

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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MEETING WITH THE ORGANIZATION OF AGREEMENT STATES  
(OAS) AND THE CONFERENCE OF RADIATION CONTROL  
PROGRAM DIRECTORS (CRCPD)

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TUESDAY,  
APRIL 19, 2016

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ROCKVILLE, MARYLAND

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The Commission met in the Commissioners' Hearing Room at the Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, at 9:30 a.m., Stephen G. Burns, Chairman, presiding.

COMMISSION MEMBERS:

STEPHEN G. BURNS, Chairman

KRISTINE L. SVINICKI, Commissioner

WILLIAM C. OSTENDORFF, Commissioner

JEFF BARAN, Commissioner

ALSO PRESENT:

ROCHELLE BAVOL, Executive Assistant, Office of the  
Secretary of the Commission

MARGARET DOANE, General Counsel

PARTICIPANTS:

SHERRIE FLAHERTY, MHP, DC, Supervisor, Radioactive

Materials Unity, Minnesota Department of  
Health (OAS Chair)

WILLIAM IRWIN, SC.D., CHP, Program Chief,

Radiological and Toxicological Sciences  
Program, Vermont Department of Health (CRCPD Chair)

MATT MCKINLEY, Administrator, Radiation Health

Branch, Kentucky Department for Public Health (OAS Chair-  
Elect)

JARED THOMPSON, Program Manager, Radioactive

Materials Program, Arkansas Department of  
Health (CRCPD Chair-Elect)

MIKE WELLING, Director, Radioactive Materials

Program, Virginia Department of Health (OAS  
Past Chair)

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

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9:31 a.m.

CHAIRMAN BURNS: Okay. All right. Well, good morning, everyone, and we want to welcome our representatives from the Organization of Agreement States and the Conference of Radiation Control Program Directors.

And today's meeting with OAS and CRCPD is an opportunity for us to discuss matters of interest with respect to radioactive materials policy and regulatory issues of interest in the states.

The Commission will be briefed on a number of topics by several members of the OAS and CRCPD, including the status of Part 37 implementation related to source security measures, web-based licensing implementation, nationwide environmental data sharing for foreign and domestic incidents, financial planning and sealed sources, and training and webinars. Presentations will be followed by a question and answer session with the Commission.

Before we begin, any colleagues have anything?

Okay. I'm going to let the panel members introduce themselves and begin. Whoever is going to begin, let them why don't you all introduce yourselves and then we can start with the presentations.

MR. WELLING: Good morning. Mike Welling. I'm Past-Chair of the Organization of Agreement States. I'm the Director for the Virginia Radioactive Materials Program.

MR. MCKINLEY: Matt, McKinley. I'm the Chair-

1 Elect of the Organization of Agreement States and I am the  
2 Administrator of the Kentucky Radiation Health Branch.

3 MS. FLAHERTY: I'm Sherrie Flaherty. I'm the  
4 current Chair of the Organization of Agreement States. I'm the  
5 Supervisor for the Radioactive Materials Program in the state of  
6 Minnesota.

7 MR. IRWIN: Bill Irwin. Chair of the Conference of  
8 Radiation Control Program Directors. And I'm also the Chief of the  
9 Radiological and Toxicological Sciences Program for the Vermont  
10 Department of Health.

11 MR. THOMPSON: Jared Thompson. Chair-Elect,  
12 Conference of Radiation Control Program Directors. I'm Program  
13 Manager of the Radioactive Materials Program in Arkansas.

14 CHAIRMAN BURNS: Thanks. Who is--

15 MS. FLAHERTY: Matt we're going to let Matt start us  
16 off.

17 CHAIRMAN BURNS: Matt. Okay.

18 MR. MCKINLEY: I'm the new guy. So, I get to go  
19 first.

20 (Laughter.)

21 MR. MCKINLEY: Again, good morning, Commission.  
22 My name is Matt McKinley with the state of Kentucky representing the  
23 Organization of Agreement States as Chair-Elect. My topic today is  
24 going to be web-based licensing implementation.

25 In 2007, there was a congressional mandate that  
26 resulted in the development of the integrated source management

1 portfolio, which includes the National Source Tracking System, the  
2 Licensed Verification System and of course web-based licensing.

3 Web-based licensing was the last of the three to be  
4 brought online. It was brought up in 2012 and it for the NRC, it was to  
5 bring together several legacy systems into one cohesive system.

6 And of course that was then to be made available to  
7 the agreement states at no charge with full tech support. So, a really  
8 nice offering to make every program in the materials program  
9 nationwide as consistent as possible in terms of its data. And also to  
10 assist in using the data for various purposes such as, you know,  
11 checking the license status when imports come into the country and  
12 things like that.

13 So, states have the option to take it right off the shelf.  
14 The NRC provides it. And as of today there are two states that have  
15 actually fully implemented the program. And there is a third that is  
16 expected to be online within a couple of weeks.

17 There are 18 states in addition to those three that have  
18 expressed interest in the program. Two of those are actually they've  
19 taken the system and put it on their own server. So, they host it locally.  
20 The others have are at various stages of research, development,  
21 implementation.

22 The NRC is only able to accommodate three to five  
23 states per year in the system. And of course as you can understand  
24 with 18 interested states and about 20 more close to 20 more that  
25 haven't yet expressed interest, but, no doubt, at some point will at least  
26 ask the question, there could be a significant backlog in getting this

1 implemented nationwide.

2 And so, one of the Organization of Agreement State  
3 board recommendations would be to consider perhaps a short-term  
4 boost in staffing and resources for this program in order to facilitate  
5 bringing it online nationwide to every state that wants it without taking  
6 years and years to do so. Because of course in addition to the  
7 implementation within the states, there's going to be continued  
8 development and improvement and there's going to be tech issues with  
9 states that have already come online. So, that would be one  
10 recommendation.

11 The other recommendation that we had was to  
12 continue developing reports that are consistent with the IMPEP  
13 questionnaire and the information that is needed by IMPEP teams,  
14 which could be accessed by NRC staff and the IMPEP team itself prior  
15 to actually going on site, which could save quite a bit of time and  
16 essentially money, is what it boils down to.

17 So, those are the recommendations from the  
18 Organization of Agreement States board and I have nothing else on this  
19 topic unless don't know the format. Is the question and B

20 CHAIRMAN BURNS: We'll ask questions at the end  
21 after all the presentations.

22 MR. MCKINLEY: Okay.

23 CHAIRMAN BURNS: Thanks.

24 MS. FLAHERTY: Okay. I guess that means that I'm  
25 up next.

26 Chairman and Commissioners, thank you for the

1 opportunity to be here this morning on behalf of the Organization of  
2 Agreement States. I get the pleasure of talking about everyone's  
3 favorite topic these days, Part 37, its implementation and the security  
4 sources.

5 A little bit of history. You're all fully aware of the fact  
6 that on March 19th, 2013, NRC implemented its 10 CFR 37, the  
7 physical protection of Category 1/Category 2 quantities of radioactive  
8 material.

9 Then as part of the National Materials Program, the 37  
10 agreement states had three years to implement compatible regulations  
11 or some other legally-binding requirement equivalent to that Part 37.

