

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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BRIEFING BY AGREEMENT STATES
ON THEIR ACTIVITIES

- - - -

PUBLIC MEETING

Nuclear Regulatory Commission
One White Flint North
Rockville, Maryland

Tuesday, February 8, 1994

The Commission met in open session,
pursuant to notice, at 2:00 p.m., Ivan Selin,
Chairman, presiding.

COMMISSIONERS PRESENT:

IVAN SELIN, Chairman of the Commission
FORREST J. REMICK, Commissioner
E. GAIL de PLANQUE, Commissioner

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STAFF AND PRESENTERS SEATED AT THE COMMISSION TABLE:

SAMUEL J. CHILK, Secretary

WILLIAM C. PARLER, General Counsel

ROBERT R. KULIKOWSKI, Chair, Organization of Agreement
States

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

2:00 p.m.

CHAIRMAN SELIN: Doctor Kulikowski, we welcome you here today. This is a topic of great interest to everybody in the audience, but especially to the Commission.

We welcome Doctor Kulikowski, the Chairperson of the Organization of Agreement States, to brief us on the status and activities of the organization.

I'd like to emphasize that the agreement states and the NRC are independent co-regulators. According to the Atomic Energy Act and the practice, when a state becomes an agreement state, the NRC terminates its regulatory activities over those entities that the agreement states will regulate. So, we are independent in one sense in assuring the health and safety of the public. On the other hand, it's very clear in law and in practice that ultimately it's the NRC that has to answer to the public for the health and safety of all American citizens as far as radiological hazards are concerned. So, we do have a responsibility even in the agreement states and the way of working out this delicate balance is one of the key issues that arises between the Organization of

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1 Agreement States and the NRC.

2 In carrying out such a delicate division
3 of responsibilities, it's absolutely imperative that
4 effective communication and cooperation be achieved
5 and that we and the agreement states have a full and
6 clear ability to communicate our issues and our
7 concerns to each other so that this joint
8 responsibility can be properly executed.

9 This afternoon we look forward to hearing
10 your views on issues such as compatibility, cost
11 recovery and a number of these controversial issues
12 which we're best off raising, addressing, solving them
13 in what we hope will be a mutually satisfactory
14 manner, and then going on to other business.

15 Commissioners?

16 Doctor Kulikowski?

17 DOCTOR KULIKOWSKI: Thank you, Mr.
18 Chairman, members of the Commission.

19 I, first of all, apologize. Because of
20 the weather, Wayne Kerr, the past Chair of the
21 organization, was snowed in in Illinois and Richard
22 Ratliff, the Chair-elect who will serve in this
23 capacity next year, was detained in Texas because of
24 a personal emergency.

25 In putting together the briefing today, I

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1 think we all need to recognize that the states, each
2 state has unique concerns and issues which are
3 directly applicable to them and perhaps they share
4 with other states as well as NRC regulated entities.
5 Although in preparing this briefing I put together an
6 outline which was shared with all the other agreement
7 states for their comment and input, and I did receive
8 a lot of comment on it, it's not intended to reflect
9 all of the issues, but it is intended to reflect those
10 major ones that are of predominant concern at this
11 point. Hence, I will be speaking collectively for the
12 agreement states, not as a representative of any
13 single state and especially not the City of New York
14 or the State of New York.

15 (Slide) I would wholeheartedly -- as the
16 topics that we'll discuss are shown on the first
17 slide, basically the status and how the states feel
18 about the niche into which the agreement states
19 belong; compatibility issues which have been topics of
20 discussion over the past several years; the Integrated
21 Materials Performance Evaluation Program, which is of
22 particular concern at this point in time; the medical
23 program and where that's going, especially in light of
24 recent findings by Senator Glenn's committee; data
25 collection, which we all recognize is a fundamental

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1 necessity for us to run an effective nationwide
2 program; and then touch on some other issues such as
3 the cost recovery.

4 I wholeheartedly endorse, and I believe
5 all the states do, that we are independent co-
6 regulators. The plain language of the Atomic Energy
7 Act says that you relinquish the authority to the
8 states to regulate byproduct material. It should also
9 be recognized that state programs run much bigger
10 programs than just byproduct material programs. We
11 regulate NARM in the same sense that we regulate
12 byproduct material, and we also regulate machine-
13 produced radiation. In our particular case, the
14 machine-produced radiation aspect of the program is
15 about twice the size of that of materials program.

16 Collectively, the states represent many
17 years of experience. If you look at the existence of
18 a national program under Atomic Energy Act, that's
19 about 40 years old. The four oldest agreement states,
20 of which New York is one, California, Kentucky and
21 Mississippi are the other three, represents about 130
22 years of collective experience. So, when you deal
23 with the states, you're not dealing with a young
24 entity in that sense.

25 I would also reiterate the fact that

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1 effective communication is absolutely essential. As
2 I said to Commissioner de Planque earlier today, we're
3 all in this boat together. We need to be focused in
4 what our goals are. We need to ensure that we look
5 forward, not just to next month or to what a
6 particular entity wants from us, but to have an
7 essentially integrated program where we talk to each
8 other, meaning full disclosure on both sides so that
9 surprises aren't brought up by one entity or the
10 other, and so that we can effectively protect the
11 public health and safety from radiological hazards in
12 this country.

13 The states have noticed in the past,
14 especially the past year when we've been working on
15 some of these major projects like compatibility, that
16 the Federal Advisory Committee Act has been an
17 impediment to effective communication. It makes it
18 very difficult when the state representatives can't
19 sit on a federal advisory committee or if a committee
20 is to be formed, it has to meet all the requirements
21 of FACA.

22 CHAIRMAN SELIN: Could we stop there?

23 DOCTOR KULIKOWSKI: Oh, sure.

24 CHAIRMAN SELIN: To be frank, it's not
25 clear to me why we can't just comply with the law and

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1 still carry out our business. We've asked the General
2 Counsel to do an analysis of the requirements of FACA
3 and it doesn't seem that hard to charter a committee
4 with broad enough responsibility so that we go through
5 the one-time cost of both time and other resources of
6 chartering the committee and then it could rotate some
7 membership, et cetera, to carry out the business that
8 we have, which would also -- actually, in my personal
9 opinion, would actually have the benefit of providing
10 on the one hand a unique opportunity for the agreement
11 states because you're not licensees, you're not to be
12 treated identically with the general public, but still
13 in an open forum so that matters that affect many
14 parties will be generally available to the general
15 public as you discuss some early actions that NRC is
16 considering.

17 But why don't we just do what the law
18 tells us to do and set up an advisory committee which
19 is built around the agreement states and comply with
20 the law? Is there some hidden -- not hidden in that
21 sense, but something we're missing about
22 inconvenience, the serious inconveniences or
23 impediments that FACA would cause?

24 DOCTOR KULIKOWSKI: No. I was just
25 speaking historically at this point. I believe the

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1 states are certainly willing to work cooperatively
2 with the corporate NRC and explore any way we can have
3 to effectively communicate with each other.

4 CHAIRMAN SELIN: Well, either the next
5 time you meet or some other way, rather than -- I mean
6 one thing we can't do is just treat FACA casually.
7 That's certainly -- there are requirements and they do
8 involve an investment. But if we took it as a
9 hypothesis that we would set up an advisory committee
10 under the Act and that it would be the agreement
11 states advisory committee, why don't we actually just
12 take a look and see what's involved in doing it and
13 whether we shouldn't just sort of grit our teeth and
14 say, "That's the world we live in," and see if we
15 can't carry out your objectives and ours just within
16 the spirit as well as the letter of the Act.

17 DOCTOR KULIKOWSKI: Sure. I think the
18 states would be in agreement with that. I think one
19 of the things that we need to do is we need to talk to
20 each other a lot more.

21 COMMISSIONER de PLANQUE: Do you have
22 anymore information on EPA's treatment of this, where
23 they might be headed?

24 DOCTOR KULIKOWSKI: No, I don't at this
25 point.

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1 COMMISSIONER de PLANQUE: Okay. No late
2 breaking news?

3 DOCTOR KULIKOWSKI: No late breaking news.

4 CHAIRMAN SELIN: Just a second, Doctor
5 Kulikowski.

6 COMMISSIONER REMICK: Yes, Doctor
7 Kulikowski. I had a question. Perhaps it's been
8 answered, but I was going to ask you what is it that
9 the agreement states wanted that was restricted or you
10 felt prevented from FACA. Is it an advisory
11 committee? I wasn't quite clear what it is the
12 agreement states were looking for.

13 DOCTOR KULIKOWSKI: One notable example
14 which happened to involve me personally was about a
15 year ago when the compatibility working group was
16 being set up. Several state representatives were
17 asked to serve on that working group. All of a sudden
18 it was changed that we could not serve on that working
19 group unless we went through the entire FACA process
20 and because of the priorities that was basically
21 precluded. So, we were sort of telephone polled or ad
22 hoc members, but not official members. That's just
23 one example.

24 COMMISSIONER REMICK: So, it's
25 participating in certain activities, might not be FACA

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1 committees, actually structured committees. In other
2 words, the question is, and I agree with what Chairman
3 Selin has said about if it's an advisory committee we
4 should certainly look at the feasibility of that. But
5 is that what the agreement states are looking for or
6 is it looking for something else?

7 DOCTOR KULIKOWSKI: I think an advisory
8 committee, while it certainly is a very good idea and
9 probably is an idea worth exploring at this point,
10 however I think there are many opportunities where a
11 less formal mechanism is necessary or would be
12 convenient.

