the February 2013 special MRB meeting that we had on, you know, New York, and I was trying to compare it to (unintelligible) numbers, even to those notes back then. But in effect, from the team, with two positions down from where we were staffing two years ago, is that a general summary? And I'll ask the state to clarify it.

In the write-up I see a paragraph, just to take you to page numbers on here, I'm on Page 4. In the write-up I see one eliminate position in New York City and I see one eliminated in DEC, so that's - I just mean that's eliminated positions, not the vacancies, I know you said there's still some that are -

Lisa Dimmick: Right.

Brian Holian: ...so I'm just trying to get a summary your 2 FTE down is what the team would - from budgeted?

Lisa Dimmick: Well that's - what might be a little bit - the different agencies might be able to respond because in New York, as I understand it, in New York, Department

of Health (unintelligible) and then we'll speak to New York City's program because there's - it's a little different. If a vacancy occurs, basically that vacancy no longer exists and if the program wants to try to fill that spot or needs to fill it, then they have to go through this waiver process.

Brian Holian: Yes, I -

Lisa Dimmick: No, I - so when you look at an organization chart, the vacancy doesn't appear in an organization chart. So there's - that's a little bit of - it's confusing. And I don't know if (Bob) can -

Brian Holian: No, I got all that from the write-up and I understand the waiver process and that and I would expect one, the team and, you know, our review of it to kind of look at they've got so many licenses, here's what the workload is. Four years ago, you had this number of people, now you're down with a vacancy. So I appreciate that it disappears and that you need the waiver process and I appreciate the difficulty of waiver process, but I don't know if the state just wants to - in my quick write-up, at least the write-up words tell me you've vacated two positions.

One in DEC - I'm just trying to get that right.

Man: DC in answer for (unintelligible).

Brian Holian: Okay.

Man: (Unintelligible), Tim?

Brian Holian: Sandra, I (unintelligible).

Tim Rice: This is Tim Rice. We have one current vacancy which the division has been working to backfill and then we have one position who's - the position was eliminated. That person was not an environmental radiation specialist; they

were an environmental program specialist that doesn't affect our ability to do the permitting actions or inspections.

Brian Holian: Good, (unintelligible). Well go ahead, did you have a follow-up?

Tim Rice: No.

Brian Holian: Okay, that's echo. Thank you. That kind of detail helps me on the position eliminated.

Man: I think (Steve)'s on the phone, he can better speak to the staffing issue for the state department of health.

(Steve): Yes, I think you have it correct. I mean as we lose people, we don't show that there's a vacant. As Lisa indicated, those positions essentially evaporate and we have to go back to the division of the budget and request a waiver. But I think the - I think what you're getting at is to look at what's the size of our program and how many people do we have doing that work. And so if you look at our FTEs, we have provided a spreadsheet which shows that we have - I forget the number, I think it was 11.8 or something around there FTEs and that's everybody.

That's everybody doing inspection, licensing, management, regulation of writing. So that's everybody for the, you know, our entire - our program at Department of Health. And that might be something that might be good to compare against, you know, what are the national norms or other programs of comparable size.

Brian Holian: Yes, thank you. I appreciate that view, I feel like I'm being heard with, you know, the IMPEP, you know, how we assess these area, one comparing to programs of comparable size, licensees' numbers. And so I'm just sharing with the state that from a (unintelligible) perspective on these write-ups and reviews I know that's an area that I've been pushing to more easily read in

staffing. I think staffing is kind of the best one of better leading indicators we have.

I look back at this report from a couple years ago and I'll ask it when we get to the - well maybe it is in the - yes, it is in this section so I'll ask it now, but, you know, to compare from just the view of moving people around in vacancies, there was a statement in the report minutes from a couple years ago on moving the one position in DEC to Region 9 in Buffalo. And the minutes from the MRB in February 2013 says the branch chief does not anticipate any impact to the program due to this position being moved from the Albany office to Buffalo, and, you know, which is good.

Hopefully there's impacts. And now in this MRB, in this write-up, what are our impacts? You know, the budget's changed over the years and it's tough for you to train that individual and tough to do accompaniments and it's taken the branch chief time to go out and do that. So I - one that's a good reminder for us all to be forecasting that, but two, I just - it was a question I had on the impact of moving people. Are you able to, you know, I want to address the person in Buffalo and that, is that - was it foreseen as an aid to your program to move people out regionally and now it's something that's a hindrance because it's tough to get them trained?

Tim Rice: Tim Rice speaking again. It was an administrative decision to move that position closer to the location that they would be providing service to, which was the West Valley side. It has provided some challenges to us as far as training, but we're - and so it may have just extended the period of time for getting fully staffed, fully trained for that person. We are getting close at this point, they are taking some of the responsibility at this time for the West Valley site, but it does slow down the process.

We are hopeful that the advantages we expected to get will be realized once they're fully trained because they'll be able to access the site on a regular basis as opposed to coming from the opposite end of the state. We hope that

they'll have a closer relationship with the site as things move forward towards decommissioning. So we still are hopeful that that advantage will be realized, it's just taken longer than we had hoped to get to that point.

Brian Holian: Okay, great. It's Brian Holian. Good response, that will hopefully make it easier in the future. I'm just going back to the one item is kind of comparing FTE as you go from year to year. And then the other item is that's kind of covered at the end of the first paragraph on Page 4 and it's in one sentence and it really deals with the loss of three long-term staff that supported the (unintelligible) Program.

I mean hidden is there is it's - I'm just foreseeing that you lost 60 years of experience. You know, I'm just assuming, you know, 20 years or so, maybe it's worse than that. So the other thing that often we don't cover in our write-ups is the loss of experience. And you write up that you're hiring very qualified staff, so I appreciate that, you know, the requirements you have for coming in, but, you know, oftentimes not as experienced as what you're losing. So I do see a, you know, a little bit of stress on your staffing. I appreciate the cross-training.

You know, I just - just checking to see if I had - the other question I had and there's two other questions on the write-up. On Page 4 for the team, in the second paragraph, we say that there has been no new professional staff hired by ORH since the last review, right in the middle of that paragraph. And then they do cross-training. In the paragraph above, you know, it seems to say that we've lost some positions and so - and ORH has hired. So I just didn't know if that was a discrepancy on the write-up?

Woman: I'll need to reconcile that (unintelligible) because since the on-site reviews to staff were hired into the program, they - so it - that just wasn't reconciled when I prepared the proposal.

Brian Holian: Okay, okay.

Woman: But -

Man: So on your FTE comment, I totally agree. I think one of the important things of the IMPEP process is to provide Tom mechanism, like (Steve) said, to get some comparability between the level of work, the complexity of that work, and the level of effort different people are using to get the job done.

Man: Yes.

Man: So yes, some way to compare ourselves apples to apples as best we can. We can never get exactly the same apple, but we can get some sense, like how many product twos do you have, how many product threes do you have, what's the mix? That kind of stuff how far do you have to go to do the inspection. You know, I did this a little bit when looking at the NRC. So when I look at the level of staffing at the NRC compared to the number of licenses it has, you've got a lot of staff compared to us.

So we do a ton of work with a lot fewer staff than you guys do. Now does that mean we're really efficient or does that mean that we're running threadbare and maybe there needs to be some breathing safe in there to be more qualitative in the approach, I don't know what the right balance is. But when we make the comparison between, let's say, Region 1 -- the size of region 1" relative to the number of licenses "Region 1" is responsible for to all the other states in Region 1.

Man: I think you probably have much or almost as many staff as the entire region.

Man: And that's - that's good.

Man: (Unintelligible) states.

Man: So the IMPEP process is a way for us to see the approaches across the country. You guys are the only ones equipped to do it and then to roll that up

in a way in a good communication out to the states to say, "This is where you line up relative to other folks with similar context." It gives us a way to think about that, how do we allocate resources, how do we think to management about getting more resources? We could have some real comparisons, I can say, "Look, you know, the following six states are about the same size as me," right?

New York City's a medium size state with 330-some-odd licenses, about 30 IC licenses. I can say compare to me these other states that are similar gar. But that helps us.

Man: Just to interrupt there, and one on the NRC Region 1 oversight, there's a piece of there. And so comparing, even comparing states, and I don't want to get theoretical here, we'll get back to this. It might be apples and oranges a little bit, but comparing to the NRC, I know we rely on Region 1 Inspector's for overhead, you know, some of the problematic overhead rule-making new-reg updates that, you know, come out of (unintelligible). They're doing some of our (unintelligible) work, so you might not see that.

But interesting for me on the staffing is you compare yourself to four years ago is where I am. See the trend - that's why when the vacancies disappear off your work chart and, you know, my last question's going - goes into are you actively, you know, requesting these waivers that you need. And I saw the write-up in here for one of the sections, we requested aid. I didn't see it for all three, getting ahead to request the waivers, if you think you need it.

And for (Chris) what I'm interested in, is compared to you four years ago, you know, you trimmed it down.

(Chris): We're a little different from the state. I still keep my budget authority. So my vacant line still has a dollar amount attached to it. So until management decides to eliminate the money and remove the line, I just have unused PS in my budget which I then shift around to other things (unintelligible) so

management doesn't take it. But so my vacancies are fillable as soon as I identify a candidate.

Man: Good.

(Chris): I'm pleased to announce we have to be identified for first round interviews, two new staff, who are going to be - one's going to be a radiation Scientist 3, which is our highest (rad) science level.

Man: Good.

(Chris): Significant levels of experience coming in. subject matter expertise and a (rad) Scientist 2, which is somebody who's coming in, able to work with general supervision, doesn't need direct supervision from the get-go. So we've identified a couple candidates for that and soon to announce that. The other thing I'm very happy to announce is that the agency has done a reorganization and we had a unit called Bureau of Emergency Preparedness and Response -- which was an all hazards response man, which included radiological response, emergency response planning.

That unit is being folded into a larger OEM unit within the department of Health and the rad specialists, several of the rad specialists are going to come to my program, so I'm going to get three additional staff in addition to the two that are in the pipeline. One of them's a certified health physicist who used to work with my program. The other is a PhD and I've got an engineer -

Man: Good. So you'll be going flush -

(Chris): (Unintelligible). Yes, I'm feeling - I'm feeling much love.

Man: Well no, that is good. I appreciate that view.

(Chris): (Unintelligible) right now and I'm appreciating it. We're happy to have that expertise moving forward (unintelligible).

Man: Yes yes.

Well that raises a question for me that I didn't have before, which is why is that a difference in the budget process? I don't know if we need to go into that now, but...

Man: It's significant because we don't know what our budget is. We're not told what our budget is, we have no idea. But every time, like (Steve) says we need something, even larger purchase, it's incredible the level of approval we need.

You know, previous years, way back, they had fill levels. So you had X number of positions and (unintelligible) filled it was long gone. So right now for us to have and develop any other strategy for filling vacancies, it's a lot like asking you to have a contingency plan if there's a government shutdown.

Man: Yes.

Man: So your staff doesn't work. Our management supports us, all the way up to the commissioner. You can ask for whatever plan you want. We can formulate anything that's going to be successful. We need to go through the process, it's established.

Man: Well, it would be different if we were trying to convince our management. That's done.

Man: Well that's interesting. I just want to comment on that if we would and then I'll move off my question for other MRB members. But I was talking to a commissioner this morning about New York. As a matter of fact, he knew you were coming in and I had him at an all-hands meeting in the morning and he

had been out to New York. And he commented on this issue and he said similar viewpoint after had kind of reading the MRB and talking to the team that you're right, your management supports you, but he had wondered how high up in the state the program gets that view?

Is the radiological - you know, it's a little different from some of the other permitting in that. And then it's the NRC's job to help the governor on down or wherever up above -- our job and your job -- to help them recognize that. And I know the commission themselves, not just this one commissioner often views what more can they do to help that and I just wanted to state that for you.

Man: Yes, well, you know, this is not the process (unintelligible) the IMPEP when it comes to staffing. I mean it's really worked through - I know the state liaison officer and our governor's office. But as you, you know, you're not going to get any more movement from us because we can't do it.

Man: Your hands are tied.

Man: Right. So to request, you know, a recommendation that we develop something that yes, if I'm going to compare it to UME contingency plan if there was another government shutdown ensuring staff were able to find the work. I mean we had as much chance.

Man: Yes, well -

Man: So - this is (unintelligible).

Man: I can't leverage it. If you can't leverage the (unintelligible) recommendations?

Man: We (unintelligible).

Man: Well that was last time. There was a letter to the governor last time if you recall from the chairman. Yes, at that time there were two trainees right? We had a large number of vacancy waivers requested, so they gave us a little. So without that letter, I don't know - we don't even know if that letter did the trick or not. We have no idea. I'm certain - it certainly can't hurt.

Man: Oh that's, you know, I - just to respond to you I think it does help. I mean I did, it helps the state of Delta and whether somebody can act on it or not. I appreciate your thoughts that you might be constrained but I think in writing different levels. So oh my last comment is, really, when I get to the recommendations and I thought - and I don't know if the team looked at coupling recommendation one and two.

And when I look at it, your recommendation section 3.1 and I just - I don't know if people get bothered, you know, by numbers or recommendations. Some states, you know, do I have three or do I compare myself to a state that had two or one. You know, in the staffing I could see this, you know, starting off with recommendation two with a semicolon and then just add the New York State training piece to it because it's all in 3.1

I just raised that for the, you know, comment by other NRB members and that it's all within staffing and training. New York doesn't have - the city doesn't have the people part but it's all in, you know, training and section 3.1. Did the team discuss that at all or is that mixing an apple and an orange?

Woman: This - well let me explain our thought process behind the recommendations. The recommendation for state health and DEC was just that to - for the state to maybe -

Man: Yes, I was okay with the content -

Woman: Right. It would be - because again, you know, not really knowing how many vacancies there are but it's like really how, many FTE are needed to run the

program and going through that exercise. State health will not go back to the number of positions that were in place six years ago, because in the last review period, they lost about 10 staff and those positions were never going to be filled. So this - the current staffing level is probably the new norm for state health.

So the thought behind the recommendation was for state health to do an evaluation process to determine the FTE needed for their program as their new baseline. And then determine if there's other ways to - these were just thoughts that they might consider in the recommendations for the strategy.

Man: Yes, I - I'm okay with that, yes. I'm okay with that, go back to (Chris Boyd), your comment on that that an FTE should be based on number of licenses and experience level and some mix that you can compare. So I was okay with the content of, you know, to advertise that. But I'm just asking the team whether you consider just coupling -

Man: Well that's done and that's the justification needed to supply documentation for the (unintelligible). That's been done and that's as far as we'd know. So we've done that. We've made those requests for specific titles a number of times. That's...

Woman: (Bob), this (unintelligible), if I may add. We just submitted an additional request for waivers. The problem is even if they get approved all the way through, our commissioner's level, he has to go to divisional budget and even if we have budget, we have cash ceiling. And even if we meet, we're still within the cash ceilings, a determination is made by Division of Budget and we don't know what criteria they use to pick what positions are going to be approved. So we keep submitting requests for waivers.

Man: Good. That's one thing, the recommendation isn't going to - we're not going to be able to produce anything to satisfy that recommendation. It's not, you know, it's...

((Crosstalk))

Man: The waiver -

Man: We have the waiver -

Man: (Unintelligible) I think the evaluation that Lisa's talking about is did the program look at what - did New York state do an assessment of what its base staffing level needs to be. They need to do that assessment and present a logic and the case, right, for why these four waiver lines. And they need to submit that to their management and then over to their (OMB).

Once it gets to (OMB) it goes into the black hat of - the black box of, you know, who screams the loudest kind of thing, is my guess. And then you get back with the - but in order to get through that process, they had to demonstrate to the budget people that they've got a legitimate basis for the waiver lines. And they've done the analysis, they've calculated out what the FTE is, what the gap is and they've submitted that to (Mandy).

Adding it in as a recommendation just means they hand you a copy of the waiver they've already submitted -

Man: Yes, because this is a waiver, it's not a (unintelligible). We're starting over.

Woman: Okay, we've done that. We provided in our budget, but in our waiver request, we talk about the back log. We talk about the number of things that are not getting done because we don't have the people. So we've done that and so I'm not clear what NRC wants us to do in terms of providing a plan how we're going to back field or fulfill those positions. Because we've done whatever we can and it's in the process.

Brian Holian: Yes, this is Brian Holian. Let me just comment and then go back to Lisa. First, my question was more simpler than this, but I appreciate this discussion. I

don't mind going longer on this discussion on the difficulties of waiver. My question for the team was just did you consider just adding a semicolon and coupling two recommendations into one?

Woman: Yes.

Brian Holian: Okay. So that's just - I offer that for quote number of recommendations, it's all in staffing and training and we can talk about that later. One last comment on the waiver process, just for one MRB members' views. You might not be able - or feel your hands are tied and can't do more. Yet I still think the team's recommendation seems to be along an area of stress that it's probably already covered in your waiver is the fact that, well, we're having to shuffle around here and we're letting our backlogs get a little longer because we're stressed.

That's probably already written in your waivers. It's not mentioned in the report, but when we see a delta and we see a leading indicator of a stress to the program due to staffing, I think it's right for the team to call out a recommendation. It doesn't mean it's going to you as a programmer, it's probably pointed higher up, or as Roy said, to be leveraged. So I don't know if that can be worded differently but I'll wait for other thoughts, I don't want to take (unintelligible). That's all I had.

Man: So (unintelligible) important dialogue and I think made some good points. And we understand your frustration that you're expressing in terms of what you can do, but maybe there's some things that we can do. And the letter that was described, we don't know if it had an impact or it didn't, but, like you said, these (unintelligible).

Man: Can't hurt.

Man: Doesn't hurt. Doesn't hurt.

Man: Yes.

Man: Okay, let me turn it to Jim.

Jim Biggins: I don't have any comments (unintelligible).

Brian Holian: Okay. Darrell?

Woman: (Unintelligible) this whole discussion is very interesting because that is the numero uno thing that the states deal with. I would like to point out that we did mention licensing. I think the backlog of licensing should be dealt with that indicator and not over here. For one thing, the licensing backlog is not a criteria during IMPEPs. It may be noted but it is not a criteria. It does not prove that you're inadequate; it's always going to be the lowest thing that you're going to do because those people have timely filed letters. They're not suffering.

And if they are suffering, they'll tell us. So that's one point. (Unintelligible) curious for New York City getting new positions. Do you think the IMPEP helped you get those positions or it was just planning?

Man: No, they (unintelligible). Yes.

Woman: I didn't quite hear, sorry.

Man: No the IMPEP didn't have a relationship to the timing of the re (unintelligible) or the timing of identifying candidates to -- (unintelligible) on the identifying candidates is really after we got the director on board, we made a conscious decision to hold off IMing senior staff until we got the new director so the new director could shape - hit the program in the direction he wanted to shape it.

Woman: Okay. And then DEC just has one person they're trying to train up is what it looks like. And then the report said - it looks to me like the state is the one

that's maybe suffering the most here and they have the most number of licensees. Is that a fair assessment, New York state?

Man: I think so.

Cheryl Rogers: Okay. I would like to point out that in the report, it says on Page 5, third full paragraph, both the DOH and DEC have managed their chronic staffing shortages. So yes, we're on tactical staffing and training, we always need , you know, support, any kind of push we can get in that direction. So I would favor, you know, NRC sending a letter if you guys know where to send it that it might have an impact.

I'm sure it doesn't hurt and it might possibly help. You know, as I heard Steve say, it doesn't seem like at the program level they can do a whole lot. So, you know, you might consider NRC sending a letter out. I kind of agree with, you know, they probably tried everything they can. And just for the record, Wisconsin, we have to go through all of our - we're under a hiring freeze basically.

And we paint the worst possible picture, you know, we say we might lose our agreement on those requests. So I'm sure New York knows their - what buttons to push. As far as what is required, I think Brian says you do quite a lot with your staff and I would like to point out that they probably stick around longer in the states. Now they were (unintelligible) paid and they probably stick around longer.

In Wisconsin, we're really happy if we can get people to stay three to five years and we work with hard to have them trained up by about the three-year mark. So I have one that's been here 11 years but we're not going to have the same kind of long-term people that NRC does in general. At the state perspective and then trying to address the FTE - and this is difficult because it depends on if you have I don't know how to characterize it, easy licensees?

If you have 1100 licensees, you should have about one person per hundred, so you should have 11 FTEs and the state has 11.9. For New York City with about 300 licensees, they would need about three using this one person per 100 indicator and they have 5.4. So I would say the report is saying they're managing their chronic staffing shortages. New York City just got some more people but overall they're managing.

I don't disagree with getting up to speed with the IMC2800, but I think that would be easily done. So that's a lot of talking on my part, but I would like to emphasize, you know, that we try to have these IMPEP's performance based and it sounds like New York is keeping up. So that's a lot of commentary. We do appreciate the NRC tries to help us on this one and a lot of times, when you guys come out, we do see, like I said, I was asking Chris if it was coincidence or not, but a lot of times there's a little help on that.

So that's all I have.

Roy Zimmerman: Okay, this is Roy Zimmerman. Cheryl, appreciate the comments. Very useful and insightful. Want to go back to your first one to make sure that I followed it. I think what you were indicating is that you felt that the teams reference to the backlogs in licensing actions and inspection reporting really should not be used here is sort of what I was taking away? Where I was sort of looking at it that it was showing the impact associated with the vacancy, so it tended to bolster the case.

But if I understood you right, your sentence was that it didn't belong or perhaps I misunderstood.

Cheryl Rogers: Yes, I think that discussion needs to be over in licensing, but even over in licensing, there's no criteria for number of backlogs. You know, that's not one of the indicators. I thought they got a good grade in inspection so I wasn't looking at that one.

Roy Zimmerman: Okay. All right.

Brian Holian: Well I think that - Brian Holian again Cheryl. I think it comes up on many discussions, MRB discussions that, you know, they're still connected between the inspection and licensing backlogs. And so I understand the point there but my view from the program office would be they're so inner-related, I don't mind it being discusses.

Man: (Unintelligible).

Brian Holian: I mean I think it does show a stress but I understand Cheryl's point.

Roy Zimmerman: Okay, thank you. Cheryl, anything else?

Cheryl Rogers: I don't think so. I just think you should - you guys, you know, the NRC and the MRB and even the team should focus on performance. And so if you overall feel that people are trained up and doing a pretty decent job, that would argue for satisfactory to me.

Roy Zimmerman: Okay, thank you. I appreciate that. Darrell?

Darrell Roberts: Yes, thanks Roy. This is the dialogue (unintelligible), I understand the comments that (unintelligible) made regarding performance. If you look at that third paragraph on Page 5 that talks about the backlog and the fact that the team made the determination that the insufficient (unintelligible) levels contributed to this backlog. That to me does suggest a level of performance. Granted, the backlog was not found or was not linked to any, you know, compromise of health and safety issues and ones that argue that there lies a lack of significance.

But, you know, obviously that's pretty high bar and you don't want to get there before you make a finding or you make a determination of a poor performer. So I'll (unintelligible) the team had (unintelligible) performance respectively

was my view. And the (unintelligible) is between the staffing level, grade levels, and the increase in backlog. Albeit short of any real impact to safety and health right now, but one that I thought - or (unintelligible) the report that there was (unintelligible).

Man: Okay.

Darrell Roberts: Aside from that observation I don't have any other questions at this particular indicator.

Roy Zimmerman: Okay, thanks Darrell. I've got a couple that I want to understand a little bit better and I think we invented the staffing issue pretty well. So my attention isn't on the staffing, it's on the training of - for New York City. There's a couple of thoughts. When I read the write-up on Page 4, unless I missed something, I only read a couple of sentences that really talked about it wasn't meeting the manual chapter.

And I sort of walked away, maybe I have an incorrect impression that you'll straighten out, is that it was more of a documentation problem than the fact that the individuals who not sufficiently trained and buy the manuals yet that they need to do a better job of documentation. Is that - am I reading that right? Is there more to it than the documentation?

Woman: What - the IMPEP team in making the recommendation was looking at the news draft coming in and how they're - and their qualification process and documentation of their training. It's an opportunity to take now in that manual Chapter 1248 has come out and programs need to (unintelligible) that they could update their current manual, which would also be consistent with memorializing their - using a qualification journal to document their case work.

Their accompaniments, all of the training they get in addition to the training courses as well as other training that the city would require for fully qualifying

staff to do materials and lights. Materials and inspection, materials licensing and inspection. So the recommendation was looking at the people currently in the program undergoing training. The current staff had already been qualified on another process. The other thing with the qualification journal with manual Chapter 1248 is that it does require retraining.

So that's, you know, by implementing that or updating the manual, they would come in line. So we weren't saying that the current staff weren't qualified, but we didn't have documentation or didn't see the documentation of the case work they reviewed to support their qualifications and that's where we were thinking talking about memorializing it. And to further help that, go ahead and implement 1248 since you have new people coming in to the program.

And that's how the nexus or how it was linked together, but that's how it rolled out.

Man: So, can I jump in? (Unintelligible)?

Roy Zimmerman: I'm definitely going to give you a (unintelligible), I'm just trying to make sure that I've got the - you understand I'm definitely interested in your point of view. So as I listen, the documentation doesn't - in our minds doesn't meet the manual chapter. But we didn't have any issue that individuals were qualified but we didn't have the documentation so it was more just a verbal professional confidence in what we were being told than all the - everything was being done, but we just didn't - we didn't have the paper to be able to have that extra assurance.

Cheryl Rogers: There is documentation to support the training classes, the staff attendees, so that information is there. Additional things about their qualification plan we didn't get documentation of that information. But that was one aspect of it but it was - so that was part of what we noted about memorializing it. But it was also rolling it up to that - the recommendation was to note that 1248 should be considered or - their program should be comparable to 1248 -

Roy Zimmerman: Right.

Cheryl Rogers: ...their training qualifications.

Roy Zimmerman: Largely aimed toward the better documentation to demonstrate what was done?

Cheryl Rogers: No, 1248 is a little different in that the - it further details the qualifications, it requires three trainings, it separates out licensing and inspection and also goes through the different types of activities as well as inspections. So it's a little bit more - it is more documentation on the part of in the inspection.

Roy Zimmerman: (Unintelligible). I'm sorry. I definitely - I wanted to be interactive. I just have one more question, then I'm definitely turning to you, to all of you so that you can comment on what you've heard. In Chris' letter or e-mail that he sent in, one thing that struck me and I'm on - I don't know if I have the page number, but -

Man: It's 74 we were just on.

Roy Zimmerman: Thanks. It's under Common NRC Recommendation 1. The procedures that we're used to bringing qualifications, it's the one that goes after that. We significantly increased utilization of NRC sponsor training for staff that's been qualified and (unintelligible) being claimed to be (unintelligible). These efforts are not reflected in the (unintelligible) report and represent important improvements in technical training and knowledge since the last IMPEP.

That sort of struck me is that if we feel that that's a statement that we can rally around, I would see the benefit of recognizing us, that we all have areas we can improve on. But if in fact we agree with that comment, that they did make improvements in these areas and we didn't reconcile it when we read this, we didn't make any change to it. You can help me by understanding how we reacted to that and why we didn't see the benefit of bringing that into the

report to give credit for the fact that they had done more NRC training and made some positive improvement.

Even if we had the recommendation, why would we - if we agree with this, why would we have - what was the team's thought of not incorporating that (unintelligible)?

Woman: The NRC training alone doesn't qualify a person to do licensing or inspection. That's part of the qualification process. Since the last IMPEP, NRC our New York staff, and especially New York City staff have been able to attend or have been attending NRC classes. So there's been an increase in the number of the New York City staff attending classes. So there has been - they've been able to get to the classes and they've - since the last IMPEP.

Because in the last IMPEP, there was a lot of staff had attended some of the classes. So there's been an increase in the number of NRC courses attended by New York City and that is part of their qualification process, but again, NRC training alone doesn't automatically qualify (unintelligible) checked or reviewer and that's what we're trying to get past. Just - it's not just that training to qualify somebody, the program needs to qualify staff.

And that's what we were maybe missing in part of the qualification process we're not seeing.

Man: So I'm with you with what you're saying. In my mind, I was dividing it into two levels. I didn't read this so much as saying that it falls shy of the mark for qualification. I was trying to look at it to give credit for the fact that there have been improvements that have been made and calling that out, you know, we're all human. By having that additional recognition to me had merit, even though it's not going as far as trying to say it qualifies, but the fact that there was improvement in this area, we (unintelligible) perform.

Woman: And we could modify the report to indicate the increase in attendance -

((Crosstalk))

Man: You call that improvement, it really - it's an improvement because they got more people to the NRC courses.

Man: Yes.

Man: So that was lacking and I saw that in the state response, but the team's view is that, you know, their view is that well, it's more than just the courses. They need a manager signup and that's worth exploring. I think (Chris) wants to comment on that too, but -

(Chris Boyd): Yes.

Man: ...I saw a difference between that. The improvement, you know, is - because the state (unintelligible) because we didn't change our qualification program last review.

So one, you didn't mention this on the last review. Well maybe that reviewer missed it or maybe it's too critical now, that's worth discussion. But the only improvement is the number of people getting there, but it's worth noting because that's a financial burden, that's -

Man: That's what I was looking for -

Man: I think it's more significant than that. It goes specifically to the recommendation. The new guidance for training says that folks should get retrained. Who went to those classes? Folks who needed retraining? Folks who had previously been certified, qualified to do the work, were taking NRC classes and getting refresher and getting retraining, which speaks specifically to the recommendation.