12 So, March 19th of this year was the deadline and I'm  
13 happy to say that all 37 agreement states met that deadline and have  
14 compatible legally-binding requirements in place for licensees  
15 possessing Category 1 and Category 2 material.

16 So, the agreement state licensees have transitioned  
17 from the increase control orders to the requirements outlined in 10 CFR  
18 37.

19 Those requirements for the states may be in the form  
20 of state regulations, or the state may have adopted Part 37 by  
21 reference, or they've come up with some sort of legally-binding license  
22 condition.

23 So, now, all the licensees across the country who have  
24 Category 1 or Category 2 material are being regulated under Part 37 or  
25 the state's equivalent. And we'd like to thank the staff for their timely  
26 review of the states' Part 37 equivalents and helping make sure that we

1 all make that deadline.

2 So, the security requirements in Part 37 go beyond  
3 those of the previous increase controls, including some specific  
4 requirements like those for reviewing officials, additional background  
5 checks, access controls, security barriers, coordination with law  
6 enforcement and then several other items.

7 The OAS board believes that these additional security  
8 measures are appropriate for Category 1 and Category 2 sources.  
9 And the states, along with the NRC, will continue to evaluate the  
10 effectiveness of these enhanced regulations as we go through and  
11 review the licensee's compliance.

12 So, with regards to the task force on Radiation Source  
13 Protection and Security Report, we continue to work as part of that  
14 National Materials Program to assist with the NRC's implementation  
15 plan for the task force report.

16 And then lastly regarding source security, the OAS  
17 board also agrees with the NRC that the current source security  
18 measures in place for sources below Category 2 are reasonable and  
19 there's really no need for additional requirements at this time.

20 Current regulations already require those sources to be  
21 secured. And because these sources below Category 2 by definition  
22 are unlikely to be life-threatening if dispersed, it seems really  
23 unnecessary to require additional security measure for these licensees.

24 We feel that imposing additional high-level security  
25 requirements for Category 3 material-like medical licensee with high  
26 dose rate after loaders would require a lot of additional resources and



1 the board believes the additional cost really may not reap an equivalent  
2 level of benefit.

3 And so, that's really all I have regarding source  
4 security. And with that, I'll turn it over to Mike.

5 MR. WELLING: Thank you, Sherrie. Thank you,  
6 Commission, for today. As today is my third and final presentation to  
7 you for the OAS board, I'm here today to talk about financial surety for  
8 sealed sources.

9 First, I'd like to bring three current requirements to light  
10 that you hopefully already know. First, that the licensees are required  
11 for the proper disposal of the sealed sources. We're just the we're the  
12 regulators. So, we're holding them accountable for the return of these  
13 sealed sources during their use.

14 Second, these sealed sources may either be returned  
15 to the manufacture distributors, or to other licensees who possess a  
16 license for that type of sealed source and/or device.

17 And last, the financial surety requirements in Part  
18 30.35 is a solid measure for the assurance of large activity radioactive  
19 material being used by licensees.

20 As such in reviewing the requirements, the OAS board  
21 is proposing the two following items. First, we would like a review of  
22 the possibility of a working group consisting of NRC staff, OAS staff and  
23 manufacture distributor licensees to review the proposals financial  
24 security for the radioactive sources not covered by 30.35.

25 And second, while this is being reviewed, we propose  
26 that if not one, several webinars be held with NRC and Agreement

1 States staff and the manufacture distributors to start a conversation on  
2 the financial security issues regarding sealed sources not covered by  
3 30.35.

4 One example being done right now is the State of  
5 Illinois requires their licensees to put a they have a surcharge, which  
6 that money is put in a trust fund that's used for disposal of sealed  
7 sources.

8 Unfortunately, that requirement will not be allowable in  
9 all states due to regulatory requirements and the fact that most of our  
10 legislators and states have access to our funds. So, those funds sitting  
11 there will be used for other avenues, not just the disposal of sealed  
12 sources.

13 With that, I thank you for your time and look forward to  
14 any questions.

15 CHAIRMAN BURNS: Okay. Thanks.

16 MR. THOMPSON: Thank you, Mr. Chairman and  
17 NRC Commissioners, for this opportunity to discuss a topic that's  
18 probably been around longer than these briefings themselves, and  
19 that's training.

20 CRCPD, OAS and the states are very appreciative of  
21 the continued NRC support and commitment to the Agreement State  
22 Training Program.

23 This training remains the cornerstone of the National  
24 Materials Program and is invaluable for the regulatory consistency  
25 across the nation.

26 NRC's approach in changing some of the training

1 methodology for some of the courses is a benefit not only to you, but to  
2 us as states as well. It alleviates some of our travel concerns in an  
3 office being able to get people out-of-state travel and things like that.  
4 So, it does benefit both you and us as well.

5 We are encouraged, extremely encouraged by the  
6 success of the blended learning course. We found that to be widely  
7 accepted by all those who have attended and has received some very  
8 nice reviews. And we look forward to using that approach and possible  
9 other training areas as NRC sees fit.

10 NRC has also begun specific-issue training webinars  
11 that have been both well-received and well-attended by the states.  
12 These webinars are timely and can be useful to ensure that all staff are  
13 available for the presentation. I know in Arkansas that I require my  
14 staff to sit in. That way I get all of them at one time.

15 These webinars are useful as refresher training and it  
16 strengthens consistency within the programs.

17 These --the topic the webinar topics related in these  
18 webinars have been -- primarily they've been focused on medical issues  
19 and security issues related to the implementation of Part 37.

20 We would like to encourage NRC to broaden the topics  
21 for those short webinars to include possibly issues related to industrial  
22 and academic material use, basic health physics reviews and proper  
23 use of instrumentation.

24 Sometimes, you know, we just need to wet our stone a  
25 little bit and get a little sharper back in how we do our businesses.

26 Finally, as NRC works toward Project AIM, it is noted

1 that under Number 75 of the Project AIM recommendations, that  
2 attendance for agreement state representatives to the OAS annual  
3 meeting is budgeted through the Agreement State Travel and Training  
4 Fund. We are, again, are appreciative to NRC's commitment to the  
5 Agreement State Program.

6 Use of and also use of the blended learning courses  
7 and other changes made under Project AIM appear to be less painful  
8 in completion of this budget goal.

9 Elsewhere in the Project AIM recommendation it was  
10 mentioned about reducing the number of NRC staff attending meetings  
11 and conferences.

12 OAS and CRCPD hopes and recommends that the  
13 NRC will continue to fund the regional agreement state offices - officers  
14 to attend our annual meetings.

15 The RSAOs are a vital link to the states and play an  
16 important role in the National Materials Program. Personal interaction  
17 is vital to strengthening our relationship. Thank you, and I'll be happy  
18 to answer your questions at the end.

19 CHAIRMAN BURNS: Thank you, Mr. Thompson.

20 Mr. Irwin.

21 MR. IRWIN: Thank you, Chairman Burns,  
22 Commissioner Svinicki, Commissioner Ostendorff, Commissioner  
23 Baran.

24 It's a great pleasure to be here again and to share with  
25 you some of our thoughts from the Conference of Radiation Control  
26 Program Directors. My topic is environmental data sharing.