13 CHAIRMAN SELIN: What we should do, what
14 I think we should do, is consider setting up an
15 advisory committee. Then we could set up
16 subcommittees ad hoc as necessary and I'll ask the
17 General Counsel in a minute if there's any problem
18 with this. But if the structure were in place, then
19 it could be used as appropriate to handle specific
20 topics that come up. That wouldn't preclude more
21 informal discussions which would not be with the
22 organization, but with individual people.

23 Mr. Parler, do you have a comment on the
24 feasibility of setting up an advisory committee and
25 then creating subcommittees under a committee set up

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1 under FACA as topics arise?

2 MR. PARLER: No, Mr. Chairman, I do not,
3 at least as a general proposition. You mentioned
4 earlier that -- I think that you did, that I had
5 provided at least a background analysis that covered
6 a good bit of the territory with promises that things
7 such as what other agencies might be doing. We would
8 be pleased to follow up on it also, to work closely
9 with the staff to respond to some of the requirements
10 in this area that the Commission has earlier passed
11 along to the staff.

12 In our analysis, in the memorandum of, I
13 believe it's February 4th of this year, one of the
14 examples that we point out that I think would be
15 responsive to your question is the possibility of
16 forming an umbrella committee, a broad-based committee
17 that would be chartered under the Federal Advisory
18 Committee Act and then from time to time subcommittees
19 under that umbrella committee could be appointed and
20 those subcommittees would not themselves have to be
21 chartered.

22 CHAIRMAN SELIN: Why don't we look into
23 this jointly as a mechanism and see, number one, if
24 that makes sense and, number two, answering
25 Commissioner Remick's question, take a look at some of

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1 the specific instances where there were problems in
2 the past and just see if this -- had this mechanism
3 been in place, would it have answered the problems.
4 We want to solve these problems. We want to do them
5 fully and we want to do them openly and we'd like to
6 comply, all else being equal, with federal law. So,
7 why not?

8 DOCTOR KULIKOWSKI: As regulators, we
9 certainly have the desire of having everyone in
10 compliance with all the applicable regulations and
11 laws. But I think this underscores the fact and I
12 think this really needs to be recognized by both
13 sides, that the agreement states are independent co-
14 regulators. This sounds repetitive, but it's a very
15 important point and one that the states believe is a
16 very fundamental tenet in the relationship between the
17 states and the --

18 CHAIRMAN SELIN: I should say this.
19 There's no question about that. There's no question
20 about your authority, but there's also no question
21 that ultimately it's our responsibility that citizens
22 in agreement states be at least as safe as citizens in
23 NRC regulated states. So, to find a fine line that
24 allows the authority to be executed in an efficient
25 fashion, not only within byproduct radiation but your

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1 broader health programs, while still realizing we're
2 on the hook and we have to carry out our
3 responsibilities, that's the ultimate task that faces
4 the communications between the OAS and the NRC.

5 DOCTOR KULIKOWSKI: We certainly
6 understand that.

7 COMMISSIONER de PLANQUE: Before you go
8 on, I just want to make one more point on the FACA
9 situation. It may be that by setting up a committee
10 this will go a long way to solving some of the
11 problems. There may still be instances where that is
12 not really the best way to handle things and I think
13 it would be useful for us to have those situations
14 clearly delineated so we know whether or not we're --
15 by creating an advisory committee are we solving the
16 problem or not and where are the gaps still and what
17 are the options for filling those gaps?

18 DOCTOR KULIKOWSKI: Yes. As I understand,
19 just prior to this briefing the states will also have
20 a copy of the memorandum about FACA and we can
21 certainly discuss this. One of the guiding principles
22 of my stewardship of the organization this year is to
23 make sure that all states are fully informed of what's
24 going on. I mean obviously all 29 of us can't be here
25 today to talk to you, although that would be a

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1 desirable scenario. I fully intend to make sure that
2 when the organization speaks, it speaks with the
3 consensus opinion of the states or any dissenting
4 opinions are clearly identified.

5 CHAIRMAN SELIN: While we're on this,
6 we're not talking about replacing existing
7 communication, but supplementing that. I still would
8 expect the individual NRC officials to appear before
9 you at your meetings to be able to discuss topics, et
10 cetera.

11 DOCTOR KULIKOWSKI: Oh, definitely.

12 CHAIRMAN SELIN: We're not talking about
13 replacing all of that with a FACA committee, but
14 supplementing what we already have and building on
15 that.

16 DOCTOR KULIKOWSKI: No. I think the more
17 face to face communication that we have with each
18 other, it's much better.

19 MR. PARLER: Mr. Chairman, may I comment
20 briefly? The memorandum that I provided the
21 Commission makes it quite clear that the subject that
22 we're talking about, the advisory committee only
23 applies in a fairly narrow situation where a group is
24 established for the purpose of getting advice or
25 recommendations from the group to the Commission.

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1 There are all sorts of examples that I provided, free
2 and open communications that are not within the
3 constraints of the Federal Advisory Committee Act.

4 CHAIRMAN SELIN: Thank you, Mr. Parler.

5 DOCTOR KULIKOWSKI: Thank you.

6 (Slide) Perhaps the most -- I believe on
7 slide number 3, entitled "Compatibility," this is
8 probably one of the two topics that are of major
9 concern to the states. Most of the states listened to
10 the briefing that was held a couple of weeks ago and
11 we think that the postponement of the February
12 workshop was warranted. The reason for that was that
13 we feel the whole compatibility issue has not been
14 completely resolved. We don't want to cut off our
15 noses to spite our faces at this point. As I
16 mentioned earlier, we're in this together. We need
17 to, as co-regulators, iron out this issue of
18 compatibility. I don't disagree with you in the least
19 that this should be done in an open forum. However,
20 we are the regulators and we must be able to regulate
21 effectively in the full light of the regulated
22 community and the general public because it is their
23 interest that we do have at heart.

24 So, I applaud the fact that the February
25 workshop has been postponed to allow us more time to

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1 get both NRC and the states more comfortable with the
2 issues that have been discussed in the compatibility.
3 I think there needs to be at least one more, at least
4 one more NRC-agreement state interaction before we
5 really take the dog and pony show on the road. This
6 is another case, as I mentioned earlier, where FACA
7 has been an obstacle.

8 CHAIRMAN SELIN: Before we get off that.

9 DOCTOR KULIKOWSKI: Sure.

10 CHAIRMAN SELIN: Agreeing with all that,
11 it's my personal impression that although there are
12 still some Ts to be crossed and Is to be dotted or
13 whatever cliché one is pleased with, that we've made
14 a lot of progress in separating out the concept of
15 adequacy from compatibility and coming to a position
16 which both serves the public and seems to meet many of
17 the objectives that the organization or its individual
18 members have espoused over the last year. Do you feel
19 that also or do you --

20 DOCTOR KULIKOWSKI: Oh, definitely, Mr.
21 Chairman. I feel we've come a long way with just
22 addressing the issue of compatibility. It's an issue
23 that the states have discussed for a number of years
24 and have gone to the NRC in previous years with.
25 There's been a compatibility working group among the

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1 Organization of Agreement States before there was
2 actually a formal organization of agreement states.
3 So, it's an issue that we've wrestled with for quite
4 some time. I think we've made great strides in the
5 past year because there's been a real focused effort
6 on it. However, my concern and the concern of many of
7 my colleagues in the states is that not only do we
8 have many Is dotted and Ts crossed, I think they all
9 have to be dotted and they all have to be crossed and
10 the grammar must be correct and the punctuation must
11 be correct because basically the fear is, and we're
12 all subject to scrutiny. The NRC has been scrutinized
13 by both the Senate and the House of Representatives.
14 Our agency has been looked at by various outside
15 agencies and we're acutely aware of the fact that
16 information which is less than perfect can be turned
17 around and used against you very effectively for
18 whatever reason for outside interest groups.

19 So, it's a major concern that the package
20 be tied up in a very pretty package, an effective
21 package and that there's a big red and gold bow on top
22 so that when we go out to the public with it we can
23 say, "This is really what we're happy with, what we're
24 comfortable with, and we are convinced for the
25 following reasons that we will protect public health

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1 and safety and we'll have an effective program."

2 So, I think it's extremely important that
3 we not have knee-jerk reactions to a variety of
4 situations and just put something together quickly
5 without thinking it through and looking at the far
6 ranging consequences of what may happen and pursuing
7 all the "what ifs" down the road.

8 COMMISSIONER de PLANQUE: Would you care
9 to elaborate a little more on where you see this as
10 being incomplete at this point?

11 DOCTOR KULIKOWSKI: I think that the -- I
12 think a bunch of areas. We can really recognize that
13 there are certain basic things such as the basic
14 radiation protection principles, which must be
15 identical in order for people to effectively
16 communicate both nationally and internationally.
17 There are other areas where compatibility, such as in
18 the medical area, where the line is much grayer than
19 that as to exactly what does it mean to be compatible.
20 The medical area is of particular interest to me
21 personally because our program is a large medical
22 program and we see how physicians and other allied
23 medical personnel are regulated from the non-radiation
24 side, in very different ways and it doesn't really
25 impact in a global sense in the sense that it impacts

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1 nationwide.

2 So, I think we need to really go through
3 and define and maybe just an informal working group of
4 a couple of agreement state volunteers and a couple of
5 NRC program people might just want to sit down and go
6 through 10 CFR and say, "These are the things that
7 form the fundamental core of regulations and what a
8 compatible program means," because I think regulations
9 are only one part of compatibility. There's the whole
10 way in which the radiation control program, whether
11 it's NRC or whether it's a state program, addresses
12 their end product, that is the protection of public
13 health and safety. I think the compatibility issue is
14 tied up into all of those and there are a lot of
15 interrelated things with adequacy that need to be
16 sorted out.