Staff was doing that work. I had a certified inspector who did the (unintelligible) inspection when you guys came and got aces. She did (Gamma Knife), Health Physics 1 and Health Physics 2 in the last three years. A lot of training. So that retraining happened. So somebody who got qualified almost entirely in house and was certified previously supplemented that in-house training with classes between the last IMPEP and this IMPEP. And it goes specifically to the - to one of the comments, which is the goal of the - of 1248 is refresher training.

My staff went through refresher training. It's not reflected in the IMPEP report. The training documentation that we do, the NRC's 1248 is 88 pages long. Most states don't develop an 88-page guidance document for how they implement this requirement. I haven't seen any other state who says - who goes, "I've got an 88-page requirements document and that's my qualification journal." It's kind of an indication that somebody's got a lot of time on their hands.

A lot of gold-plating went into that 88-page document. You guys do that a lot. So we capture a lot of what's in 1248 in our policies and procedures manual. And the policies and procedures manual breaks down specifically what you do on an inspection, how you do licensing, what the expectation of the reviewer, what's the knowledge background that's necessary to have, that's a separate document. Then we've got another document that lists what are the specific technical training that you've gone through?

You guys didn't match and marry those two documents. If you would have taken my policy and procedure manual and then said, "Okay, here's the policy and procedure manual," which look a lot more like 1248, which is - these are the kinds of things that you have to know. This is what you have to do on your inspection. (Unintelligible) policy procedures how to do the work that you need to do. You would have seen a much closer match-up to 1248. It would have matched up perfect, but it would have been much more close.

And our strategy has been accepted at every IMPEP. It wasn't just the last IMPEP, at every IMPEP going back 30 years. We've never had anybody say that we had to switch it up. So there's always room for improvement. There's always ways to make things better, so that's why I made my comment, is the IMPEP report the proper forum to codify the specific direction from the NRC to New York City that you've got a gap and I want you to come up with a program to fill that gap based on my authorities, my audit authorities.

And I don't think this rides it to the level where the NRC says - has to say to the city of New York, "Based on my authority to attempt to regulate you, I'm going to direct you New York City to correct this error." I think it's more appropriate for you guys to say, "It might be a better strategy to match up your qualification journal and pull out things from your policy procedure manual and have a separate document that's all about qualifications.

That might be something we want to think about and we are thinking about that and we are making changes to how we do that quantification because I think it's a reasonable idea and I think it's easier for staff to understand when they see it all in one place, they don't have to match it up. I think that's a reasonable thing for us to think about, about what is the best practice, how do other people achieve this - the qualification journal and match up the verbiage versus the list of things that they've done.

But I don't know if it rises to the level of something that needs to be a direction from the NRC to the city of New York. Based on the authorities granted to me in the Committee Commission, it's more of an audit of my program.

Man:

And I guess if I understand from the response that we provided to (Chris)'s comments, we were looking at it a little bit more - we usually just turn it a little bit more black and white that the managing chapter calls for having the necessary documentation and it wasn't there. So therefore, we see that as not being - it's not being met and it's required to be met.

Woman: Yes, that's good.

Man: I appreciate your comments. Other comments on this whole (unintelligible)?

Man: Yes, certainly. Going back to what, you know, Cheryl mentioned about the backlog of licensing connections and so forth, there is not criteria for titling. The team did not find any - thank you. So that's what this is all about. Again, I said the team didn't look at any of those pending actions, let's say those - I thought it was 29 and then it was - didn't look at any of the files to see, well, who supported (unintelligible)?

Are they sitting at a desk someplace in the department or have we acted on those and have corresponded (unintelligible) even in the licensee's court. I looked at the first ten and we were still - maybe we're too generous in time we give, like these. The first ten were all in the report and had (unintelligible). So someone reading this report's going to look at 29 and I guess the - it could be - this is out of context, are they (unintelligible) sitting around, no one's done anything? (Unintelligible) rather than the licensee support.

Now you look at all 29. If you don't allow (unintelligible) renewal, and to get put on the backburner when there's staffing issues. (Unintelligible) all situations there's no health and safety issue and that's what all this is about. Now there could be a customer satisfaction issue, but there really isn't for the renewals because we issue timely renewal letters. Now if the licensee needs any changes and they happen to incorporate those in the renewal, those are all triaged upon receipt.

So we look at those to see are there any issues that we need to address. If they don't, then they can wait because it doesn't affect the licensing, doesn't affect health and safety and frankly, at that point, you don't need customer satisfaction. Because they'll get a timely renewal letter and that application that they took the time to fill out, they'll get 10 years once we act upon it. So

they've done their work, (unintelligible) and the issues that came up (unintelligible).

And the fact that there's a 10-year license renewal is the thing that (unintelligible) and we're evaluating whether we should go even longer, (unintelligible) 15 or 20 years. So what we've done, one reviewer very experienced reviewer, we gave him the task to look at any new renewals going out, renew the license, get a history of the license, look at the scope of changes that typically take place. We have many, many cardiologists, I think there's one on every street corner in Long Island.

And the lion's share won't get us any authorizations, right? And changes of facility diagrams and (unintelligible). So (unintelligible) looked in all those going out at what are we gaining by having the licensees (unintelligible) patient every 10 years? When we inspect them and see what they're doing. So we're looking to be more efficient and I think we already are extremely efficient, there's 12 people getting all this work done. But we continue to look-look for a better process.

But getting back to the issue, there are no health and safety issues. And to talk about the staffing, this number may increase. Well, no one looks to see what our cycle is. We have some years where we have very few renewals and it all goes back in time to when we had a lower staffing level, hired new staff, a new staff did licensing backlog, so what happened? The cycle repeats itself.

So we have a couple years where we get a (unintelligible). I don't think the team looked at any of that - those issues. So - and I also see that training and staffing is really applicable to every single indicator here. There's insufficient trapping - or excuse me, staffing and their training is inadequate. You're going to see that in other indicators and I've been listening to a number of the MRB meetings recently because I have nothing else to do. I wanted to see the trend.

And some teams have even said they don't want to double whammy a deficiency or recommendation or needs improvement, one indicator and having another indicator, you know. And it's - I - there's (unintelligible) balances as you understand. But we don't need double whammies. Some of the other things we're looking at, okay, I almost hear like a projection. We've had reviews with snapshot and time. We have the days it started, dates it ended.

Now, certainly since it's turned to us with the - our low staffing level, nobody's more aware of it than us. But we should be looking at the time period in question and what we achieved, all right? And the discussions about going out - maybe they should be here in the discussion but I think the recommendation here would be the Department of Health is to continue our aggressive pursuit of vacancy waivers if that's what we're doing.

And I think you can best serve us and everyone by looking - not us looking at other avenues to train, but how you can help us at a higher level. I mean that's what we really need. So thing that we need improvement here when really none of the - the performance was good. I just don't see it.

(Chris Boyd): That's two for the - on the training piece. I haven't qualified anybody new. No one's been qualified. Between last IMPEP and this IMPEP, I don't have anybody who's been qualified. No one. So you're making a recommendation about what my qualification journal looks like for staff who have already been qualified and qualified for, you know, two decades. I haven't qualified anybody new.

Brian Holian: (Chris), you're lucky.

(Chris Boyd): Well, no, no -

Brian Holian: That's one answer.

(Chris Boyd): Your recommendation is based on -

Brian Holian: (Unintelligible).

(Chris Boyd): ...the point in time. So, you know -

Woman: I know.

Brian Holian: Yes. I've got to leave that to -

(Chris Boyd): Next time around if I qualify four people and I don't have a training qualification journal that matches, you know, the - which is consistent with the 1248 -

Brian Holian: Yes, no, that's one -

(Chris Boyd): ...is it then?

Brian Holian: Well that's one way to look at it and then you're looking at it post - I think you would be for looking things - if a new set of eyes finds something, I think it may improve. I'll play your words back, (Chris). I - and for people on the phone, it's Brian Holian, I guess we should be identifying ourselves. You know, rewording that first recommendation my own mind, I hear you on why compare to 1248, why compare to gold standard. You know, interestingly on other times, I get Congress telling me to be more prescriptive, you know, to help out states, speaking of the current legislation.

But, you know, so whether you need to be pointed to that, I liked your words that just said, you know, maybe that, you know, I'm for coupling these, I'll just repeat that again, you know, leave number two as is. Or maybe, (Bob), as you said, get some words in there about aggressive pursuit of vacancy waivers. I think that could be folded into staffing for them or really consider that wording. And then just copy it, short note. Don't compare it to 1248, but

just (Chris), your words were that you did (unintelligible) that you're looking it at yourself.

So that fresh set of eyes gave you something to think about so my - I panned in here in that New York City consider updating training qualification program to improve documentation of staff's qualifications, you know. And those are good words by me, but - I jumped in there.

Man: (Unintelligible).

Brian Holian: I couldn't take another quip by (Chris) until I (unintelligible).

Man: All right. Good interactive dialogue. Other comments that you would like to raise? Okay. All right, I think we're going to proceed based on what we've heard. Brian, you want to go first and -

Brian Holian: Oh yes -

Man: ...address what you've alluded to a little bit already with regard to the team's recommendations.

Brian Holian: Well thanks, I appreciate it. Very good discussion by the way. Yes, they do correlate along and so will revisit that when we get the licensing. I know Cheryl wants to kind of revisit a little bit, but as of now, I'm okay with the (unintelligible) team's recommendation of sat, needs improvement, and staffing. I - it falls down to me that there is a loss of experience that's hinted at and there, you know, I didn't explore that further.

I think the write-up to, you know, length of experience, loss of FTE throughout the process. I see that you got the waiver program, I'll fix that, but because of those two downward trends with licensee numbers that aren't changing, I think it is a little predictive. So I think the staff needs improvement, I'm okay

with. So one, I affirm that. Two, I would make this all one recommendation in Section 3.1

I'd lead with number - the second recommendation and maybe change some words, you know, like strategy. Some of those words that bother you that you're not promoting a strategy and I'd like the words aggressive - I didn't write any out here, I just heard them. But I think the team could fold in some words about continue your aggressive pursuit of vacancy waivers and the strong push to fill what vacancies you deem are needed.

And then just couple it right into a phrase, and New York City should just consider updating its training qualification programs document. So that's my proposal, my recommendation.

Man: Okay. Jim?

Jim Biggins: I support the team's recommendation for this indicator. I think the two recommendations related to Section 3.1 are both substantively correct, so I would agree to keep both of them. I don't have any opposition to combing them as Brian proposes, so I would support that.

Man: Okay, thanks. Cheryl?

Cheryl Rogers: Well I know I'm officially not a voting member. I do support Brian's idea of rolling the two in one and perhaps deleting the specific reference to -- sorry I had the wrong number before -- IMC1248. I didn't see anything in here by the way about supervisory accompaniment and I assume that that was all good and well because again, we didn't have any performance issues.

So my recommendation -- even though it's not a voting one -- without be to just say it's satisfactory and not needs improvement, leave the rolled up recommendations and send a letter to whoever you deem is the correct party

about keeping going on - keeping staffing the programs. So sat, straight sat, doesn't need improvement, Cheryl.

Man: Thank you. And just a point of clarification and I realize that it's been a - an area that we maybe have dealt with in varied ways, perhaps since I've been doing these. But I am looking you - to you as a voting member and that's the way I've been conducting these. We may need to do some additional clarification, but your vote does count. Again -

Cheryl Rogers: (Unintelligible).

Man: ...you are a part, we're in this together. Darrell?

Darrell Roberts: Yes, I do agree with the recommendation for the satisfactory but needs improvement. I'm also okay with the rerunning or the combining of the two recommendations that Brian proposed although I'm okay with the way that it is currently as well. So that's where Region 1 stands.

Man: Okay, thank you.

Woman: Region 3, Darrell.

Man: Okay, as far as where I come out on it, I support the satisfactory with needs improvement. I thought the dialogue was a very good dialogue. I think the points that were raised in terms of the state has done a lot of what it can do but there are - there may be things that we can do as well in trying to stretch the waiver component as we spoke about and potentially considering another letter I think is worthwhile.

I did feel that the backlog in licensing and inspection and I heard what you were saying in terms of maybe looking at the dates for that, but I think that it is a - it's a potential precursor that is worthy and I think the backlogs -- if I recall correctly -- have gotten a little bit - a little bit longer and more in there.

So I support the - that recommendation. I do think the comment that you made about the fact that it doesn't directly tie to anything that we have found with public health and safety, if we don't have that in the report I think that is a balance.

And I'm big on wanting to bring out the balance so that you give the actual context and by indicating we see an area that needs improvement and we see some problems with backlog, but we don't include the statement that we haven't found a public health and safety concern, then I think we should add - we should add that.

Man: My point was - this is about health and safety and -

Man: We -

Man: ...there isn't. And I neglected to indicate that the backlog (unintelligible) substantially since the review.

Man: Oh good, thanks.

Man: And probably should have for the - I mean as part of the discussion. Part of that is because we had a point in time there where we were amending quite a few licenses to catch up with some of the regulations. So we've got balance. And we didn't have someone acting as section chief for the radioactive materials (unintelligible) here, because he'll be dealing with this in four years, note me.

But the backlog of those renewals is one way down -

Man: Okay.

Man: ...(unintelligible).

Man: There's a way of reflecting that that comment was made, say it again, it helps to have that context. It doesn't have our, you know, trust to verify but again, in this meeting, it was dated, it went down, we should be able to put that in the report. And again, for the MRB members, if I cover something that you're not in line with, please let me know. I'm fine with combining the recommendations and I think that from what I heard reaching out, either neutral or in favor of doing that.

So I would support Brian, but you indicated in doing it in the order that you stated in terms of the vacancy - vacancy first. And trying to make sure that we rephrase the state recommendation to be bringing that documentation term in there more so because somebody that can read it - as you educated me, it's deeper than that but a large part of it is documentation. And I think again it adds - it adds context.

We talked about the waivers and again, we can talk about whether we want to look at trying to send a similar letter again. So I think where we come out is in MRB is revising the recommendations, satisfactory, needs improvement. What did I leave out?

Woman: And a letter of support to the program for resources. That's the letter that's being referenced.

Man: Yes, and I think we also - we also wanted to address the fact that there have been the enhancements that have been made within training. It doesn't get you the qualification but to get credit for the additional work that the city has done.

Woman: Correct.

Man: Can anybody here or on the phone indicate anything that we left out or is there anything I went over that somebody on the MRB is uncomfortable with?

Brian Holian: No. I think - it's Brian Holian. I do see there is a phrase right before Cheryl mentioned where they - in that last paragraph on Page 5, last full paragraph. It does talk about, you know, no compromised health and safety so I think that's there, they might want to expand upon it, but I think that's a good balance throughout here.

I'll just read for you since I did have time, so we're not worried about both (unintelligible), my cut that I'll give the team if it seems to get it here is the review team recommends DOH and DEC continue their pursuit - I just put their pursuit of vacancy waivers and ensure for a strategy to address current and future staffing vacancies in order to maintain effectiveness. And that New York City update - or consider updating its training qualification program to approved documentation of staff's qualifications, period.

That's a proposal for the team to fiddle with and they'll cut more (unintelligible).

(Joe): I put those words differently, just closer to where our dialogue took us. Okay, we'll move onto the second performance indicator.

Woman: Hey, (Joe). Oh, go ahead.

(Joe): Go ahead.

Woman: I was going to say the next indicator is status of the materials inspection program and (Jerry Bai) from the state of Florida reviewed that indicator. (Jerry)?

(Jerry Bai): Yes. Mine's going to be a lot shorter here.

Man: We're due for one.

(Jerry Bai): This is 3.2, Status of Materials Inspection Program Indicator. Basically both New York City and the state of New York Department of Health did very well on this indicator. There was a previous recommendation but the - during the IMPEP based on the valuation criteria, the review team recommends that New York's performance with respect to this indicator be found satisfactory. As far as the previous recommendation, that was that the - New York develop and implement a process to track the reciprocity inspections. During the course of the (unintelligible) this time, we found that New York had implemented an electronic tracking system that allows for tracking and completion of the reciprocity inspection.

New York was able to provide a list of reciprocity inspections correlating data for the entire review period. Based on that the team would like to close that recommendation.

Man: Okay, why don't we deal with that piece, (Brian), support for closing the recommendations?

(Brian): Good, we support.

Man: Jim.

Jim: I support.

Man: Darrell?

Darrell Roberts: I support.

Man: Cheryl?

Cheryl Rogers: I support.

Man: Okay, as do I. (Unintelligible) recommendation is closed. (Jerry Moore), you wanted to indicate with regard to the overall materials inspection program review or did you - when you mentioned the satisfactory recommendation, did you have anything else you wanted to add?

(Jerry Moore): No, based on the previous discussion here, it's pretty clear that New York has placed a performance based priority - they met all criteria performing the inspection frequencies. No programs are perfect, but it's obvious that they met these conditions, so maybe they did not get popped for getting the letters out or anything like that for everything. But they obviously went through an effort to make sure that the safety of these facilities by visiting and inspecting them occurred.

Man: Okay, well said. Anything else that you want to raise?

(Jerry Moore): No.

Man: Okay, any - we'll go through for questions from the team. (Brian), anything you want to raise?

(Brian): Well, good, good discussion, (Jerry). I appreciate it. You highlight good performance by the state, and that's - I appreciate it. This is you know, kind of a - you know, stellar or the part you look at inspection wise to really see how they're doing, getting out to the site. So I appreciate the write-up. I appreciate your perspective. I did - Cheryl, I see accompaniments on the top of the page any (unintelligible).

So I always get confused whether they're in staffing or in inspection for accompaniment. So I did note that I saw them somewhere in here as I turned the page, and I just now found the question. I did see it as an area of weakness throughout the period, but I saw a trend getting better from whatever it was, 2011 to '12. I saw they missed 7 of 18, so that's a little

rough, back in 2012, and 12 of 18, I only see DOH spelled out with numbers, so I don't know if that means - if I'm reading that right.

So my question's this, well I - maybe that's both, New York City - maybe I'm reading it wrong, but I saw 7 of 18, and then I see 12 of 18 the next year, and I ask - my question is how are you doing this year so far through 7 months at both, so I don't know if (unintelligible) accompaniments for everybody.

Woman: Let's hold off until we get to technical quality and inspections, because that's where we talk about - because we're still under status of the inspection program. So that's...

(Brian): So - but am I - is that - did I skip a few pages?

((Crosstalk))

Man: Yes, you...

(Brian): Oh, I flipped too many pages. Okay, I was looking forward to their accompaniment, so I'm the (unintelligible). Thank you for holding me to that. I (unintelligible) and I flipped too many pages, so good. Thank you. Let me go back here. I'll save that. I won't repeat it, just remind me. No, no questions in the section.

Man: Cool, Jim, questions?

Jim: I have no questions for this indicator.

Man: Cheryl, any questions?

Cheryl Rogers: Well, I think 3.3% conducted overdue is awesome.

Man: Okay, I would agree with that. That was impressive.

Cheryl Rogers: Yes, and then I did have a question about the 28% that went past 30 days. I was just kind of wondering if New York had anything to offer on that.

Man: Yes, as far as the problems our regional status is no support status, so they have to type their own letters, mail them, and etcetera, so they do tend to lag for some of them, and unfortunately a lot of those were compliance letters that wouldn't be anything else.

Cheryl Rogers: Okay, that's my only question. Thank you.

Man: Thank you. Darrell?

Man: I think we are at 99%, actually.

Man: You say?

Man: Yes.

Darrell Roberts: Yes, this is Darrell. I don't have any further questions on this section. Thanks.

Man: Okay, anything that the state would like to raise in this area.

Man: If you phoned in and just want to make a comment about reciprocity (unintelligible) that doesn't relate to - directly to what the findings today.

Man: No, okay. So we'll come back. All right, so we're to the point of seeing whether we agree that the program should be found satisfactory in this performance indicator. (Brian)?

(Brian): Yes, I agree the team is satisfactory and if I might just add one other comment, in the bottom of paragraph three on page 6, I had written in my notes when it talked about lack of resources and travel restrictions as a cause for late initial inspections, you know, I'd just note that if we come back, and if

that recommendation on a letter at the appropriate you know, state on staffing, that this might be a sentence to also add in there since it deals with resources, that it also you know, some of the rules impact initial inspections. And so I had written that in my margin for a potential letter anyway to open.

Man: Well, that has been improved, because...

(Brian): It has?

Man: It has, yes, because they're a little bit better on travel approvals now. We can get them routinely. If we have a problem of anything over \$500 for any trip has to be preapproved by budget. And so what we do when they're giving this now a wide range of time, so we can do it within a large window of time. Before it had to be very specific, very narrow, and they're approving them.

(Brian): Good, thanks.

Man: That time period - I think we're over that hump.

(Brian): Good, good. Well, thanks, and I'm okay with that.

Man: Okay.

(Brian): Yes.

Man: I agree with the stamps proposed timing.

Man: Cheryl?

Cheryl Rogers: I agree with the satisfactory.

Man: Thank you. Darrell?

Darrell Roberts: I agree with the satisfactory request.

Man: Okay, we are unanimous on that. Okay, did you want to come back with...

Man: Yes, just on reciprocity, just so you know, the last few knots we had, so last period, labor department folded into (unintelligible) transferred from (unintelligible) over that, but I know region four - I listened to their IMPEP review. They didn't meet the 20% reciprocity in a year (unintelligible) in turn. And I was listening they actually go back to the inside process learned (unintelligible) investment recommendation reciprocity and do something about that, because for us, we only allow 30 days (unintelligible).

For us to meet the 20%, we may have to catch them the one day that they're in the state. So that's an additional hardship, so (unintelligible) to recent movement and to parts - and we actually do more because we reinspect the out of state licenses (unintelligible) that's not credited for them. So we're also getting extra...

Man: Extra field time.

Man: (Unintelligible) analysis brought them ourselves, but we can't change that.

Man: Yes, so I had a - if we're on the same wavelength, I had the same reaction when I think (unintelligible) might - may have been awesome. I hear awesome a lot, but again you had some outstanding numbers in terms of your percentages, and I had a flashback to region four where they stand on some of their extenuating circumstances.

But I think as one of the messages that you've been providing to us, not just today or in writing but in past (unintelligible), consistency in the way we implement the program, and I think that you know, we welcome the opportunity to be looking. We could always improve in whatever the area is. This is no different than others.

But, you know, we obviously need to be able to do it in a more holistic fashion that involves OES in a broader scope. But I do - I immediately went to region four when I read yours, and it's a matter of looking - and again, every situation is a little different, but we do want to strive for the (unintelligible).

Man: Yes, well, you know, the region four thing really struck a nerve because I - they missed every year 20%, so they probably won't hit it this year. And there's no recommendation meaning that two years where we couldn't produce the records, we had a recommendation. So I mean that seems very (unintelligible).

Man: And them aligning that there's...

((Crosstalk))

Man: ...areas where I said, geographic areas...

Man: ...huge, I understand that. Ours - I mean, a 30 day limitation comes up.

Man: Each has their own you know, situations and particulars, but at least recognize that this immediately where I and perhaps others went when I saw what your - the way (unintelligible) is compared to the situation that the region had. Again, there's areas where we can look programmatically, and I know you've got I guess comments in that area. You know, for another day, we can look at what can be done, where we can continue to try to enhance our program and consistency which was in - I think it was - (Chris), it was in your commerce, is well taken.

Man: Okay, all right, and this is (unintelligible) coming on reciprocity.

(Duncan White): Well, thank you, this is (Duncan White). Point well taken, not only this region four but others, a number of agreements that have the exact same problem, in fact if you listen to the Kansas - upcoming Kansas MRB you're going to

hear something very similar to what you hear with region four. So I think one thing what we have done is we've opened the item to start working on especially manual chapter 1220, which deals directly with reciprocity, because the 20% is problematic for a number of reasons.

And it actually brought up, you have a 30 day - you had limits to your reciprocity for 30 days, which is very low compared to most other states that didn't have (unintelligible) to represent some challenges, and I think we have to look at that 1220 and see how we can balance that a little bit better.

(Brian): Yes, let me just comment, this is (Brian Holian) while (Duncan)'s still at the table so he doesn't go too far. You know, I missed region four, but you know, I was at Texas the time before and I pushed my staff a little bit for also not letting region four off the hook too much. Yes, they have a geographic area that - I'll call it an excuse. You know, it's an excuse for not making it, but if we are - Texas, if they're going to be priding themselves on - what was it, 100%, (Duncan)?

(Duncan White): Close to it.

(Brian): Yes, I mean, they wanted to be at 100%, they want to touch those people coming in from the bad state of New York coming to Texas. I mean, they didn't say that, (Chris), but I - you know, and so in their mind, it was I am putting my eyes on safety, health and safety, and I'm sampling these people at a higher level, and so when you know, I wasn't at the region four, I would have given them a hard time for - quit your whining a little bit about you know, the geographic area.

Maybe you should be asking me for more FTE to meet. So if I have a standard, so that's the other viewpoint I just wanted to make sure I put out, and there's a mix in here somewhere and we will definitely look at it.

Man: Yes, we'll find it.

Man: But I think you can tell it struck a nerve not only with you, with us as well, and then there's the other aspect that you know, we definitely don't want to have a - you know, a different standard for a region compared to an agreement state. I don't like the signal that that can send, so you know, we are where we are, but we have the opportunity to continue to work with region four, you know, to make sure there's a focus on that, in that area. But point well made. Okay, we move on to technical quality (unintelligible).

Lisa Dimmick: And (Ken Lambert) reviewed that indicator. (Ken)?

(Ken Lambert): Okay, this is (Ken) in region three and there were no recommendations from the last report but I think the quality (unintelligible). The review team reviewed a total of 35 inspection reports and (unintelligible) period for all of the programs combined. The review included reports from (unintelligible) as the highest priority category applied, ones, twos, and threes, and there were a few fives that were also included.

The review team found that inspections covered all aspects of the licensing agreement and safety program as far as for thorough, complete, consistent, and high quality with sufficient documentation to ensure that a licensing performance with respect to health and safety was acceptable. Eleven inspectors were accompanied by the review team during a variety of high priority license types.

Program management also (unintelligible) the accompaniment of the inspector. The inspector was accompanied by the review team, demonstrated appropriate inspection techniques and knowledge of the regulations and conducted performance based inspections. The team also reviewed laboratory facilities and the equipment available to the program including calibration records and instrument databases.

The program had an ample supply of critical instruments, (unintelligible) surveys and appropriate laboratory capability to analyze lights and samples.

There were implements used by inspectors during review team accompaniment were operational and calibrated. The review team also determined that the program's increased control security inspection processes were according to secure locations and a further remark that detaining of sensitive security information (unintelligible).

Okay, the review team recommends that the program (unintelligible) be found satisfactory for the indicator technical quality of inspection. Are there any questions?

Man: Thank you, (Ken). We'll go around and we'll find out. (Brian), any questions or comments on what you read or what (Ken) went over?

(Brian): Am I on the right page? Yes. Inspector accompaniment is here, right? Just - making sure I didn't turn the right page. I was looking to the state for an update this year's numbers.

Man: To your question, I think they had a question earlier about the status in E14?

(Brian): Yes, yes.

Man: And I - I don't - I think the state financial that (unintelligible) I didn't put any numbers in here because we were so (unintelligible) when we did this it was kind of early in the process, and the states have a whole year to do that, so you know, they can backload those if they want. So we didn't really put anything in about what they were doing so far in 2014. And I don't have any numbers to represent.

(Brian): Okay, I appreciate that. I was going to ask them that, and...

Man: New York City want to chime in?

Man: Yes, let me just get a clarification on those numbers in the write-up. And so when I look at 7 of 18, that's this DOH and 12 of 18 in 2013, was I missing a sentence by the other...?

Woman: No, this would have just been indicating that DOH - that New York City and DET would have met their - the inspector accompaniment.

(Brian): Okay, but we don't say that. That's assumed.

Woman: I don't say that, right.

(Brian): So their meeting - their (unintelligible), we should proactively say that.

Woman: That's in there, (Brian), right before that.

(Brian): Pardon? It is, it says they - oh, were accompanied at least once a year, good. It is in there, okay. I just didn't put a plus by that, thank you. So 7 of 18 and then 12 of 18, how we're doing, you know, everybody's at the beach this month.

Man: So that's where we're supposed to be on track for meeting the goals for the year, but right now people are finishing up their mammography inspections for the updated contract and others are focused on that, and they don't get accompanied for that, FDA knows that's not part of this. But that is discussed every two weeks in a biweekly meeting with our inspection staff.

That doesn't mean (unintelligible), and it's to address those concerns, getting letters out, inspection mode, and inspection issues, both materials and x-ray. So I don't know the numbers today, but that is on the - definitely on the radar.

(Brian): Good, okay, that was my only question. I - you know, I did look at the last sentence in the - at that paragraph and it seemed to me that the team - you know, I wrote in my margin that why isn't this a recommendation on inspector

accompaniments? I think that's a worthwhile time when you're dealing with staff training, loss of experience, it's a valuable time to you know, do that on the job, peer over the shoulder.

I mean, when you look at NRC folks only getting up to a few every four years, so I - but that last sentence took me away from a recommendation. It shows that you know, the program, we're allowed to take into a plan that the program self-identified and you have a plan in place and you're monitoring it, so...