1                   The accident at Fukushima taught the nation that we  
2                   need to share actual environmental data promptly to help the people  
3                   understand the ramifications of a release of radioactive materials  
4                   whether foreign or domestic.

5                   The states, through the CRCPD, have worked with  
6                   EPA, FEMA, DOE and others to develop Rad Responder as the key  
7                   tool to share field data immediately after it's been collected by trained  
8                   personnel and verified by trusted administrators.

9                   This working group is now working on developing the  
10                  same capability for laboratory analytical results and hopefully will be  
11                  able to use automated channels from the labs like the Exchange  
12                  Network, which is used for Clean Air Act and Clean Water Act lab  
13                  results.

14                  Quality control methods are also being developed,  
15                  which will provide a high level of confidence in the data that is collected  
16                  and shared among partner organizations that agree beforehand to  
17                  share their data.

18                  Rad Responder is defined as the nation's tool for these  
19                  purposes in the Nuclear Radiological Incident Annex, its most recent  
20                  draft, and similar reliance is being incorporated into plans for many  
21                  Federal, state and local radiological nuclear emergency response  
22                  organizations.

23                  The CRCPD has several working groups that support  
24                  these efforts. One focuses on policy and field and laboratory data  
25                  collection platform and procedural issues.

26                  Others encourage the implementation of Rad

1 Responder into FEMA-evaluated exercises or training and exercises for  
2 radiological dispersal device and improvised nuclear device response  
3 and recovery.

4 Some states are using Rad Responder in nuclear  
5 power plant exercises with great success. NRC participation in these  
6 efforts will close gaps in our capability landscape. There are many  
7 NRC licensees that can add great weight to these efforts, but may be  
8 reluctant to do so.

9 The NRC could assist with the integration of Rad  
10 Responder as a field and laboratory environmental data sharing tool  
11 with its licensees. Doing so will activate a large number of high-quality  
12 field collection personnel and highly capability laboratories that will  
13 improve the resolution of our understanding of the ramifications of what  
14 has occurred in one of these radiological or nuclear incidents. Thank  
15 you for your time and look forward to your questions.

16 CHAIRMAN BURNS: Okay. That concludes the  
17 presentations. We'll begin the questions this morning with  
18 Commissioner Ostendorff.

19 COMMISSIONER OSTENDORFF: Thank you,  
20 Chairman. Thank you all for being here today. I want to comment that  
21 I, from a succession-planning standpoint, I admire and respect the way  
22 you have your past-chair, current chair, present-elect, the whole thing,  
23 you know. You have the continuity across the board for both OAS and  
24 CRCPD. I think that's really important and I wanted to commend you  
25 for doing that.

26 And especially since some of these issues that we're

1 talking about today have been discussed five or six years ago. And  
2 so, I just wanted to give you my plug that I think you ought to continue  
3 that on both for both organizations. I think it's really important.  
4 Helpful, I think, hopefully to the organization. I know it's helpful for us  
5 at the Commission level. So, I wanted to make that comment.

6 Let me start out with Matt and ask you a question on  
7 the web-based licensing. I appreciate the comments associated with  
8 the appearance, you know, maybe some accommodating limitations on  
9 our side about how many states can come on board at one time.

10 I am a little puzzled, though, that only two states have  
11 implemented so far and that, you know, I know you mentioned a third is  
12 close to that, but web-based licensing has been on the table for a  
13 number of years.

14 I'm curious as to those states that may not have  
15 pursued or expressed interest, what is the viewpoint as to why they may  
16 not be interested in going down this pathway?

17 MR. MCKINLEY: That's a difficult question for me.

18 COMMISSIONER OSTENDORFF: And this is for  
19 anybody that wants to address it, as well as in addition to you.

20 MR. MCKINLEY: Really, the only thing I can-I can  
21 assert is my view as the administrator in Kentucky. We are on the list  
22 of the 18 that has expressed interest.

23 There are some limitations to the system for a full  
24 program, you know. I'm responsible for not just materials, but also x-  
25 ray and response and transportation and a laboratory.

26 So, to get all that integrated in is preferable from my

1 standpoint, but that's doable with web-based licensing. It's just it's  
2 taking it and sort of modifying it within a state.

3 So, I think the hesitation might be just a lack of clear  
4 understanding as to what it might look like in your state once you  
5 actually implement it.

6 Several states--well, at least two that I am directly  
7 aware of, have taken a distributed version of web-based licensing that  
8 they host on their own servers, which, I think, takes some of the concern  
9 away because it brings web-based licensing to them and gives them a  
10 free and open platform to add to it as they see fit.

11 I think the plan in Kentucky as of right now is to take  
12 essentially an existing system and have it communicate directly with  
13 web-based licensing so that there's no double entry of data, but the  
14 web-based licensing at the NRC server is populated with that  
15 information which, you know, is vital to the whole thing working as it  
16 should.

17 COMMISSIONER OSTENDORFF: So, is it a little bit  
18 there's an asymmetry between the web-based licensing content as set  
19 by the NRC and what you deal with at the state level? Is that what the  
20 issue is, or one of the issues?

21 MR. MCKINLEY: That's been a

22 COMMISSIONER OSTENDORFF: It's not an apples  
23 and oranges it's apples and oranges in some respects. Is that what--

24 MR. MCKINLEY: Well, the materials program is, for  
25 the most part, identical.

26 COMMISSIONER OSTENDORFF: Yeah.



1 MR. MCKINLEY: So, that part works fine. But our  
2 database in Kentucky, and I'm sure most states experienced the same  
3 thing, is all set up as a single point so that I can go in and look at what  
4 an x-ray facility is doing right alongside what a materials program is  
5 doing.

6 And I think there's an accounting component, too, that  
7 is necessary within a state. That's sort of the foundation of the  
8 database and that's not even really possible to put out a generic  
9 accounting piece.

10 But, again, all those are easily added on and I think that  
11 just-- it's a matter of maybe advertising and helping states understand  
12 what is there for the taking.

13 COMMISSIONER OSTENDORFF: Anybody else  
14 want to comment on this?

15 MS. FLAHERTY: I can add a little bit to that because  
16 I think according to your statistics, Matt, I think we're the one that B  
17 Minnesota is the one that's within weeks of implementing WBL.

18 For us, the challenge was, as Matt said, we have  
19 multiple systems and multiple programs to run and the accounting piece  
20 was another big piece of it.

21 But as the NRC continues to update and make  
22 changes to WBL and make things like that that are available where we  
23 can extract some of that information and then send it directly to an  
24 accounting system, it's making it much more attractive to the states.

25 So, I think as you continue to look at some of the issues  
26 that we have and you start looking at ways to incorporate them, then I

1 think it really is going to broaden the, you know, the states that want to  
2 get on board.

3 So, it's been B it's been a nice situation for us to take a  
4 little bit longer because as we get closer and closer, there are more  
5 features to WBL.