17 So, I think while we've come maybe three
18 or four giant steps, I think we have maybe one or two
19 more to go to really nail it down, to make it
20 unambiguous. When I talked to a number of the other
21 state representatives, this is one of the concerns
22 that they had, was that it's still nebulous, that it's
23 not unambiguous, that it's open to interpretation and
24 I think as good regulators and having, as an aside,
25 just gone through an amendment to our health code, the

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1 lawyers kept saying to me, "What does it mean?" And
2 they said, "Make it as unambiguous as possible," and
3 I think that's what we need to do because that will
4 give us more credibility collectively with the
5 regulated community and the general public and it
6 won't be subject to interpretation or different
7 applications depending on the entity being looked at.

8 CHAIRMAN SELIN: Well, as you know, when
9 the Commission was briefed we were very pleased with
10 the paper, but we also had some of these concerns. We
11 expect that in the very near future there will be a
12 somewhat revised version of that paper that will clear
13 up some of these ambiguities.

14 DOCTOR KULIKOWSKI: The states will be
15 very anxious to see that.

16 COMMISSIONER REMICK: Doctor Kulikowski,
17 are you going to leave that slide by chance? There
18 were two bullets on that last slide where you talk
19 about concerns. I think I can infer what your
20 concerns are. One is on the concerns about
21 compatibility. The other is about the states being
22 considered equal to the public, notified at the same
23 time. I can infer what your concerns are, but it
24 would be helpful if I knew for sure what those
25 concerns are.

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1 DOCTOR KULIKOWSKI: Okay. The concerns
2 are -- the phone link that we had listening to the
3 compatibility briefing was not the best at some point,
4 so I'm not quite sure who said it, but I heard the
5 opinion voiced that we should go with this to the
6 states at the same time as we go to the public or the
7 states shouldn't see it before the public. That gave
8 me personally some pause. I think that that really
9 could be interpreted to mean that the states are
10 basically equivalent to members of the general public
11 and I heartily disagree with that.

12 COMMISSIONER REMICK: But I guess I could
13 argue on the other side that what is wrong as long as
14 everybody knows at the same time? I'm not quite
15 sure -- I can understand your arguments that the
16 states aren't licensees and we're treating them
17 perhaps like we would licensees in that specific case,
18 but it's hard for me to argue that why shouldn't
19 everybody know at the same time. Is there any reason
20 why we should --

21 CHAIRMAN SELIN: If I might follow-up on
22 that just a second. There are two separate questions
23 and one is who knows what when and the second is what
24 influence do you have on it. I really think they
25 ought to be kept separate. We would be strongly

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1 opposed to the idea of there being private meetings
2 with the states where things are discussed that are
3 not generally known to the general public. But it
4 doesn't mean that the states don't have the first shot
5 through perhaps a more formal mechanism of FACA to
6 affect the staff's drafting, since you have to live
7 with the regulations, before we open them up for
8 general comment. We would be very uncomfortable with
9 a situation where there was some private communication
10 about what we were thinking to the agreement states
11 that the public wasn't privy to. But it doesn't mean
12 that you don't get a chance to comment or affect this
13 until it goes out for general notice.

14 DOCTOR KULIKOWSKI: I appreciate that
15 point of view and I think one of the things that I was
16 thinking about is that it probably would lend a lot
17 more credibility if you could do a news release and
18 all the states could do a news release at the same
19 time, for example, saying, "NRC and states release
20 this particular policy on compatibility." I think it
21 would lend a lot of strength to the compatibility
22 issue as opposed to "NRC says." The states, after
23 all, do regulate about two-thirds of the licensees in
24 this country. And, if I'm not mistaken, the Atomic
25 Energy Act says that both sides will work to be

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1 compatible. I think it's really more of a spirit
2 which I'll touch on as I sum up. It's a spirit of
3 working together.

4 Several people have voiced to me and
5 noticeably by their absence of comment during these
6 past couple of weeks as I was putting this together,
7 that there is some feeling of uneasiness that the
8 relationship is changing and people aren't sure why
9 and that perhaps there's some suspicions, probably on
10 both sides. You know, I'm not going to make any value
11 judgments about that, but I believe that there is --
12 whether it's because there is change, and I don't
13 think that the agreement states in general are opposed
14 to a change, but that there are -- because the
15 relationship is changing, the underpinnings are a
16 little less strong now than they were before. So, I
17 think it's something that we all need to be conscious
18 of and do our best to make sure that we enhance that
19 trust in each other's collective agencies as opposed
20 to eroding it.

21 CHAIRMAN SELIN: But I would suggest,
22 number one, that in discussing this we separate
23 information from comments because I think they're
24 separate points. Our staff doesn't even communicate
25 with the Commission except in public. Why should they

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1 communicate with the states in private? So, the role
2 of the states is clearly different from that of the
3 regulated communities, et cetera. But it was probably
4 my remarks you were referring to and I feel strongly
5 that these communications should generally be open
6 communications.

7 DOCTOR KULIKOWSKI: Philosophically I
8 agree with you and it's the way I run my program at
9 home, is we do everything in the full light of people.
10 But there are times when my senior staff and I sit in
11 the office and we make a decision before we go public.
12 There's a sort of a natural break point from when you
13 can discuss collegially among the regulators and then
14 go public with it and say, "It's better to have our
15 ducks in water before we go out and have people shoot
16 at them."

17 (Slide) On the next slide, which I
18 believe is slide 4, there's some bullets on the IMPEP,
19 or the Integrated Materials Performance Evaluation
20 Program.

21 CHAIRMAN SELIN: In the interest of full
22 disclosure, I should tell you on my chart it's slide
23 5.

24 DOCTOR KULIKOWSKI: I'm sorry.

25 I remember a couple of years ago, Jack

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1 Horner, who is the agreements officer in Region V,
2 redid the evaluation for agreement states or the
3 criteria for evaluation for agreement states. Jack
4 and I talked on the phone at length about that and
5 various things and the policy came out. I would like
6 to go through that exercise again in the same way in
7 that there was a lot more interaction between the
8 states and the NRC. When I say NRC I'm talking NRC
9 collectively. This, after all, is what's -- this is
10 probably the most sensitive area when it comes to
11 outside non-regulators looking at us collectively,
12 looking at the NRC and the agreement states. It's
13 important for the NRC because if the agreement states
14 don't look good, the NRC doesn't look good. If the
15 states don't look good, we have problems with our
16 constituencies as well. But I think the NRC in
17 particular has a dual role. You do, as you said and
18 I don't disagree with you, that you have a role to
19 ensure collectively the protection of the citizens of
20 the United States. Therefore, if the Agreement State
21 Program looks bad, you look bad as well.

22 In talking to various people, the
23 Performance Evaluation Program, I think, at this point
24 is still -- we're going off half cocked. We're not
25 ready to really go out with this to the public because

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1 if you collect data at this point in time you're going
2 to be able -- one, you have to know what you're going
3 to do with it. Two, you're going to have to pretty
4 much know in advance what it's going to mean. And
5 three, you're going to have to know how people can use
6 it against you because that seems to be the scrutiny
7 under which we fall at this particular time. There's
8 a very high sensitivity to radiation-related issues,
9 of which we are all keenly aware. To have not good
10 data is probably worse than not having any data at all
11 at this point. I'm not saying put it on a shelf and
12 forget about it. I'm saying let's work on it and
13 refine it so that we have again, like the
14 compatibility issue, that we have a good product that
15 we can all live with.

16 Comments were made to me that this needs
17 to be an effective evaluation tool for both the NRC
18 and the states and the basic measure is are the
19 programs protecting public health and safety. I think
20 one of the things that bristles the states most of all
21 are the bean counts, how many misadministrations did
22 you have or how many over exposures did you have.
23 These probably don't tell you very much about the
24 program per se. They tell you how well the reporting
25 requirements are working, if you have reporting

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1 requirements, and they tell you things that are not
2 under the direct control of the program.

3 The important things are do you have the
4 mechanisms in place to address areas where there may
5 be public health and safety issues? Not only do you
6 have those mechanisms in place to adequately protect,
7 but do you have the wherewithal, both the technical
8 expertise and the resources, to follow through to make
9 sure that these are carried out?

10 COMMISSIONER REMICK: Doctor Kulikowski,
11 if I could interrupt you.

12 DOCTOR KULIKOWSKI: Sure.

13 COMMISSIONER REMICK: I personally agree
14 with you that they aren't necessarily indicators of
15 performance. But do you agree that things like
16 misadministration and over exposure is data that
17 should be collected?

18 DOCTOR KULIKOWSKI: That's true. I
19 definitely agree that it's data that should be
20 collected.

21 COMMISSIONER REMICK: Well, I'm wondering,
22 this is a thought that's going through my head, is
23 there something about performance indicators that the
24 terminology is wrong? We're talking about collecting
25 data that we agree is needed to --

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1 DOCTOR KULIKOWSKI: I definitely think we
2 should address data collection as data collection.

3 COMMISSIONER REMICK: Yes. And I notice
4 in your slides you talk about data. You don't talk
5 about performance indicators.

6 DOCTOR KULIKOWSKI: That's correct, and
7 that's because the performance is performance.

8 COMMISSIONER REMICK: Yes.

9 DOCTOR KULIKOWSKI: Is the bottom line are
10 we having people injured because of radiological
11 problems? That should be the bottom line measure.
12 That's what we're all charged with, is protecting
13 public health and safety. The states feel that the
14 criteria must be ambiguous. I mean part of setting
15 forth the Integrated Materials Performance Evaluation
16 Program was so that there would be some measure of how
17 well NRC is doing relative to the states and vice
18 versa, and not just the regional inspection and
19 licensing offices. But I think --

20 CHAIRMAN SELIN: That's a fair point.

21 DOCTOR KULIKOWSKI: It should be applied
22 to all programs which are equivalent to state
23 programs. For example, low-level waste, sealed source
24 and device evaluations and the like.