Man: I mean, last year, I don't know (unintelligible). No, and all of them are done by someone in the office, but there's always travel too.

Man: Okay.

Man: And that did become an issue in four with the \$500 business.

Man: Yes.

Man: Yes. Yes, I saw that.

(Brian): I don't have any other questions.

Man: Thank you. Jim?

Jim: I don't have any questions.

Man: Cheryl?

Cheryl Rogers: Yes, I think that supervisory accompaniment aspect is actually how I sign off people on inspections, and then after that sometimes I have delegated that to senior staff. I have a small program so I don't have supervisors. I am the

supervisor, but I have delegated that to a senior staff member, and I would just offer that as a suggestion, as a way to beef those numbers up.

And since I trained so many new people, we often have to do two or three a year to get some different categories. So I guess that's just a personal recommendation. I think the supervisory accompaniments are key to having trained staff. Of course you did come out really well on the technical quality, so you know, that's a good thing, again performance based, so that's more of a comment than a question. Thank you.

Man: Thank you.

Adela Salame-Alfie: Can I add something, this is Adela. I'm sorry. I just want to say too that because we haven't hired any new staff, all our inspectors are very keyed into, so I think accompaniments are important, but we're dealing with a lot of very experienced inspectors.

Man: Okay, I guess another thing we do is our field inspectors take a tremendous amount of notes and as the inspector reports or you know, establishes the report (unintelligible) right, he has to look and see the scope of what they've looked at, and in some cases (unintelligible). So you know, we don't see the interaction, but we certainly see - we see measurements, see what records they reviewed, and I think somebody on the team recommended (unintelligible) feedback, and I'm like, well, no.

They keep that for a reason, and then also it plays in when we do renewals. They take a look to see, well, beyond the citations, were there anything in the (unintelligible). We have relied heavily on looking at those notes to get an assessment of what people are actually doing, and I know I looked at I think in region one your - when I was on the IMPEP team there, you just you know, generally referenced a procedure that (unintelligible) aren't in as much more detail.

Man: Okay, so you do have information to be able to look at and you've got a program to enhance the actual accompaniment.

Man: Right.

Man: Darrell, I don't think I came out to you yet. We're into question and comments at this point.

Darrell Roberts: Yes, thanks, so can I ask you guys to - that are on the state side to keep up (unintelligible), we're having a hard time hearing you.

Man: Okay.

Darrell Roberts: (Unintelligible) rolled back so we can even see the states members.

Man: Oh, you don't want to do that.

Darrell Roberts: That was the only thing I had for this particular - so thank you. The only comment that I had with respect to this specific indicator here was that the observation regarding the number of accompaniments (unintelligible) part of the program and to the previous section, the (unintelligible) reports and also to the DOH, I was just wondering, you know, obviously it's probably - I thought we'd be in the obvious (unintelligible) of the commonality of being those two observations being attributed to one part of the - one of the agencies, DOH, and particularly to those, both appear to be administrative in nature, you know, checklists here, a you know, a (unintelligible).

But I'm just wondering, you know, are these issues - there's commonality there between these two issues and any other DOH related issues in terms of the administrative aspect of these problems and (unintelligible) to address them.

Man: Well, again, this is one that we've you know, implemented last year biweekly inspector calls. And one of the problems we can have is we have a report in our database for to track the letters, 30 day. The problem is when some of our inspectors spend a lot of time on the road, they don't enter these in the database, so we'll look in the database and not see them until they've entered the full inspection.

So it's trying to get them to be a little more proactive, put the date in as soon as they can, and if not to call the central office and have somebody enter the data for them, because it's - we set the database up to track it, and we have a - and I guess that's only as good as the data we put in. Does that - Darrell, anything else?

Darrell Roberts: No, that's it. Thank you.

Man: Okay, I don't have any comments myself, anything else that we got good interaction on this series. We have on others, anything else that you haven't covered that you'd like us to address before the MRB does its final count?

Man: I know for me I think the - you know, I think one of the things that comes out of the potentials of the IMPEP is best practices and how you communicate best practices into other agreement states and other regions and seeing how somebody else approaches it, and so when we come across a best practice, highlighting that in the IMPEP report I think has real value to it. And I think that New York City really has the gold standard for how to do IC.

So every inspection that we do is accompanied by a commentary detective. We interact with the head of the security department for every facility that we go into. We've put together funding to do internal, anonymous security audits for all of our IC facilities, including some that aren't IC. We've had formal audits come in through homeland security. We're on a first-name basis with everybody.

The (unintelligible) meetings that we have include the captain of the local police precinct and the safety officer, and the head of security for that facility. We do a lot of interaction. We also sometimes bring them the FDNY, if it's a major facility, so they understand exactly which rooms are at risk should there be a fire. So we do a lot of things that I think other folks learn from in terms of how do you build relationships with your facilities, how do you connect them to the emergency response personnel?

And we would love for the IMPEP to be a mechanism to share that with our colleagues in other states and with other regions and to emphasize that those personal relationships between on the ground police officers, the counter-terrorism professionals within your state, and those IC institutions are critical. You know, the reality is that if there's something of a bad actor wants to get a hold of scary stuff, he's not going to be successful in New York City.

He's going to be successful through Kansas. He's going to be successful in South Carolina. He's going to be successful in a place that hasn't built a culture of safety around this issue that we have, and communicating to folks how do you develop that culture of safety around this I think is a thing we would like to work with you guys to highlight. Okay.

Man: I appreciate that, the comments. We're reacting to sort of get your thoughts on it, that I think in some that I've seen, we do and have included a little bit in this area. We haven't been completely silent, but again it sounds like it would go under that continuous improvement for how do we make IMPEP better, and to involve you know, the other agreement states and get in alignment on it.

Man: Yes, well, that's good. I was looking to the team to comment on (Chris)'s comment. I think that everything I've seen in New York does do a lot. I mean, I just had the New York police department down for a commission meeting on source security, and so they you know, just their kind of request and it kind of came through the White House contact on that, we want...

((Crosstalk))

Man: We're very active, and so it shows the involvement that the state has. You know, that's another indicator, kind of independent of IMPEP on that, so I'm just going to state that - look over the write-up now, it is maybe lacking a little bit on some of those positives. I don't know if - was that (Jerry) that...?

((Crosstalk))

Woman: That was (Ken).

Man: Oh, (Ken), and - or the team, if that's something we could at least at the minimum beef up in the write-up on that, and then I - (Chris), I think you should get on the agenda for OAS coming up here and highlight that if you're not already. I think that's another forum, but I do get your advice on highlighting that write-ups in our comment IMPEPs I think is another point. But the team...

Lisa Dimmick: I can let (Ken) elaborate anything more, but with regard to IC, we typically review inspection reports and also do the inspection accompaniment if we're able to do one of an IC facility when we do the IIMPEP accompaniment, and so we're really looking to see that IC inspections are being conducted with the health and safety inspections of that licensee.

These are public reports, so depending on how much information, we really just kind of indicate that IC inspections are being done, and really don't elaborate much on the IC inspection process or the (unintelligible) because of the sensitivity. So and (Ken) will know what maybe was reviewed or discussed with the inspectors and what he was able to see in the file in support of the additional outreach and collaboration and coordination that's done with other agencies in New York City's increased controls.

So I don't know if (Ken) has anything to add for what he saw in the review, but there might be a reason, depending on the sensitivity, why we might not fully describe it in the IMPEP report, but OAS would certainly be the venue for describing the best practice that you have in place and maybe that's something other state programs could consider. (Ken)? (Ken)?

(Ken Lambert): Yes, I mean, you know, we talked to some of the inspectors, and I didn't do any of the accompaniments. That was done by (Tony), so - and he didn't - I did talk to (Tony) and he didn't provide me any additional insights on the IC part of it, but from the inspectors that I did talk to briefly, they did mention that they do different types of interactions.

And so we could maybe get a sentence or two in to the general nature, but to try to point out that you know, additions that they interact with numerous people, the licensing staff and the local law enforcement staff, they could maybe add something generic like that.

(Brian Holly): It's (Brian Holly), and I think it's important. I think (Chris) is on the right item that you know, we need to - we can talk generally on process, good processes for doing that, and I know the commission - (Chris), I don't know if you were looped in on that, but they pushed I think it was a region one inspector, (Randy Raglin) we had on an RC whether you interact with local law enforcement.

And that's a key piece of (unintelligible) we talked about and (unintelligible) does the local law enforcement know where to go and who to call and - but especially where to go in response, because we are reliant on response, but (unintelligible) and you know, even in a general manner.

Man: I tend to look at your comment maybe (unintelligible) it said (unintelligible) the example that you just have to have right now (unintelligible) controls (unintelligible) process, but it's kind of a generic one with regard to best practices in general and what role should they play in in-depth reports, you

know, to get the word out to others. Is that the right mechanism? Is it a different mechanism?

But sharing the information so everybody can learn from everybody else because once people have a best practice that's different than another and there'll be some ahas along the way, is - as you indicated an opportunity and the meeting in Chicago and other opportunities to make sure that we don't fall short of identifying the best practices that we've seen so somebody can pick up the phone and say hey, I just recognized that there's something in New York, there's something in - I want to get some more information on, and maybe something that's appropriate that we could benefit from. And we can help facilitate that.

Man: And I don't mean to just push this (unintelligible). I also mean to mention at the conference, and I'll keep pushing and mention that I don't know, (Chris), if you brought it up to the team as - it's perfectly okay for a state to advertise we think we have a best practice to the IMPEP team when they get there so that they have to purposely, you know, evaluate that.

And so I'll reiterate that to the states, you know, hey, IMPEP is an opportune time. You get out, you discuss some things back and forth on phone calls. You know who does - who's a good state to go to for this or that, so good comment.

Man: Yes, and in the area - (Brian), I guess I'm struggling with a little bit is the level of consistency on how much we try to bring out a - if there really in fact is best - something we all align as a best practice, how much we try to bring that out consistently in an IMPEP, that we've been clear on that or we've been, you know, can we approve our consistency in that.

Is that the right tool for something else, but I think the point's well made that we want to share the best practices to keep raising the bar for people to see what others are doing. Okay, good, good comment. I think we are to the point

on - maybe before I go there, make sure, are there any other comments that you'd like to offer? Okay, so for technical qualification inspections...

Cheryl Rogers: It's Cheryl, I had one.

Man: I'm sorry, Cheryl.

Cheryl Rogers: Oh, that's okay. And I really support that best practices thing because the IMPEP team, is the one - or teams are the ones that kind of see a cross-cutting. You know, otherwise we don't really hear about it and if (Chris) wants to talk at OAS, I'm happy to give my slot up.

((Crosstalk))

Cheryl Rogers: And the other thing on the accompaniments, because I personally feel very strongly seeing that I have new people constantly, but I think it might be - if the IMPEP team is willing to - or can, I think the very seasoned inspectors part is a relevant data point, because I would fall under the very unseasoned inspectors, and you know, in fact, if I had the New York staff, those would be the people I'd probably be leaning on to help me do the accompaniments. So it's - anyway, I appreciated that aspect to it, because the numbers don't portray that.

Man: Okay, good input, thank you for sharing. Okay, for technical quality, the sections, I think we are to the point of the MRB (unintelligible) degrees with the IMPEP performance recommendation of satisfactory. I'll start with (Brian).

(Brian): I agree.

Man: Jim?

Jim: I agree.

Man: Cheryl?

Cheryl Rogers: I agree.

Man: Darrell?

Darrell Roberts: I agree.

Man: Okay, we're unanimous in that area, so now we'll move to technical quality of licensing actions. That includes one recommendation.

Woman: And Lizette Roldan-Otero reviewed that indicator. Lizette?

Lizette Roldan-Otero: Hi. So the team reviewed 30 licenses which included new licenses, renewals, amendments, terminations, (unintelligible) and financial assurance, and the work of 13 license reviewers was included in the sampling covering the following types of licenses: diagnostic medical, medical therapy, broad scope, veterinary, industrial radiography, research and development, and nuclear gauges.

The licensing actions were reviewed for completeness, consistency, proper radio isotopes and quantities, qualifications of authorized users, adequacy of facilities and equipment, adherence to good health physics practices, financial assurance, operating and emergency procedures, appropriateness of license conditions, and overall technical quality.

The case work was also reviewed for timeliness, use of appropriate efficiency letters and cover letters referenced to appropriate regulations, supporting documentation, consideration of enforcement history, preclicensing visits, peer supervisory review and proper signatures. The review team found that the licensing actions from DOH were thorough, complete, consistent, and of high quality with health, safety, and security issues properly addressed.

License type and conditions were stated clearly and were supported by information contained in the files. Follow-up requests were fully documented in the license files, the deficiency letters clearly stated regulatory positions were used at the proper time and identified substantive deficiencies in the licensees' documents. Terminated licensing actions were well-documented and showing appropriate transfer and survey records.

The license reviewers used licensing guidances, licensing guides and/or our senior reg 1556 series guidance documents, policies, checklists, and standard license conditions specific to the type of licensing actions to ensure consistency in licenses. The review enforcement history during the license renewal process and the review of enforcement history, I'm sorry, during the license renewal process.

I also did have a discussion with the staff one on one with the NRC forms 313 that they're adopting, so we did have a very good discussion with DOH both and New York City. The review team identified several licensing actions however from New York City which had incomplete evaluations of health and safety issues and a lack of technical quality. The review team found that noted deficiencies and license fee submissions are often handled by undocumented telephone calls and emails.

And the license reviewers' use of conflicting licensing checklists, they had adopted the new reg 1556, but they were still resorting back to there, so it was just a little confusing. The review team discussed this with the New York City management and staff and the importance to fully document licensee requests and response to licensee application deficiencies, and I did sit down with the staff and talk to them a lot about that.

Based on a review of licensing casework, the review team determined that the New York City did not review the licensees' enforcement history during the license renewal processes. Since there have been staff losses during the review period and consider the New York City's cross-training initiative, the

review team expressed a current staff license renewal opportunity for the staff to review the licensee's history and to evaluate the historical license and inspection documentation and to perform a quality assurance assessment of the license file.

We expressed to them that it's a way that you can focus also in your renewal if there are some deficiencies, you can focus your renewal on that. Based on that, well specifically I have some examples of what I found. A large animal clinic for new election did not demonstrate a thorough analysis.

The renewal was issued without any tie-down conditions regarding the description of the facility, the instrument - the institution's dissection instruments, their (unintelligible) programs, ordering and receiving RAMs, safe use of the radioactive materials, both procedures, aerial surveys, handling of animal waste, and so on.

And this just to put it in perspective was a big animal, was - almost like you almost wanted to get treated there with the kind of material they had. On more than one occasion an authorized user or radiation safety officer was listed on the license without following current guidance and regulations. Specifically an authorized user and radiation safety officer were added to the license even though the individual did not meet all the training and experience in according with the current regulations.

There was another one where a medical use isotope was added to the license without supporting documentation and then subsequently it was removed, and I couldn't find why those determinations was made and that particular was (unintelligible) from 90 (unintelligible). So the team will recommend to the MRB that the state be found satisfactory but needs improvement with respect to the indicator technical quality of licensing.

A satisfactory but needs improvement rating considers that some licensing actions do not fully address health and safety concerns or indicates repeated

examples of problem with respect to thoroughness, completeness, consistency, clarity, technical quality, and adherence to existing guidance and licensing actions.

The review team discussed the identified licensee's deficiency with New York City management and suggested additional technical licensing training for the New York staff as an adjunct to its - any licensing training already received, especially because they focus a lot on the medical and I think they were having issues with the new forms.

The review team recommends that New York City provide additional training to technical staff members regarding technical review of licensing actions, including training to ensure that the staff acquires increased familiarity with the regulation under New York City's equivalent to (unintelligible) 30 through 35, and applicable license guidance documents for use authorization and license conditions.

Also to measure - take measures to ensure that the New York City's review of licensing actions are complete and well-documented, and lastly take measures to address the licensee deficiencies that were identified in the comments in Appendix D specific to New York licensing actions.

Man: Okay, good rundown. I appreciate that. As we proceed, (unintelligible) will go through the MRB questions. I know this is one where we had correspondence that went back and forth, and I appreciated you, you know, took a little time and effort to put together the cases on the individual licensing actions, and I know that you know, we've read what the IIMPEP came back with, not sure how much of that was involved (unintelligible).

There was probably some level of angst or some level of discussion that is appropriate, but we may get to a point of agreeing to disagree. We'll have to see, but we need to vet it. That's why you're here, to be able to talk about it a little bit. But I do appreciate the way the organizations first through the city

came forward with this point of view, I thought very professionally and laid out the areas of why you were in a different place from the IIMPEP review.

So I think this is an important area to spend a little bit of time and see where it takes us. So let's follow our similar process. Let's start with (Brian) with regard to questions or comments based on the IIMPEP report.

(Brian): Well, good, I won't take as long just because I'm first and I'll make sure, so I'll touch on some and then just stop and I know others'll take other examples here, and then the state'll also or the city will add in details. I just note just from previous comments that you know, you don't want to be double hit. So if you got a stat needs improvement on staffing, and staffing relates to I think Cheryl mentioned it once here in backlogs, that you don't have to double hit.

So I just - I agree with that sentiment, and when I read the team's write-up you know, I didn't necessarily think there was a double hit. I do see backlogs mentioned in both, and that's on page 9. Page 10, you know, had more write-ups that I cogitated with, it seemed appropriate for satisfactory needs improvement, and I know we'll get there, but I want to start with my question really for the team.

It's a strong statement on the top of page 10, the initial sentence, so the review team identified several licensing actions for New York City which had incomplete evaluations of health and safety issues and a lack of technical quality. And Lizette, I don't know if the veterinarian one was an example. I didn't see that (unintelligible).

Lizette Roldan-Otero: It is an example.

(Brian): Okay, so yes, and so we need to get into it, but what I was - my question is that statement to lead off the paragraph is lacking some examples, so if I could - that was one that I heard in your verbal discussion that I didn't see in here, and maybe we've got to get to the aspect of whether it's a good

example or not, because then you jump to the rest of the paragraph and you know, enforcement history.

I think that's an improvement that is appropriate, but I - and then you get the staff losses and cross-training in that paragraph, and so I was lacking examples to support you know, the first sentence, which is awful strong.

Lizette Roldan-Otero: Right.

(Brian): Will you expand on that and then I will just ask the state to kind of go back and forth. I have read some of the examples that are in the back too, and go back and forth, but I - you know, just comment on that statement, what drives you there maybe that's not written?

Lizette Roldan-Otero: Well, I had actually originally included the examples in the body, and what we did was instead of putting them here, then we put them in Appendix D, but they were there to further explain because I thought it would be - I thought that's where it would have made more sense. But there - they were explained in Appendix D, and I tried to keep it short and sweet and to the point when I explained them there. But trying to make it clearer what - do you want to know which ones, for example?

(Brian): Well, yes, you know, Appendix D, it's just...

Lizette Roldan-Otero: So - yes, so for example...

((Crosstalk))

(Brian): Yes, those don't - they help a little bit but they - you know, they're - and you've got with the comment sections and...

Lizette Roldan-Otero: Right, so if you go - right, like file #2 for example, that was in that particular case an individual was added as an authorized user and an RSA

on the license, and he didn't meet all the qualifications in accordance with the New York City regulations, and that for me, you know, for example, that for me was very important and I tried to explain to the reviewers and to the - and to (Chris) and everyone that inspection is something that's very localized.

But licensing is not. When we do licensing, then you're not only IMPEPping New York City or New York, you're IMPEPping the whole nation. So that - I don't second guess what's done in New York because I trust that they're doing what I do when I'm reviewing. So those - that's an example of one of the things that I found. The other one is file #10.

There was another reviewer that was added on - I mean, there was another individual added as an RSA to the license, and there was no supporting document to show that the individual had received or was going to receive training regarding the radiation safety aspects of the gamma knife and this was very specific. He was an RSA on another license, yes, but there's more to it.

And that's the point that I was trying to come across, and you can include that if you want, but the thing there for example was that this individual did have experience in other things, but he did not have experience for the gamma knife that this particular hospital had.

(Brian): Okay.

Lizette Roldan-Otero: And in order to do that, you have to have - there are certain things that you have to have in order to be added, because now what you've done is once he's put on the license we can't go back and say oh no, you know, now he can go anywhere and do those. So those were...

(Brian): Those help me, and I think the report should point that - even if you don't list them there, point back to Appendix D, with for example, item 2, item 10.

Lizette Roldan-Otero: Okay.

(Brian): Because I - you didn't - when the state came back and commented on a couple of these, you know, I read your responses, you know, state thank you for your response, and then you go back, this is not changing, and you give an answer, so I agree with (Roy) that it - this is a good vetting back and forth. And I - there weren't any - you didn't change your conclusions in Appendix D anywhere, because you're not offering any mark-up of Appendix D, right?

Lizette Roldan-Otero: No, because I - right, no. It was - I just - right. I just responded, right.

((Crosstalk))

(Brian): ...some sentences in here that...

Lizette Roldan-Otero: No, no, what I did was address (Chris)'s comments as best as I can to under - so that he could understand my train of thought.

(Brian): Yes, no, good. I apologize. So that's one aspect there, and (Chris), do you want to go now on a couple things, or I don't want to hold you up. I'll go now.

(Chris): Sure, yes, I'll go now. So we can kind of take them in order. For the one file, so first an overarching, rolling up the entire state, so this is a recommendation for the state of New York, for all 1400 licenses, and what we've identified potentially are gaps in one license reviewer out of the 13 that were reviewed across a lot of licenses.

And so I think coming up with a finding of even if we don't convince you that some of the conclusions that were drawn are incorrect, the - rolling up the entire state and saying that a satisfactory that needs improvement because of one license reviewer out of the entire state who's relatively new made an error or two on some licenses, I don't think is driving to the standard that

we've committed to in terms of coming up with a consistent approach to how we deal with this.

Identifying, calling out that one staff person who does need a little extra training, okay, maybe she does. But rolling up that as a recommendation for the state of New York for the whole world to see as being not adequate, I don't think - or adequate but needs improvement, I think that's a stretch.

Man: And just to pause on that, thanks, I want to pause.

((Crosstalk))

Man: Is that - do we agree on centered on one predominantly, on the significant ones?

Lizette Roldan-Otero: Right, so at the time of the review, there was - I was able to review two people for New York City, one who had already lost and this one individual that (Chris) is referring to. Now understand that this individual, I think New York City takes care of about 28% of the licensing actions, and she was - she's the main one. And she is also - she also has signature authority, so she has gone through the training.

And my concern was that they are cross-training, so I spent some time with her to make sure to try to address my concerns with her so that this doesn't perpetuate during the cross-training, but he is correct, that she is the only one there, because the other individual that was there wasn't doing much of the licensing action.

And if you - and there's a little history too so that - and I think it's prudent for me to mention, when I first got there it was very difficult for me to review the licenses because of - there were some things that were missing in the files, so it's very hard for me in New York City specifically, and we talked about that

at the morning and (Chris) said to people, and said okay, you know, what do you need? And I said well I need these. Can you find these for me?

And they were able to find some of - at least one of - some of them that I really said, okay, I can let these go but I really need these. So what I did was in order to do it I changed my strategy the second day because the first day I was not able to review anything.

I changed my strategy the second day and I went to the reviewer and I said can you please give me some of your work that's complete that you've done so that I can get samples? And that's why almost everything that I reviewed after that was either this individual or the individual that already left New York City.

(Brian):

That helped me a little bit, and I - let me just comment before I forget. I - it hadn't come up yet in the MRB discussion, but as a program manager and feeding back on New York, and I think (Laura) went up there, I don't know if you know, I did get some complaints from my staff. I'll bring it up during this aspect. I don't know if it applies here, on the lateness of the - from the dates that are in here, and I didn't highlight that in the introduction section.

It was in the section of - when your pre-visit paperwork came in, your questionnaire responses, and that - it can IIMPEP you know, the preparation and how much they get done onsite, and so when I just highlight that, I don't know how that compares, but I knew the - our team was a little frustrated, and I had heard that, so I don't know if this IMPEPs our first day, you know, you said.

I just highlight that now because it was something I heard at that time, and we can talk about that at the end, but let's go back. So I just wanted to make sure that the team understood one license renewal, (Chris), and I interrupted you.

((Crosstalk))

Man: ...one comment and say New York City does 28%. New York City - of the licenses for the state, but their focus is much more limited than the department of health.

Lizette Roldan-Otero: Exactly.

Man: But their industrial radiography.

Lizette Roldan-Otero: Right, and it's...

Man: Distribution, radiopharmacies and a number of other types, mostly medical and academic. So I want to frame that as well.

Lizette Roldan-Otero: So New York City is like - there's about 330 licensees. The majority of those are medical. There's one reviewer currently doing the licensing actions for those 330 licensees. The team did feel that the deficiencies and the weaknesses identified in the medical licensing in New York City could roll up and out from that region so that needs improvement for the indicator.

Man: So you took that into account is what you're saying.

Lizette Roldan-Otero: Yes.

Man: You took in these numbers, and so that was for the indicator, and we're going to get there eventually whether it's - and I did note that the recommendation was just for New York City, right?

Lizette Roldan-Otero: Correct.

Man: And I - let me just jump to that, or (Chris), I don't want to interrupt, the recommendation I thought was very detailed. We'll get there eventually. I

didn't know if that was a plus or a negative in my mind, but I'll wait until the end on that general wording, but (Chris), I thought you had a few more points that you wanted to put.

(Chris): Yes, so I think I'll start with what I think is the easy one. So there was a question about whether or not Yttrium90 was added or removed from a license without documentation, and the license in question was never issued with Yttrium 90 in it, and it was never removed. This licensee has never had the authority to have Yttrium 90 there here. We've never issued them a license with that requirement.

There was a little confusion onsite because (Lizzy) saw a draft license which included a reference to Yttrium 90. That license was never issued. That was a draft. It wasn't signed. And the facility had an initial discussion about adding Yttrium 90 several years ago, and never followed through, and we've got - and we sent these to the NRC with our comments.

So here are the two licenses for this facility signed and dated. Yttrium 90 is not in either one of them at any point. So I think that that particular comment was a reflection of some confusion about the materials that were onsite and...

Man: Is that one, (Chris), on Appendix D?

(Chris): Yes.

Lizette Roldan-Otero: Yes.

Man: Okay, what item number is that? I mean, help us walk...

((Crosstalk))

Lizette Roldan-Otero: That's file #8.

Man: Okay.

Lizette Roldan-Otero: But it's...

(Chris): Okay, and we didn't make any change to our comments, but yes, you understood their response. It was a draft license.

Lizette Roldan-Otero: Right, I - well, I understood in the response when the documents were sent in, I immediately looked at it and I said, okay, this is not what was given to me when I was there. And that's why I have the comments that I have. You're absolutely right. It was not signed. It was not dated, but we did find - there were - and I did see files where licenses weren't signed or dated.

So you know, there - it was just something that I had observed before. Now what struck me was that there was an amendment 38 that was issued with the material on it and then - I'm sorry, let me rephrase that. There was an amendment 38 that was written up, was not signed or dated, that had the material added. Then there was another one, and the documentation just basically stated you know, we want the Yttrium90 theraspheres.

And they already had microspheres on there, so immediately I thought well maybe the reviewer thought that because they had microspheres they can put theraspheres on and they cannot, because the way they're administered is different. So when I saw they were taking that one, and then we observed they're taking that in 39, again, not signed or dated, then that's where I didn't know what was going on.

Why were they put on? And this just really reflects the challenge I had in terms of the record keeping that I identified in New York City, because that was one of the ones that I didn't let go of because I wanted them to bring me those, and that's what I received. So during the comment period when this was sent over, I was seeing that for the first time and the issue wasn't the (Technetium) 99.

I had seen an example like that one already where they wanted - it was another licensee that - I remember seeing something similar with another licensee, and that one was okay, but that - this is the - that was the issue. It's really - it was the record keeping, and the way that - what they presented to me at the time, you know so...

Man: Okay, for my question - let me just - my question now that the...

((Crosstalk))

(Chris): Can I get a clarification there first? Thanks. So in the file, was there an amendment 40 or were they relying on an amendment 37 because the subsequent two were never issued?

Lizette Roldan-Otero: There was - okay, they had multiple files for them, so yes, there was an amendment 40. There was an amendment - they continued back and they continued forward depending on the files that you had because there were multiple files.

Man: Okay.

Lizette Roldan-Otero: What I learned later in the week was you went to the black folders, are they, (Chris), the ones by the office on the side? You really - if you - if - to then really, really look, then maybe you go to those, which is probably where I think (Chris) went to find those. You go to the black - I think they're in black binders, right, to look at those?

(Chris): So we've got - and I appreciate that (Lizzy) had a hard time looking at our documentation, so we moved the entire program - moved twice in three years, so we moved every file, you know, twice and not - in the three years prior to her coming, and so some of the files are a little difficult to go through. We keep all of our files, they can be the ASIC, and so I don't want to get into the you know, what did she see there, what happened this way.

We need to make a recommendation based on the facts at hand. So from a procedural standpoint, we have a licensing file. We have an inspection file. Both those files are theoretically supposed to have the exact same material in them. The inspection file can be accessed by inspectors to get ready for their inspections, and they will review those in the (unintelligible) down to make copies, they're supposed to put them back in.