6 Did you want to add something?

7 COMMISSIONER OSTENDORFF: Bill, did you want  
8 anything?

9 MR. IRWIN: I think that it may be useful to look at the  
10 way states are implementing web-based licensing. And there may be  
11 a -- parallel paths to adopting it.

12 For example, Vermont, as you know, has put in its  
13 intent to become an agreement state. We hope to file our application  
14 this year, and we would like to adopt web-based licensing at the onset  
15 of becoming an agreement state and just enter into the web-based  
16 portal directly.

17 So, hopefully the transition of all of the files from NRC  
18 to Vermont is fairly seamless and we're able to do that fairly promptly  
19 and move right into the next steps of our requirements.

20 Other states where they do want to try to integrate  
21 various other tools that they use in the radiation control program will  
22 have more complicated efforts and that may require more resources.

23 And so, possibly that's one way to look at this is that  
24 where those states want to adopt what is right on the web and not have  
25 it internal to their own procedures could be done more rapidly versus  
26 those that want to try to integrate.

1                   And, as Sherrie was suggesting, maybe there are  
2 similar kinds of issues that arise and together we can resolve those so  
3 that it's a little bit faster, because I think it's critical that we have one  
4 place that we can go to get information about our licensees who are  
5 international, not just interstate, in their commerce.

6                   CHAIRMAN BURNS: Thank you.

7                   Jared, yes, please.

8                   MR. THOMPSON: In Arkansas, we have a very  
9 similar problem to what Matt's talking about. It seems like when you  
10 tie it to money, they're less -- they're least likely to let go of it and have  
11 access to it.

12                   I can't even get my IT people to talk about it, web-based  
13 licensing, and I've approached them three or four times. It's just, you  
14 know, because of money, because it's an accounting function, they  
15 don't want to touch it. And that's just B it's probably a unique state  
16 issue for us.

17                   COMMISSIONER OSTENDORFF: That's very  
18 helpful. I appreciate your candid comments.

19                   Sherrie, let me ask you a question here in the context  
20 of Part 37. And I really appreciate what OAS has done and all your  
21 colleagues to help the NRC articulate the relative risk of different levels  
22 of sources and so forth. I know this has been a little bit of a contentious  
23 issue we've been discussing for several years.

24                   I continue as an individual Commissioner, to worry that  
25 people any time the N word is in there for nuclear, that people get -- are  
26 equating nuclear sources with improvised nuclear devices and with all

1 kinds of things. And I think your role at both OAS and CRCPD is really  
2 important to help educate and provide scientific-based risk  
3 assessments.

4 So, quickly in the time remaining, cesium chloride  
5 blood irradiators, a frequent topic we've been dealing with for a number  
6 of years. I personally think that the security regimen we have in place  
7 for those is adequate and appropriate per our mission.

8 What do you think about the cesium chloride blood  
9 irradiators?

10 MS. FLAHERTY: Are you asking for the board's  
11 opinion, or are you asking for Sherrie Flaherty's opinion?

12 COMMISSIONER OSTENDORFF: I'm going to ask  
13 you for Sherrie's opinion.

14 MS. FLAHERTY: I would agree. I think that what's in  
15 place is adequate. And, actually, I agree our role is not to ask our  
16 licensees to take these out. It's to make sure if you're using them and  
17 you're using them appropriately, that you have them secured in  
18 appropriate ways. So, that's--that's my opinion on it.

19 COMMISSIONER OSTENDORFF: Okay. Are you  
20 seeing any effort in Minnesota or any other states here, seeing efforts  
21 to look at alternative technologies for cesium chloride blood irradiators?

22 MS. FLAHERTY: The alternative technologies are out  
23 there and we don't discourage our licensees. If that's the choice they  
24 want to make, it's the licensee's choice.

25 Again, if they are using the material, they're using it  
26 appropriately, they're securing it appropriately and meeting all of our

1 requirements, then there's really -- we have no other role, is my thought  
2 on that.

3 COMMISSIONER OSTENDORFF: Okay.

4 MS. FLAHERTY: But the alternative technology is out  
5 there.

6 COMMISSIONER OSTENDORFF: Okay.

7 MS. FLAHERTY: You guys want to add anything?

8 MR. WELLING: Just that so as the past chair I'm  
9 currently on the working group for alternative technology and we've  
10 made sure that --along with myself and the NRC staff, have made sure  
11 that that is annotated in the paper that we're only here to license and  
12 regulate. We're not here to advocate for or against.

13 So, if a licensee chooses to go to alternative  
14 technology, that's fine as long as it disposes the cesium chloride source  
15 properly. That's our job.

16 COMMISSIONER OSTENDORFF: Okay.

17 MR. THOMPSON: With the cesium chloride blood  
18 irradiators, the problems, you know, with emerging technologies and  
19 things like that is disposal of the old device itself. That gets to be the  
20 real problem with a lot of these facilities. They look at that and they  
21 see the disposal costs and they say, why?

22 So, most of the time, and I know in my experience it's  
23 been they tend to keep them because of that reason.

24 COMMISSIONER OSTENDORFF: Okay. Thank  
25 you all.

26 CHAIRMAN BURNS: Thank you, Commissioner.

1 Commissioner Baran.

2 COMMISSIONER BARAN: Thanks. Well, thank you  
3 all for being here. It's good to see you again and we of course  
4 appreciate all the work that you do. And NRC's partnership with the  
5 agreement states, that's very valuable to us.

6 Bill, I wanted to ask you some questions about  
7 CRCPD's comments that were submitted last month on the  
8 decommissioning reactors advance notice of proposed rulemaking.

9 I'm going to ask you about the comments, which of  
10 course represent the views of CRCPD as a nonprofit organization rather  
11 than the views of any individual state or locality. And, Jared, please  
12 feel free to jump in on these if you have anything you want to add.

13 NRC's current regulations give licensees 60 years to  
14 decommission a power plant. In its comments, CRCPD said that  
15 seems excessive and recommends that NRC reevaluate this time  
16 frame.

17 Can you talk a little bit about why CRCPD sees 60  
18 years as too long and how you weigh the pros and cons of safe store

19 MR. IRWIN: Yes, thank you for the question. And  
20 the primary interests of states where they have hosted nuclear reactors  
21 for decades is the use of the land productively afterwards. And the 60-  
22 year time frame, frankly, only benefits licensees.

23 The community where the facility exists could bring in  
24 some other source of electricity generation to connect to the electrical  
25 infrastructure that exists there and not only be able to use that land  
26 productively again for that purpose, but other purposes if the site were

1 promptly dismantled and decontaminated and dismantled.

2           There are also benefits when you go to prompt  
3 decommissioning not only for the community and the state where you  
4 have typically a lot of work occurring that keeps those who were  
5 employed there gainfully employed, probably even more people coming  
6 in and keeping the economic vitality of that region sure for some time,  
7 but there is also the knowledge of the staff who are there who are able  
8 to actually improve, in many cases, the quality of the decontamination  
9 and dismantling because they know the facility and are able to really  
10 engage in that process more effectively than oftentimes contractors  
11 who may be decades separated from the historical events that might  
12 have occurred there.