25 CHAIRMAN SELIN: Let me say a couple of

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1 things because of all the areas where communication is
2 important, this is one where the communications, in my
3 opinion, have been the least effective. Number one,
4 we don't expect that there will be a common set of
5 indicators, be they input indicators or output
6 indicators for the NRC and for the states because the
7 Commission's responsibility with respect to the NRC is
8 different from ours with respect to the states. For
9 instance, we need to evaluate the efficiency and
10 timeliness of our own operations. We don't need to
11 evaluate the efficiency and timeliness of your
12 operations. That's not our business. It's the health
13 and safety of people that are in your states that are
14 our business.

15 So, there will be efficiency indicators
16 that we need to collect on our own programs that we
17 don't need to collect on the state programs. If it
18 takes two years for somebody to get a license in a
19 state, and unless that's construed as interfering with
20 interstate commerce, that somebody who would be safe
21 isn't operating is less of an issue for us than that
22 somebody who isn't safe is operating. So, there are
23 things that as managers of the public's resources we
24 need to know about the NRC programs that we don't need
25 to know about the state programs. That's the first

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1 point.

2 Second, and perhaps the title, the
3 Performance Evaluation Program, is at fault. We do
4 not see that these indicators will then lead to a yes
5 or a no depending on some arithmetic combination of
6 them is greater than or less than a number. What we
7 are talking about is establishing a database to which
8 judgment will be applied. We see a three stage
9 process whereas the agreement state comments more make
10 it sound like a two stage process. You get these
11 indicators and then you do some scrub on these
12 indicators and you apply some tests and either the
13 program is adequate or it's not. That's not what we
14 had in mind. What we have in mind is there are
15 certain data that should be relevant to comparative
16 evaluations and to absolute evaluations and it would
17 be very useful for those data to be collected
18 systematically and on the table at arm's length from
19 all the parties. But the judgments apply to those
20 data. Therefore, how is the program doing require a
21 lot of non-quantitative information and different
22 people will come to different judgments.

23 We're not trying to reduce the decision
24 making process to a mechanical process. Not only do
25 those data have to be considered with judgment, but

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1 there are other non-quantifiable -- I'll call them
2 data, but other non-quantifiable information which
3 also has to be taken into account. The idea is to
4 have a relatively objective base which is both broad
5 enough to give a fairly good picture about the
6 programs, but still precise enough so that the numbers
7 mean something that all parties can start from and
8 then have other information brought to bear and
9 judgments to be made. It's perfectly conceivable to
10 me that we at a given state could agree on all the
11 data for that state and still come to different
12 conclusions as to how that program is doing.

13 The third point I'd like to make is that
14 your statement that says we shouldn't just stick to
15 the regional office, that may or may not be a good
16 observation, depending on what we try to do with the
17 data. We're not trying to evaluate NRC compared to
18 the states. We're not even really trying to evaluate
19 the states compared to each other in the narrow sense.
20 What we're trying to do is answer two questions. One
21 is broadly speaking are citizens in agreement states
22 as well protected as citizens in NRC states? And
23 secondly -- and for that you have to look at all 29
24 states, not because -- if for no other reason because
25 an individual state is a very small sample. So, you

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1 need to look at that and you need to look at trends
2 there.

3 Secondly, do things stand out about a
4 couple of states compared to their colleagues? For
5 that you need to look at the sample over some length
6 of time because one state in one year is a small
7 sample.

8 But there's the impression that, number
9 one, we're trying to set up a mechanical system to
10 evaluate the states, and we're not, and number two,
11 that this is all the information that's necessary to
12 evaluate the states and that's not the intention
13 either. So, my view, I should tell you, are three
14 things. One is we haven't done a very good job
15 communicating what we're trying to do. The second is
16 what you said is very plausible, but I don't agree
17 with it in one place. Until we see some data, it's
18 hard to know what to do with this. It's hard to know
19 what judgments we will do until we get a look at some
20 of the data because we should be following a flexible
21 decision making process that will be affected by what
22 the data show, not trying to set up a bunch of
23 decision rules in advance because the data are only a
24 part of the decision and the desire to get out and
25 start doing some pilot testing is to see where do we

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1 get trivial answers and where is their interesting
2 material that we should follow up on? Then the third
3 point is that we're not trying to make the states look
4 more like the NRC or vice versa. What we are trying
5 to do is places where we have common problems, we
6 ought to have a common approach. And places where we
7 have different problems we ought to have a different
8 approach.

9 So, there's a lot of work to be done and
10 some of it is just communicating between us and the
11 states because I was really quite shocked when I heard
12 the states' strong negative reaction to the program,
13 since to me it's obviously a good idea. So,
14 therefore, we haven't communicated it correctly.
15 Can't be that I'm wrong or the states are wrong. And
16 the idea is to instead of trying to come out with a
17 full fledged system is to do this thing in sections,
18 get some data, see where we go, whether we have too
19 many or too few indicators, but not have this decision
20 process where you pour in the data and then out comes
21 a grade. That's not at all the intention.

22 DOCTOR KULIKOWSKI: Okay. In a sense, I'm
23 somewhat relieved by your remarks because very much
24 the states have the feeling that this was a grading
25 system.

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1 CHAIRMAN SELIN: Absolutely not.

2 DOCTOR KULIKOWSKI: And I think this
3 really speaks to the very issue that we do need to
4 communicate about this particular topic much better,
5 more effectively and spend some more time and, in
6 fact, quite a bit more time before we go out and --
7 whether it's a matter of educating the states, maybe
8 having a workshop particularly devoted to this, or
9 addressing this at the program manager's workshop
10 which is coming up in the late spring, to iron out and
11 to make sure that everyone agrees because I don't
12 think the states collectively disagree with the fact
13 that there is going to be some sort of evaluation
14 tool. The point has been made to me that the tool
15 needs to be an effective one. In other words, it
16 should get to the very meat of what you want. I think
17 the states have viewed the mechanics of data
18 collection as related to but not an integral part of
19 what's been called the IMPEP Program.

20 I do reiterate, and I believe all the
21 states' mandates are to protect public health and
22 safety and that is really what you are in the broadest
23 sense charged with under the Atomic Energy Act, is to
24 make sure that that happens nationwide. Once you
25 relinquish authority, you still have clauses that have

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1 been added to the act that you will come in and do an
2 evaluation of the program, and the states certainly
3 don't disagree with that, I don't think. However, we
4 do need to -- the concern, I believe, on the states'
5 part is that everyone is treated equally and that
6 everyone has the same level of protection, which is
7 basically what you espoused earlier on today.

8 COMMISSIONER de PLANQUE: Let me --

9 CHAIRMAN SELIN: Just let me finish one
10 point.

11 COMMISSIONER de PLANQUE: Go ahead.

12 CHAIRMAN SELIN: Remember, it's not like
13 we're starting from scratch. We have 29 indicators
14 today and they only cover about a third the area that
15 these 13 or so cover. So, the idea is to make
16 progress. It's not as if we're suddenly springing a
17 bunch of -- we'd like to do fewer indicators than we
18 do today. We'd like them to be less redundant than
19 today's and we'd like them to be better understood.

20 Commissioner de Planque?

21 COMMISSIONER de PLANQUE: I have a problem
22 in this area too and I think what essentially happens
23 is people count the beans when they can't figure out
24 how to quantitatively evaluate the soup. What we're
25 really after here is what's the quality of the soup.

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1 So, if we don't accumulate the data, somebody will.
2 The data will be ferreted out somehow. I look at
3 things like the bean counting items, like
4 misadministrations and over exposures and
5 contamination events and things like that and I say,
6 "Yes, we need to look at these data." But I agree
7 with you in the sense that we need to know how to look
8 at those data and how to evaluate them in terms of the
9 quality of the soup.

10 So, something like misadministrations,
11 maybe you look at that as a rate. But when you get
12 into things like over exposures, over exposures
13 compared to what? I don't know the basis for
14 comparison on some of these, either comparison from
15 state to state, NRC to state, or within a state from
16 time to time.

17 It seems to me what we're all struggling
18 with here is how do you look at some of these measures
19 and make sense out of them in terms of the overall
20 quality of the soup. I think we have to face this
21 collectively in terms of what do we do with these data
22 when we get them. What's the bottom line? And I
23 don't know that we've found the right answer yet.

24 DOCTOR KULIKOWSKI: Yes. I think, as you
25 pointed out, that, depending on the category of data

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1 that you're looking at, I think the rules will change.
2 And I think that's what we're professionals in the
3 health physics field for, because we have the
4 expertise to do that.

5 I think the concern that I want to voice
6 is that there not be sort of a transferral of how well
7 a program is doing, i.e. the quality of the soup, to
8 the number of beans in that soup. For example, a
9 particular performance indicator, we probably have
10 more diagnostic misadministrations in New York, but we
11 also do five percent of the nuclear medicine
12 procedures in this country every year. So, you really
13 need to put the indicator, if you will, or the piece
14 of data that you're looking at into its absolute
15 context so that it cannot be used unambiguously and I
16 think that's one of the concerns that we voice.

17 I think the discussion here today really
18 points to the fact that we really need to go back and
19 revisit this topic before we plunge headlong into it
20 without realizing what the far-reaching consequences
21 may be.

22 COMMISSIONER REMICK: And that's why I
23 have a concern with calling these things indicators,
24 because I'm not sure what they indicate.

25 Data we need. I think you go down, you

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1 can justify that that data is needed by this agency to
2 know in this country how many of this and how many of
3 that, but as an indicator of an individual state
4 program or NRC program, we're not sure. I would
5 justify it as data, but I have trouble calling it
6 performance indicators.