Whether or not they do all the time - so sometimes those files aren't as complete, the licensing file is supposed to be kind of sacrosanct and the license reviewers review those, and then as a backup there is a separate set of folders that include the signed and paid for license that was issued to a facility. It doesn't include any backup. It just includes a copy of the signed, dated license after it's been paid for.

So once they've paid for the license, they've been issued it, even though it's signed, you know, the reviewer's dated it, we send it out, we ask for an invoice once it's paid, it gets put into the file. So in response to the - to (Lizzy)'s comment, we pulled together the supporting material for amendment 38 and amendment 39. Those amendments related to the removal of - 38 related to the removal of a couple of materials onsite on depleted uranium and something else.

Lizette Roldan-Otero: And adding (Technetium).

(Chris): And then adding (Technetium)) was in amendment 40. Yttrium90 wasn't part of the licensing actions, so since amendment 38 and 39 don't relate to Yttrium I think that the comment that we didn't have documentation related to the Yttrium license reaction is misplaced.

Lizette Roldan-Otero: We - may I?

Man: Sure.

Lizette Roldan-Otero: And we - and that was the thing - and what I reviewed and I'm only - I was going only by what I reviewed, and I looked at that, but what I reviewed, it did have a letter from the licensee stating, and I did learn though also while I was there and then - and what (Chris) is saying, I did learn there that they do - they'll fit - they'll do an action, but they'll hold it like you said until they have payment.

So when the comment - when I saw what you sent in, I did think, well I wonder if this was one of the ones that maybe they didn't pay and you guys held, but there was a letter initiated by the licensee requesting this material put on. Now why that was there or what happened with that, I don't know, and I don't know if you've looked into (unintelligible). I don't know if you found it or not, but why it was there or it was never addressed. There was never a void or there was...

(Chris): The licensee inquired about adding (etrium) 90 theraspheres to their license, and then they were told the process that they would need to go through in order to do that. They were doing some innovative approaches, so that she had to go to RSO news and get IRV approval for the research on the human - on human subjects, and she had a lot of - and they ended up deciding not to pursue (etrium) 90 for the innovative clinical study that the school was going for.

Lizette Roldan-Otero: Right, right. And that documentation I did not have in front of me. That's why I made the conclusions I did, I came up with those.

(Chris): But I mean, providing these licenses today, they came in and they didn't have a chance to comment. The team had a chance to comment, so it's not just Lizette, right? The team in the comment resolution...

Lizette Roldan-Otero: And they were like heavily on the yes, so in that case. Yes, I did look at that, but that's why I explained, you know, that's not what I looked at. So that wasn't the documentation that I looked at. So I felt we were talking about two

different things, and I wasn't sure where that had come from, because I never saw that. I saw a licensee requesting (etrium) 90 theraspheres. I saw a license that had them on there, and then I see no further documentation.

And then I looked past it and I see a license where it's not on there, and I didn't know why it had been added, what I thought had been added, or why it had been taken out. I didn't - there wasn't anything for me to follow, so this - when I saw this, that's why I stated in my comments, this is not what I reviewed, because I wanted to make it clear to (Chris) that's not what they gave me when I asked for these files.

(Chris): Right, (unintelligible) interaction onsite, because if these are still dated back then, the record - the lawyer (unintelligible).

((Crosstalk))

Man: When she looked at the file, those licenses were found in the file, okay? So you know, our files are complicated. It can be a little messy, but I don't want to get into the - a conversation about paperwork management. Right? Amendment 38 does not have (Yttrium) 90 on it. Amendment 39 does not have (Yttrium) 90 on it. This licensee has never been issued a license for (Yttrium) 90 theraspheres, ever.

It's now at like license amendment 47. (Yttrium) 90 does not exist on this license, so referencing it in the comments as though there's something missing from the licensing action related to the (Yttrium) 90 when this facility's never been issued a license for (Yttrium) 90 should be removed and we should just say, you know, if you guys want to say - (Lizzy), if you want to cover the paperwork, yes...

((Crosstalk))

(Chris): Team was onsite, we did not - weren't able to find, you know, the...

Man: We'll have to assess that. All right, well, thank you. I agree with that update myself, but did you have some other ones, or...?

(Chris): I do.

Man: Okay.

Man: So let me just to make sure I'm following this (unintelligible) that one, so this information was - you couldn't find it in the file. Had you found it in the file, then your questions would have been answered, yes.

Lizette Roldan-Otero: Had I found that in the file when I requested the official - you know, give me the official files for me to look at these, then that would have been fine.

Man: Right, so but you didn't see it.

Lizette Roldan-Otero: It wasn't - the first time I saw it was when he sent it.

Man: Okay, and again, we're not trying to get into - I don't want to take this too far, but when you all looked at the file, you felt it was in there and the files were complicated and maybe we missed it in our review.

Man: And I - so my comment from the program would be I would hope that the MRB you know, I see the NRC responses that have come out there when I was there, but if this data here and if we could agree that with the statements that (Chris) made, I would hope that that would be a change to an Appendix D markup, that you know, subsequent to the onsite time, they were provided and although in my view the licensees for these two were a mess, the files, you know, they subsequently showed me that it had never been issued. So that's just my opinion on a write-up for this appendix D, and if you reference it some.

Man: Yes, I'm not sure mess is in our vocabulary.

Lizette Roldan-Otero: Right, I was going to say, saying it a little differently than that, but I get it.

Man: Well, there - and I go back to you know, how much prep, you're out there - you know, I have hits about prep you know, from the state to help us, but even onsite time, you know, it gets to some of these, but that's going to happen. That's going to happen, and that's why the give and take, yes, but go ahead, (Chris), yes.

Lizette Roldan-Otero: Okay.

(Chris): Okay, so for the next one I'd like to talk about which I also think is a little bit easier is for the adding of an authorized user to a license. The license in question is what I call inject and scan kind of place, and the technical training that was missing is for a generator, and the facility doesn't use a generator. It is never going to use a generator, and our license specifically does not allow him to use a generator.

And so we don't require the authorized user to have training for the generator, and we tie that down onto that license. And this licensee came to New York City in 2012, and part of the challenge everybody is having is because of the NRC. The NRC in Virginia authorized this particular doctor for this license. This license has no tie-down saying he cannot use a generator. Nowhere on here does it say that, nowhere.

He can now use this license to go across the country opening up multiple offices, none of which the staff is allowed to use a generator. They don't have the training to be able to use a generator, but only in states that do good due diligence do we make sure not to rely on this license. Now if you call your friends in Virginia who are now an agreement state and ask them does this license give the authority to use a generator, they say sure does.

We say have you ever seen any documentation that this particular doctor's facility has the credentials to use a generator? They say, sure don't need to,

because I've got an NRC license. Nobody in his offices is approved to use a generator. Nobody's ever had that credentialing and that training. In New York City, we verify independently whether - what the skill sets are that people were putting on their authorized user.

And for this authorized user, we verified that he can't use a generator. He's on a license that doesn't allow a generator, and that tie-down is in the license because we specifically say whether or not a facility can use a generator. Now let's look at the license of our friends in California.

Man: (Unintelligible) that needs to be verified?

(Chris): Yes, I would say that this is - that this NRC license, talking about best practices, this is actually the first NRC license we've looked at, so but when I look at your license and I compare it to my license and I compare it to California's license, your license is not very - not best practice, because my license and California's license lays out very specifically all the activity that happens leading up to the issuance of this license.

We reference every letter that we receive, we tie down the commitments in those letters in the license, and California does I think a better job than we do, because they summarize a little bit what each - what each commitment is made and the letter and the correspondence back and forth, and it specifically calls out, you can't use a generator. So from our perspective, we've identified the credentials that needs to be associated with that license.

We've tied down what is allowed, and that person has the documentation to support what's happening on that license. And if the NRC's position is that every single person in the scan and inject and scan office requires certified training for a generator, that is going to be a big problem, because we've got lots of them. You've got one on every corner in Long Island.

I got hundreds of them, and there are thousands of them across the country. And everybody is addressing it specifically to the license. Now I doubt that the NRC is also making every single person in a scan eject place have the generator certification, because we know for a fact that this doc don't have it. Now the other - so...

Man: Before you jump to the next - you're not jumping to the next thought...

(Chris): No, no, no, so the other issue from a best practice perspective is this doc is the RSO on lots of licenses, California, Washington, Virginia, New York. It is impossible for you to be the - an onsite hands on RSO who is aware of what is happening in that facility and making good judgments about whether or not the practices in that facility are up to snuff if you're the RSO in two offices in California, an office in Washington, an office in Virginia, and an office in the city of New York, absolutely impossible.

The NRC allows that condition to exist. You have no limitation on the number of places that somebody can be the RSO. And so you can have these guys flit around the country saying that they are responsible for the activities in places, and it's really not a good practice. So in New York City, I only allow you to be the RSO on two licenses, and you have to spend 50% of your time in that facility.

That way I know you've got a hands on, eyes on relationship to the activity there and health and safety procedures are being followed, all is up to snuff. You haven't just delegated all that responsibility to somebody. I would say you guys should think about it, for one, about your policy towards the RSO because I think you've got a real health and safety gap, particularly probably for your master licensing folks who might have one RSO for the entire master license. Would that be correct?

So if that's the case I think you guys really have to think about that, given some of the challenges you've had with some of your master licenses. And

so I think for this particular comment, we agreed on the RSO part and we took the person off, so since the IMPEP we've taken the RSO off. They've identified a new RSO. We've reviewed that comment and that's what we said in our comment there. We believe that the person met the AU requirement because we tied down no generator in the license, and...

Man: So you agreed with comment 10. I'm just getting back to follow in the appendix.

(Chris): Yes.

Man: That's - and the other comment you did not agree with was where you felt - was that comment 2, that's saying - that...

Woman: Right, it's referring to file #2, right.

(Chris): Yes, so...

Man: Find it back here by...

(Chris): Yes, so both of those are files, and so the RSO, we agreed with. The RSO didn't meet the qualifications and they were removed.

Man: On file 2.

(Chris): On file 2. I do believe that they - that the AU determination was okay for the reasons I've already said, that the license tie-down is that he can't use a generator, and those were the stuff that we've read, and I think a lot of us approach it this way. California approaches it this way. We do it this way. Washington I believe does it this way.

Man: Yes, we do it the same way. They restrict it for generator.

((Crosstalk))

(Chris): We're restricting activity to - that is not allowed in the license based on the qualifications that people do in the work. If the NRC's position is that practice is not okay, then we've got thousands, thousands of authorized users at scan, inject and scan facilities that don't have it. And the idea that we would push thousands of people into getting training in a modality which exists - in New York I think I've got two. In New York City, out of all the medical stuff that we do, I think I've got two active users of a generator. Two.

Cheryl Rogers: This is...

(Chris): So even getting hands on training is going to be like, where are you going to do it?

Cheryl Rogers: This is Cheryl. I just wondered on the NRC license, did they authorize the 35-200?

(Chris): Yes. Yes.

Cheryl Rogers: Okay, I don't look - if you've got - and then the other question was did they get on the license via training and experience, or did they get on from a certification? When your reviewer made the determination, what was the basis? Was it...?

Lizette Roldan-Otero: Training and experience, Cheryl.

Cheryl Rogers: Okay, so it wasn't because the normal...

Lizette Roldan-Otero: It was an NRC form 313 that they had filled out, and that particular one was not addressed. Now if - I have a response to that, but go ahead and finish and I'll - then I'll add what I have to say.

Cheryl Rogers: That was my only one. I was just trying to get clarification there.

Lizette Roldan-Otero: Oh, okay. So now in this particular case, there was - they did file an NRC form 313A, and part of that (unintelligible) was missing. Now (Chris) is right. We call them, (Brian), doc in the boxes, okay, that's what he calls them. So they don't use the - (unintelligible) generator, now, in this particular facility, and that's correct. I don't know of - I'm not familiar with whatever license he's pulling out of NRC.

I do know that NRC space that I had my mentors and what we've done in region one and region four, there is a regulation that allows you to provide an exception, and this exercise that we're doing right now and what (Chris) is bringing forward would have been a good argument to say I'm going to add this individual, but I'm going to exclude him from using the generators.

Now the only issue with that is you - if you put it in the tie-down and it's - if it's hidden in the tie-downs, I don't have access, and no one other than a New York person has access to that. And some - and you're right, some people...

(Chris): But (Lizzy), it's on the license.

Lizette Roldan-Otero: It's not explicitly written on the license.

(Chris): It is.

Lizette Roldan-Otero: Do you have the license, where it's explicitly written?

(Chris): The license says what is allowed to be written.

Lizette Roldan-Otero: Right, 35-200, but the thing is when you see - well, not...

(Chris): It lists the specific materials that are allowed to be used.

Lizette Roldan-Otero: Right, the specific materials that are allowed to be used, but if you put - when you have an equivalent, right, if it's equivalent to 35-200 then I'm assuming when you see a license like I said, licensing is nationwide. When you look at that license, we don't second-guess, because we're thinking that you've done your due diligence. I don't have to go back and check up after you because you've done it. That's how we work as a nation when we do licensing.

So in this case he was missing that. Now we have in NRC issued licenses for example for 35-200 and they haven't had the generator, and we've explicitly written 35-200 excluding generator, because they're a - the regulation allows either the licensee to request the exception or for us to do it for them. Now if there had been documentation, that's a perfect - that's a good argument. If there had been...

(Chris): You put that on your licenses?

Lizette Roldan-Otero: If there had been - we have - I have seen NRC licenses where it says with the exception of (unintelligible) generators. They can do that so that you know that that's there. But when you're looking at training and experience, you know, and if your regulation says you need to have A, B, and C, whether it's - whether you agree or not, you need to have A, B, and C. Now if you want to exempt them from that, then you do that, but there's a process.

You document it. You state why you're going to do it, you put it there, and then you make it clear for anyone else to see what you've done, because if you put it in a tie-down, I have - we were talking about reciprocity in region 4. I have - we have licenses that we issue reciprocity for. I don't have access to the tie-downs. I have access to the license. You have to go to the state and get access to the tie-down, but we don't practice that.

That's not something we practice. In this case they had an NRC form 313A and it wasn't filled out completely, and there was nothing where it said we're

excluding this individual for this because of this and this and the other. It was just he was added on, and that was it.

Whether they use it in the facility or not, because what's happening that - the significance of this is like (Chris) said, you can take this license and just go anywhere, see? I'm already licensed for this. You can take that license and go anywhere, and we don't know that in that place...

(Chris): Now with yours, you're sort of the shot that set it off. Now, in 2012 it means (unintelligible) work for you.

Lizette Roldan-Otero: But they...

Man: Can I make kind of an observation here? I mean, I've been doing licensing, I hate to admit it, for 22 years. I'm looking at this license, it says any imaging and localization study permitted by 10C FRS 35-200, and this person that doesn't - there's no exclusion from generator. This person, this physician is listed as an authorized user. So therefore the documentation would argue that NRC better review that for the generator.

Lizette Roldan-Otero: Right.

Man: So this one might be wrong.

((Crosstalk))

Lizette Roldan-Otero: And it may not be because it's 2004, and it was 10 years ago.

((Crosstalk))

Woman: ...and that place and that time...

Man: No, I know, I'm just - they've taken the one license and saying they're okay because this one says it. That's a bad argument, if current practice has gone past that.

(Chris): Right, so the basis apparently this all started because this person wasn't authorized for a generator.

Man: Yes.

((Crosstalk))

Man: Now, were they...

Cheryl Rogers: This is Cheryl.

(Chris): How does one know from this license and this facility and this physician...

Man: He submitted that license - he submitted your license to us to verify that he was approved to run his scan and inject place, and we rejected it. We said we're not going to accept this license as a basis for a determination. We gave him two deficiency letters. He then gave us licenses from California and other places with his - and we were like, dude, you can't - you're not - you get a license that doesn't allow you to use a generator, and he's okay with that. But they run around with this license, and he's opening up places all over the place.

Man: Now let me finish what I was saying, okay. (Unintelligible) this license. Now the 313 forms, this is an old license that's (unintelligible) which our recent experience. Now there's a seven-year requirement for recent experience. Now if that showed recent experience less the generator, then (Chris) would (unintelligible) for a generator. I think we're making this very convoluted, and it's very straightforward.

NRC has this person for a generator years ago. I don't know if this person is still on this license or not. I don't know how you can make the contention that the person never used the generator. Did you go to his practice license to look at this facility? I doubt it.

So if this was presented to us with 313 form that showed recent experience excluding the generator, and if we had the physician for 35-200 (unintelligible) excluding a generator and actually positron emitting, we'd exclude that too, unless they gave us some experience. So I'm really not sure why we've got to go into this great detail. This is an NRC license, 35-200, less generators.

Lizette Roldan-Otero: If that would have been presented to us...

((Crosstalk))

Lizette Roldan-Otero: We wouldn't have accepted it if it stated 2004. We would have asked for something...

Man: Well, this is 2014. You would have to show that this is a valid license.

Lizette Roldan-Otero: Right, we would have to see - and I would have to see if that's the most current license.

Man: Deficiency letters are in the file, this is in the file.

Man: But the physician is not allowed - authorized for a generator.

Lizette Roldan-Otero: But I know the license now - I know I would continue with the actions, because there were two different ones. So I understand which one they're talking about now. That individual was trying to get...

Man: What item in the Appendix D?

Man: It's two.

Man: Item two, okay. So that's the one that they agree with the RSO but not (unintelligible).

Man: Right.

Lizette Roldan-Otero: Right. With this one what happened was he was trying to get on the license in New York based on him being on a license in California, and I actually must tell you, I like the fact that you guys do the 50% thing, you know, because you're right, and the NRC we do - we don't have that in our regulation. Now we do as license reviewers, at least I've been trained, I can speak for region one and region four because that's where I work, we will ask for additional information if we recognize that there are multiple ones.

Now this individual because of the New York City regulation, they did request additional information and they basically explained to him no you cannot because you have to be, you know, on - you can't do it based on the regulations because you have to have 50%, and they went back and forth and they went back and forth with the individual.

Ultimately the individual did state that he had quit the practice in California and was going to just come to New York and work, and at that point he said they were going to quit - he was going to quit and then they went ahead and later added him on that license with their - there was a communication, because I did see those communications back and forth where they initially stopped him because of the 50%. But they didn't question him on anything on the other stuff. They just questioned him on the time issue that New York City has in terms of how many licenses you can be on at a time.

Man: So from our perspective - so I think from our perspective we did good due diligence. We identified what training experience the person had for the 35-200, and that person was added as an authorized user to a license which

specifically limited the activity to those areas that that person was certified for. And I think that's the documentation of here's your 13A.

Lizette Roldan-Otero: Thirteen...

Man: Your...

Man: Thirteen.

Man: Yes, your 313, and here's the experience that you've given. Here's the documentation that you took the classes. We can have a conversation about the firm that does all this work on a sidebar, and that based on that we're going to add you to the license, and that license doesn't allow for the use of a generator. So from our perspective we think we've addressed all the health and safety issues.

If someone was going to use their - the fact that they're on that license and send it to somebody, that license would show, you're on a license that doesn't allow you to use a generator, and if somebody asks for the 313A, the 313A that they submitted to us would show that they don't have the training experience for an (unintelligible) generator. So I think we've touched our bases.

Lizette Roldan-Otero: The 313A would show that if it were requested, but the license shows that it's - there on that license according to all the regulations, it's not clear that he did not follow that, and like I said, if the regulation allows you to make the exception, because I understand it is cumbersome. What I tell folks when I run into that is that I think the regulation doesn't state either how many hours you have to spend on that particular one.

So I say if you have a radiopharmacy nearby, go to your local radiopharmacy, or if you have - it's not that hard to have - to do that. You can do that, but - and that's if they can. If we decide that we're going to exclude them, then we

would explicitly write it on the license, because like I said, we don't have access to the tie-downs.

Man: Sorry, but...

Lizette Roldan-Otero: So it didn't - sure...

Man: But it's on the license. That's what I'm saying, (Lizzy). Our tie-downs are in the license. We don't write a two-page license. We write a ten-page license, and it lists every material that you - we have agreed to allow you to use and what quantities we've allowed you to use it. We reference every single letter between us and you for the tie-downs.

California does it the same way, but summarizes the letter. He does it the same way, so we're capturing that in the license. It's not a tie-down hidden in the file somewhere. It's on the license. If they submitted it to somebody, it would show, not allowed to use the generator, not authorized.

Man: Let me just focus a little bit more back. I'm looking for examples on Page 10. That back up to the (unintelligible) identified several license and cash ready.

I think evaluations in health and safety issues - the team that (unintelligible) primarily was item two and ten, in particular - I'll (unintelligible) these.

So I just want to focus a little bit. And (Chris) if we want more to go back and forth on some of this, my view is it should've been done, you know, maybe before this MRB a little bit.

But I'll save that comment for both us on going back and forth in comments - but, for efficiency. But you've commented now on Item 2 that you agree with the RSO aspects of that finding.

(Chris): Yes.

Man: And that - but not the AU because that's tied to the license in their case - is what they say. Does the team agree that if the license is appropriately tied down for no generator, that that would be okay?

Woman: No.

Man: On what you heard today.

Woman: And no - no, and the reason...

Man: But why is that.

Lizette Roldan-Otero: Because it's not clear on the license that that's the case - even though it's in the tie down. And that is going to be lost in a renewal anyway.

You know, there's a lot of ways how this can just perpetuate. It can be - once you put them on the license and you don't explicitly write - for me, for example, for another licensed reviewer.

Who this individual takes a New York City license and says, "Hey I'm on the New York City license."

I say, "Okay, he's 35-200. You're on a New York City license. You're using tech. You're using this. You're using the other."

I go ahead and do - I go ahead and do that mistakenly thinking that, you know, no exceptions have been made. So if they're - if you're going to say - because of what they do.

I understand your rationale, in terms of the exception. But if you're going to do that, you have to put it so that it's explicit. So that you can see you're authorized for this with this exception.

If you put it in the tie down and reference a letter that I don't have access to, it doesn't help.

(Chris): Right, but Lizette you're not - you're not hearing. And I want you to listen. We put it in the license. It says exactly what you can use.

It's not a reference to a letter in the file. You don't have to dig somewhere. If you get the license, it says, "Here's what you can use."

And it doesn't include a generator. It doesn't include it. California...

((Crosstalk))

Man: And so does that license - did you have that license when you reviewed it. Or is that something (Chris) that was sent in. And you count.

Was that attached in the comment? Or is just - is that new information now for the MRB that, you know, maybe she didn't see it in the license.

And she doesn't want to trust (unintelligible). I'm just making sense of what I'm hearing hear.

Man: Is that it?

(Chris): That's the license.

Man: Did you bring in the new license?

Man: The tie down.

Man: Now, that has to tie down that.

(Chris): Oh, I don't think I've got our license. I've got everybody else's license.

Man: I'm getting the sense that we were aware that they had their licenses more specific. I'm starting to believe that...

Cheryl Rogers: This is Cheryl. I think this is a difference of regions. I understand that we wouldn't, you know - I generically, understand we don't want using something they're not qualified for.

But I have a memo back - well I read it to my group. But region three does not exclude anything. We don't - they don't exclude generators or Xenon gas.

And we picked up that practice. We don't exclude that either. Now that comes in to play, you know, if you have the right certification, that's not a problem.

And if this individual came in on training and experience, that kind of raises eyebrows. But I'm just telling you, as a practice, we do not exclude generators on our license.

And I don't know if anybody from region three is on the phone. But they don't either.

Man: Well region three's on the video. So (Darrel), I don't know if you heard that. And Cheryl's bringing up a difference in - if from another state perspective.

That although (Chris) you've excluded them in your license, I think what you're hearing is there's - that could be more, possibly, more easily overlooked. I mean in...

Woman: Right.

Man: ...in (Lizette)'s training. Maybe it was at Page 9 of your great 10 page license. I'm just sitting here. I'm repeating what I'm hearing.

That somehow - in Cheryl's viewpoint is that they just don't exclude for that same reason, I guess - that there could be some confusion. Somebody could see the 35-200 and go.

I'm just trying to summarize the difference between licensing, yes.

Man: Am I understanding Cheryl to be saying that they don't go as far as New York goes in region three? And they're more general and don't have the tie downs.

Cheryl Rogers: We would look at the training and experience. But when we authorize, it's generally for the equivalent of 35-200.

And the practices do not exclude. So you're either qualified or you're not qualified. But there's no exclusion.

Woman: So what she's saying is basically what I've been trying to say. If you - if it's ABC then you have to have ABC or they won't put you on the license - which would be that one of the requirements is the eluting of generators.

And what I was saying was if you wanted to do that that was fine. If New York City wanted to do that they, you know, they're authorized under regulation to do that.

They just have to justify it. And then they have to write it. So that it's understood that way.

Man: I think he's point is he's done that.

Man: Yes (unintelligible).

Woman: Right, but it's not clear.

Man: Can I make a comment? It struck a nerve when you said you put the whole thing in a tie down. And it could be missed.

That's our whole basis of licensing is the tie downs. Otherwise, everything's in the code. And we could write some license conditions. There's a tremendous amount in the tie downs - there's pages.

Under a broad scope, I get a book. Why I have an issue with that comment. And you claim another area that it didn't put something in a tie down. I mean...

Woman: And maybe I should...

Man: ...let's understand that the tie down...

((Crosstalk))

Man: The tie down's a part of the...

((Crosstalk))

Woman: I can - yes. And I can rephrase what I meant by that. What I'm trying to say is if you put that exclusion in the tie down, no one but New York City has access to that information.

So when they're looking at a license, they don't have access to that information. And they would be no...

((Crosstalk))

Woman: There would be...

Man: You are not hearing. You are saying the same thing again. You are not hearing. So I need you to hear me.

Woman: I'm listening.

Man: I write, specifically, everything that can happen on that license. I don't say you're approved for 35-200.

I say you're approved for the following two byproduct materials and if - that's it. If you're not approved for a generator, it's not on your license.

It's on the license or it's not. I don't do a blanket two page reference to anything - which is what you guys do - two page blanket reference to anything - to a guy who doesn't have any training or experience in eluding generator.

And he runs around the country opening up shops using that license.

Woman: (Unintelligible) using that.

Man: But, so we're tying it down. You don't have to go into my file. You keep saying, "Oh if I get this license, I don't know."

If you get this license you know exactly. If you get California's license, you know exactly. It says, "You can't use the generator."

Man: Okay...

Cheryl Rogers: Well, this is Cheryl again. I'm just trying to clarify. So, typically, if I look at, you know, a license from another location, I'm going to look at, you know, the line across the top that says the category, the maximum possession limit and then the authorized use.

I forget what. Oh, the form - the maximum possession limit and then the authorized use. So I'm trying to understand. Does New York put that somewhere else? Or that's in that same generic area.

Man: Yes.

Man: We'll tell them. That's what it is. It's tech and thallium - does not...

Man: You follow the question (Chris)? Did you follow Cheryl's question - she was...

Man: I'm sorry.

Man: Yes, so we - yes. We say specifically the possession limits that they have and what byproduct material that they can have on the license.

((Crosstalk))

Man: I think I figured out what the license says. It says tech 99M thallium. It excludes molybdenum and 99. You can't have a generator. There's no confusion there.

Woman: That - I would agree with that. That sounds - so it's in the same area.

((Crosstalk))

Man: Well, I mean that's clearest to me because in order to have tech 99 and (unintelligible), you have to have authorization for a Molly.

Man: Sounds like Cheryl...

Man: Radioactive material.

Man: Sounds like Cheryl's reacting to that though.

Man: I mean that's just clear as it gets.

Cheryl Rogers: I just want to make sure it wasn't...

Man: Because it (unintelligible) to its generator. But you can't possess more than a 99 - which is radioactive material - licensable - unless it says unlicensed, somehow.

((Crosstalk))

Man: But then Cheryl what's your point?

Cheryl Rogers: I just want to make sure it wasn't buried on like Page 8, you know.

Man: No.

Cheryl Rogers: Because as a different jurisdiction, I'm going to look sort of at the generic place. And if I don't understand it, I'm going to call you up.

Man: It's on the first page.

Cheryl Rogers: Well than that's pretty standard. I would look there. And if I couldn't figure it out, I'd call you.

Man: Did you make the comment earlier that even though it's in the license, other states wouldn't have access to be able to do that? Did I hear that right.

Woman: Even if it's - and I, okay. Yes, even if it's on the license, New York does. Like NRC will say 35-100, 35-200. New York will say technetium 99, Iodine - whatever.

They state exactly what you can use. Now the authorized uses for this would be uptake and dilution or diagnostic studies - which when you look at that that's what they're - that's what they're using for.

That's what they authorized for. And they followed the 3-13A to put this individual on the license but training and experience. They didn't use a licensee (unintelligible) - by training and experience.

And by training and experience, he was deficient in one of the regulations.

Man: Okay.

Man: Well, you know, it says update delutionexclusion. But you can only possess technetium 99M thallium 201. You can not possess molybdenum 99 on that license.

Therefore, you can not possess a generator. Therefore, the uses for imaging is for those two isotopes only.

Woman: And that's great.

Man: There's no extension.

Woman: Yes, except...

Man: It's 99M and thallium 201 only.

Woman: Except in the regulation...

((Crosstalk))

Woman: You're going to authorize. And you're going to authorize someone for the license. It's very specific on what you need.

Man: No, no this is very stand...