13           There are also concerns that if you wait 50 years to  
14 begin decontamination and dismantling, that a variety of unforeseen  
15 circumstances could arise. Some of them may be relatively slow and  
16 non-dramatic like a leak of some facility, structure, system or  
17 component into groundwater that contaminates the local aquifer, but  
18 does not lead to significant dose, but does lead to a lack of mistrust of  
19 the land in that region.

20           And so, prompt decommissioning will help us to assure  
21 that anything that exists there is understood soon -- taken care of soon  
22 so that it can't fester and perhaps become a problem in an unplanned  
23 manner later.

24           And then, finally, I think that there is potentially a new  
25 industry that may be arising in our nation, recognizing that we are in a  
26 new era with the older plants, to actually accomplish decommissioning

1 effectively with the funds that exist in the decommissioning trust funds  
2 now. And that should be actually raised up as a strength in our nation  
3 to take care of these old plants now.

4 And I believe, frankly, that if the nuclear industry shows  
5 that it cannot only build and operate these plants efficiently and  
6 productively as they have for decades and then remove them and  
7 replace them potentially with even new nuclear facilities, that that  
8 assures the nation that this is a more viable alternative than letting these  
9 facilities sit for decades and remind people of an era that perhaps they  
10 might not have as good an impression of otherwise.

11 COMMISSIONER BARAN: How do you think NRC  
12 should determine the right time frame for decommissioning?

13 If 60 years is too long, how do we figure out what the  
14 right number is?

15 MR. IRWIN: You know, that's a really good question  
16 and I think it is a case-by-case basis, you know. There are some  
17 facilities that have had opportunities to build a decommissioning trust  
18 fund that is able to actually do the work.

19 I think that there may also be economic factors that we  
20 don't realize right now because we have the safe store component that  
21 if we were to go to prompt decommissioning, again, the market may  
22 naturally identify means to do this work efficiently with the monies that  
23 exist in these funds rather than waiting decades for it to build up, but  
24 there may be some facilities where it's clear that inadequate funds were  
25 created.

26 And a big part of all states' fears is that they, the states,



1 will be left with the financial burdens of a facility because a licensee has  
2 not met its obligations either with the NRC or with others.

3 And so, I think it's likely to be, in some cases, prompt  
4 after a couple of years of preparation. And then in some very unusual  
5 cases, you may have to wait until the decommissioning trust funds exist  
6 because that's really what it takes is money, as well as the right  
7 technologies.

8 COMMISSIONER BARAN: Another question is  
9 whether NRC should review and approve a licensee's post-shutdown  
10 decommissioning activities report rather than just receive it. In its  
11 comments, CRCPD says that we should do so.

12 Could you discuss why CRCPD sees NRC approval of  
13 a PSDAR as beneficial?

14 MR. IRWIN: You know, I actually understand the logic  
15 presented by the NRC and the PSDAR public meetings, why it doesn't  
16 take action, but trust is earned and it's a perceived thing that you earn.

17 And I think that there needs to be more than holding a  
18 public meeting where you simply listen to the questions and say, yes,  
19 we understand, we know you have that concern.

20 There should be some sort of opportunity to liken other  
21 activities like rulemaking, address the comments directly, give answers  
22 to the common questions so that people recognize that the NRC cares.

23 I believe that the NRC does, but I believe that the  
24 current process gives the impression that it doesn't care as much as it  
25 really does.

26 COMMISSIONER BARAN: Another issue is whether

1 NRC should require the formation of community advisory panels. And  
2 if so, who should establish the panel and who should determine who's  
3 invited to participate on the panel?

4 I read the CRCPD's comments on this issue. Can you  
5 talk a little bit more about the organization's views on those questions?

6 MR. IRWIN: I'm very fortunate to be on a panel in  
7 Vermont. And it was the predecessor to a panel that was used during  
8 operations. And it was a very useful panel during operations to sound  
9 out issues and we're using that same approach now.

10 The panel is a function of the state and is--and contains  
11 representatives from the local community, as well as the licensee and  
12 state agencies. So, it's a balanced panel.

13 So, I think that rather than it be a panel that is managed  
14 by/run by the licensee as a requirement of their decommissioning, it  
15 needs to be perceived as an objective and external panel with freedom  
16 of expression, but there should be licensee support of the operations of  
17 that panel.

18 And I can tell you that the costs of maintaining that  
19 panel is--are quite small compared to other things and it's a very  
20 effective way for the community to engage and to have trust that what  
21 they have bargained for by living with a nuclear power plant in their  
22 community for decades is being honored.

23 COMMISSIONER BARAN: Let me ask you one more  
24 question and that's about-- when CRCPD thinks it's appropriate for a  
25 licensee to deactivate the emergency response data system, or ERDS,  
26 can you talk about CRCPD's comments on this issue?

1                   Should NRC require licensees to keep ERDS  
2 operational for the data points relevant to a shutdown reactor? And if  
3 so, how long should a licensee be required to keep those elements of  
4 ERDS in place?

5                   MR. IRWIN: Yeah, in Vermont we've actually, I think,  
6 come to a reasonable compromise. I'm familiar with ERDS, I was an  
7 ERDS user until it was shut down and I found that it was very useful for  
8 accident assessment purposes in our exercises. Of course we never  
9 actually had an accident that we had to use it for real.

10                  And the compromise that we arrived at was the--  
11 excuse me B the plant display system. And the plant display system  
12 provides us with the relevant meteorological and radiological conditions  
13 on the site that are appropriate to a decommissioned facility.

14                  I suggest that it's possible that transitioning from ERDS  
15 to PDS would be an appropriate way to proceed rather than just  
16 abandon the ERDS.

17                  COMMISSIONER BARAN: Thanks. Well, I  
18 appreciate CRCPD submitting its views on these and other issues and  
19 we've-- I'm working my way through all these comments. There are a  
20 lot of them we got. A lot of good comments, good constructive ideas  
21 and we'll be taking a close look at those. So, thank you very much.

22                  MR. IRWIN: Thank you.

23                  COMMISSIONER BARAN: Thank you, Mr.  
24 Chairman.

25                  CHAIRMAN BURNS: Thank you. I want to thank  
26 Mike Welling accompanying me on the Inova Hospital visit a couple

1 months ago. A good opportunity for me in terms of looking at a  
2 different side of a regulation in terms of the, you know, materials  
3 regulation. And so, I appreciate your assistance during the visit and  
4 pointing out-- with that, I'll sort of turn to Part 37.

5 I appreciate in terms of where we are in terms of the  
6 agreement state implementation of the Part 37 within the three years  
7 as noted in B when Part 37 was promulgated.

8 Obviously this-- in this--at the end of this year the--as  
9 many know, and I think you all know whether the Commission owes a  
10 report to the Congress on implementation of Part 37, the Commission  
11 or the staff is engaged in setting up a number of public meetings to get  
12 input on the on implementation and challenges.