7 DOCTOR KULIKOWSKI: I definitely agree
8 with you, Commissioner Remick. I know I've devoted a
9 whole section to data, because my scientific training
10 is as a research scientist and so I look at data and
11 recognize it as a very essential portion of what we do
12 in order for us to make a logical judgment on how to
13 proceed in the future. If we find that data set A
14 shows that there's not a problem in that area, we can
15 certainly then shift our resources to addressing a
16 problem which data set B shows there is a problem. I
17 think that's what we need to do as managers. I do
18 that all the time with the staff in the office.

19 If I have an inspection which is due, for
20 example in a teletherapy unit, and I have an incident
21 to respond to, a transportation incident in one of the
22 airports, and this teletherapy licensee has got a good
23 track record, I think I can put him off for a month
24 without feeling that I'm going to jeopardize anybody's
25 health and safety and I will go out and address the

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1 situation which requires immediate attention. We need
2 to be able to do that, and you do that by looking at
3 the data.

4 COMMISSIONER REMICK: You give me an
5 excuse to come back to a question I was going to ask.
6 Earlier you said something about the fact that
7 machine-produced radiation was twice as large, I
8 assume in your state, than others. I was going to
9 come back and ask you, how about the amount of effort
10 required? I would assume that machine-produced you
11 probably don't spend as much effort as you do with
12 Atomic Energy Act materials.

13 DOCTOR KULIKOWSKI: We spend just about
14 the same amount of effort for our particular program,
15 about the same number of FTEs. We have about between
16 600 and 700 materials licensees, about 400 of which
17 are medical, of which about 12 of those are medical
18 broad scopes. We have in excess of 15,000 x-ray tubes
19 of which only 53 are linear accelerators or therapy
20 machines. And because of just the programmatic way of
21 licensing and inspection, a materials facility is
22 significantly different from the way a piece of
23 equipment is inspected. We can run both programs with
24 about the same amount of FTEs in each one, a little
25 bit more on the x-ray side.

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1 COMMISSIONER REMICK: I imagine your
2 inspection frequency for x-ray machines is much less
3 than you are for atomic energy material, Atomic Energy
4 Act materials.

5 DOCTOR KULIKOWSKI: They're roughly
6 equivalent.

7 COMMISSIONER REMICK: Are they?

8 DOCTOR KULIKOWSKI: Because we try to set
9 our inspection frequencies -- and again this is just
10 our program, not the agreement states collectively --
11 we try to set our inspection frequencies based on
12 potential for risk and then track record of the
13 licensee or the registrant so that, for example, our
14 teletherapies we use the same inspection frequency as
15 the NRC does, which is yearly, but we have the
16 latitude that if it's a good facility we can extend it
17 to every 18 months or we don't get so upset about it
18 if it goes a little bit over a year. Other places we
19 have -- you know, we're there, 365 days we're knocking
20 on the door, and we do the same thing with the
21 equipment.

22 COMMISSIONER REMICK: Okay. The reason I
23 make that statement, I come from a background where
24 the state was not an agreement state and therefore the
25 NRC material inspections were far more frequent than

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1 inspections by the state of x-ray machines, and yet I
2 felt the research uses of x-ray machines in many cases
3 was far more risky than the handling of Atomic Energy
4 Act materials.

5 DOCTOR KULIKOWSKI: We try to assess the
6 risk as well as you can by category, but none of our
7 inspection frequencies exceed three years, so for
8 everything we're three years or less with linear
9 accelerators and cobalt-60 machines being annually
10 inspected, comparable.

11 I'll just sum up the IMPEP -- I'll just
12 use the acronym for now, recognizing that we really
13 should do more talking on the subject -- by stating
14 that the agreement state interaction is absolutely
15 critical and it's essential if the program is to
16 succeed. We're all in the same canoe paddling up the
17 stream on this one. And again, it's someplace where
18 people have felt that the FACA legislation has
19 precluded the most effective communication between the
20 two organizations.

21 COMMISSIONER REMICK: There's one bullet
22 there where you said "resultant actions must be
23 applied equally." I wasn't quite sure. Do we use the
24 same firing squad or what was meant by that?

25 DOCTOR KULIKOWSKI: In several instances,

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1 concerns were voiced that the reviewer when he reviews
2 his own henhouse, if you will, for lack of a better
3 word, may be applied differently because these are
4 going to be -- I mean, there is a certain amount of
5 subjectivity and there was concern that, if you find
6 condition A in an NRC region and condition A in an
7 agreement state and you want some remedial action
8 because you feel that it's detrimental, that it should
9 be applied fairly to everybody.

10 COMMISSIONER REMICK: I see.

11 DOCTOR KULIKOWSKI: (Slide) The medical
12 program, on the next slide, has several bullets. And
13 this is perhaps of more personal interest to me
14 because of the large number of medical facilities that
15 we regulate, but it certainly is an issue that I've
16 been involved in over the past four or five years in
17 various relationships with the NRC on the quality
18 assurance and hence quality management rule as well as
19 the medical issues associated with the Conference of
20 Radiation Control Program Directors.

21 I think we all recognize that this is
22 beginning to become a very rapidly changing field from
23 when nuclear medicine started back in the late '50s
24 and early '60s in force, and there have been -- I saw
25 a response, and this was discussed at the managers

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1 workshop at Hunt Valley last year and there was a
2 response, and I've forgotten exactly who wrote the
3 memo to whom, but it alluded to the fact that the
4 medical area was being looked at and there would be
5 changes anticipated in late 1997, which is almost
6 three years from now, almost four years from now.
7 That's probably much too long of a time frame and I
8 think there was some discomfort on having gone through
9 Part 20 over the last number of years, that the same
10 problem should be avoided, that there are issues that
11 we're dealing with that affect direct clinical care,
12 that affect direct patient exposures, and they should
13 be addressed and they should be addressed coordinately
14 by the agreement states and the NRC.

15 Just as an example to support this, I had
16 one of our licensees' representatives in our office
17 last week who had come to pick up an amendment to use
18 strontium-89, the new therapy agent to palliate the
19 pain from bone metastases. She said to me, she said,
20 "But Doctor so and so is not on the license," and I'm
21 going, "Well, he doesn't meet the criteria published
22 in our regulations which are exactly the same as those
23 in Part 35," which was board certification in
24 diagnostic radiology by the American Board of
25 Radiology.

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1 She said, "That's really strange because
2 if you look up here, the same person who is board
3 certified in radiology by the American Board of
4 Radiology can use this material and this person
5 probably has never injected any radioactive
6 pharmaceutical in his life. He knows how to use an x-
7 ray machine, he knows how to use a linear accelerator
8 and maybe a cobalt unit."

9 But it's time that we really look at the
10 whole medical area and this being just one example, do
11 what we require of physician and other authorized
12 users, is that training that we require of them? I'm
13 not saying who provides the training, whether it's the
14 board certification in ABR, but are the basic
15 standards and the basic requirements for the types of
16 things that they're trained in, are these adequate to
17 adequately protect public health and safety? When you
18 let someone who is boarded in diagnostic radiology
19 who's been practicing for a number of years, who has
20 maybe been certified in the early 1960s doesn't have
21 a clue as to how to inject strontium-89 without
22 causing some severe detriment to the patient.

23 So, I think that's just one example of
24 concerns, looking at the whole medical program.

25 CHAIRMAN SELIN: Can I just come to --

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1 DOCTOR KULIKOWSKI: Sure.

2 CHAIRMAN SELIN: This target date of late
3 1997, I don't know the reference, but the problem is
4 that there's such delays built in the compatibility
5 process that if we knew today exactly how we wanted to
6 change the program to address the question that you
7 brought up and related questions, it would take us a
8 year to do a rule and then three years to propagate it
9 through the agreement states. So, the point was not
10 that we're dragging our feet, but the structure of the
11 process has long delays built in it. I think what
12 we're trying to get at is it would be very useful if
13 thinking together one could come up with some
14 reasonable interim solutions, either an ability to
15 fast track certain regulations that have a high health
16 and safety content or some voluntary way to get these
17 adopted before compatibility requires them because
18 these are just the structure of our doing the rule,
19 which we need to figure out how to speed up where we
20 know -- first of all, you've got to figure out what
21 you want to do. But even after that, we have to do a
22 rule and then the states have three years to adopt it,
23 even if it's a question of strict compatibility, et
24 cetera. The delays are too great.

25 DOCTOR KULIKOWSKI: Yes.

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1 CHAIRMAN SELIN: We need to figure out
2 what to do in these health and safety issues.

3 DOCTOR KULIKOWSKI: Right. I'm tossing
4 this one on the table because I think it's a problem
5 that we both need to look at and I think there's a lot
6 of expertise in the agreement states both from a
7 managerial aspect, maybe there are other ways to
8 address this, as well as the technical expertise to
9 say, "This is what's needed."

10 I guess basically the message is you don't
11 have to go it alone and the states don't have to
12 follow. We can be right up there or we may be
13 proactive and take the lead on this. These are
14 certainly options and say, "Look, this is the solution
15 that we've come up with and what do you think of it?"

16 CHAIRMAN SELIN: Going not to the medical
17 side but the procedural side, clearly the trend is to
18 move agreement states and not fewer. The reasons are
19 open to some speculation, but so long as that's the
20 trend, this idea that NRC writes the regulations and
21 then propagates them, there might be a better
22 mechanism altogether to get the improvements into the
23 field. This program was originally set up as if there
24 were going to be an NRC program and a few agreement
25 states and the balance of licensees is either already

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1 shifted or is about to shift. The very structure of
2 how long it takes to get things out and how they
3 should be gotten out is --

4 DOCTOR KULIKOWSKI: Yes, I think this --

5 CHAIRMAN SELIN: -- something that your
6 advice, your collective advice would be very helpful.

7 DOCTOR KULIKOWSKI: Yes. I certainly
8 agree and I think the medical issue is just one
9 example. But I think the entire managerial mechanism
10 probably can do -- in this day of downsizing
11 government, that's all I hear from our new mayor, is
12 that we're going to downsize, we're going to downsize.