((Crosstalk))

Man: Left my chair for a moment here. The time - we've had a great meeting. We've been respectful of each other's views. You know, we've touched a little bit of a nerve.

The dialogue is still good. But we're starting to not letting people finish sentences and so forth. So I'd like to sort of return to where we were.

You know, and try to respect the different points of view as we work through this. One of things that I'm getting from this is the state has identified. Take a look at our 2004 license.

And it, you know, it doesn't really have the tie downs on it. And I'm just putting this out there. Maybe that's a take away for us to try to take a look at our own license and figure out if that's changed.

And I think we can set that aside - that that's an action for us to take on. Do we...

((Crosstalk))

Man: That's separate.

Man: You okay.

Man: That's separate.

((Crosstalk))

Man: That's separate. It's an example.

Man: (Unintelligible) a valid issue that we should look at.

Man: It's an example (unintelligible) state has that now and, you know...

((Crosstalk))

Man: Yes, hopefully we (unintelligible). We got to get to the truth. And I'm glad you raised it to us. So thank you for doing that.

Are there precedence in this area? And I'm sort of listening to Cheryl and what you're indicating. In terms of is this - an area where the criteria is so clear that we have these examples that these other impetus that we've been doing.

And it's a mold that is not a change in the staff practice. Or is this something that potentially it warrants more interaction with the industry or guidance or something to clarify it.

That maybe the tool we're using - and I'm not playing any cards here. I'm just trying to follow. That the tool of the - needs improvement - maybe the - causing some of the reaction.

Whereas, if we had the precedence - where this is not new - this is the way it's been. Then it kind of moves me one way. If it's an area that we could use more criteria, more interaction with OAS and more dialogue.

Then maybe it swings a little bit that way. I don't know what dual reaction is to that. But, you know, I'm listening and I'm...

((Crosstalk))

Man: Just, you know, one I agree on - on stuff because you want to get the truth. And so, (Chris), I appreciate these examples. My early comment is we could've done some of this, you know, before the MRB.

But that's for both sides to get a little closer to put our eyes on documents and actually mark up what sentences. You know, you're at fence. So you try to do some of that in your comment later back.

And I would've expected maybe more phone calls before this and get into a more common place.

Man: I agree with that.

Man: A truth and then be able to make an adjustment. I'm going back right of the - you know, I'm trying to get a little bit higher up - once were through all these examples - to get back, you know, to what's the basis for the satisfactory and (unintelligible).

((Crosstalk))

Man: Yes paragraphs.

Man: And so we'll still need to circle around to a couple of the key paragraphs here. And see (Chris) how many you've knocked off for examples.

((Crosstalk))

(Chris): Four out of six.

Man: Yes, out of the six. We didn't even get to the second paragraph with six instances. You know, and we were on item two and item ten. And it's fruitful.

What I'm getting at is you were satisfactory needs improvement four years ago. I don't know. You know, I look back at that. You've got at least one licensed reviewer that has a few cases.

And they were. And I've looked at (unintelligible). I mean a (unintelligible) of license reviewers with errors. So we still got to get to the weighing of the number of examples here.

Man: Yes.

Man: And I still - we got to get around to satisfactory and new improvement is for the whole state. We understand that. We got to come back to that vice the recommendation in New York, so.

Man: Okay, so we got a few more to go through. Help me out with the precedence. Is this something that is so much different than other cases? Or do we have a lot of precedence where we, you know, we've been here before.

And this is a little bit more cut and dried in our minds. Or is this one setting us back that, you know, maybe we need to have more overall interaction.

Can you help me a little bit with that perspective - you understanding my question?

Woman: I do but...

((Crosstalk))

Man: And (Donna) you've seen a few. And (Duncan) I'll ask, you know, you are a little more experienced on the variety of teams we've had - but (Duncan) from what you've seen in region one on licensing, (Donna).

Man: I mean you're going to - I mean, I've got a number of (unintelligible) and license - that do licensing a while ago. And I've, you know, over the years you do see different ways of licensing.

But you have to look at what the requirements for the particular state and how that compares to, you know, what general practice is.

Again, it's hard to - I mean listening to (unintelligible), it was hard to say exactly, you know, who's right and, you know, the differences because I don't do the casework.

I don't know. I'm just guessing. I mean (unintelligible) close (unintelligible) and (unintelligible) points. I mean there's people licensed a certain way.

Man: Okay.

Man: And that's fought. And, again, I don't know if all the information here. I don't (unintelligible). It's not fair to say, you know, (Chris) is right over the desk file because it's there.

But you are going to see difference. And that's one of things that impetus has to decide is, you know, is the information - is all the information there that (unintelligible) states of license is (unintelligible) again.

New York's been doing a little differently than we do. You have to go in with that understanding and if there's (unintelligible) mission. Team clearly thought there was (unintelligible).

It's the (unintelligible) found an example that they thought that there was issues the way they licensed. And, again, and we've had to dial up for the last, you know, while - to go back and forth on that.

Man: Yes I do expect to see differences.

Woman: And I think it's an important dialogue. And it highlights - I think Cheryl's highlight in it. And you - and with the materials program, in general - that there are multiple ways to approach health and safety.

And I think what we've been arguing nuances almost. And we - at the NRC we need to look to make sure that we license the same way across our own regions. And then also benchmark with the states for best practices.

I don't. I haven't seen. I don't. The short answer to your question is I don't think you're going to find precedence in this.

And I think what our partner in New York is doing is really walking us through. Hey, you know, there are some differences that we may need to address in the future.

We're trying to work towards, you know, the national materials program - getting a good understanding of doing things, similarly. We'll never be the same.

But trying to have similar approaches in where there's not - have a common understanding of why there's not. So just in my six months in the program I see. This is not unusual that we're having a discussion at this level.

And, you know, we have a take away to continue to work to (unintelligible).

Man: No I think that's well said. So (Brian) we have a few more (unintelligible) more to go through.

Man: I need a - yes, I need - well (Chris) I didn't know if you had some more paperwork to pull out and another example or anything. So I'm giving you that.

And I wanted to go through a couple of these paragraphs (Chris) - with you looking at the paragraphs to see whether on this discussion, you know, we pick at the numbers here.

(Chris): Oh I thought.

Man: And (Maria)'s going to have to weigh that unless we decide not to weight it - another option.

Man: No I'd like to jump through, you know, is there a health and safety. Was there a health and safety implication?

((Crosstalk))

Man: Okay so you're back to the report wards now, right?

Man: Well for comments - so for Page D3, file number 13.

Man: In the appendix, yes.

Man: In the appendix - this is the animal medical center. And I would argue that this is in - I thought we had consensus about this at the close out meeting. That this particular license didn't represent a health and safety risks.

This was a renewal. It's a long standing facility. The previous license was done correctly and adequately and thoroughly. The license was renewed one or two months, previously.

The facility maintained all the practices under the initial license. There's no change in practice at the facility. They just got a renewal. We agree that the renewal was done incorrectly and was subsequently fixed as a high priority.

But we don't believe that there's any health and safety implication from the error on the renewal because the original license and all the tie downs were there.

It was done correctly. It was done thoroughly. It was done by a more seasoned license reviewer who subsequently retired. And, you know, none of the practices at the facility changed from day-to-day from what they were doing previously.

They just got a new renewal. They submitted a renewal. They got it back. They got it back fast. They got it back like in two and half months when I got - what a year - over a year to do it.

So staff acted on it super quick. You know whatever.

Man: They hadn't changed practices but maybe they could have with a less affective license if time had gone by.

Man: No if time had gone by - so I think what we identified - an error in renewal. But we didn't have any health and safety implications as a result of that error. It was good that we caught it.

It was, you know, ultimately the facility took some of its material off. But anyways, I would argue. And I thought we had consensus at the close out that number 13 didn't represent a health and safety risk.

It was an error that - it was a license that needed to be improved.

Man: Is it a risk or an (unintelligible) depending what you're saying.

Man: Yes.

Man: And this needs to get original actual health with the (unintelligible) track.

Man: That's correct.

Man: Rather versus a risk which to me is the potential.

Man: Yes there was a potential.

Cheryl Rogers: This is Cheryl. I just wanted to - so this was just - you're agreeing this was an error. There should've been either more stuff submitted or more stuff tied down?

Man: Yes there should've been more stuff tied down to some of the (unintelligible).

Cheryl Rogers: So they just didn't tie it down. Was it submitted?

Woman: No it was not.

Cheryl Rogers: Okay.

Woman: Not initially but - initially with this one the way - when their licenses renewed than it starts like a fresh license. So they had tied down the application that was sent in.

But the application was lacking, you know, all of the...

Man: The detail from the initial submission.

Woman: ...all of the details from the initial submission. So we did - they did act up on it immediately. That did happen. While I was there, in fact, I did meet with the reviewer. And they did call the licensee.

And that's where they found out that they weren't even using all the material that was on the license. That, in fact, they had...

((Crosstalk))

Man: That's okay, quick fix (unintelligible).

Woman: (Unintelligible) stuff like that, yes.

Man: We're all agreeing that there was an error here.

Woman: Yes, but.

Man: (Unintelligible).

((Crosstalk))

Woman: Yes.

Cheryl Rogers: Okay, what I'm more curious about and also on this whole discussion, I understand that, you know, the documentation - or the way the files were organized was not good.

And therefore it was very hard to track. And to me that's kind of the root cause of some of this - at least the ones we've heard about so far.

So, you know, if it's hard to find it for the (IMPEP) reviewer, how is that for the inspector or whatever, you know. That's kind of, you know, is this an isolated insistent.

And what's the outcome of that? You know, is the outcome the inspector can't do a good job, you know, those kind of things?

Man: Well, Cheryl for this one, this was done by a relatively new license reviewer. It was - as (Lizzie) said, this is a pretty sophisticated animal and medical clinic.

They do a lot of fairly sophisticated cancer treatment there. And she failed to track to the correct sections of NUREG 1556 to help her. During the IMPEP period - that two year period - we switched from using our internal guidance to NUREG 1556 as we went through adopting big updates to part 35.

Had she relied on the in-house guidance document, she would've been okay. She relied on 1556.

And she didn't make the connection that for an animal clinic there were other volumes that she was supposed to look at when she was going through the vet - her check list.

And so that was a good catch. I'm not denying that. I just think that we've - in terms of finding - for focusing on things of health and safety, that we didn't have any effect.

And we had correction quickly.

Man: Okay what other comments did you...

Man: Al right.

((Crosstalk))

Woman: But can I...

((Crosstalk))

Man: Go ahead yes.

Woman: Yes, because the only thing I wanted to say is that we also look at this indicator and with respect to thoroughness and completeness and consistency and clarity.

So it's not just, you know, we looked at - we before I even brought it up to (Chris) - the first thing we did - that I did - was look at the inspection history and make sure that they were okay and they were okay performers.

You know, before this because had they not been it would've been a whole different story. But they were good performers. And that's the first thing I told (Chris).

I said, you know, they are good performers. I verified that.

Man: Good.

Woman: But the other aspect for, you know, satisfactory - but needs improvement - is the thoroughness, the completeness because, you know, of the technical quality of that.

((Crosstalk))

Man: Right, yes.

Man: That's it.

Man: They agree with that example. Go ahead.

Man: Okay so file number ten - - New York Presbyterian Hospital University Medical Center.

Woman: All right let me get there.

Man: We don't agree with this comment. So this might also be a reflection of different - different approaches. Oh, the RSL in question was certified for a gamma knife.

We have a requirement that all individuals who are interacting with the equipment on site be trained.

And provide instruction about how that device gets used - that the procedures for that device are - they're made aware of and that they know what the operating procedures are for the unit - for this particular gamma knife the NRC placed it in 35/1000.

Thirty five one thousand is capability D. I don't need to adopt 35/1000 - it's a catch all. Subsequently putting it into 35/1000 to which I have no responsibility to conform with from a regulatory perspective.

The NRC issued specific guidance for the perfection gamma knife. That specific guidance is very, very broad and says that the person in (unintelligible) needs to either commit to having some training or get some training.

And there's no detail (unintelligible) that training in - is - that has to be supervised and authorized medical physics - can be provided by the vendor - no discussion of course hours.

There's no discussion of content of that training. It's three words - training and emergency procedures, regulations and safety - three words. We feel that our - that our practice of the expectation on the faculty - that the RSO get training on all the equipment.

We don't make a distinction for...

Man: For new equipment.

Man: ...for new equipment or new modalities. We expect this RSO to come in to get training on all the activities that are there.

Man: But did they get training on this new equipment?

Man: And they did. This RSO was on site six months before becoming the RSO. While on site for six months, the RSO learned the procedures of Columbia University.

Reviewed all of the equipment that was there - got specific training on the perfection unit - developed an audit tool for the perfection unit under the supervision of an authorized medical physics.

We did a lot of activity. And that is our expectation for every place that somebody goes into. And we relied on those facilities to implement that. Columbia has presented all that documentation.

That documentation gets looked at when we do our inspections - to verify that it has occurred. And we feel that they've met it. So we got I think two issues. One is, it's 35/100.

Woman: One thousand.

Man: One thousand.

Man: Thirty five one thousand - can't bang me on it because I've got no regulatory requirements. If you are going to bang me on it that means every guidance that comes out then becomes a regulatory requirement.

So I have to go to my - I have to tell my facility that my legal authority to violate you for failure to comply will now capture every piece of guidance that comes out from 35/1000 - despite them not having an opportunity to participate in a public process.

Man: Yes, let me pause on that. Region three lead on the (unintelligible) right. I'm trying to get - can you comment on the 35/1000 and licensing of the new (unintelligible) or the training and - visiting on (Chris)'s last point.

On, you know, could you legally tie back to a finding, you know, a violation.

Woman: Right. Well in that guidance document that he's talking about. It does say that the training that is going to be - that training has to done - is done by the vendor.

I did have the opportunity to actually speaking to the vendor because when I was - while I was at a conference.

Man: That - listen, the guidance does not say that the training has to be provided by the vendor.

Woman: Right - let me finish. It's by the vendor or someone that has been trained under a RSO authorized user, yes. However, there was - there was no documentation showing what he just described.

Had I seen that, it would have been fine. But I did not see that. What I saw was a license that he was an NRC license that did not have a gamma knife. It did, it was a broad scope but it did not have a gamma knife on.

And some (unintelligible) and they used that to add him on the license. If - maybe this was information that your staff had. But I did not see that documented anywhere.

I went by what I saw on the file. And what I saw on the files did not show that he had specific training on that particular - he had training for the HDR - I agreed on that.

Man: Yes.

Woman: He had training on other stuff - he didn't have.

Man: (Unintelligible), I got you. Okay.

Woman: Yes.

Man: I'm cutting off. I'm just stating (Chris)'s argument is that "well, it's - our medical licenses are expected to train on all". I'm just repeating the words you said so it's (unintelligible) saying.

And that - when they add a new one - their expectation is that they have to train. (Chris) didn't feel the need to have that in his license - something they inspect when they go out and inspect.

And further follow up to the MR - (IMPEP) team. He verified that they acted according to his expectations. Right - trying to summarize.

Man: Yes, and we got a copy of his 315 or...

Woman: Three thirteen.

Man: ...three thirteen. So has part of our process of letting them be the RSO. We verified that he had been approved for running the gamma knife. So wasn't just that he was on the broad license in Georgetown.

It was that documentation that was submitted to NRC to put him at the RSO in Georgetown - included the gamma knife.

Woman: And you received this documentation after the IMPEP or was that in the file?

Man: That was in the file.

Woman: Because in the file what I saw was documentation to add him for HDR. I did not see to add him as the gamma knife.

Man: Okay. Any other ones you want to comment on. I'm just trying to.

Man: No (unintelligible) a little bit.

Man: You know, back to my.

Man: Oh one more.

Man: Go ahead.

Man: The - there was a question.

((Crosstalk))

Man: Again, I want to stay on a high (unintelligible). We've had a couple of cases - and I don't know what - how deep these files are.

But we've had a couple of cases where we've indicated - I couldn't find it in the file, but then we're also sending.

Man: It was in the file.

Man: I don't know what the files look like. Are they silver luminous that somebody can reasonably look for and not be able to find it? Or is it unusual that we're inspecting, we're working with the staff to help us find what we need and then we can't find it and it turns up later.

I'm not trying in anyway to be accusatory (unintelligible). And how often does something like this come up? Where we look through the file and then find out well you missed, it was in the file.

Woman: I - based on my experience here, it happened - it did happen to me while I was in DOH. But - and they were able to provide me with the documentation that I needed.

Man: While you were.

Woman: Everything that we're discussion here I did bring up. As the days progressed, they were coming up. But I never received anything more.

What I did see for example for this case was the 313 for the HDR. Because there was - but that was it. Yes.

Man: There were a few cases and I don't have them straight. But there's a few cases where (Chris) sent in his comments and we responded - nothing new came in, but.

Woman: That one case, yes. I mean - I'm sorry, that was many cases.

((Crosstalk))

Man: There was a couple cases where we were missing new information - the ones that we're talking about now.

Man: Right, I submitted this.

Man: Okay.

Man: So I - but it.

Man: Follow along.

Man: Okay. It didn't get.

((Crosstalk))

Woman: Let me add - and (Chris), I think you're doing a very good job of addressing the specific case part of it. Having been the management observer also on there - there were some challenges that I know you alluded to.

In terms of inspection file and a licensing file and maybe the (unintelligible) file. And I have observed (Lindsey) just having an incredible challenge in the first part of that (IMPEP) review.

And trying to get the information and work with the people and interview the staff. Now there are - is there a lessoned learned taking out of this? Yes we'll take it. We're not going to figure it out here.

But it's not clear (Roy) in terms of you know, when I watch the team trying to come up with this first of week of findings. I think they were making a valiant effort to get the right information.

Man: Right.

Woman: So.

Man: Okay - all right. How many more do we have that we (unintelligible)?

Man: Well I don't know.

Man: Those are the major ones (unintelligible) of significance (unintelligible).

Man: You know, I think - I'm done. I think I'm done with questions. I would comment on - we'll come back to satisfactory. I think (unintelligible) made some good points that you know, they feel they're satisfactory.

I haven't heard a comment on - I don't see the right up here on, you know IC was at - having issues with licenses and maybe you addressed half of them. I'm just saying on page 10, you know as I look through these six examples.

And you know, we've lost track - I've taken some notes in appendix D. I think the write up needs to be changed. Add you know, more detail. I think if as we've heard a couple cases that have fallen off here now.

I'm leaning obviously to a recommendation still that deals with, you know, aspects of licensing and maybe reviewers. What I'm struggling with a little bit and I'll turn to other R and B's is, you're satisfactory needs improvement four years ago.

And I - to get you to satisfactory (Chris), can you just comment on what's improved? This one individual that has - does 28% - is this a new hire in this period?

I mean is this - you know, I don't see in the write up here if I'm to call you satisfactory in licensing. What's improved in that time?

I've got - it was the same license reviewer there than four years ago? Is this a recurring problem with that individual?

I want to get that straight in my mind - that this 28%.

(Chris): Well we had the - a senior license reviewer retire.

Man: Yes.

(Chris): And.

Man: Two years ago - three years?

(Chris): No, he retired like six months before the IIMPEP.

Man: Okay.

(Chris): So this individual - we have one staff person who does primary license review under the supervision of another more senior staff person. That person's supposed to help with the more complicated ones.

Now we've got a new director. We've got a PHD in medical physics. And you know, that's another set of subject matter expertise to bring to the table going forward.

And we've got two staff that - one who's certified for inspections - who's getting crossed trained to do licensing. And one X-ray is being cross trained for both inspection and licensing.

And our plan over time is to have all staff that do material inspections be licensed - be signed off to do licensing activity. Because I think that's a good.

Man: Cross look at.

(Chris): Cross look.

Man: Kind of like we (unintelligible).

(Chris): Yes. Between the two, there shouldn't be a Chinese firewall between inspectors and license reviewers. There's a lot of knowledge that should flow back and forth.

So over time, there won't be this there's a licenses reviewer. There'll be you know.

Man: Well I'm asking for some of that because I don't see some of the improvements or the plans for improvement. And (Roy) I'm just trying to divide the baby here and sell him his wisdom.

Man: Yes.

Man: And you know, I did practice all my comments with - there is some overlap between staffing issues. You know, with the retirement or even training issues that we covered earlier with licensing.

If I was to lean, you know that some of those do have IMPEPped licensing. You know, I might talk myself into calling it satisfactory even with - say I cut out half of these with still a recommendation to clean up some of the mess.

I'll still use that word but let pause - I have no more questions.

Man: I was leaning (unintelligible).

Man: Okay, yes.

Man: Yes, the fourth paragraph on page 10. The review team found that noted deficiencies and licensing (unintelligible) are often handled by fund documented telephone calls and emails.

Can you explain that a little Lizette?

Lizette Roldan-Otero: Yes. When - excuse me. When in trying to talk to them about their deficiencies when you found a deficiency, you know, what do you do? That's - they normally call or they'll email.

But then the email wasn't in the file and there wasn't a telephone record. You know, I was able to find you know, at one point in one of these. And I'd have to look back because I can't pinpoint which one it was.

An email you know, that did state something like you know, based on our multiple telephone conversations, and based on the conversations that we've had.

We're going to add this person as an authorized - as an RSO even though his qualifications don't seem to be sound.

And that was documented. You know but, when I would ask them about - so where are these telephones - what did you guys talk about. Or what - that's not documented.

And - but they do say that that's how they go back and forth - at New York City, I'm sorry. With the staff in New York City they did tell me that they go back and forth with telephone calls and emails but they were never put in the record.

So we don't know what those conversations entailed. And some of those conversations could have been enough, you know, to - if they would have documented to say this is why and that would have been okay.

Man: (Unintelligible) get your impression from - during the review that it's that information that's not documented that's relied on for licensing decisions?

Lizette Roldan-Otero: There were - yes, for some of the cases that was the case for a lot of them, yes. And (Brian), just to point on something that you said. And I'll get back to you.

But one of the things that we noticed - the reason why we lean towards the satisfactory but needs improvement was because of exactly what you said.

We - when I looked at what had happened the last IIMPEP, it was almost as I didn't see the improvement. I saw the same thing. I saw the - what we're discussing right now.

And that's why we were leaning towards that because we didn't really see a change.

Man: So I would disagree with that statement. So our license includes a reference to a formal letter or email and the date of that correspondence for every condition in that license.

There is no condition that's put onto a license that doesn't have a specific reference to a formal submission from the applicant in any of our licenses.

((Crosstalk))

Lizette Roldan-Otero: Oh, I'm sorry. That's not what I said.

Man: You were (unintelligible) - you're disagreeing with the - what (Jim) raised the question on was documentation.

Man: Yes. That whether or not an undocumented phone call or an undocumented email results in a substantive change to a license. I would disagree with that.

((Crosstalk))

Lizette Roldan-Otero: I'm sorry, that's not what I said. I didn't mean that. Not - that's - if it came out that way, that's not what I meant. What I meant was when there were deficiencies.

Man: It's not in the file.

Lizette Roldan-Otero: Right. When there were deficiencies there were - but didn't. They only use to tie down, that is correct. To tie down they only used documentation that was sent in from the licenses.

That is correct. That's not what I meant. What I meant was when they have questions - when they're asking I just did that the other day. You know, to add someone on a license.

I called up Georgia, because I didn't have their license. Hey, can you tell me what this guy is authorized for. And they told me he's authorized for this and this - thank you.

And I documented that and I put it in the file. So that someone else can say why did you put him if you couldn't confirm the preceptor? No, well I documented that and that's what I meant.

Man: So then to clarify, you noted deficiencies in licenses submissions that are enabled by undocumented telephone calls and emails.

What kind of deficiencies would you be referring to then in a licenses commission if the licensing action is specifically tied to something in the file?

Lizette Roldan-Otero: Because it would be tied down to the original submission. Whatever they requested initially, that's what it's tied down to. My request is to add this individual.

Okay, so they tied down that correspondence into the letter correctly. But the - what happens on the side of how I got there. So of that in talking with the staff, they were telling me that it's done on the phone call.

You know, I mean on the phone or in emails that were not necessarily put in the file.

Man: So if it's like (unintelligible) that's supposed to support the license amendment or procedure - written procedures or something like that. You're saying that if there were deficiencies with those things as a resolution of the deficiencies not documented in the file.

Lizette Roldan-Otero: Right, the resolution of the deficiency. But like I said, for example that one where they added the RSO. You know, he refers to multiple conversations that they had about - I don't know what was discussed.

I just know that based on those conversations, he made a determination. And he even states in the email - even though it doesn't appear to be sound, we're going to add him.

But I don't know what was said.

Man: Lizette, I think we got to get out of talking about one offs and making systematic conversation. You're talking - because - you are talking about the same minor scan and inject facility, right.

That's number two - where the RSO is put on incorrectly. And we agreed that the RSO got put on incorrectly. And if we want to get into the nitty gritty of why that happened - this is a very famous doctor - he's on TV all over the country.

And he was brow beating a supervisor about the qualifications of a RSO. And my supervisor incorrectly went "I give up. I'm going to let you put him on".

And we eventually corrected it and pulled him off. But that's a one off of a very small minor license.

With that, raises all kinds of questions about this particular guy's operations across the country and the licenses that he's doing in terms of what they're qualified to do.

But you shouldn't extrapolate from that one little facility into all these - like a broader sense that there's deficiencies, right. You're asking for examples of deficiencies. We're talking about the same file that we're talking about. So...

Woman: No, right. And I'm just - the only reason why I brought that example was because he asked for an - I was trying to answer what he had asked about on document telephone calls and emails. And that's just the one that came to time. But that's what I was answering.

Man: (Unintelligible).

Woman: I was answering. I was - no. The multiple conversations were not. You understand? So there were times where they told me oh yes, we'll routinely call or we'll email, you know. And I've asked so where were, you know, do you document the telephone calls or do you document.

And they, you know, that one time that one was documented referring to multiple conversations.

Man: Sure.

Woman: And that's just an example. I'm not...

Man: How prevalent was this issue in (unintelligible)?

Woman: Well there weren't - they weren't documented. That's the problem. The calls and the emails weren't. That's what they were saying that they...

((Crosstalk))

Woman: Oh, okay. How many cases? I would have to look at my...

Man: Okay.

((Crosstalk))

Man: Because the report that I...

((Crosstalk))

Woman: No. It doesn't seem to be isolated just to one case. It seems that that's how they...

Roy Zimmerman: (I may) go back to (Krista).

Woman: Yes. I think it wasn't - it wasn't just this one case. It was just that's how they - that's how they normally correspond back and forth. Where DOH was, you know, in that case like DOH was different. They will - they write an official letter. They send it. Everything was documented there. From - you could follow the train of thought completely. I guess that's what I'm trying to say.

Man: That's the same for us. We issue a formal deficiency letter. If there's a conversation of clarification between an applicant and a staff person (about) that clarification, we submit a deficiency. That's - we send out a formal deficiency letter. We get a formal response back.

What you're talking about is I think if there's an interim conversation - but I'm trying to understand what's happening with this. I'm trying to get clarification on that. Oh, that's what you want to do. Here's why it's deficient. And then they send out the deficiency letter.

That deficiency letter is the summation of thinking that went back and forth between them. Are saying that the deficiency is that you didn't - that you didn't see a note regarding the conversation that resulted in the transmittal of a deficiency letter?

Woman: No. I'm - I don't think so. I think what I'm saying...

Man: We're drilling down...

Woman: What' I'm say...

Man: ...into kind of administrative approaches. My file's already big and hard to manage.

Woman: Not. That - where there were deficiencies, you are correct. Where there were documented deficiencies, they did have a - the deficiency and then they would wait for a response, yes.

But what I'm referring to was when things were spoken by email or over the phone...

Man: (Unintelligible).

Woman: ...and it wasn't there but it was used. Based on those conversations we made a determination.

Roy Zimmerman: You thought there was more than...

((Crosstalk))

Woman: Right.

Man: Okay. That's all.

Roy Zimmerman: Does that...

Man: That answers...

((Crosstalk))

Man: ...well enough.

Roy Zimmerman: Okay. All right. Cheryl.

Cheryl Rogers: Yes. I'm still struggling with I guess is this just one license reviewer. I think we're back to the staffing and training. Is it one license reviewer that kind of got dumped on when the guy left?

You know, is it a short time period? Is it isolated to this one reviewer? That's what I'm struggling with here, you know, is this rampant across the program or is this, you know, did it - was it a six month problem that got corrected? So I don't know if anybody can answer that but that's what I'm struggling with on the needs improvement part.

Roy Zimmerman: Okay. It's a real credit to you that's you've been hanging with this just being on the phone like this. So you're, you know, you're totally engaged and impressive for how you've engaged throughout this so thank you.

Again, I'm not sure that - I think we've talked about this 28%. But I mean your point is one that I think is shared by others as we try to assess what we think the right outcome is here. Anything else you want to raise at this juncture?

Cheryl Rogers: No. I think we've heard both sides and they're both pretty passionate. Thank you.

Roy Zimmerman: Okay. Darrell.

Darrell Roberts: Yes. Thank you Roy. I'll admit, you know, after all that discussion there's still some question marks in my mind. I'm not sure for example in that third paragraph - the third full paragraph on Page 10 involving the big differences in the (unintelligible) review, which is those five - those (unintelligible), you know, given some of the discussions that have occurred.