13 I just ask you, it may not be on behalf of the  
14 organization, but sort of informally in your own observations from  
15 implementation in your own state. So, Part 37 requirements or the  
16 parallel for those requirements, are there any particular observations  
17 you would make at this point in terms of-- any of you in terms of how  
18 that is going or what--Sherrie obviously focused on the issue of Cat 1  
19 in response to Commissioner Ostendorff's question, but I appreciate  
20 any other thoughts, stumbling blocks, places where we --you think we  
21 ought to keep an eye on apart from whether or not that finally makes it  
22 into our last report, but I'll let--

23 MS. FLAHERTY: Well, I can give you a little overview.  
24 I think partially the states had a little bit of an advantage because we  
25 had that three-year window--

26 CHAIRMAN BURNS: Yeah.

1 MS. FLAHERTY: -- after the NRC implemented it.  
2 And fortunately for us, Ohio kind of took the lead and they got their rules  
3 into place early.

4 They also established some good practices for us to  
5 follow. They put together some public meetings for their licensees and  
6 some of the states were in a position where they could do similar things  
7 to get the information out to the licensees a little bit earlier.

8 They also established some checklists that were really  
9 good and sent them out to licensees and we--many of us borrowed  
10 them and changed Ohio to, you know, Minnesota or other things like  
11 that.

12 I can tell you from our standpoint in Minnesota, we put  
13 our Part 37 equivalent in place in August. And so, we've been out  
14 doing some inspections and checking compliance.

15 And for the most part, the compliance has been very  
16 good. It's mainly some of the planning stuff that has been a little bit out  
17 of compliance, but the security stuff B and having the checklist and  
18 having things like that has really helped our licensees be in compliance  
19 when it came to a lot of the major security things. So, that's been our  
20 experience.

21 CHAIRMAN BURNS: Okay.

22 MR. WELLING: From Virginia's perspective, I'll say  
23 we're kind of--we're unique, and several states, also, where we have  
24 dual licensees. So, those licensees who live and reside in Virginia who  
25 also have NRC licenses have been doing Part 37 for two years now.

26 What we heard from them was, was the

1 implementation period, you know, and the lack of--what Ohio did, like  
2 Sherrie had said, and we also did in Virginia, was -- bounds beneficial  
3 to those licensees.

4 To read a 300 and something page guidance  
5 document for a 40-page regulation set, the licensees were inundated,  
6 indoctrinated. They didn't know what to do. Every time they asked a  
7 question it was, read NUREG-2155.

8 You can read it until you're blue in the face or until you  
9 fall asleep until you get inspected and somebody says you did it wrong,  
10 and you say, I tried to do what you told me, I tried to follow the guidance.  
11 And one inspector sees it something differently than the guidance says.

12 So, I think a good lesson learned was when-- if in the  
13 future we come up with a new set of regulations this voluminous, this  
14 new, we need to think about how you reach out to licensees.

15 The implementation period, look at the two years the  
16 states had and how the states have implemented, how we've worked  
17 with our licensees. I think that's a good lessons learned going forward  
18 for NRC and their licensees.

19 It did benefit our licensees, because once the NRC  
20 went out there, did the inspections, they get their citations, once we  
21 came around, everything was satisfactory and met a hundred percent  
22 of the requirements. So, for us, it was easy.

23 Unfortunately, licensees had to go through the first set  
24 of rounds with the NRC and then following it through with us, but I hope  
25 we've all learned from this lesson from Part 37 of ways to get better on  
26 interactions with licensees and especially on how it takes a 300-page

1 guidance document to explain 30 pages of regulations.

2 CHAIRMAN BURNS: Okay. Any other thoughts?

3 MR. THOMPSON: In Arkansas, we had an eight-  
4 month implementation period and that did help. I know NRC had a  
5 year, but Mike is right. You got to have some reach-out, you got to  
6 have some workshops and things like that.

7 NRC has been conducting some webinars over the last  
8 two weeks, maybe three, related to Part 37 implementation, and there  
9 was one that was particularly for licensees. And it was kind of  
10 interesting to hear them talk about the implementation and how  
11 aggressive some of them wanted to be more than what the NRC was  
12 proposing.

13 I'll give you an example. They talked about  
14 reinvestigation. Reinvestigation is every ten years. Licensees  
15 wanted it more frequent. Surprise.

16 But I was also surprised by the fact how well they were  
17 all knowledgeable about what was going on within Part 37, they asked  
18 good questions. I think it's been well received and that's a very positive  
19 thing, but then again they've had their orders for ten years. But at the  
20 same time, it's an easy transition for them to go with the Part 37.

21 CHAIRMAN BURNS: Yeah, you see even with having  
22 new orders that a transition--because it B my guess, so the orders are  
23 not B or the rule is not quite what the orders are. And so, you know,  
24 that type of transition that -- there's going to be some learning --

25 MR. THOMPSON: But I was really surprised by they  
26 wanted tighter reinvestigation.

1 CHAIRMAN BURNS: Tighter reinvestigation. That  
2 is interesting.

3 Any other comments on that?

4 The other Jared mentioned in terms of some of the  
5 webinars and talked about training, the—I know that's been an  
6 important issue for the agreement states and there's a lot of work and I  
7 know at the meeting last year we discussed about it--B discussed it.

8 How do you see B do you see this-- this is the question  
9 goes B the question goes to the balance of sort of in-person and the  
10 webinar or remote type of learning.

11 Obviously, the remote type of learning has the  
12 advantages in terms of lower travel cost, things like that.

13 Do you think we're getting that right in terms of the  
14 blend? Are there things you think we ought to take a look at or keep  
15 an eye on as we manage that?

16 Bill.

17 MR. IRWIN: As mentioned, Vermont is getting ready  
18 to submit its application to become 38th or 39th agreement state  
19 depending on our timing with Wyoming. And we are sending three  
20 people to agreement state training and it is wonderful.

21 It is not only appreciated because we could not provide  
22 this kind of training on our own, but because all of the people that have  
23 gone and come back to talk to me have found the learning experience  
24 with their colleagues from the other states and from the NRC to be as  
25 valuable, and sometimes more valuable, than the technical content in  
26 the books or that could be shared online.



1                   And I have one who is taking the full extent of it,  
2                   because she has less radiological protection background and is taking  
3                   the Blended Learning Program and finds that that's a very useful way  
4                   to do it.

5                   So, I think you're on the right track and, in fact, I would  
6                   commend the NRC and all--I just spoke with Marsha and I have  
7                   numerous times tried to relate to everyone that I talk to how much  
8                   appreciated Vermont is to be able to take advantage of this.

9                   And also as CRCPD hair, to know that all of our states  
10                  are able to learn from a common curriculum and have the kind of  
11                  content in their inspectors and license reviewers, whatever state a  
12                  licensee might go to, so that we do actually represent a National  
13                  Materials Program.

14                  And I think in the end, that is likely to be a cost savings  
15                  to the nation overall. And I would hope that the powers that provide  
16                  funds for this recognize this is a very valuable means of strengthening  
17                  the National Materials Program.

18                  CHAIRMAN BURNS: Jared.

19                  MR. THOMPSON: I think-- you're on the right track.  
20                  I think it depends up on the course. Your contracted courses where  
21                  you have contracts with individuals to provide the training, hands-on  
22                  experience is very important; the radiography course, well-logging,  
23                  some of the medical courses.