13 CHAIRMAN SELIN: While improving the
14 performance.

15 DOCTOR KULIKOWSKI: Well, yes, and
16 providing more services.

17 CHAIRMAN SELIN: He has prospects of
18 becoming a governor or a president.

19 DOCTOR KULIKOWSKI: I guess. But the
20 bottom line is that we really need to really work on
21 this problem together. It provides an opportunity to
22 come up with some innovative ways of doing it and not
23 only protecting public health and safety, but making
24 government more efficient at the same time. I'm sure
25 that we realize that this is a reasonably complex

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1 area. The agreement state organization chartered an
2 ad hoc committee on medical use of -- of which Bob
3 Quillin from Colorado is the chair and Bill Bassetti
4 from Florida and myself are the other two members. We
5 have collected an awful lot of data and one of the
6 problems is that it's been some overwhelming because
7 of the differences in material that we've found from
8 state to state. It's not an uncomplicated area to
9 regulate. I think this is one area that will be very
10 fruitful for us to work very closely together on.

11 (Slide) Which brings me to the next to
12 the last slide, I believe number 8, on data
13 collection, reporting requirements and requests.

14 As a scientist, I know that when you
15 collect data you've got to have a very high degree of
16 confidence that the data is correct and that it's
17 reliable if you want to make any decision based on it.
18 That goes true for any regulatory decision as well.
19 I think the views that I had from the states were that
20 the development of the data sets must be by consensus.
21 We need to sit down at a table and say, "This is what
22 we want to collect and this is what we need to collect
23 in order to make an informed decision about areas A,
24 B, C and D," and that's not to say that these are cast
25 in stone and can't change from time to time. But it

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1 must be by consensus of NRC and the states. If we
2 want to have a nationwide database on any particular
3 topic, there will be much more likelihood of having a
4 complete and accurate database if we all agree what
5 we're going to collect and we can educate our
6 licensees as to what we want to collect and the reason
7 for collecting it and why it's important. I think
8 that's part of the problem. When people are just
9 asked, "Give me X, Y and Z," and you have no idea why,
10 you tend to do something that is a higher priority
11 than providing someone with a list of decontaminated
12 sites, which were decontaminated 25 years ago, as an
13 example.

14 Which brings me to the concern about knee-
15 jerk reactions. Frequently the states feel that there
16 are -- we're just asked for things for the sake of
17 being asked for them. There are programs that we run
18 which are integrated programs, as I said earlier, with
19 both materials and machine produced radiation and
20 there may be other responsibilities, radon, and we
21 don't do just materials licensing and inspections.
22 That sometimes puts unfair burdens on us.

23 For example, the most recent one I can
24 remember is getting a request for experimental human
25 studies not involving radiopharmaceutical development

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1 that occurred before 1975 in our program and we'd like
2 it within five business days. I just said, "I can't
3 deal with this," and I just haven't even had a chance
4 to write back a memo saying I can't deal with this
5 right now. Just to get things out of our archives is
6 longer than five business days.

7 So, I think we need to have some more
8 maybe even informal communications saying, "Can you
9 get stuff like this to us or what's the feasibility of
10 it?" before we get an absolute request.

11 Talking about data collection in general,
12 as I said earlier, we don't disagree with this. We
13 think it's a very important part of running our
14 collective program, to make sure that we have data so
15 that we know if there's a problem area, we can
16 identify it and we can identify solutions to correct
17 it. In addition to the ad hoc medical community that
18 the organization had, we had an ad hoc committee on
19 reporting data, the report of which was transmitted I
20 believe to Chairman Selin in August. We've not had a
21 response at this point and we were wondering what was
22 happening with a response.

23 I know AEOD has had a workshop which was
24 sort of short notice and a lot of us couldn't get to,
25 but we're still very much interested in the data

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1 collection, making sure that it's a good database and
2 that we can all share it and benefit from it.

3 CHAIRMAN SELIN: Let me make a couple
4 points.

5 DOCTOR KULIKOWSKI: Sure.

6 CHAIRMAN SELIN: Commissioner Remick has
7 pointed out the basic concept that if one has an
8 indicator one should know what it's going to indicate
9 and it's hard not to agree with that.

10 DOCTOR KULIKOWSKI: Sure.

11 CHAIRMAN SELIN: But the concept of
12 indicator and the concept of data are somewhat
13 different. When we're talking about indicators, which
14 may not be the most felicitous phrase, we're talking
15 about composite measures, whereas when you're talking
16 about data you're talking about relatively raw -- I
17 mean there are lots and lots of data that you need and
18 lots and lots of data that we need. When we were
19 talking about performance indicators, the idea was to
20 reduce either by combining or smoothing down to a
21 relatively few sets of time series that we were going
22 to try to track. So, we weren't talking about data in
23 the same sense that you're talking about here.

24 We do need to talk some about this
25 because -- and our responsibility here is not

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1 identical to that of the agreement states. We need to
2 do an overall evaluation not only of individual
3 agreement states, but of the Agreement State Program
4 per se. There could be places where we think we need
5 some data that the agreement states just don't agree
6 with. We still will require those data if it comes
7 down to that. Hopefully it wouldn't come down to
8 that.

9 As far as your report, it deserves an
10 answer and it should have had one. But the answer was
11 there's a lot of material in there. We need to think
12 about this in the context of the indicators and the
13 context of what are we trying to do with the program.
14 But the main point I'd like to make is that data
15 collection here and the discussion of the performance
16 indicators I really don't think are quite different.

17 DOCTOR KULIKOWSKI: Okay.

18 CHAIRMAN SELIN: I think they're different
19 points. We don't expect out of the performance
20 indicators as much as the states seem to think we had
21 in mind. They are sort of intermediate composite
22 factors. But here you're talking about basic data,
23 knee-jerk. You're absolutely right, of course, about
24 the old files. On the other hand, we do need more
25 information than we get on at least therapeutic

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1 misadministrations and a number of this other
2 material.

3 DOCTOR KULIKOWSKI: But I think material
4 data in the latter sense of numbers of events, for
5 example, of what happens and I think that can be used
6 both ways. There are -- for example, on therapeutic
7 misadministrations, you may look at particular trends
8 for a particular type of equipment that's going on to
9 see whether people need more training and how to use
10 it correctly. So, I think it needs to be done that
11 way. I think to use data in the "performance
12 indicator" sense requires a lot more care. As
13 Commissioner de Planque pointed out, that's looking
14 more at the quality of the soup. There are times when
15 bean counting is very effective and it will show you
16 something. There are other times when you've got to
17 look at the more global picture.

18 I think this whole scenario really needs
19 to be discussed with the states a lot more in depth
20 because I don't think the states have this feeling,
21 the same feeling that you've just presented. I know
22 it was my personal opinion that they looked like two
23 very different animals at this point. There was data
24 gathering and then there were these list of things
25 that we were going to be graded on, for lack of a

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1 better word.

2 COMMISSIONER REMICK: To make sure I add
3 to the confusion, your examples or several of the
4 examples you used on data collection I agree were kind
5 of short-term needs and so forth. What I was
6 referring to before was some of the things that our
7 staff is referring to as operational indicators I
8 think are better classified as data.

9 DOCTOR KULIKOWSKI: Okay.

10 COMMISSIONER REMICK: Contamination
11 events. I don't know if that's an indicator or not.
12 Maybe it is, but it hasn't been justified as that.
13 So, I was specific when -- my previous reference that
14 I thought that data was a better use than operational
15 indicators of things like medical misadministrations
16 and over exposures, some of those might be justified,
17 but as they are I see them as data that we need. As
18 I say, I can justify that there's a need to know what
19 that is nationally so we have some kind of a feeling
20 and so forth, but I'm not sure I would call it an
21 indicator.

22 DOCTOR KULIKOWSKI: I don't disagree with
23 you. We need to sit down and talk about terminology -
24 -

25 COMMISSIONER REMICK: Sure. Sure.

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1 DOCTOR KULIKOWSKI: -- and then say, "What
2 you're calling data is what we're calling data." For
3 example, misadministrations. They can be data in the
4 sense that you look at them as beans and you say,
5 "We're not seeing any iodine misadministrations
6 anymore. We're only seeing strontium-89
7 misadministrations," what have you.

8 COMMISSIONER REMICK: Yes.

9 DOCTOR KULIKOWSKI: And that in and of
10 itself tells you something.

11 COMMISSIONER REMICK: Sure, it's
12 information.

13 DOCTOR KULIKOWSKI: However, putting those
14 data in the context of the program is really looking
15 at, as what Commissioner de Planque said, is the
16 quality of the soup and that I think where we need to
17 be extremely careful, that the number of events is
18 used as some sort of indication of how the program is
19 doing because that -- I think that's where the real
20 thin ice is beneath the agreement states' feet at this
21 point.

22 CHAIRMAN SELIN: Sure, but let's follow-up
23 on that. First of all, we were talking about medical
24 misadministrations. There are at least three things
25 that we don't do now that we need to figure out. The

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1 first is I'm convinced we're getting quite incomplete
2 report of misadministrations, in spite of whoever
3 signed the letter saying, "Why can't I believe that
4 the states only have a third the misadministration
5 rate that the NRC states do?" That's much less
6 plausible than other hypotheses. I mean it's much
7 more likely that the reporting is incomplete and that
8 the NRC states are having three times as high a level
9 of misadministrations as the agreement states.