And also I'm not quite sure where they stand - where the state stands with respect to the previous (IMPEP) regards. I know that they were identified as being satisfactory but needs improvement three years ago in 2011 (IMPEP).

I'm not quite sure where the number of examples that were identified for this (IMPEP) placed and determined compared to the previous ones. So I don't know if there's a way to get a perspective on that or not. (Just to give) (unintelligible) some of the examples.

So that's kind of where I'm leaning or where I am right now I should say. If you ask me (where I'm leaning), I'm still I guess in the camp of the satisfactory but needs improvement just based on what I've heard for the examples and discussions.

Although I'll admit that there's a probably a little bit of a struggle here between what conclusions the (IMPEP) seems to draw based on the information that is given at the time of the inspection or the time of the review and what's inconclusive based on lack of documentation that (the team gets) during that review.

And I'm not quite sure (unintelligible) conversation and (unintelligible). So I'll just offer that up as food for thought. You know, I'm still right now in the (S&I) camp. But, you know, that's just kind of where I am.

Roy Zimmerman: Okay. Appreciate it and well stated. (Unintelligible) go to the state.

Man: (Unintelligible) I know that Cheryl made some statements and (unintelligible) made some statements about (Reason) 3, what we put in our licenses.

Our licensing expert is not here in this room but the (special agent) in the room is saying that we made (review lists) in the licenses and in the authorized user sections and the materials in use paragraphs what they are authorized to use or so what they're authorized to use it.

We don't make, you know, we don't (place) negative or with exception type statements in those paragraphs. We list those things that they are authorized to use and what they're used for.

You know, obviously would limit to your verification that they are indeed qualified and authorized for that. So we haven't action to go back to our branch chief who's the expert in licensing to get a better read on that (unintelligible).

Roy Zimmerman: Thank you. As do we here. We may have some variation that the state has pointed out and we've got some homework to do ourselves introspectively and we'll do that.

I think we're to the point of looking at whether we agree with the proposed recommendation.

Man: Before we do go ahead, can I just make one point?

Roy Zimmerman: Please.

Man: There's been a lot of discussion about improvements from the last (IMPEP). And I seem to have some recollection of the last (IMPEP). And it was satisfactory but needs improvement and the real focus was having a clear (and fresh) guidance to license reviewers that was consistent with NRC expectations in all areas.

There was a couple examples. For example, the time we did the last (IMPEP) stated not yet incorporated - the city had not incorporated the requirement through the pre-licensing guidance track list to ensure that the licensee would be a legitimate user of the source of devices. That was one of the examples that I believe was cited in the last (IMPEP).

I think another example was they had not updated their licensing guidance be consistent with the most current version we had of the NUREG-1556 guidance. And so it was more of a systematic, you know, licensing (with planned) systematic activities to give yourself confidence that you're going to

be able to make a successful license determination. And so that was really what was the driver for the last (IMPEP).

Roy Zimmerman: More programmatic.

Man: In looking at this write up, there's one sentence here that kind of, you know, revisits some of history in my mind and it's - it talks about the license reviewer's use of conflicting licensing checklists.

And to some extent it seems like the city may not have completely snapped out of that problem in terms of ensuring that folks have a kind of clear (perspective) on how to do licensing actions. And I don't...

((Crosstalk))

Woman: Yes. I think they have adopted NUREG-1556 Volume 9 and they do have it on their Web site. What I was referring to is that they're still allowing the licensees to use their old guidance as well. So it - so they have - even though it's on the Web site, they tell them use this and they have done that on their Web site.

But it's just that when they - when they're submitted - you know how you have these people that are used to submitting stuff and they'll just submit what they're used to like we still get reg guide type stuff, not even using the new reg.

So in that case they've used that and they've taken that as okay and they've just used those checklists instead of having them, you know, follow the NUREG-1556. They just say we'll review it and we'll just get the deficiencies comparing to the NUREG-1556. That's what I meant.

Man: Okay. But the actual work those license reviewer use the conflicting licensing checklist?

Woman: Right. Because they've adopted NUREG-1556 but sometimes they won't - they'll allow them not to use NUREG-1556.

Man: So when licensing submit, they'll accept the application even though it doesn't follow the license - the...

Woman: Even though they're not filed - correct.

Man: Okay.

Woman: That's what I meant.

Man: Okay. I just wanted to...

Woman: But it is on their Web site and it is...

Man: (Unintelligible).

Woman: Yes. It is on their Web site and they have updated that and they do provide clear instruction to the individuals to go use that guidance.

Man: Okay.

Cheryl Rogers: This is Cheryl. Okay. So I guess I wouldn't, you know, the license - the licensees, it's hard to make them do stuff. But the license reviewers use the NUREG whatever - sorry, I lost the number, 1556. To me that's the critical point if the license reviewers use it and then...

Man: Yes.

Cheryl Rogers: Yes.

Man: License reviewers are using NUREG-1556 as their touchstone for reviewing licenses and that's a chance since the last (IMPEP). And the - and we use the NRC's form for the pre-licensing inspection because if we don't use NRC's form, it becomes very confusing and we get banged for something that we shouldn't.

Cheryl Rogers: Okay. That...

Man: In our view.

Cheryl Rogers: ...that is an improvement from the last inspection about using - I mean...

Man: Yes.

Cheryl Rogers: ...using conflicting - you can't make the licensees do what you want. We've tried.

Man: Yes. So I would like to make a recommendation to the MRB that for - I think for the more significant licensing actions that presented some potential risk that we've identified that our approach was comported with NRC's approach. So I think that's true for the (etrium) 90.

I don't think that was an issue to begin with. That was a paperwork thing. I believe that's true for the authorized user. We're comportant (sic) with lots of other states and how they approach and I think including Region 3.

We have an expectation for the RSO to get training on specific stuff. It doesn't matter if it's the - a brand new (gamma knife) - it's in 35-1000, which is a compatibility D. I don't have to even adopt it.

And so I would say that the recommendation from the MRB should be that the licensing for technical stuff is satisfactory as a state as a whole. And if

you wanted to add a recommendation to either at that point for additional training for this one individual staffer, I think that would be reasonable there.

Or to roll that up into the training and technical credentialing of the staff and make a third recommendation there for the staff person who's identified - we've identified as being deficient on one of the actions. But I don't think it's fair given the panoply of what the state does and the differences. And I think some of the conclusions fall off after a hard look; that you roll up the whole state as satisfactory but needs improvement.

Roy Zimmerman: Thank you. Any other comments from city?

Man: Yes. I apologize for being out to work out our transportation back to the airport. I had a question about this recommendation that New York City staff needs training and they pull into parts like 32-35. Is this something specific because 32 doesn't apply to New York City, 33 applies to no one and 34 doesn't apply to New York City? So what's this recommendation? What specifically because you...

(Brian Holly): I don't know if - well, one we could answer that for the (unintelligible) recommendation. But I have a proposed thought. This is (Brian Holly) for those on the phone.

I have a - just a proposed shortening of that recommendation that would just keep kind of the first sentence. The review team discussed, identified licensing (unintelligible) New York City management.

Above this paragraph I think we need a whole paragraph from the MRB how this discussion when through over the last hour that the state presented some information. We had an in depth discussion about licensing practices and quality of the packages that the team was able to review on site and some not done.

But that's a paragraph above that. But I would simply say that, you know, the MRB recommends additional technical licensing training for New York City staff and improved documentation for licensed communications period.

That's just a proposal. As I was - as putting words down. I don't go as far as one license reviewer. I think a majority of it is but I've seen a couple other ones that I don't think have been discounted in the Attachment D.

So I would get away from some of that detail, picking at Part 30 to, you know.

Man: No. Just...

(Brian Holly): That was just - it looked like to much of a detailed recommendation for me anyway.

Man: Well, just to me it's a little bit relevant because New York City - I don't think there's an understanding. New York City doesn't do manufacturing and distribution.

(Brian Holly): Yes. No.

Man: We don't do industrial radiography.

(Brian Holly): I would cut that out for a simplified...

Man: That's a carryover every time there's a (IMPEP). And one other thing. You know, we had some concerns about how this was going to roll out. And we got a letter saying here's the proposed numbers of cases that we'll give (a pass) for each agency.

Woman: (Base cases).

Man: License (in cases).

Woman: Baseline cases.

Man: Right. So the proposal was I believe ten for New York City and 20 for us. And the team on - 13 for New York City and 14 would be for us. By doing 14 for us I think our licensing actions and everything is crystal clear, (unintelligible). We have three times the licenses as New York City. So why would you buy this - the sampling and not follow your (proposal) being rolled out.

So now we're faced with if there is an issue with one reviewer, we have a larger percentage with licenses cases that look - from hearing are deficient. We specifically asked for a plan. You gave it to us. You didn't follow it. So you're skewing the numbers. And I hear that New York City has 28% of the licenses.

Well they also have a very small selections of licenses. So that would also dictate that you wouldn't stick to your plan.

((Crosstalk))

Man: Why wasn't that followed?

Woman: We did follow our plan. And...

Man: The 10 and 20? Twice as much for us as New York City?

Man: Would that be under you for the licensing?

Woman: I mean with our total casework that we've...

Man: Yes. I believe it is (80) for the Department of Environmental Conservation is only 30 permittees.

Woman: Pardon me. We...

Man: We did eight cases for Department of Environmental Conservation. They only had 30 permittees.

Woman: They had 30 permittees.

Man: That's a large percentage.

Man: Yes. So I'm wondering why, you know, why that wasn't followed. Because again, if there was an issue with one reviewer in New York City and...

((Crosstalk))

Man: I got the point. I...

((Crosstalk))

Man: ...and I have a real problem with it.

((Crosstalk))

Woman: ...New York City. I mean in state. We looked at...

Man: The New York Department of Health.

Woman: ...no, I'm sorry. The Department of Health.

Man: How many cases - licensing cases did you go through?

Woman: (Let me look) at an appendix.

Man: And the reason I bring this up is this was one of the issues we had would help rule out the (IMPEP).

Woman: We looked...

Man: It wasn't so much the license numbers of cases and so forth. You got to get a representative number. But it's how you're going to roll it together. Now we're talking about the same thing. Because during the last review for instance allegations Department of Health had the most tremendous number of incidents.

We looked at quite a few. Everything was well documented commensurate with the level of safety and significance. Well documented. We had an issue with not - with timeliness of reporting events to NRC.

But the team - that team looked at 200 records to look at our reporting, which is another reflection that our files are crystal clear while investigating. They could ascertain that information looking at 200 files. (So it) just says ten files.

Now New York City I believe there was an issue with two reportable events. And our indicator was unsatisfactory.

Man: It was one.

Man: So that's - it turned out to be one.

Man: Yes. One.

Man: So that's why I've very concerned about how you going to roll this out if that was never addressed. You know, we wrote that letter to the commissioner - the chairman, excuse me, and staff handled in and they told us what the case number - licensed cases they were going to do.

They also were telling us about these numbers of amendments that were over a year old but they looked at none of those files even though the procedure says specifically look in each of those. And that's in the - that's in

the - I'll pull it up for you. It says to look at them specifically. None of them were looked at.

Now we're at - (I'm hearing) 28%. When you skewed the numbers compared to - what did you find on (that basis)?

Woman: Oh. Oh. Okay. Why was it included in - so we put down here baseline cases to start with.

Man: Right.

Woman: (Lucy Rand) did not have time to review 20 files (they held). Hold on. Or she got to a point where she didn't feel like she needed to review any more files (they held). Okay.

Man: Thank you. That's (complimentary).

Woman: Okay. So...

Man: But if she didn't - so that's what I'm saying is...

Man: It affects the percent.

Man: ...it affects the percentage.

Woman: I didn't...

Man: (We're) talking numbers. Right.

Woman: That when we referred to the 28% ballpark estimating...

Man: Sure.

Woman: ...number of New York licensees...

Man: Right.

Woman: ...in the city comparison to the total program.

Man: Sure.

Woman: The New York City is responsible for about 28% of all of New York's licenses.

Man: Sure.

Woman: That work is done by one reviewer. So in looking at that's how we indicated that we could roll up the outcome for the program. There were weaknesses identified in the medical licensing out of New York City. So...

Man: Right. And I agree. I agree with that if that's what's comes up. But if - not saying there was but I think that that's still - there's some doubts about that. And we never received the benefit of the doubt either.

But as you're rolling it out, that's my point. If things looked fine, okay. That's great. Thank you. But when you look at the whole report as a whole, if you see X out of Y, you have biased that denominator.

Man: And the 28% is not in the report though right?

Man: No. But...

Man: That was in the verbal discussion there but I...

Man: But that's the discussion that is being (unintelligible).

Man: Yes.

Man: So that's why it's relevant.

Man: Yes. No. It is.

Man: So it's not...

Woman: And more than half of the files that we documented in the case work, we had identified issues. It sounds like some of them might have been resolved in the discussion today. So and for the files in state health, we had one that we document with a deficiency.

((Crosstalk))

Man: That's the point. If you did another ten, which is what you specific - I know what the procedure said (than an) (IMPEP) team - it's generally ten for a large program; more if you need it.

You were concerned about how this is going to happen. So you specifically wrote it for New York State. You did 20 or so baseline. You fell short of that. And now it's reading reflected in the overall balance of (things). And I think you need to take that into consideration.

Woman: No. I don't think that's considered in our balance on the number of files.

Man: Okay. Well I'm...

Woman: I mean (unintelligible).

Man: ...I'm talking about the (team). I made a recommendation. I'm talking about the MRB consideration.

Man: For the denominator.

Man: That's...

((Crosstalk))

Man: Exactly. Right. Because if you look at 20 down to - and if we had no other problems or one, that's a state and you're reviewing the state as a whole.

Man: Yes. Right. (As a whole).

Man: And that's the issue. And that's the issue we had last time.

Man: Right.

Man: One or two events driving to an unsatisfactory. But yet I see Pennsylvania had two industrial radiography events they didn't investigate. Not even a recommendation. That's been our concern. That's why we're arguing this trivial - what seems to be trivial stuff here is because in the last (IMPEP) it's so skewed that we have, you know, very little tolerance rolling it out in some manner that biases it.

And we even had conversations and I won't name the NRC individuals said well the rating is based on the lowest performing program. That's what was said to us.

Man: Lowest common denominator.

Man: How - lowest common - how is that possible? It's one state. It's one program. And we got problems with one reviewer. A review was conducted at a time when the senior reviewer wasn't there and their program director who used to be the chief of the licensing.

So we're disadvantaged yet to get that information. And I know this Dan Hayes. I've spoken to him many times. Think he's a man of few words and a

few scribbles of documentation (out) but very competent. So, you know, and it's a disadvantage.

And no matter how we cut it whether there's some vagary, like okay, maybe it's this way opposed - of the six that were for New York City, we're down to at best three.

And of those three, only one you could try to say that there was long-term risk and that was related to the animal hospital, which got (six) almost instantaneously. So he's only got one. It's like how do you...

Man: Yes.

Man: ...so I don't know. I - well even go further is that, you know, I listened to the Region 4 review. The Region 1 review we said that they (unintelligible). All of their 1556 license guidance wasn't followed in three cases and one was the large license. There wasn't even a recommendation.

Man: That's right.

Man: Not even a recommendation. Region 4 turned into a discussion about a best practice, as you recall. It's not a best practice. That's your expectations. There are NRC procedures. Not they're doing best practices. It's not a state doing something different. Each region should do the exact same thing.

And I'll tell you further. You do all - the three regions separately. Now I have no idea why you don't do them collectively. Is when you have one program in NRC. You can divide it up into as many offices like us but you do those separately. So they don't have to feel this how you going to balance it.

So if you're going to do us, you have to at least give us the same benefit of the doubt that you give Region 4. I mean it's just not reasonable.

Roy Zimmerman: Okay. I appreciate your comments. Was glad that you were on the phone during the other (unintelligible).

Man: Been on too many of them. Sorry. I've been on too many of them.

Roy Zimmerman: No. But it is...

Man: And I apologize for ranting a little bit...

((Crosstalk))

Man: Strikes a nerve.

Roy Zimmerman: Right. And you spoke eloquently about it. We do have areas that we can look at. We're open to do that. We've indicated that and you've given us insights.

And we just - we need to look at programmatically and working with around what is the best way to see what we can do and you guys are helping us by addressing some of those areas and raising some of those questions about why do you do it this way. Maybe you ought to think about doing it that way.

We may agree with some. We may not agree with others. But it's the dialog which is important and you've devoted the time and energy and you've got some scars from the last MRB that - and (IMPEP) that, you know, you're - that are, you know, that are still somewhat fresh.

But turn it into a positive. That you're not getting pushback. That we're not listening, we're not focused on that; we're just focused on talking - we're taking the holistic look that we're listening to what you're saying. The benefit of you (unintelligible). We will pursue and follow up and see where it takes us. (Unintelligible) there is a possible improvement and as we said, it needs to involve OAS in a larger menu.

Man: Yes.

Roy Zimmerman: But again, your statements were listened to and acknowledged and, you know, it's not the end of the dialog. It's the beginning of the dialog.

Man: Well we're certainly concerned about the immediacy here of this review (and) what's in the report. We're just about ready for - (oh good), addressing the need (unintelligible).

Roy Zimmerman: Okay. Let's see where we are. My suggestion on this - sometimes we (pull it) apart. Sometimes we do it together where we address the recommendation as well as the indicator whether it's satisfactory, it needs some improvement, is recommended by the (IMPEP) team. My suggestion is we go through...

((Crosstalk))

Roy Zimmerman: I think it's easier to do it that way. So why don't you lead off.

(Brian Holly): So I'll lead off. (Brian Holly) for those on the phone. I would like to comment on that - the last state comments just briefly with, you know, taking it up a level as we're always trying to do.

You know, we routinely ask what we ask at commission meetings. You know, how's (IMPEP) doing? The commissioners have pinged on it could be a little more quantitative and that. Part of the OAS feedback, which New York City can influence is it's doing fine. Don't touch it. Okay.

So I mention that here. I know you're aware of that. And yet your program's unique a little bit. So I just - we keep bringing it up I think. I think there's areas to improve. So I'm just repeating that.

Woman: And we're touching it.

Man: Yes. And we're touching it.

Woman: We're changing. Yes.

Man: Back to the recommendation. I hinted at it in my discussion before. I think the write up can be added. I would add a paragraph after somebody's discussion above the recommendation paragraph that talk about this MRB discussion.

That additional information was brought to the MRB and better examples of licenses and summarize that in a paragraph that we should clearly state in the report reflect this last hour on licensing.

I think part of that paragraph might be able to reference back to the staffing - the satisfactory, needs improvement staffing. And that, you know, there's always a correlation between that and inspection and licensing. And, you know, we had mentioned backlogs during that discussion. Backlogs are one item mentioned here.

I know Cheryl's, you know, that's - there's still a licensing stress here, which backlogs have doubled. And, you know, there's a little bit of a shell game there.

So with that overlap calling satisfactory, needs improvement, I would lean towards the satisfactory rating for licensing with what I've heard today. I would recommend still having a recommendation.

I've cut out a lot of it. I've read to you a shortened kind of one sentence recommendation that I think covers additional training and improved documentation for licensing decisions.

Man: Yes. I'll start by saying that, you know, I agree with (Brian) that we need to add a paragraph describing discussion of today, have a (internal) final report. The backlog I think is an appropriate issue for this indicator.

It is specifically mentioned in the Management Directive Handbook as an indicator or part of an indicator with respect to - even though there might not be a certain number of completed actions, examination of renewals that have been pending for more than a year because of failure to act on such requests may have helped in safety implications.

It's not that you have to conclude that they do. It's just that they may have those implications. So I think that's one aspect to consider. For me going through individual licensing actions, it's not our role to second guess the state in whether they took a specific appropriate action on any individual license. It's not what we're here for. We're here for a programmatic review.

And I still have the impression that there are weaknesses within the New York City program for documenting and satisfactorily capturing the licensing review process and the decisions that are made in issuing the license as well as making sure that the records are clear with respect to what licensing actions are taken.

Touching on, you know, the facts that we're looking at three separate government entities within New York with respect to the review and the fact that the other two entities may not have the same concern that, you know, is documented by the review team.

You know, I'm sympathetic to that but as an attorney, you know, my perspective is the statute itself says that the program is delegated to a state, not necessarily to an individual agency and so the review therefore by statute has to be a single program review for the state. It can't be divvied up in responsibility.

I don't know whether that's consistent as the NRC looks at its individual regions separately or not. But, you know, that's something that is not necessarily driven by statutory language. So, you know, I don't - now that can be something that the agency looks at.

But to me taking those considerations into account and the dialog that we've had, you know, I still am of the belief that there's some programmatic weaknesses with the city's licensing process based on the review team's analysis.

And so I would defer to the review team's proposed finding for this indicator satisfactory, needs improvement. And with respect to the recommendation, I agree with the recommendation although if it, you know, can be tweaked to be more specific or if there's, you know, a suggestion from the other members of the MRB, I'm open to that. And so that's the way that I would cast my vote.

Roy Zimmerman: Thank you. Thanks for going through that explanation. Cheryl.

Cheryl Rogers: Oh, okay. So the very first sentence talks about incomplete evaluations of health and safety issues and lack of technical quality. It seems to me that the root of the problem here is documentation. I think New York City has made a pretty good case that health and safety was not an issue although maybe they couldn't - they didn't have the documents for the IMPEP reviewer to look at.

I think they've - I think for the most part they've tried to answer the specific things that were brought out. So to me I would focus more on the documentation. I think the training recommendations are fine. I would also try to give credit to New York City for, you know, coming more into line with the standard practice. So using the NUREG-1556.

As far as the one reviewer, I'm not really sure where he put that. Maybe he put that back in staffing and training. But yes, I think that wasn't - that's what - that's more of an indicator than anything else that, you know, that there's stress there.

So I lean toward that this more of a documentation issue. I know licensing is a very technical activity. I know that we all - we have our standards. You know, I'm sure there's a lot of ways to do it better.

So I guess, you know, I'm trying to get to the point of I think the - you definitely need that - the paragraph about the discussion. You need to add something about the improvements. Possibly put the New York City stuff (unintelligible).

But I'm leaning toward the (sat) because they - not needing improvement because they have done things to become more in line. So if you want to just stick something back in staffing and training, I wouldn't object to that. But I think this is (sat). So that's my comments.

Roy Zimmerman: Okay. So let me clarify. Satisfactory for the indicator. And with regard to a recommendation, am I hearing that you're not adverse to that - it needs to capture the points that you made. Is that - are you aligning that a recommendation focused on documentation of - and some of the other key points others have made are something you support or do you feel there should not be a recommendation?

Cheryl Rogers: No. I'm for the recommendation. I felt like (Brian)'s idea of rolling it up but, you know, that goes back - if you want to get good documentation, that maybe takes a little bit more finesse and double checking, peer review, oversight, that kind of thing. So I'm for keeping the recommendation, maybe shorten it up, roll it up into something a little tighter that focuses on the documentation.

Roy Zimmerman: All right. Thanks for going through that. Darrell, we lost you on the video but hopefully we have you on the phone.

Darrell Roberts: Yes Roy, thanks for being patient. Yes. We got disconnected. I think there may have been a timer or something on the VTC reservation. So we got kicked off. But I am back on now.

Roy Zimmerman: Great.

Darrell Roberts: I did miss the last part of one of the earlier discussion but I did catch the tail end of Cheryl's from the State of Wisconsin. So I'll just give you where we are and you can, you know, consider that however you can.

I think the bottom line is that I'm in - I'm on the side of satisfactory but needs improvement. And it gets to that discussion of, you know, how, you know, the deficiencies that were identified in the New York State or New York City program.

There's still a number of questions I have I guess regarding - as I indicated earlier, the number of examples that still apply. However, I think enough of those examples at least based on my read of where we ended up would suggest that that still exists, which would suggest that the program still needs some improvement.

Granted I understand that the performance varies across the three different agencies within the state's program. But as was indicated earlier, I think that, you know, obviously we're evaluating the performance of one overall program, if you will, or one state - one agreement state. And with that I would lean in the direction of satisfactory but needs improvement.

I do agree though with (Brian)'s suggestion to add a paragraph on Page 10 before the recommendation paragraph documenting what was discussed in the earlier part of this discussion involving some of the information that was provided by the state and our response to that.

Roy Zimmerman: Okay. Very good. Anything else Darrell?

Darrell Roberts: No. That's it.

Roy Zimmerman: Okay. When we do a tally, right now we're at 2-2 with regard to satisfactory or satisfactory needing improvement. There seems to be alignment on a recommendation that needs to be made, that needs some work and also the paragraph that (Brian) recommended seemed to resonate with all of it.

I think it comes down to my vote on this and I vote for satisfactory with the recommendation that I think we need to tailor. I think our discussion that we had was fruitful. I - we didn't align on everything. But I do feel that the vector is headed in the right direction and want to recognize that by going with a satisfactory call on this.

And then to pick up the pieces that address some of the problems that we've had in a higher-level way so that even though we're leaving off the needs improvement, the recommendation will cover a number of the areas that we spoke about.

The ones where we may have agreed to disagree on the specifics we can rise about that level. But I do think that in addition to that, we did spend a lot of time and I appreciated the dialog and everybody's constructive energy in order to be able to get down to, you know, was it in the file, was it not in the file.

And there's some areas that we just aren't exactly positive. To me there's not enough to go to the needs improvement. So I think you made that suggestion (Chris) and I had (Brian) go first. I was actually going to go first to bring this out but now you'll (see) I just went with - along. But at least I was able to play I think an important tiebreaker role.

I do thank everybody for the discussion on this. We took it extremely seriously. I think everybody listened to everybody. But the bottom line is we'll come out of this area with capturing a paragraph. We will come out of this as

satisfactory and we will have a higher level recommendation that will talk about the areas that address not only the document (unintelligible) and some of the - some of the (unintelligible).

So let me stop at that point. I know we have a number of other areas. I'll answer questions. But I feel comfortable that we aired it out well. And you see by the way we voted that it was a very close call.

All right. We're ready to proceed. I appreciate everybody's energy for a little bit longer here. I think we went over the tougher issues. I'll turn it back to Lisa for technical quality of this and an allegation (unintelligible).

Lisa Dimmick: Donna Janda reviewed that indicator.

Donna Janda: Thanks Lisa. A total of 32 incidents were reported to NRC by New York since the last (IMPEP) review.

The team for this indicated the team review casework for 13 incident files for events reported to NRC during the review period and eight incident files for events not reported to NRC to confirm that they didn't require reporting.

In addition, the team reviewed casework for seven allegations transferred from NRC to New York during the review period and casework for five additional allegations handled by the state.

Based on the review, the team determined that New York's response to the incidents is based on the health and safety significance of the incident, onsite investigations that well documented prompt and (unintelligible). The level of effort was commensurate with the health and safety significance of the event. And corrective actions were appropriately followed-up during the course of the investigation and prior to closure.

Timeliness of reporting events to NRC generally was within the recommended timeframes of NRC's reporting requirements as outlined in SME procedure SA 300. There are a couple of events that were reported approximately two months late. But overall they were prompt in getting the events in NMED.

Regarding allegations, the review team determined that New York conducted appropriate follow-up to these concerns and provides the results of follow-up activities to the allegor when in conflict.

The team reviewed New York's incident and allegation procedures and found them to be comprehensive and to contain the notification requirements as outlined in the SME Procedure SA 300.

In addition there were four recommendations that have been made in the previous in IMPEP review that we obviously looked at to determine whether they could be closed out. And one of those was for the New York Department of Health, the State, and three of those were for New York City.

And the review team determined that New York satisfactorily addressed those recommendations and is recommending that they be closed.

So in closing, for this indicator, the team is recommending that the state be found satisfactory with respect to the indicators, technical quality of incident and allegation activity.

Roy Zimmerman: Great, good brief, thank you. It was brief and it was good. Questions?

Man: Yes, three quick questions. One, I worry every time I see zero reporting for NMED from anybody. I think I understand it. DEC probably has less opportunities...

Donna Janda: Right and that's why I...

Man: (Unintelligible).

Donna Janda: Yes and I reviewed their - they have a list of their events that they have and I believe there was three of those. And found that they didn't require to be reported.

Man: Okay so you said it wouldn't be opportunities...

Donna Janda: Oh yes, they had several.

Man: That helps me. I just sometimes when I see a zero I worry that they're there. The second question is (Donna) for the team, where do you get the approximately two were approximately two months late. I don't know if you have a reason why they're late.

Did they miss some or did they...

Donna Janda: It was just an oversight. I think they're still gathering information sometimes and then they make the determination. So it looks like they had it and didn't report it. So but yet...

Man: They were still in their initial decision making. It wasn't that somebody determined that it's not reportable and then a supervisor caught it.

Donna Janda: No.

Man: I mean that would indicate an issue maybe with training. But this was just they were taking their time on those.

Woman: And I will note that New York City has requested NMED training anyway coming up in...

Man: NMED training good.

Woman: It's going to reinforce a lot of this.

Man: Oh good, we can add that in there. But on the last one, what's the state update? I'm waiting to see how New York City indicated they will review.

Woman: Oh that one event?

Man: Yes, this last, the bottom of Page 11 and top of Page 12. We should be able to update this report and New York...

Woman: Sure, and just to refresh your memory, I believe this is the one where at the time it was a written directive. It looked like the patient didn't receive the right treatment. But the patient did. The written directive was incorrect.