24                  You've got some other courses that maybe could be  
25                  done more online, maybe not even have necessarily a group gathering,  
26                  but I think that would be something you'd have to look at as how it would

1 impact not only the states, but how NRC would train their own staff.  
2 So, I think this needs to be looked at a case by case and kind of get a  
3 balance there.

4 I mean, I've heard some suggestions about the  
5 contract courses that you have so many days that they do online stuff,  
6 and then they get together for the hands on stuff. That approach might  
7 well work as well, but I think it's very, very important that you achieve  
8 that balance to make sure that the training is there.

9 And, you know, the world is getting where technology  
10 is the only way they learn, you know, online and things like that in  
11 younger generations.

12 CHAIRMAN BURNS: Any other thoughts?

13 MR. WELLING: One thought to think about, we've  
14 had discussions with NRC staff on this before, is instead of having to  
15 go to Chattanooga or Texas for these hands-on experiences, there are  
16 licensees in agreement states and non-Agreement states in the NRC  
17 world where we can do regional training instead of --and where it could  
18 be cheaper, most cost-effective to fly to that city and hotels per diem,  
19 per se. So, we should be thinking outside the box.

20 I mean, a couple days online webinars versus the  
21 couple days on hand coordination could be held at other sites than what  
22 currently a contractor has.

23 CHAIRMAN BURNS: Okay. Thanks. And I know it  
24 is an art and my own experience before I came back to the NRC, I used  
25 to run a nuclear law course.

26 And one of the real advantages of that course was, I

1 think, as Bill said, this sort of integration--we had people from 35  
2 countries and you start to run into-- I've run into them since I have left  
3 and they are still in contact with others and even on other programs.  
4 So, there is a piece of it. It's a real art, I think, getting the right balance  
5 on this, but I appreciate the comments.

6 Commissioner Svinicki.

7 COMMISSIONER SVINICKI: Well, thank you all for  
8 being here this morning. I always look forward to our gatherings with  
9 our continued partnership with our agreement states through OAS and  
10 our continued collaboration through CRCPD.

11 I'm reminded when I sit in this meeting, one of the many  
12 strengths of our constitutional democracy is that we have the 50 cradles  
13 of innovation and different approaches through the states.

14 And I think when I look at the multitude of working  
15 groups that we have between the NRC's technical staff, the  
16 engagement with the OAS and CRCPD leadership and members  
17 through those working groups, is a way that we have a continual  
18 feedback, I think, of what's working for us, what's working for you.

19 And over the years that I've been attending this  
20 Commission meeting, it's a reminder to me of how it's been very much  
21 a beneficial back and forth. So, I appreciate this meeting.

22 Some years we have more topics to talk about in a  
23 more animated way than other years. This year is a little bit more, I'd  
24 say, steady as she goes recovering some topics that we've covered in  
25 the past.

26 I did have one specific follow-up for Mr. McKinley. If

1 we were to look at the interest of states in web-based licensing, you  
2 said, maybe there could be NRC consideration of a temporary boost to  
3 funding in a certain year.

4 Do you have any sense of what years that would be?  
5 We're of course budgeting two years out like a lot of agencies and  
6 departments at the federal and state level. The more notice we could  
7 have to contemplate that would be better.

8 Would we be looking maybe at 2018, '19, '20?

9 MR. MCKINLEY: Well, the comment was based on  
10 the fact that there are 18 states that have expressed interest and clearly  
11 at a rate of three to five per year, there's already a backlog.

12 So, I guess my answer to your question would be as  
13 soon as possible assuming that the advertising of web-based licensing  
14 can continue to work.

15 And as states come online, as Sherrie said, she's going  
16 to be the third here in a few weeks, there will be more and more, you  
17 know, real examples of, well, this is how it works.

18 And so, I expect the number--

19 COMMISSIONER SVINICKI: There might be real  
20 examples of how onerous it is to transition or to adopt it. So --

21 MR. THOMPSON: Right.

22 COMMISSIONER SVINICKI: -- you know, that would  
23 be out there as well. It might actually give some states pause.

24 MR. THOMPSON: Well, it could, but I think ultimately  
25 it will lead to that number-- that 18 number growing.

26 And so, you know, I think the concern would be that at

1 a rate of three to five per year at the current ability, which is obviously  
2 limited by resources, that, you know, that the backlog could continue  
3 years in the future.

4 COMMISSIONER SVINICKI: Okay. Thank you. It  
5 sounds like the answer is just the sooner the better. If that could even  
6 be doubled, it would be helpful and would at least minimize a backlog.

7 Right now as an agency, we're formulating and  
8 contemplating 2018. So, I think, in order to have advance notice, that  
9 might be the soonest we could contemplate that supplement -- possible  
10 supplementation of funding, but it's very good.

11 Thank you for looking over the horizon and trying to  
12 give us a little bit of notice. That kind of input is this beneficial back  
13 and forth I was talking about earlier.

14 Maybe to turn to one of our animated or more  
15 challenging topics, I want to start by saying that as a government  
16 agency I think that NRC has a lot of sympathy and understanding for  
17 the natural difficulties of once we update a regulation, the agreement  
18 states having to go through and make sure that they're in conformance  
19 under compatibility requirements.

20 We do look as part of the IMPEP reviews at any  
21 potential backlogs in-- coming into compatibility with NRC changes to  
22 regulations. There are instances where, you know, there can be  
23 issues going back some period of time.

24 I guess broadly what I'm trying to ask is, laying aside  
25 the natural sympathy that it does take some time for agreement states  
26 to come into conformance under compatibility.

1                   And in some instances I know there has been a need  
2                   for state legislatures to maybe make some modifications or changes,  
3                   and I think NRC certainly has sympathy for the fact that you can't control  
4                   when and if a legislature will necessarily take up a matter that is  
5                   important to you as a government agency for some need that you've  
6                   identified, but how would you characterize that I should view -- if there's  
7                   some--an issue outstanding till, you know, 1997, a lot of 2002s, 2207 B  
8                   2007 seems really recent to me until I remember that next year is 2017.

9                   So, I don't know what would you have me understand  
10                  or be sensitized to in terms of hanging having issues that kind of hang  
11                  out there for long periods of time?

12                  I know that IMPEP looks at this on a state agreement-  
13                  state-by-agreement-state basis. But in terms of overall organizational  
14                  patience, what would you have me understand about this?

15                  MR. WELLING: A couple different levels to that  
16                  answer. The first is our first problem is our legislative issues in the  
17                  states. In fact, the lastB

18                  COMMISSIONER SVINICKI: Have some sympathy  
19                  at the federal level for that.

20                  MR. WELLING: Yes, we do. We understand.

21                  The problem we have with the program is that, in fact,  
22                  the last day this just went through the MRB last week. Nebraska had  
23                  submitted their regulatory package in a timely fashion and legislators  
24                  decided to sit on it for over three years.

25                  They had submitted it, they had done their process

26                  COMMISSIONER SVINICKI: I'm sure they're

1 deliberating actively and not sitting on it.

2 (Laughter.)

3 MR. WELLING: Well, okay. I can't speak for them,  
4 but the problem is they were filing satisfactorily, needs improvement.