10 But the second is maybe we don't have the
11 definitions of misadministrations down very well.

12 But the third thing, most importantly, we
13 don't know how to rationalize the denominator. We
14 don't have data on the number of correct
15 administrations. We don't know what we mean by a
16 correct administration. We do need the data on
17 misadministrations, but to do anything with it we need
18 other things that we don't collect today and I don't
19 think agreement states collect and that's the total
20 number of events. Not the misevents, but the events.
21 We don't even know whether we ought to be measuring a
22 misadministration per sequence or per -- I mean
23 there's a lot to talk about. It doesn't mean that we
24 shouldn't collect the misadministration data, but
25 we're very much handcuffed in what we do with that

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1 until we figure out how to normalize that and how to
2 get some surrogates for the normalization factors,
3 even if we can figure out where to do it.

4 DOCTOR KULIKOWSKI: That was my point.

5 CHAIRMAN SELIN: So, there's a lot to do,
6 but it doesn't mean that we shouldn't get better data
7 on misadministrations, even though there's clearly no
8 mechanical way of taking these data and say, "What
9 should we include about these misadministrations?"

10 DOCTOR KULIKOWSKI: Right. I mean that
11 was my point exactly, that you can gather a set of
12 numbers or a set of discreet information points,
13 whether they're numbers or more fine than that, and
14 manipulate them. You can number crunch them and you
15 can spread them out and you can do any number of
16 things and add more data to them or put them into
17 different contexts to give you different answers and
18 different types of information, which I think is
19 really the point that Commissioner de Planque was
20 making, that you can look at numbers of events or you
21 can look at numbers of events relative to the total
22 number of events that are performed or you can put it
23 into context of whether they're in agreement states or
24 not agreement states and how many, what the proportion
25 is. There may be more in non-agreement states because

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1 there are a number of procedures performed in non-
2 agreement states or that treatment modalities have
3 changed, that there's a decrease. I mean we'll
4 probably see more linear accelerator
5 misadministrations in New York City than we will see
6 cobalt units from now on because if you graph out the
7 number of units, we see a steady decrease of cobalt
8 units and a steady increase of linacs. So, just
9 because they're in use more, we'll see more absolute
10 numbers of events, but we may not see a greater ratio
11 of events per total number of administrations or
12 denominator.

13 CHAIRMAN SELIN: But I contend we start
14 off by collecting better information on the
15 misadministrations. As we see what the numbers are,
16 then we can intelligently say -- I don't mean to
17 crunch them and say, "Here are some factors," but say,
18 "Where do we need to do more work to put these in
19 context?"

20 DOCTOR KULIKOWSKI: Part of that could be
21 what other data do we need to collect to supplement
22 this. I think this is an ideal opportunity for the
23 Commission and --

24 CHAIRMAN SELIN: But we don't hold off on
25 collecting the misadministration because it's too hard

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1 to collect the correct administrations.

2 DOCTOR KULIKOWSKI: I wasn't maintaining
3 that. If I gave that impression, it was erroneous.

4 COMMISSIONER de PLANQUE: I think this is
5 the point that you've been trying to make, and if we
6 think it's difficult with misadministrations, what's
7 the denominator on over exposures if you're looking at
8 the over exposure rate? What's the denominator in
9 contamination events if you're looking at the
10 contamination event rate? I think these are the
11 things that need to be worked out yet. What do you do
12 with that? You can collect data on over exposures,
13 you can collect data on contamination events, but
14 again what does it tell us about the soup?

15 DOCTOR KULIKOWSKI: Sure. I agree with
16 you. And just on over exposures, if it's 100 MR in a
17 year, that's different from 100 MR in a week. We're
18 looking at really moving targets here and I think the
19 bottom line is that we need to be extraordinarily
20 careful, collectively extraordinarily careful as to
21 what we collect and how we use those data, data used
22 in the most generic sense.

23 (Slide) I'd like to finish up by touching
24 on a couple of other subjects that people commented to
25 me about. On the next slide, on slide number 8, I'll

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1 take the easy one first, the codification of agreement
2 state requirements. Probably nothing else rankled
3 more agreement states collectively than saying, "We
4 will write regulations for the agreement states."

5 CHAIRMAN SELIN: But that's not what we
6 said, or at least it's not what you should have heard.
7 The intention was saying that if you look at it purely
8 as an NRC problem, you can't go to any set of
9 documents and say, "What do we today require of the
10 agreement states? What's the basis for this? How do
11 we run our operation?" The idea was not to set down
12 a new statutory basis for the relationship between the
13 federal government and the agreement states. The idea
14 was to take a whole lot of stuff which is spread out
15 in letters, memos for the record, memories of people
16 not within the program and say, "What is the NRC
17 program? What do we require of the states today? Not
18 what should we require, but what's the description of
19 our program?" and try to get it written down in one
20 place.

21 Furthermore, there's so many changes going
22 on in the program. We're not seriously considering
23 trying to do this now or trying to get the program to
24 settle down somewhat further. But it's not fair to
25 anybody, it's not fair to our staff, it's not fair to

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1 the agreement states, it's not fair to those who
2 oversee our own program, to try to figure out what
3 we're doing when you can't find out what our policies
4 are about this or not. It's not a prescriptive
5 program we're talking about, it's a question of
6 putting in one place and putting somewhat clearer what
7 the current situation is or what the current situation
8 will be when it's been modified by some of these major
9 changes that you've been describing.

10 DOCTOR KULIKOWSKI: Okay. Just two
11 points. One, I agree, we'd need a set of groundrules
12 to play by.

13 CHAIRMAN SELIN: Right.

14 DOCTOR KULIKOWSKI: And, you know,
15 whatever the mechanism is, that's the bottom line, we
16 need the set of groundrules. I think the second point
17 is that it just points out to the fact that there was
18 not effective communication between the NRC and the
19 agreement states on this particular topic because
20 there was a lot of misunderstanding by the agreement
21 states relative to what you just said.

22 CHAIRMAN SELIN: It's conceivable that
23 some of the miscommunications within organs of the NRC
24 to other organs of the NRC.

25 DOCTOR KULIKOWSKI: You know, whatever.

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1 I'm not here to dole out the blame to anybody. It's
2 just an observation that this may be one topic that we
3 need to talk about some more.

4 Lastly is the topic of cost recovery and
5 pass throughs to agreement state licensees. I think
6 this is an issue that needs to be really again looked
7 at very carefully because there are a lot of issues
8 which are not clear cut. The agreement states do
9 provide regulatory input. They provide, in some
10 instances, the initiative for regulations which is
11 agreement states-staff time. We provide a lot of
12 information to the Commission, the NRC as a corporate
13 body and these are all things which we don't get
14 compensated for that are compensated for on the local
15 programs' time.

16 So, I think we need to really make sure
17 that if there is -- we're probably at a good starting
18 point and say, "These are the costs that we incur for
19 running the agreement program relative to the
20 requirements of the NRC and these are the cost
21 elements that you incur by developing regulations
22 which our licensees have to follow." I think we just
23 need to again sit down and make a laundry list of
24 where the various cost elements are. It certainly is
25 an issue that I deal with everyday, is the cost of

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1 running the program. I have to justify just about
2 every penny that I spend.

3 So, with that, I would like to just --

4 CHAIRMAN SELIN: Before we get off of that
5 one, Doctor Kulikowski, this is really a three sided
6 discussion. I believe that the Commission's preferred
7 solution is not to try to assess either the states or
8 their licensees, but to have our appropriators clearly
9 understand that it's just not fair that licensees in
10 NRC states bear the additional costs of running the
11 Agreement State Program. It's really up to the
12 Congress to finally decide how this will be settled
13 out. But we would just prefer that a portion of our
14 cost of running the materials program which supports
15 the agreement states not be put back into the base
16 that we charge to the licensees, but other solutions
17 might come out and some of them would have a
18 deleterious effect on the finances of either the
19 agreement states or their licensees. It's not so much
20 that we should reach an agreement on how to distribute
21 these costs, but we should have a clear understanding.
22 You shouldn't be surprised and your views ought to be
23 made known to your congressman as well when it's done.
24 But the current situation is not stable and it's
25 getting more unstable as the number of states go up.

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1 DOCTOR KULIKOWSKI: I think any of us in
2 government realize that fact and I think we all --
3 this may be a very fruitful area to discuss with the
4 states because we've had to come up with creative ways
5 of how we share our costs with our licensees as well.
6 We go through this -- just about every two years we go
7 through an exercise like this.

8 But I would like to just summarize that I
9 think the most important thing is that we communicate
10 the corporate bodies of the agreement states and the
11 NRC, communicate effectively and openly with each
12 other. We are in the same boat and we're paddling up
13 the same stream in the same direction. If we sink,
14 we're all going to sink together. I think that's the
15 bottom line. The agreement states really need a
16 commitment and I think from what I've heard from my
17 colleagues on the agreement states that they feel
18 rather tenuous about this. But they need a commitment
19 from NRC that we are indeed viewed as co-regulators
20 and that we collectively, the NRC and the states,
21 implement a nationwide radiation protection program.

22 This really boils down to just an issue of
23 mutual trust. We really need to really work on that
24 issue. That may be more important than anything else
25 that we do.

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1 Just in conclusion, the Organization of
2 Agreement States, and I think the agreement states
3 collectively, look forward to developing an effective
4 working partnership with NRC so that we can ensure our
5 common goal. I personally look forward to working
6 with the members of the Commission, the members of all
7 the program staffs and the NRC and my colleagues in
8 the agreement states during the coming year.