The doctor ordered I believe it was I-131 kind of but I'm sorry I don't have my notes in front of me. But...

Man: Well (Chris) should have it. And if he commented on this report, the bottom of Page 11, New York City indicated they will review the event and report the information to NRC if it determines the event meets NRC reporting criteria. Did he do that?

Woman: I'm pretty sure - I'm sorry. I'm just trying to refresh his memory because I know he's looking at me.

Man: So you don't know if he did it yet?

Woman: Yes.

Man: I wanted that updated.

Woman: Okay.

Man: I figured the state by now would have done that.

(Chris): Yes, I don't actually - I said that?

Man: Yes, you said that. You agreed to it and you didn't comment on it.

Woman: You and one person (Chris). I've got to go back for...

Man: Somebody in your group commits...

(Chris): That was in my comments?

Man: No this is in the report.

(Chris): Oh, oh.

Man: It's in the report. And I assume you're doing that and I just wanted to know.

(Chris): Maybe you're better leaving it as a dangling item. Yes, we can circle back together, check the file.

Man: Yes, just update the report.

(Chris): Yes.

Man: And make sure you make a note on that. They can either way, I'm fine. I have no other questions then.

Roy Zimmerman: (Jim)?

(Jim): I have no questions.

Roy Zimmerman: Cheryl?

Cheryl Rogers: No questions.

Roy Zimmerman: Darrell?

Darrell Roberts: No questions.

Roy Zimmerman: Okay, we'll first go to the state, anything that you'd like to raise on your side?

Man: No, I think we would have liked to been able to close recommendations earlier. And I know you agreed to this process, the MRB. We had last time all of our events were well investigated, document.

Woman: (Unintelligible)?

Man: Yes, you know, after the last IMPEP, we immediately put our procedures down. We didn't change what we did. I think Lisa stated it nicely, memorialized them. And we don't have the opportunity to close those things even though, (Donna), you know, others came and looked at the procedures.

There should probably be a mechanism where we can, you know, end those. Because I'm not sure what the Management Review Board would ask if the team came in to do the periodic or came into our office, look I said they're fine. I don't see why we have to wait to clear the hold. That's all.

Roy Zimmerman: It's a good point. And again, like the other ones that you've made. And I think it's all part of a reflection of what we can do (unintelligible). Thank you for raising that.

Woman: Just another point, we are clarifying the periodics for the SR ones specific to things. And we can move closing recommendations, maybe removing or addressing, monitoring and heightened oversight in the interim time period.

Man: So we've heard that before about beefing up the periodics and maybe making noted improvement.

Man: The other thing I wanted to add about periodics is in the past we used sometimes closed recommendations that had been filed but then came back to bite us. Back to bite the state. So that's why we went through the process.

Man: So yes I think it's a reasonable truth and verify kind of thing.

Man: Yes.

Man: Especially if it's like a quantifiable how many did you get, how many got reported, that kind of thing. I would just like to thank (Donna). She did a lot of technical assistance to my team before the IMPEP to make sure that our NMED stuff was up to snuff and was properly closed out.

And helped them work through some of those items for the stuff that did get reported. So that was very helpful. We're appreciative of NRC agreeing to have NMED training in New York City. It's not the cheapest place to have a training. So we appreciate that.

And we did get good callout from our friends in New Jersey. So we're going to have about eight to ten people from New Jersey are going to participate in that. And we're going to have everybody located in downtown Manhattan in a nice training center. So they're all going to have computers and laptops and all that sort of stuff.

So we just wanted to say thanks for the support both at the line level and then to pull in that training to help us, you know, learn more.

Man: Thanks. We should take one real quick comment on the allegations. You know, the way you have it so someone reports the event to NRC to protect

the alleged's identity. In some cases I guess result in that after the initial call they don't call back and follow up.

I mean if you had a policy where if it was a state and you told them call the state. You need to have that first contact. We may be able to get further on given it's well intended and I know that. But it's up to us to do the actual investigation and follow-up.

We need to get that firsthand. So I think what we need to do is tell those callers, your best bet is to call the licensing agency. If they don't get satisfaction, you should call the NRC back.

Man: Our policy...

Man: That's wise.

Man: Requires us, to, you know, try to do that exactly thing first. Sometimes for a couple of...

Man: Okay.

Man: We don't. If it doesn't come back that way they get it somehow independently.

Man: Okay.

Man: So I can talk to you about that.

Man: All right.

Man: Okay thanks.

Roy Zimmerman: The comments you're raising are, you know, are very reasonable. So it's like I said, there will be more time spent on the various issues you raised as well as combining with the other states.

Man: Sure.

Roy Zimmerman: One after another the suggestions you're raising are well thought out.

Okay I think we're to the point of the MRB looking at folks whether they agree with the closing of the past recommendations as well as whether we find this indicator is satisfactory.

Man: I agree with both.

Roy Zimmerman: (Jim)?

(Jim): I agree with both.

Roy Zimmerman: Cheryl?

Cheryl Rogers: I agree.

Roy Zimmerman: Darrell?

Darrell Roberts: Yes, I agree with both.

Roy Zimmerman: All right, you made it easy for me. It's unanimous. Okay now we move to nonperformance indicators. And we're on the compatibility requirements here and again I'll go to Lisa.

Lisa Dimmick: I reviewed the nonperformance indicators compatibility requirement. For the compatibility requirements indicator, the review team considers any changes

to the programs enabling legislation as well as a status of the regulations that are required to be adopted by the state program.

The IMPEP team evaluated New York's response to the questionnaire relative to the indicator. Verified data on each agency's state regulation status sheet. Interviewed staff and confirmed the use of licensed conditions that were submitted as legally binding requirements in lieu of final regulations.

During the review period the program made progress in adopting overdue rules. There were 31 overdue rules at the start of the review period. In the review period, the program submitted 13 final rules, three legally binding requirements, and four final partial rules.

All of the rules were submitted for adoption were overdue in a range of six to ten years being overdue at the time that they were submitted for adoption. New York currently has 15 rules overdue for adoption. In addition, NRC's compatibility review on final rules has resulted in 12 rules with comments.

And what that means is those comments need to be adopted in future rulemaking packages by the program. The team recommends that New York be found unsatisfactory with respect to the indicator compatibility requirement.

A rating of unsatisfactory is considered when most of the NRC regulations that should be adopted by an agreement state are consistently adopted in a timeframe that the effective date of the state requirement is more than the three years from the NRC's effective date of the rule. So that's what we based our finding on.

There was also an open recommendation from 2006 and 2011 for New York. And that all three agencies were to develop and implement an action plan to adopt NRC regulations in accordance with current NRC policies on adequacy and compatibility.

The team in response to the state's comments reconsidered its initial status on this recommendation. And the team determined, after considering the state's response that this recommendation could be closed. All three agencies did develop and implement an action plan to address their overdue rules.

New York City did adopt all of the rules that were currently overdue for adoption. So they implemented their plan. State Health and DEC were following their plan. They're still following their plan due to probably a number of circumstances and arduous rulemaking processes at both DOH and DEC.

They haven't completed the overdue rules in their respective agencies. But because the programs did develop and implement a plan which was the crux of the recommendation, the team does consider the program is cognizant of the requirement to adopt NRC regulations.

Roy Zimmerman: Thank you for that, thank you. All right, let's turn to (Brian) first for any questions or comments on what Lisa went over.

(Brian): Okay I have just a logic issue with this. I understand the call of (unsat) based on I asked previously, the program has a majority of the rules still taking too long. The logic issue I have is they're (unsat). I'm closing a recommendation. And then the write-up says does make progress.

So I understand all three. So I give you kudos on that. However the results still are, even the ones you closed, I guess even NRC still has comments on at least four of the ones that we even gave you credit on closing. But they're still due, due to some issues and you still have 15 amendments overdue. And a significant number were still submitted overdue.

My question for the team on closing the recommendation, I saw New York City appropriately say, hey take us off of that because we caught up. So I was okay with that.

But I didn't want to fold the whole recommendation. And legally I'll talk to my lawyer here. Yes, they satisfied -- the other two -- have satisfied doing a plan. But, you know, it's not having the results intended which is indicated by the team calling (unsat).

So my question was it appeared to make the criteria for (unsat) still. And my one question is why not have a - I'm okay with closing this recommendation because it speaks to a plan. But why not open up a new recommendation, 14, that says continue to work diligently for the two that still have overdue to either improve the process or improve their performance in getting them done in a timely manner?

Man: (Brian) you're stealing my thunder.

Man: Yes.

Man: My only comment is he and I haven't talked at all about any of these. But we seem to be thinking very similarly.

(Brian): Well, you know, on that, I forgot to make a comment on the last criteria. When you were talking about, you know, differences between the state and Pennsylvania, and Region four. But it's worth making that the MRB setup is setup to try to do that.

You know, you listen in to a couple and we listen to quite a few of them or read the reports. So I wanted to make that for the record but back to the team on why not a new recommendation.

Woman: New York's still on heightened oversight from 2005 for regulations. They've had in 2006, the action recommendation was to develop a plan. But since 2006 they've had a plan in place to adopt final rules.

They're aware of what the requirement is. They did develop a plan and they're following it. I don't know that the recommendation is going to necessarily change their ability to promulgate final rules.

They have challenges at both DEC and DOH. I know New York City is looking to adopt by reference. DOH adopted Part 35 by reference. That was probably a precedent for DOH. And they might try to go forward with doing other rules in that fashion.

Man: That's right.

Woman: And...

(Brian): So there is an ability to implement performance in a more timely manner. There is that ability.

Woman: Well...

Man: I can tell you that medical on the Part 37 side, the only reason it went through is physicians were calling the Governor's office to complain. The rules were at the Governor's office. Okay. That's our process. They were sitting on them.

New York is opposed to putting any new requirements on any individuals. And taxing, fees, we haven't changed our fees since 2000. They're not letting us. That's the New York state of mind that we're dealing with.

We're hoping to get a lot of these things done. I'd like to make one larger comment. By helping with Part 37, combining all these rules that are overdue plus the ones that are on the books to become due, and we did a lot of license conditions for the NSTS.

We have finger printing in regulation because we had to put it in regulation. But we're hoping we can use things like Part 37 to help pull the whole big

package. And at the same time, consolidate what is the Department of Labor Regulations with Part 16.

You know, we're looking to make Part 16 as a subpart. So we're going to try to go for broke. Now if we look at this is again, I had to go back and say this is one state program. You're double counting regulations here for DEC and DOH. It's one state.

Well the state doesn't get credit for any one overdue -- and these are only amendments to regulations here -- until every program adopts them. So what we're doing again here is we're double counting. It's one state.

Again, we all have to adopt applicable regulation for the state to get credit. And we are double counting here. You've been double counting. You know, when you look at the partial amendments, the meat of those four are Part 35.

There's a Part 32 piece about nuclear pharmacists which we handle in licensing. Only those nuclear pharmacists meet these requirements, they're going to get put on a license. We don't have separate parts.

You have Part 40 and 70, those are redundant things with Part 30 for us. We only have one part. So the meat of those is done. There are some little pieces that aren't done.

When you look at things like skin dose, you know, that's applying kind of the nuclear power plant stuff to us. In my 23 years, we've never had an issue.

Some of these are minor amendments. You have one that's been superseded. There's no way we can fulfill 1995-7. It's been superseded but you're still counting it.

So I'm not sure what the benefit of that is other than to say well you've got one that's really old. So I want you to again consider, one state. I think the tracking is going to be much more difficult for us.

There should be one SRS sheet for state, logo the columns. We can check off all the columns across. Scratch out that overdue change. There's not three separate agreements here, there's one.

Now kudos to (Chris) for getting his piece done; now he's waiting for us to get it done.

Man: Just again, trying to operate from up here, you are correct. With it being that one of the three is in a different place. We're all taking down that app. We acknowledge that.

Man: You know, if we don't adopt a rule, and (Chris) has done it and DEC's done it. It's still hanging over New York State's head. We accept that. I think that's better than counting 15 especially when, you know, four of them are 90 plus percent done. We won't even get into that and just consideration at least.

And we had this conversation. It's a long standing thing with DEC. DEC has things like bring it on the criteria for license termination. They don't issue licenses. There is no license for them to terminate.

They do a discharge permit. Release a stack, it goes out. It's no longer regulated. There's no decommissioning of that. The I-31 is out there. There's no decommissioning. But you have that for DEC.

So those occupational dose records, well, you know, DEC does discharges to the environment. There are some definitions in there like public dose doesn't include exposure for medical uses. DEC's component, that's not even on the radar screen. It's only with us out the sack when they consider public dose.

So the way the state is divvied up, I know it's extremely difficult for anybody that comes in through you, the program, to understand how it was setup and how it works. But you shouldn't be putting these requirements on DEC's to-do list when they don't issue a possession license for decommissioning.

Woman: (Bob), can you chime in here for DEC just to clarify the things that are listed for DEC. DEC has a piece of each of those regulations. The majority is done by the licensing agency. But we do still have a small piece of each of those.

Man: Okay I think it's a very small piece. And I think that's the problem when you just count numbers. I mean if you look at what the state has in place, overall for all of our regulations, we don't have some of these. These are all updates.

If we look at expanded definition for byproduct, well, we should have probably sent them in because we say radioactive materials are more restrictive. The governor signs the certification saying we have a program or that would fit this expansion to norm. I mean the governor signed that. I guess that's not good enough.

I mean I'd just like you to take that in perspective when you're looking at us as a whole. And maybe we're still unsatisfactory because we're not up to, you know, where we should be. We have plans to get there. But I think it needs to be put better into perspective.

(Brian): Well that answers some of I mean it looks the team obviously took that discussion that you had in place. You know, they say you're making progress.

Man: We did have some good discussion.

(Brian): And they're leaning towards monitoring versus heightened oversight so you seem to have them in the report. So they seem to be taking that.

I was just my logic issue was one you get to the bottom paragraph after all that says we're calling it wherever that is, the bottom of the page, based on the IMPEP evaluation criteria, the bottom of Page 16, you know, I think that one sentence is standard with they have made progress. Remind them that there are three aspects.

Man: Oh sure. But just again, it's one state. I'm not really sure it's fair to count the same regulations twice because it's one state agency. Again, until every one of those agencies does that (RATS) ID, it's going to stay New York State is not compatible for that (RATS) ID.

It makes it a tracking issue deal. I understand that. But how can the state with one agreement have the same rule overdue twice? Because I mean again, we won't get credit for it completely to acknowledge (Chris). We won't get credit for it.

Man: You've brought this issue up before. I wanted to comment again.

Man: You know, because again, one state program.

Man: Right, I think one of the challenges and (Bobby), you're right. With three different programs it's challenging again. In some respects, you know, New York Department of Health rules for medical facilities do not apply to the City of New York.

However, these rules do apply in the City of New York.

Man: Correct.

Man: I think it's one of the challenging things. You're right, you almost have to come up with a matrix to say...

Man: Right.

Man: Exactly because one of the things that's been one of the cornerstones of compatibility is to make sure there's no duplications, gaps or conflicts. And when you look at the State of New York, you have because, you know, because of the way with the three agency steps, you want to make sure you have everything covered and there are no gaps.

I think that's challenging. And that's a challenge.

Man: It's a tracking issue. Telling you left off where. You regulate the facility and New York City says we don't.

Man: So that's one of the challenges...

Man: Your master license.

Man: Right, but again like...

Man: He never informs me when he's being inspected or when he's changing out radioactive material.

Man: Oh sorry; I'll wait for later.

Man: Division One.

Man: Wait for later.

Man: But for Part 20 applicants, use and health or license to decommission is a good example. So who would - do all three agencies use license termination, you know, to some extent. You're right, it's for licenses, it's for who does permit.

Those are the kinds of things, I'm not trying to, you know, get into a discussion. But that's a challenge of doing New York State.

Man: Oh I agree.

Man: Yes. It's just...

Man: I agree.

Man: It's about how, where this all fits together and it's challenging.

Man: I agree but for the chart, I think maybe a good way...

Man: Three columns...

Man: Yes.

Man: In the SRS sheet, the state only gets credit...

Man: Where you breakout the chart in a way to kind of identify at what point do we all get to fall off completely.

Man: Right because I think we've been in this mode for so long it's really hard to do a different model like I'm suggesting. Still we have overdue regs. And then how do you know.

Man: And then when you achieve a perspective, you know, the state and DEC can adopt by amendment. So I mean there's other ways to get conformance that doesn't require a full fledged regulatory process.

I think it's reasonable for us, as agency partners, think about, you know, which pieces of this puzzle do we adopt through another regulatory approach that has legal authority, commissioner's order, add it as an amendment, do something else.

Because the broader, my high level comment to the IMPEP folks is that your heightened oversight is triggered by two (unsats). It doesn't matter what those (unsats) are.

So licensing and actions...

Man: Yes, are equal.

Man: They're equal. They're my Big Kahuna, 98% of my activity is related to that stuff. That's where all health and safety happens almost entirely. That you get (unsat) for one medical event and you're (unsat) for regulations which aren't going to change between the heightened oversight period because we know the struggle that we're dealing with as agencies.

And now I'm in heightened oversight. I see you guys in two years instead of four. I've got all this activity. And it's out of balance with the relative level of health risks. So I would say that you've got adequacy issues which are programmatic in nature that can change based on administrative activity, agencies can control internally.

And then you've got compatibility and other issues which are a little broader; they're bigger. I can't control whether or not the governor is going to release a regulatory document on my desk. But if I'm (unsat) for that, I blow one other thing. You're spending \$5 million hanging out in New York.

Man: So that was your argument for 2011. But we don't have that now.

Man: No, that's right. This is how I...

Man: Go back to...

Man: Go back to a higher level conversation.

Man: I know.

Man: About how do we organize IMPEP? What are the triggers for where we expend our resources? You know, rather than having compatibility end up being a trigger for one other (unsat) into a heightened oversight, maybe there's another way to think about where those resources go.

How do I utilize that staff in a way that supports a state more effectively? An audit is not a support tool, right. Sometimes an audit will identify things that you can improve on. But the audit itself isn't a support tool.

All the support happens after the deficiency is identified and you start to think about how do I address it. But after I start to think about how do I address it all my expertise is gone. It's left my shop.

So now I'm thinking about how do I implement the best practice on my own? Call somebody up, maybe call (Don), maybe call somebody else. But a concentrated effort, that's gone.

So if we organize the approach for how do you support an agreement state a little bit different than that expertise onsite, right lives with me for an improvement purpose rather than an audit purpose. And I think there's opportunities there for us to think about how to do that a little different.

And this just highlights how that gets triggered into an expansion of resources that might not have been the most effective way to address the problem we're trying to deal with.

Roy Zimmerman: All right so what I'm taking away is this is another good area for further dialogue.

Man: Yes.

Roy Zimmerman: Then you've raised, you know, well over half a dozen of those today which credits you for and I think that's another one that will be part of the takeaway. I also heard I think when you get into some of the granularity of some specifics, 90% of these or 40% are done or numbers like that we can't do anything on this particular one.

While you were talking I was listening and not going back to the comments that were sent in. I don't know if you provided that level of kind of dialogue but it may be...

Man: No, I did not.

Roy Zimmerman: It may be as we work on this indicator and try to shape it perhaps a little bit more, we need to bring in a few of those thoughts. So there may be a benefit of having a dialogue, or supplemental email, or something to give us some of those additional...

Man: Oh sure.

Roy Zimmerman: Thoughts like you did before. We talked about a new chart. And I'm not sure that I was able to follow what the new chart was going to do was compared to the way it's laid out.

Man: Well we have for each state program has something called the SRS sheet. It's posted on the like in New York there are three of them listed. So it shows overdue and amendments.

So (Chris) gets one, we get one, DEC gets one. Well many times the same thing is listed on each, the same amendment on site. And one that's an expanded definition of byproduct materials on all.

Roy Zimmerman: That's on the double...

Man: Well that's what gets you referred. It was a triple before until (Chris) did it.

Roy Zimmerman: Right.

Man: So as we count numbers...

Roy Zimmerman: Tax ID, New York, DEC, New York State.

Man: That's the way it should be. They're all separate now.

Roy Zimmerman: Does it apply, yes. You know, is it completed, yes, yes, yes. Is it completed, not applicable to New York City because it's a radio pharmaceutical...

Man: It's commercial, right.

Roy Zimmerman: And not related to NRC radio pharmaceutical or you add something else. And then you'd have it for each one. And then you'd have one.

Man: So every time a new one comes out, comes due, automatically you would put three for New York State. And but it's one percept.

((Crosstalk))

Man: I'd like to reflect what...

Man: It dates better.

Man: Well it also looks like, you know, this looks like we're doing it as a state. And again we had nothing to do with the way the program is divided up. But we're trying to live with it.

But I think to be fair, since something won't come off until everybody has got that, it shouldn't be until that amendment is in place. It should be counted once. It becomes a different way.

You're still tracking each program individually with these SRS sheets. I think they should be combined into one for the state and there might be a couple more columns on it. You know, when you get the check-off for each of the three programs, credit's given because right now credit is not given.

(Chris) adopted something and we acknowledge we're bringing things down by not having it adopted.

Man: Except credit is given in the write-up I guess.

Man: Yes the write-up says that we've made progress. But when you write out like how many people have adopted X section of Part 35, if it applies to the whole state it would be one. There would be one.

This section would be written up. The narrative would say New York City adopted everything that it's up-to-date with. And you guys have some challenges. And then the list of what's outstanding would just list once.

If it's outstanding, it's outstanding. It doesn't matter if it's outstanding for DEC...

Man: Sure.

Man: Versus New York versus New York City.

Man: The ones that are outstanding let's say DEC and DOH, it should say DEC and DOH and then the one that's IDed.

Woman: I'm sorry (Tom) but we are actually addressing this compatibility review, how that's done. Where that's done.

Man: I realize that.

Woman: The most effective way.

Man: You have the working group.

Woman: If it was logged back in when you were suggesting about the effective use of resources on coming out for that indicator. And so the how of we'll depict that and count that in future IMPEPs, we will file it with all the states to get ideas.

You have a more complex program that has unique needs and regulations. But we do understand the need to move forward on the compatibility indicator as a well as the review of the state regs and then a more efficient effective way to do that.

So I don't necessarily solve that. But that's an action item for us.

Man: Right, but I think in terms of perception, if it says 16 and if you look at the state and it's eight, it means that, you know, a reader is going to look at that.

Man: Yes.

Man: And we're half of that. You know, that's all I'm getting at. And I understand we're behind. And we are going to continue it. And if you distill it down to the way I said it and you look at those four regs that say partial. Well if partial it means 90%, we agree.

But to somebody looking at it at face value what is partial? I mean like they've got one piece, one item.

Man: Yes.

Man: It doesn't really put it in context. So, you know, and for you to say, you know, we went from a heightened oversight to suggest and monitoring, well that's fine. But that's not going to change anything.

I understand those processes that are, you know, setup for patients and so forth. We have that. We have a plan. (Donna Janda) can call us anytime. I mean I've talked to (Kathy). I don't know if (Kathy Schneider) has finally left or not. But she's probably tired of hearing from me. But she's very helpful.

I have a good sized binder with a lot of this stuff already in it. And it hasn't left our shop yet. But I've got almost all of this in draft. Now I'm working on the ones that are coming due.

And I'm not too worried about Part 37. If it does come up, we'll do it by license condition. And I think that's the big one. So I'm not really sure I agree. Yes, based on your criteria, we're not compatible. But I'm monitoring also has that connotation that there's something wrong.

These are all amendments to existing rules. There's nothing new here. These are some tweaks. Some even say minor corrections and so forth. Again, byproduct material, we say radioactive material, we're more restrictive and the governor signed.

You know, the governor he had to sign that I forget what it was called, certification whenever we add a program to regulate this arm. You know, what you were given authority to, actually that thing applies more to you than us. So we don't have to change it.

Again, like (Sandy) said, there are some small pieces of some of these that they have to do. None of it's put in context. So I think when you look at all

that, I'm not sure really sure what monitoring is going to do other than give us, you know, again the brand that we're very deficient.

Roy Zimmerman: Okay.

Man: You know, that's just my...

Roy Zimmerman: Well appreciate it.

Man: Big picture.

Roy Zimmerman: I think as (Lori) indicated, we'll take a look at it generically and also, you know, consider your points to see if there's something that is appropriate for this appraisal or not without making any commitments at this time.

With this, I'm saying that if you decide that you want to send in...

Man: Oh sure we'll do that if that would be helpful. Yes, I can lay it out.

Roy Zimmerman: If you could do it promptly...

Man: Certainly.

Roy Zimmerman: (Unintelligible) available.

Man: That's fine.

Roy Zimmerman: So I'd like to get your thoughts. All right, thank you for sharing those. (Brian), did you finish your?

(Brian): I did.

Roy Zimmerman: Okay.

(Brian): You know, just to remind you, my question was on logic on leaning towards, you know, still the (unsat) but documents making improvement. But I am for the logic, still pending a recommendation which, you know, we got rid of. I'm reminding the whole theory.

Man: Yes.

(Brian): We had three. We combined two into one.

Man: Yes.

(Brian): This would be one that we could simply say DOH and DEC should continue working on the backlog of overdue regulations with the goal of completing them in a more timely manner.

Man: Great. That's good.

(Brian): That's all.

Man: All right so we'll work through and we'll loop around.

Roy Zimmerman: While we're still on comments and questions, anything you want to raise or are we at getting into voting?

Man: Yes, I wanted to ask, you had mentioned regulations sitting on the governor's desk. First, are there any other procedural impediments or hurdles that really add to the delay or are prohibitive of you adopting the regulations?

Man: That is the biggest hurdle.

Man: Okay.

Man: We have a process. It has to be very open, you know, public comment period and so forth. We've got to go to the Public Health Council to tell them what we propose to do.

Then we've got to go back again later and tell them specifically what we're going to do. They have to approve it. Then it can move forward to public comment and so forth and then the governor's office for a round of seasoning.

Man: Some states also have the requirement that they go through a legislative review, kind of like a congressional review, later review.

Man: No, New York gets that the governor's office.

Man: Okay.

Man: That takes care of all that. Right now we have some CT regulations that have been seasoning over there.

Man: My other question is aside from the procedural aspect and the delay from the governor's office which I take it, you know, looking back through 2006 where you've been (unsat), that governor wasn't in place back in 06.

Man: Right.

Man: I don't know if it was the same problem back then that it is now.

Man: Yes.

Man: But...

Man: New York does not want to put any additional requirements. We are already over regulated and that's their posture.

Man: Okay.

Man: I can't really speak for them. I can't.

Man: My second question is more along the lines of from the last recommendation it was come up with a plan.

Man: Right performance improvement plan, yes.

Man: The plan that you've come up, do you think that plan is actually getting you to a point where you'll be able to work through the backlog? Is the plan helpful?

Man: Yes, the plan...

Man: Or is it worthy of review?

Man: I think the plan right now I could probably tweak it because I had looked at doing, all right if we get those through, we're going to do one shot everything. And we have, like I said, Part 37 we can champion along that plan.

We need to get these security, these currency security requirements, in place and help pull this along. And we still have hanging regulations in Industrial Code Rule 38 with one in ten. Just move those as we update them and put them in Part 16.

So the program improvement plan is for how we're doing things. It does not speak to how things will transpire when they hit the governor's office. Again that's beyond your control. That's like getting Labor. That's beyond our control.

So we can do what we can. The plan was let's get the medical stuff done. Physicians are calling and they're complaining. And we have to have 200 hours of training to do this. Every other state has 80 hours.

And the only way that got through is we said, oh it's at the governor's office. They called and complained and within days - a bunch of them must have said, let's call and complain. So we need some champions out there to get it through the governor's office.

And frankly at some point when we get that, it might be you folks, again the Chairman. I mean we've never done that for regulations. But, you know...

Man: If that's what it takes.

Man: I think it might again, as I said before, it can't hurt.

Man: If we're going to issue a letter we might want to include the regulation issue in the letter.

Man: Most certainly.

Man: Anything would support, you know, so hopefully we'll get to that point where we'll have this nice little package that will include these and things that are coming due.

Man: Okay, I don't have any other questions.

Roy Zimmerman: Cheryl any questions or comments?

Cheryl Rogers: Oh yes I'm hanging in there. So I do agree with the double counting. I think more credit should be given for the partial amendment because that means New York submitted something. And if it's 85% done, they tried. So to me they should get more credit for that.

And I would definitely support adding something to that letter we want to send to the higher up management or governor in New York. I think what's maybe

lacking in this to go in the letter is the importance of some of them are minor and some of them are major.

So there's no way to get any perspective on it here. But if you do a write letter, I think that should be in there. So I would go with commend on the progress that was made. Maybe consider getting a little more credit for the partial amendments. And really think about a letter to the governor's office.

So I don't have any questions; that's my comment.

Roy Zimmerman: Okay good comments. Darrell?

Darrell Roberts: Yes, thanks Roy. I've listened with interest obviously on the discussion about the accounting of these late regulations, if you will, in the report. And what I thought the state laid out in terms of a different format or a tabular listing of the late regulations with a description or a checkmark as to which ones apply to which agency, or which of the three agencies of the state.

The whole time I was hearing that I kept thinking to myself that sounds like a nice way for the state to track these items if they're not already doing so. And I also thought this sounded more like a presentation issue what the state was describing versus, you know, a difference in content, if you will.