9 Thank you.

10 CHAIRMAN SELIN: Well, thank you very
11 much.

12 I'd like to make a couple of comments.
13 One is this is very helpful. Second is the NRC is
14 much more interested in the Agreement State Program,
15 not much less than we've been in the past. I wouldn't
16 say we're more or less committed to it, we've always
17 been committed to it. We think it's a good idea and,
18 more importantly, the law says there shall be an
19 Agreement States Program and our job is to make it
20 work as well as possible.

21 One of the reasons perhaps that there's
22 been so much disquiet is that things are changing.
23 One reason that things are changing is that the
24 Commission itself has gotten much more involved in the
25 program rather than delegating it to an effective but

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1 somewhat isolated office, and that's got good things
2 and it's got bad things. You'll get to communicate
3 with the decision makers a lot more directly that it's
4 been in the past. But we also are worried about how
5 the program should best be operated.

6 The fourth thing I have to say is that we
7 have in some places been insufficiently sympathetic to
8 the strong performers, but also insufficiently rigid
9 with the weaker performers. We've put states into the
10 Agreement State Program that clearly in retrospect
11 weren't ready to come in at the time. We've carried
12 states that should not have come in. We and the
13 organization have got to deal with the strong
14 performers where we all learn from them, but have
15 tools that are appropriate to the people who aren't
16 solving their jobs, whether it's from resources or
17 what have you, so that we don't tar the whole group
18 with the same brush, that we have approaches for
19 states that have just not been compatible for years or
20 don't have adequate resources. They're different from
21 the ones that we have for the strong programs.

22 We are very strongly committed to this
23 program. We see the Agreement States Program not only
24 as a healthy program, but one that's going to expand
25 rather than contract over the future and we're trying

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1 to settle some hard issues that have gone unsettled
2 for too long to provide a stronger foundation for
3 growth. These issues are what is our role, what do we
4 care about state resources, do we care about it or
5 not, and the answer is sometimes we do and sometimes
6 we don't. It depends on how the state program is
7 doing. What do we mean by adequacy and compatibility?
8 What is our responsibility for assuring the general
9 public and the guys at the Congress, their elected
10 representatives, that these are happening? What are
11 we doing about our own materials program and how does
12 that get reflected in the state program?

13 These are all weighty issues. We not only
14 welcome, we need your help. You have 29 independent
15 experiments on many of these same issues and we'd be
16 very foolish not to learn from them. But it's going
17 to be tough love in the sense that we need to learn
18 with the good folks, but not tolerate such cavalier
19 performance on the part of what's usually about a half
20 a dozen states at a time at the other end. As this
21 session has shown, I think it's shown there's a lot of
22 room for further communication, so we have to spend
23 some time on the modalities of improving these
24 communications, the first topic that we discussed
25 today.

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1 We look forward to communicating with you
2 probably more formally, but also much more frequently
3 and in a much more, you know, straight -- here are our
4 problems, how do we solve them together in a number of
5 mechanisms.

6 Commissioner Remick?

7 COMMISSIONER REMICK: I have one question
8 that I'd like to ask you, and, if you feel you would
9 not like to answer it, I certainly understand, but I
10 appreciate constructive criticism.

11 I have a sense that there's some
12 dissatisfaction with our medical program, but I'm not
13 sure what it is. From some of the things you've said,
14 I could maybe -- is it a question of is it too
15 stringent? Is it too inflexible? Is it not well
16 thought out? Is it too prescriptive?

17 You've said before that you wanted things
18 to be unambiguous, but I think sometimes unambiguous
19 is the sister of being too prescriptive and sometimes
20 we're trying to move more in the performance area and
21 then things aren't so well-defined and are subject to
22 interpretation.

23 But, am I correct that I have a sense that
24 you're not happy with the NRC medical program and
25 would you share with us, if I'm correct, any thoughts

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1 you have along that line?

2 DOCTOR KULIKOWSKI: It's probably too
3 strong to say that I'm not happy with it. I think
4 it's just -- and I personally have more of a sense of
5 it, because I regulate a large medical community. I
6 think it's probably one of the more important programs
7 in that it involves ensuring patient safety directly,
8 and I'm not sure that I totally agree with Chairman
9 Selin's characterization that a license that's not
10 been issued for two years is protecting public health.
11 I mean, there may be a worse detriment by not having
12 those people treated than there is by having -- you
13 know, we should really look at getting things out in
14 a timely manner and ensure that they run safely. I
15 think we need both components.

16 It just seems to me, and I've heard this
17 because I have a number of friends in the biomedical
18 community in our jurisdiction and having lived on that
19 side of the fence for a number of years, that this is
20 probably one area, and I'll be perfectly blunt, where
21 the communication really does not exist as well as it
22 could.

23 It seems to me that there's -- I've heard
24 from colleagues or from people in our regulated
25 community that there have been presentations by NRC at

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1 Society of Nuclear Medicine meetings and the agreement
2 states didn't even -- I mean, I called several
3 colleagues of mine in the agreement states and said,
4 "Did you know about this?" And they go, "No, what are
5 you talking about," and they're talking about, you
6 know, the future of the medical program, and I think
7 that it's probably one of the areas where there's a
8 little skittishness on how effective and trustworthy
9 communication is between the two entities.

10 So, it's not so much with the regulations.
11 I mean, I think it's been pointed out through several
12 mechanisms that we probably need to go back
13 collectively and look at several areas to make sure
14 that they're up to date, given the changes in
15 technology, but then it's more the philosophical
16 approach to it that's caused not only myself but
17 several other of my colleagues discomfort as well.

18 COMMISSIONER REMICK: That's very helpful.

19 I certainly welcome your comments today
20 and greatly appreciate them. I came into the meeting
21 with a little bit of concern that we -- we certainly
22 have to move ahead on these things, but I am a little
23 concerned we haven't thought these things out
24 completely. I think we've made some big steps, but I
25 must admit I'm a little concerned that we run off and

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1 start pilot programs and so forth and we haven't
2 thought out a lot of the things that we talked about,
3 plus some others.

4 But I do appreciate your comments, your
5 candidness, and thank you very much.

6 DOCTOR KULIKOWSKI: I thank you for the
7 opportunity to be able to do this.

8 COMMISSIONER de PLANQUE: I have no
9 further questions or comments, but I do want to
10 express my appreciation too for your coming and
11 sharing your thoughts with us and I hope we can do
12 this more frequently.

13 DOCTOR KULIKOWSKI: Thank you very much.

14 CHAIRMAN SELIN: By the way, I'd just like
15 to make one other small remark. There's a general
16 feeling that, you know, you caught a little bit of
17 some of this knee-jerk, that Congress beats on us and
18 then we beat on the -- there's no congressman who gets
19 reelected by beating up on the NRC. When a
20 congressman or congressional committees express some
21 interest, it's usually because there's a real problem
22 there, not just a chance for a couple of easy -- there
23 are always some easy points at our expense, but, you
24 know, nobody gets a big benefit out of those.

25 DOCTOR KULIKOWSKI: No. I fully agree

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1 with that. I mean, I've gone through similar
2 exercises with our city council. Right before the
3 agreement state meeting we had one of those.

4 CHAIRMAN SELIN: Fair enough.

5 Thank you very much, Doctor Kulikowski.

6 DOCTOR KULIKOWSKI: You're quite welcome.

7 CHAIRMAN SELIN: We look forward to
8 frequent and varied communications.

9 (Whereupon, at 3:29 p.m., the above-
10 entitled matter was adjourned.)

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ORGANIZATION OF AGREEMENT STATES

AGREEMENT STATE ISSUES

Commission Briefing

February 8, 1994

Robert R. Kulikowski, Ph.D., Chairperson
G. Wayne Kerr, Past-Chairperson
Richard Ratliff, Chairperson-Elect

ORGANIZATION OF AGREEMENT STATES

BRIEFING TOPICS

- ***Introductory remarks***
- ***Status of Agreement States***
- ***Compatibility***
- ***IMPEP***
- ***Medical Program***
- ***Data collection***
- ***Other***

ORGANIZATION OF AGREEMENT STATES

STATUS OF AGREEMENT STATES

- ❑ Independent co-regulators**
- ❑ Not licensees; not general public**
- ❑ Effective communication between NRC and states is essential**
- ❑ Impediments to communication, such as FACA, must be addressed**

ORGANIZATION OF AGREEMENT STATES

COMPATIBILITY

- Major concern and interest to the agreement states**
- ☐ Postponement of February workshop**
- ☐ Concern about feeling that the states should not be involved before the regulated community and the public**
- ☐ More NRC-State interaction is warranted**
- ☐ FACA has been an obstacle**

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INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM

- Must be an effective evaluation tool for both NRC and the states**
- Should include all programs**
- Evaluation criteria must be unambiguous**
 - > If criteria are not satisfied, resultant action must be clear**
 - > Resultant actions must be applied equally**
- NRC-State interaction is critical and essential for successful implementation**

ORGANIZATION OF AGREEMENT STATES

MEDICAL PROGRAM

- **Length of time for evaluation and changes**
 - > **Target date of late 1997**
- **States have considerable experience and interest**
- **States must be involved**
 - > **Evaluation**
 - > **Development and implementation of changes**
- **FACA should not be an obstacle**

ORGANIZATION OF AGREEMENT STATES

DATA COLLECTION

REPORTING REQUIREMENTS AND REQUESTS

- Must be uniform and reliable**
- Development of data sets must be by consensus of States and NRC**
- Concerns about "knee-jerk" reactions**
- *Ad hoc* Agreement State committee**

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OTHER

- Cost recovery**
- Codification of agreement state requirements**
 - > Agreement states are opposed to this concept**

ORGANIZATION OF AGREEMENT STATES

SUMMARY

- Effective communication is fundamental**
- NRC commitment to State-NRC partnership**
 - > Mutual trust and credibility**