And I guess I wanted to get a feel from the IMPEP team, you know, to what extent is what the state's describing more a presentation issue in terms of these lists were presented in the report. Versus an issue that actually makes a difference in terms of the final recommendation here or the final call on whether or not this was a satisfactory part of the program?

Woman: Sure. Let me just add a couple of things, just going back to DEC, one exercise we did during the IMPEP review was DOH and DEC and we discussed the state regulation status sheet with the intent to try to identify any rules on this sheet that we could remove for DEC, what didn't really apply.

Where could State Health exercise its jurisdiction over this permittee? And we did remove a couple of the regs from the sheet. But DEC had indicated, no, there are aspects of these rules that do apply to the permittee that are a subject to this state work.

So they do acknowledge that there are rules that they do need to adopt or some corrections they need to make with regard to the rules. So even though it's listed here, they do have a piece of it. It applies under the agreement.

New York City and State Health, their regulatory jurisdictions are different. So the medical rules, New York City can't exercise its medical rules to State Health licensees. So that's why it's not (unintelligible) the program.

But I think what New York is trying to say is that you would list the regs, all of them. And then have a checkbox for each agency.

Man: Right.

Woman: You can't take off that reg until all agencies have done it. So it might reduce the count by a few. But we're probably still at a quick glance, 10 to 12 amendments overdue. You know, we might be able to come down. There might be a cross reference but just at quick glance in sitting here.

So that kind of still goes above, you know, we still fall into the category of being (unsat) with our...

Man: Sure. I wasn't arguing that.

Woman: No, so I mean I understand you want to distinguish one program. So it might be just the way or it might be some consideration in looking at the inter grouping.

Man: But the presentation is substantive, right. So the indication of how much is overdue and how many regulations are past due in the write-up.

Woman: Right.

Man: Is substantive. So if three of us are missing one, it counts as three. It should count as one. And if we just present it and say it that way I think.

Woman: We can maybe compare that, I don't know.

Man: Everybody here knows what this is about. People, this is a public document. So once you click on New York, people look and they're going to count a number and what's done. And that's my point.

It's putting it more into perspective. It's one state; it's one agreement. That's all. And I'm not suggesting you change it to satisfactory, I'm not.

Man: I think that was Darrell's point as concerns the presentation.

Woman: Yes.

Man: Well it's the perception of it too. I think it's the perception. I mean it's fine. This is saying which of the agencies has to do which one. And that's fine; that's accurate. But...

Darrell Roberts: I appreciate the comment. My question was pertaining to the contribution of this to final sat versus (unsat) call.

So and I guess my only final comment would be that given the discussion about the governor's office and the fact that there's this hurdle there regarding the adoption of regs and NRC regulations, my question would be is that hesitancy or hurdle if you will inherent in preventing you guys from meeting the three year requirement, you know?

Does that delay, for example, something that automatically results in a four or five year or even longer sort of delay for any regulations that are promulgated by the NRC? And is three years impossible to meet given that hurdle?

Man: I think if everything went well and the governor's office was agreeable, we could probably meet the three years. But it's out of our control. Just because you've adopted that regulation it does not mean that the governor...

Man: Still has to look at that.

Man: Right. You know, it is a struggle. I just would like this to be put a little more in perspective, what it means. And the partials that are done, you know, there's a huge part of those and it's mostly the medical stuff.

And some of these, we have one here that's been superseded. You know, I'm not sure what's the point of counting that is.

Woman: That's the Part 20.

Man: Right so that one really is no longer due. Its predecessor is due now. So I understand that. But that's all.

Roy Zimmerman: Let me state so we can figure out either you're going to do an email or you can talk and we'll try to see...

Man: We'll get that over very quickly.

Roy Zimmerman: Darrell, other...

(Adela): Did...

Roy Zimmerman: I'm sorry, did I interrupt somebody?

(Adela): I'm sorry, (Adela), can I make one additional comment. Some of you mentioned that you might include in the letter to our governor the issue about the regulations. I just would like to make sure that we thread carefully how that's presented.

Because even though we're not caught up with our regulations to match exactly NRC regulations, we have included all those as license conditions. Or none of those have any IMPEP on health and safety. So we are meeting the intent.

We don't have it in our code. And we're working towards being compatible and having our regulations coded the way NRC wants us to do it. But we are still protective of public health and safety.

And when we have been unable to put in it regulations quickly, we have it in licensed conditions which are legally binding. And I think that's a very important point.

Man: Yes, well it's (unintelligible) we got credit for those ones that were done as licensed conditions. None of that is in dispute. And I think the issue of using the governor as the nuclear option, when we get to that point where we have a package, we may ask, you know, come to NRC at that time.

Now, I'm not suggesting it as part of, to put it in here or to do it following this meeting. We have work to do. They'll say where are those regulations?

Man: Right.

Man: I want to give them a big package. So timing everything and then certainly that would be worked through up through our commissioner and so forth. It wouldn't just be willy-nilly.

But I'm just suggesting down in the future that might be a tool to help us. But we...

Man: Well what we would do is we write a letter....

Man: Very carefully that would be done yes.

Man: (Unintelligible).

Man: Looking at those draft letters and the wording, absolutely. And, you know, we did get credit for everything for which we wrote license conditions.

Roy Zimmerman: Got it; Darrell anything else that you wanted to raise?

Darrell Roberts: No that answers everything; thank you.

Roy Zimmerman: All right, we'll go through MRB. We're coming to final conclusions. I think you all had a chance I want to make sure...

Man: Well the only thing I just wanted to talk about is the issue of monitoring. And we have a plan. If you looked at this in whole what it really represents and I know (Laura) said, you're looking at the implication of regs election in states and there's some working groups.

But if you consider that we're putting the status of monitoring change the outcome here. And I suggest you don't...

Roy Zimmerman: We're going to come to that. We're going to get there.

Man: Okay.

Roy Zimmerman: So thank you. All right so (Brian), we'll start with you as we have through the day.

(Brian): Okay I agree with the (unsat) by the team to address the logic issue in my mind. I would propose a recommendation that reads something like although progress has been made, the state should continue working on the backlog of overdue regulations with the goal of completing them in a more timely manner.

Roy Zimmerman: And you would close...

(Brian): Then I'm okay closing the old recommendation and just open up new one. They've got a plan but that's all.

Roy Zimmerman: Sure.

(Brian): I agree with the team's recommendation for this indicator of (unsat). I would close the old recommendation. I would support opening a new more specific one. And I would also agree with amending the final report so that each (RATS) ID is only listed one time.

And then indicating which portions of the program are overdue for individual (RATS) IDs. And then I would ask the team to take a look at the one that was suggested as being superseded to see if that's still applicable. And if any element of that is still applicable, I would retain it in the report.

Roy Zimmerman: Very good; Cheryl?

Cheryl Rogers: Yes, I agree with the team's recommendation. I agree with (Brian's) comments about although progress has been made, it's still unsatisfactory.

I do think you could reduce the number 15. You could get it down to six if you took off the partials because to me that's digging them for something that they have in fact tried to take care of.

So if you took those four and then the two repeats, you would get down from 15 to nine which maybe sounds a little better, I don't know. So anyway, I agree with the (unsat).

Roy Zimmerman: Okay and closing the recommendation and opening up the new one?

Cheryl Rogers: Yes, that's true. I agree with that too.

Roy Zimmerman: Thank you. Darrell?

Darrell Roberts: Yes, I agree with the (unsat) call. I also concur with the closing of the old recommendation and the opening of the one that (Brian) suggested.

I'm not necessarily a proponent of putting too much more effort into redefining the number. To me it's a presentation issue. It doesn't change the outcome or the final call.

Roy Zimmerman: Okay, appreciate that. I align with the approach that we've laid out to find the compatibility requirements to be (unsat), closing the older item, replacing it with a new one. Taking a look at the way we're presenting the information to see if we can do it in a way that is as spare, open and transparent as we can.

So the dialogue helped us get there. So we did that collectively and I appreciate that. We're ready to move forward. We have a few more to go.

The next area is seal source and device evaluation program.

Woman: (Maria) reviewed that.

(Maria): We reviewed the sealed source and device program for all performance indicators. The team used three forms of sub elements to analyze the DOH program, studies and training, technical quality of the licensing actions and regulation of defect incidents regarding SSDs.

DOH has (unintelligible). DOH does not have a formal (unintelligible) program. They use on the job training for new reviewers with oversight from the qualified reviewers.

They also don't have outside a number of reviews to be conducted but each individual is required to be computer qualified to independently perform safety review of all issues. This is due mainly to the low number of assembly applications and the number of requests that they get.

During their review period, DOH established one incident action. The casework indicated that the staff followed NRC guidance to ensure that the licensee collected information necessary to support the product. The deficiency letter stated they were regulatory proficient.

The tie-down position offered they were stated clearly. And an auto cost review was performed by the second qualified reviewer. DOH was not aware of any defects or incidents involving closing seal devices as unrated by the agency.

The team confirmed this in NMED and in the case file. Based on the evaluation criteria, the review team recommends that you rate performance with respect of the SME program indicator be found satisfactory.

Roy Zimmerman: Good case, thanks for that; all right, comments and questions?

(Brian): No just a comment, it's a technical tough issue. Other states have had problems with it. I appreciate the performance so no questions.

Roy Zimmerman: (Jim)?

(Jim): No questions.

Roy Zimmerman: Cheryl?

Cheryl Rogers: No questions.

Roy Zimmerman: Darrell?

Darrell Roberts: No, no questions.

Roy Zimmerman: Nor do I so we'll go ahead and...

Man: Agree.

Roy Zimmerman: Ask New York

Man: No, we'll take it.'

Roy Zimmerman: Okay. And you align with the recommendations?

Man: I agree with the recommendations, yes.

Man: I agree.

Roy Zimmerman: Okay Cheryl?

Cheryl Rogers: Agree.

Roy Zimmerman: Darrell?

Darrell Roberts: Agreed.

Roy Zimmerman: All right and I do as well. All right the next area that we have, our last area is rollover radioactive waste disposal program.

Woman: And (Lisa) she has been waiting so patiently.

(Lisa): For low level radioactive waste disposal, this indicator was reviewed by (Dennis Lawyer). He couldn't be here today so I'll present his write-up and answer any questions as best I can.

There are five sub elements for this indicator, technical staffing of training, staffing of the infection program, technical quality of inspections, technical quality of licensing actions, and technical quality of incidents and allegations.

The review for technical staffing and training and incidents and allegations, we integrated those reviews under the comments performance indicators for the program so we've already discussed those. And that was really already included in prior discussions.

So to review the indicator, the team looked at the response to the questionnaire, reviewed the permit and inspection casework from both the radiological site inspection of DEC and the radiation control permit section. In addition, the IMPEP team performed an inspector accompaniment and interviewed staff.

Just to kind of frame it, New York has two former radioactive waste disposal sites -- the state licensed disposal area often known as SDA on the Western New York Nuclear Service Center at West Valley and also the University of Cornell Radiation Disposal site in Lansing.

In addition, the radiation control permit section issues about 30 affluent permits to their permittees. So the review team reviewed the inspection work, the licensing work or permitting work as well as the frequency of inspections and had no issues with any of these areas.

Everything was found thorough, complete and of acceptable quality. So the team recommends that New York be found satisfactory with respect to the low level waste indicator. And we consider this finding, this rating when the review indicates the staff is qualified with commensurate experience.

When we're looking at low level waste that low level waste disposal permittees are inspected at their regular intervals. Inspections are thorough and complete and lead to appropriate findings as well as permitting actions are thorough, complete and acceptable and high technical quality. Any questions?

Roy Zimmerman: Very good, you asked us to write-up an approval, it was done well as well so a good job on that. Comments and questions (Brian)?

(Brian): Just two quick comments, one to compliment the state on West Valley, what a complicated site and a long standing site. And to stay on top of that and make progress, and working with subtle partners, I just know takes a lot of effort, just complimenting on that.

Two, another comment I do not know who to compliment on whether it's New York City or DEC on the Great Kills issue that you're working with radium cleanup sites. So I don't know if you're working together or with the DEC.

Man: Yes, we worked with...

(Brian): With all of you.

Man: Well (Steven's) been involved and the jurisdiction

(Brian): I compliment the state; I compliment Region 1, (Ray Lorson) sitting back here, you know, is filling in time as Assistant Deputy. But in his previous job in Region 1, you know, he's done a lot working with the state also on that.

So I just compliment on picking up an issue like that also ties to this area kind of. That's all, no questions.

Roy Zimmerman: Good comments, thank you. (Jim)?

(Jim): No comments or questions.

Roy Zimmerman: Cheryl?

Cheryl Rogers: No comments or questions.

Roy Zimmerman: Darrell?

Darrell Roberts: No comments or questions.

Roy Zimmerman: All right, (Brian) back to you on whether you agree with the team's recommendation as satisfactory in this indicator?

(Brian): Agree.

(Jim): Agree.

Roy Zimmerman: Cheryl?

Cheryl Rogers: I agree.

Roy Zimmerman: Darrell?

Darrell Roberts: Agreed.

Roy Zimmerman: All right I do as well. With these, we've completed the work and went through the various indicators. And now we're approaching more of a sum-up and we'll come back to the monitoring issue and heightened oversight that you mentioned shortly.

Lisa, do you want to spend a couple of moments going over the overview?

Lisa Dimmick: Yes, let me go ahead and do that summary and I'll try to make it current just on the fly.

Roy Zimmerman: It's a moving target.

Lisa Dimmick: Right. In summary, the team recommends that the New York Agreement Program to be found adequate to protect the public health and safety and not compatible with the NRC's program.

The program's ratings are satisfactory for five performance indicators and satisfactory but needs improvement for one performance indicator and unsatisfactory for one indicator.

We had the unsatisfactory finding for compatibility requirements. The program contains gaps or conflicts in the collective national effort to regulate material. And therefore that rating would amount to a not compatible finding for the program.

Well it was two indicators sat but needs improvement. But with one indicator sat and needs improvement, the team could consider adequate or adequate but needs improvement to protect public health and safety.

But when we were considering adequate over adequate but needs improvement we went with adequate because the team had considered the chronic staffing shortages or issues that had been noted and also the increase in backlogs but had noted that there were no incidents of public health and safety or security being compromised as a result of those backlogs.

So that's why the team did go with adequate for the overall program finding and not adequate but needs improvement. With the recommendations we came to MRB with, we could have been in the category to go adequate but needs improvement. But now clearly debating leads us to adequate.

So in addition, the team has recommended that the current period of heightened oversight be discontinued and that monitoring be implemented. Monitoring is an informal tool that we can use to increase communication between NRC and the state using routine teleconferences.

The team's recommendation for monitoring is due in part because of the progress with the regulations and also the fact that the program had increased the indicator and technical quality of incidents allocations from unsatisfactory before to satisfactory. So we recognize the progress and improvement that New York made in several areas in their review period.

The team believes that monitoring was the right level of oversight or communication just to follow up with the recommendation that we made in technical quality of licensing and technical quality staffing and training as well as we would be able to continue to follow up on the status of regulations. But we'll also be able to do that with our recommendation as well.

And then last, the IMPEP team is recommending the next IMPEP be in four years. So I think it's determining do we agree with adequacy and not compatible. And then whether or not monitoring is a tool to implement as well as the next IMPEP in four years.

Roy Zimmerman: Good summary. This should be the time, you'd mentioned a couple of times the monitoring and size of that monitoring and heightened awareness, and not seeing a difference in the interim.

There are sections and manual chapters written. We feel that it's, you know, it aligns with the positive vector that (MRB) talked about this afternoon. This is a way of reflecting the fact that we feel that we can move to a different mode of operation with the state.

Man: You know, I would suggest that we can't go back and change the last IMPEP. But this is what really brought this issue for us and the need to be more proactive in this process was the unsatisfactory for the incident allegation.

Which drove, you know, which helped to drive this heightened oversight issue. I thought that was an exaggeration. And yes, going from heightened oversight to monitoring is a lesser category.

But it's an informal process. I think we have excellent communication. I mean (Donna) now you can challenge me if I'm wrong. But I think we have excellent lines of communication. You can call any time see where we are with anything on this.

The monitoring, you know, it looks again, we all know what that means I guess. But putting this out as a public record, what does that mean? If you're being monitored there should be something really wrong.

You know, we're adequate to protect public health and safety. Isn't that the major issue of everything that we do? Health, safety and security, I think you lump security now into health and safety. Kind of it's all one.

So when you put it in that perspective, we have no problem with even scheduling hauls informally because monitoring is an informal process. It's not like we have no intention to move forward with the regulations. You see we've made progress here and we had a really deep hole.

When you have a deep hole, it's tough to dig out of it. If you don't double count some of those things and get rid of one that's been superseded and take into consideration we had all those medical ones, I'm throwing out about 90%. It's plus or minus of that in place where it really makes a difference.

I'm not really sure, you know, what you want to gain by monitoring. I understand the need for the process. In certain situations, monitoring and

heightened oversight probation. But, you know, I don't think monitoring is going to help us get any further and move it any quicker.

Convince management and I think management's behind us. So I'm not sure what it does other than to paint a picture that there's something wrong when we are adequate to protect public health and safety.

So that's my perspective. And again, you said set something up informally where that's fine. We're welcome to do that. You're welcome to come visit us. It's a short drive. Well it's not a bad drive for (Donna). You're welcome to come any time. So that's my two cents on that.

Roy Zimmerman: I respect your view. As we've gone through the whole afternoon, I think there's been a lot of good listening and responding. I'm prepared to respond and I don't know if you wanted to share your views?

Man: No, are we going to vote on that or just comment?

Roy Zimmerman: Well actually just comment.

Man: Yes, monitoring, I hear that. I understand that view from the state. You know, I come back with a consistency argument. You know, for somebody that I just put on monitoring for the need for some monitored calls, I know it happens anyway.

So some will stay I know because we have the state agreement officers there that that happens. But it's a tool of the program. I think it is a measured approach. It'd be more questioned for not using it when it's appropriate. So those are my comments.

Roy Zimmerman: Yes, I fully agree with that also. Although we indicated that it's going in the right direction. We just spent a lot of the day talking about some areas that

still need attention and work. You know, you did the work that you're going to be doing with the staffing agencies.

The compatibility issue is a very challenging one. It's largely beyond your control but it requires additional activity. You've got the backlogs. That's been out for, you know, for some of the vacancy issues and so forth. And again, it is under the public health and safety, I agree with that.

But I think that a gradual move from a heightened awareness to monitoring is an appropriate move at this stage is my view, so to give others an opportunity to share their views.

Man: I would say that I don't completely agree with you from the perspective of what the purpose of monitoring is. I don't think the claim at the NRC is or the theory behind it is that you wait for there to be a significant health or safety issue before somebody goes on monitoring.

To me that's really heightened oversight probation. Monitoring to me doesn't necessarily mean that, you know, we're faced with some significant threat to health or safety. We're not going to wait for something to happen for us to take action.

To me that's represented by monitoring. Monitoring is what we're going to do to make sure that there's continued performance improvement that you are taking the steps that you need to take to address the issues that were raised in the report.

And so for me, personally, I believe that the role of monitoring by the NRC is really one that occurs before we get to a point where there's a significant problem.

Man: Good comment.

Man: Can I just chime in for a second? So what happens with monitoring?

Woman: Monitoring, well...

Man: Are we on a set schedule for a call?

Woman: Yes...

Man: Is it like every whatever?

Woman: If agreed, it's every quarter.

Man: Every Wednesday night.

Man: Is it set in some beautiful prose by you guys?

Woman: Yes. There is a...

Man: Nobody can like throw off some number I should just know because I've got it tattooed on my arm.

Woman: There's monitoring guidelines.

Man: There is, there is like procedures.

Woman: There's numbers.

Man: M-5, 724.7? So the goal of that is to provide a mechanism for there to be formal communication back and forth, right.

Man: It's informal.

Woman: It's an informal call when you need it.

Man: It's an informal call which is based on guidance that sets forth a specific number of touches for us to speak to each other. So this is my suggestion. Monitoring implies a systematic problem that requires monitoring to verify that that problem is being addressed, or that deficiency, or that that risk is being managed correctly.

And I think at this point we've identified the risks as being regulatory. And as we've discussed, monitoring isn't going to be very impactful to changing that vector. And then we've identified some other areas where we've got recommendations for actions to take going forward for an indicator that's satisfactory.

So why don't we just keep in the same mode in the MRB make a recommendation that we meet on a schedule and let's just put in the frequency that's in the policy guidance. And say our recommendation is for those outstanding items that were are part of the recommendations, right, or the (unsats) and for the recommendations that are in the final report that we meet and discuss the progress on those on a set schedule and put it out.

And that way we don't wear the hat that says we are systematically problematic and you're monitoring me because you're afraid if you don't monitor me I'm going to have a significant health and safety blow up on us and I don't think we're in that space.

I don't think you're worried that we're going to have a significant health and safety thing blow up because, you know, we've got systematic failures as an agreement state. But in the recommendation, you guys get what you want which is a commitment for touching and talking to each other, right, touch.

And it's our talk, it's how we talk.

Roy Zimmerman: You kind of address it without using the monitoring.

Man: Well I mean it at least incorporates the elements of monitoring in the recommendation. And you have that we have to respond to the recommendation. You have that in place. But we don't have like (Chris) has said just hanging over our head.

People don't know what this monitoring means and they're going to have this available as a public document. That's the issue. And it's like we're agreeable to the meeting and having these conversations and status reports. We have no problem with anything.

You can accomplish that without putting this label on us. That's the point.

Man: You know, to address that, you know, the NRC has the public perception to make sure that we're doing the program correctly right.

Man: Right.

Man: So just putting in the elements of monitoring without using the label makes it look like the NRC isn't doing its job if monitoring is appropriate. And to make sure we're all on the same page.

The Management Directive Handbook says for monitoring, when weaknesses in a program result in or could result in less than fully satisfactory performance for one or more performance indicators, monitoring by NRC will be considered by the MRB in accordance with SA procedures SA 122, heightened oversight and monitoring.

Monitoring is informal process that allows the NRC to maintain an increased level of communication with an agreement state program. And I don't see anything inconsistent with that with the goals of putting in monitoring and using the label for the program based on the information that was in the final report.

Man: Right, well, you know, knowing the whole issue of management directives is not part of our agreement. It's not regulatory. It is not in our agreement. If you go back to our agreement, it says 1962, is use our best efforts. Okay, we're not partners if the Commission puts management directives on us. How are we partners. We're called regulators, right.

Man: Well it's a directive for us.

Man: But it affects us.

Woman: But that was developed for consumption, you know, as a team effort with agreement states.

Man: I do understand that. But every time we, you know, make comments, you can choose to accept them or not accept them. You make that call. So that's like playing cards where we're playing the wild card game and you're holding all the wild cards.

So I mean I don't want to open another discussion. But just kind of consider that. I understand your point about consistency. That's why in these meetings I used to attend, listen to, have been very inconsistent in my opinion.

I go back to Region 4, not meeting any reciprocity for five years. In two of the previous years they said they're not going to meet it this year. That's not even a recommendation.

Man: A decade.

Man: If you want to use the argument you have to be consistent, I agree you should. And it seems that we and I don't know what it is we've done with our predecessors and New York seems to - you seem to be pretty tough on us.

Man: Yes, again.

Man: Okay so that's my only point. You can do the exact same thing without hanging this label on us. That's all.

Man: We've listened to this follow the process.

Man: Sure, okay.

Roy Zimmerman: If you are prepared, we'll go through the MRB. We'll make our determination. And then see where we come out. And then I've got some additional comments that I'll walk around that.

Man: All right.

Roy Zimmerman: All right I'll start with you, whether you agree with the IMPEP recommendation of adequate to protect public health and safety, not compatible with the NRC's program, and a move from a heightened oversight be discontinued and moved to a period of monitoring, the next IMPEP to be held in about four years.

(Brian): I agree with all those points.

Roy Zimmerman: (Jim)?

(Jim): I agree.

Roy Zimmerman: Cheryl?

Cheryl Rogers: I agree with all.

Roy Zimmerman: Darrell?

Darrell Roberts: Yes, I didn't get chance to comment on the previous discussion. And I understand the state's point or at least I hear the state's point about strict adherence to the procedure of the handbook, the management directive.

But my comment is directed to both the state and perhaps the IMPEP team with respect to the finding of adequacy versus the adequate but needs improvement call. When you read the management directive or the handbook, it specifically includes for the finding of adequate but needs improvement it specifically mentions that the public health and safety is protected.

But for one or more of the performance indicators it's unsatisfactory, not satisfactory or satisfactory but needs improvement. And I would argue that the fact the public health and safety protection is inherent in that definition means that you're almost kind of double crediting, if you will, by using that as the basis for why you would not find it to be adequate but needs improvement. So I'll just throw that out there for the adequacy call.

With respect to the decision on whether or not we're in monitoring, or heightened oversight, or probation, one can argue that even in the same directive, if you look under the definition for probation or the criteria for probation, the licensee or the state potentially meets one of those wickets when you're talking about the inability or difficulty in adopting regulations and although we quibbled over the numbers and the presentation of that information with regard to the number of late regulations being adopted.

So I'm just throwing that out there that I know we're leaning in the direction of monitoring in this case. But one could easily make the case or could make the case, I don't know how easily you'd make it, by definition in the handbook that, you know, a case for a harder call could be made.

All of that being said, in terms of my vote I am in favor or in agreement with the recommendation to go to monitoring given all of the discussion that we've had and I am also in agreement with the adequacy call.

Roy Zimmerman: Okay thanks Darrell. So that's where we came out on that topic. And again, we listened. We do view this as partners. I understand that, you know, you see a slant in that.

Man: Yes, unfortunately we do. But I'll speak for myself. I'll speak for myself.

Roy Zimmerman: You raised a lot of good points too today. There is work to be done in the area for us to continuously improve.

Man: No, we look forward to that.

Roy Zimmerman: You're policing is important to us. You've given it a lot thought. And joining in with the other agreement states, we will be looking forward to implement the program. I'll throw out a lot that's different than what's been said and it's not anything to take to the bank.

I agree and feel that monitoring is the right place for us to be. I think we need to stay there for a while. There is not another IMPEP planned for four years.

If down the road, there is staff includes that we feel that an exemption is something -- following our process -- that we, you know, want to look at monitoring the frequency of that and as a basis to do that, that maybe an option that's open to us. So it's not necessarily rote compliance.

We will be seeing how things go. And as (Jim) indicated, it's a matter of getting out in front of this in a proactive manner. And we expect that, you know, you're going to continue your vector the way it's been going.

We're going to wrap up. It's been a long day. And again, I really appreciate everybody's energy. I don't know, we've been at it for seven hours.

Man: It's a marathon.

Roy Zimmerman: Six hours, I forgot how to count it's been so long.

Woman: For an MRB, congratulations to everyone.

Roy Zimmerman: So everybody stayed engaged. And I really appreciate the work of the IMPEP team leading up to this. And the interaction I thought was very professional. And I think being here in person added to being able to do that.

I want to thank (Jerry) down in Florida. Hopefully you're still with us. Again, it's very difficult on the phone and (Ken) in Region 3 and the team in Region 4, you know, appreciate everybody being part of this and adding value through the afternoon.

So again I'll pause for any final comments and if none, we'll adjourn.

Man: Following up on Darrell's comment about probation, I think, you know, you guys have to give serious consideration about that for your Region 4, a decade without meeting the reciprocity target, boy that's pretty serious.

Roy Zimmerman: We've talked for four, or five, or six times that you've complained about Region 4 so.

Man: Yes, well I mean the talk out in this forum at the end of this conversation of productivity, the idea that our vector is going towards a probation scenario, I think was a little over the top. He's entitled to his opinion.

But I think all this time, the conversation back and forth, the clear progress we have made in my program and other parts of the state to put even out there

for contemplation the idea the New York State program would be subject to probation as a result of compatibility given the progress that they're already trying to make, I think was inappropriate.

Roy Zimmerman: Okay, you were referring to a comment made in the last few minutes.

Man: Yes.

Roy Zimmerman: With regard to the specific language in the procedure.

Man: On balancing monitoring and he was referencing the management directive. So I don't think none of us would rate it the same way. So it was trying to manage words in the management directive.

Roy Zimmerman: Right.

Man: It's a possibility.

Roy Zimmerman: That's not the message we were sending you, you know, for the last...

Man: I did not hear that message. That's why I was surprised to have someone on the call representing the MRB indicate that as part of the adequacy determination, the final rollup that probation was even within the realm of contemplation. It was pretty out there for me.

Roy Zimmerman: To hear dialogue through the day on this...

Man: Well that was just at the end here.

Roy Zimmerman: Is considerably different. So before you leave with that, that flavor of what you heard.

Man: I will.

Man: I just want to say, you know, I know we hit some differences in some of the main things here. But, you know, I think the team was very - worked very well with us. You know, it's always a tough experience. But it's a good experience that we, you know, get your perspectives on.

We do appreciate the training you offer us. We like the training. Please continue to do that. Sometimes that's the only way we get the training just like the MRB and the team.

Man: New Jersey's cheaper. We'll do it in New Jersey next time.

Man: Who's going to host?

Man: Thank you.

Roy Zimmerman: Thanks, safe travels. Thanks to everybody on the phone; we're adjourned.

Man: Thank you.

Woman: Thank you.

Man: Thank you; good bye.

Woman: Thanks.

Man: Thanks.

END