5 The issue is what can you improve, because the  
6 program had done their due diligence. They had gone through the  
7 regulatory requirements. They have written their package up to make  
8 it compatible with the NRC, they have submitted, and at that point it was  
9 stopped.

10 COMMISSIONER SVINICKI: And I understand that,  
11 but, you know, I would note that under the Atomic Energy Act this is an  
12 agreement state. So, and when a state goes on probation, which is,  
13 thankfully, a very rare thing throughout the history of the agreement  
14 state program, our Chairman will write to your governor. So, I think the  
15 agency doing all it can is the necessary step.

16 I guess what I'm asking is, what should be the  
17 programmatic patience beyond that?

18 MR. WELLING: Obviously the most we would ask,  
19 just like children and parents, we would ask for the most patience as  
20 possible.

21 But one thing we found out last week is some states  
22 had mentioned they're waiting for the CRCPD SSRs to be published  
23 and finalized before they will actually perform the regulatory  
24 requirement review.

25 COMMISSIONER SVINICKI: And, I'm sorry, SSRs?

26 MR. WELLING: The Suggested State Regulations.

1 COMMISSIONER SVINICKI: Thank you.

2 MR. WELLING: So, a working group through CRCPD  
3 is set up to look at the regulations, write compatible set of regulations,  
4 which then goes through a review which includes NRC and staff and  
5 their buy-off.

6 So, basically when an SSR is written and approved,  
7 states can document take that SSR, Suggest Reg, implement it into  
8 their regulations and be compatible with the NRC's. So, a couple of us  
9 were kind of struck last week when we heard some states were waiting  
10 for SSRs to be approved.

11 The due diligence is if there isn't an SSR ready, then  
12 it's our obligation, as the agreement state, to either write your own  
13 regulations or find other means to make your regulations compatible,  
14 which could include a license condition, incorporation by reference or  
15 other means.

16 So, I think one of the topics we would like to discuss at  
17 this year's annual meeting is the relevance of compatible regulations,  
18 the SSRs. If they're not ready, prepared for all of us to use, what other  
19 means do we have?

20 So, it could be a good topic for us, as agreement states,  
21 to discuss, come up with ideas of how to not have a backlog or ten years  
22 for regulations.

23 COMMISSIONER SVINICKI: Okay. Thank you.

24 Did anyone else want to add anything?

25 Dr. Irwin.

26 MR. IRWIN: Yeah, I think it's very important that I



1 speak after that comment. In particular, I think that there's a possibility  
2 that we could recognize nationally that this is an effort that may have  
3 such importance that reinforcing the national aspect of a National  
4 Materials Programs is important, maybe critical.

5 And it's good that you stated that your Chairman can  
6 contact the governor and the legislature to reinforce the values of  
7 acting.

8 In Vermont, we are going to incorporate the Code of  
9 Federal Regulations by reference. So, our licensees already know  
10 today what their regulations will be a couple of years from now when  
11 we are their regulator instead of the NRC.

12 And when there is a change at the Federal level, it will  
13 automatically be incorporated, because we have incorporated by  
14 reference unless we find some reason to object to that and we state  
15 that in our incorporation by reference language where we do express  
16 that some aspects of 10 CFR do not have relevance.

17 There are easy places where that can be cited. For  
18 example, we don't comply with Office of Management and Budget  
19 criteria, etcetera, but typically our reference is nearly 100 percent. And  
20 I think that that is a model that we could encourage across the nation.

21 Not only would it reinforce the national aspect of the  
22 National Materials Program, but it would in many ways simplify a  
23 process that I think is overly complicated.

24 To have a federal regulation written, then to have the  
25 CRCPD in some cases write a Suggested State Regulation for the  
26 states to then adopt, seems like it would be simpler simply to adopt that

1 national regulation by reference.

2 The states, of course, have to agree to this. And that's  
3 the challenge. And I think that the real way that you get the states to  
4 agree to that are in conversations at the National Governor's  
5 Conference, at the National Legislative Conferences to say we in this  
6 nation are building a National Materials Program. We build it from the  
7 top up, but we manage it from the bottom down.

8 And we start with regulations that are national,  
9 because commerce is national. And then we actually enforce it locally,  
10 because our licensees are local.

11 COMMISSIONER SVINICKI: I'm pleased that that it  
12 sounds like that dialog is going on. That was actually, I think, a more  
13 substantive indicator that there's an active dialog on this than I was  
14 aware of. So, I really do appreciate that. I didn't expect that we would  
15 have the answer to it.

16 I was actually, Dr. Irwin, going to close with a quick  
17 question to you. Vermont is, of course, in the process of preparing to  
18 submit its application for agreement state status. We have one other  
19 state that's exploring it with great particularity right now.

20 When we're first approached, we often are asked how  
21 long will it take to become an agreement state. And our standard  
22 answer, at least in my time here, has been it's going to take about four  
23 years.

24 Now, I have this skepticism that when we say  
25 something is going to take about four years, it tends to take about four  
26 years, because we expected it to take about four years.

1                   Does it have to take that long? Particularly under the  
2 type of approach that you've talked about where if you platform off of  
3 what already exists, I don't and then I guess is it your view that that we  
4 shouldn't contend ourselves with that time frame.

5                   And then, secondarily, as far as Vermont's informed  
6 exploration of what it would take to become an Agreement State, was  
7 that information generally available to you in terms of knowing when  
8 you had questions about the agreement state process or how you  
9 should approach it? Is there a good lessons learned community  
10 among the states to talk about this?

11                  MR. IRWIN: Yeah, I'd be glad to share at any  
12 opportunity that I can that I found the whole process to be very  
13 transparent and very easily understood and easily implemented.

14                  Specifically, I am perhaps taking a tactic you alluded  
15 to. I'm saying we're going to finish in two years, and we're trying to do  
16 it in two years.

17                  And I'm actually getting some traction with the NRC  
18 that it can be done in two years, but we are doing it in ways that we  
19 think are a little bit different. And we're able to do so in Vermont, but it  
20 may not be possible in every state.

21                  And that's why, again, I think a dialog among all of the  
22 states about what is the real intent of our effort here in this country is  
23 really to do something efficiently that benefits the nation, because there  
24 are very beneficial uses of radiation.

25                  And we need to make sure that we are keeping up with  
26 what is needed for safety, but also doing it in an effective manner that

1 does not waste time or money for any of the parties that are involved.

2 So, we believe that we can do this in a relatively short  
3 period of time. The process is well laid out.

4 We think that if a state takes an efficient approach to it,  
5 for example, adopting the CFRs by reference, and then working very  
6 diligently with their stakeholders in the state, and with the various  
7 parties at the NRC that help us through this process, the regional office,  
8 the national headquarters and the various other parties, including OAS  
9 and CRCPD, we have the support to get it done rapidly.

10 COMMISSIONER SVINICKI: Great. Thank you.  
11 Thank you, Mr. Chairman.

12 CHAIRMAN BURNS: Thank you.

13 Anything else from the colleagues?

14 Well, again, I thank you for the discussion this morning  
15 and being here to share perspectives on the agreement state program.

16 This is another great opportunity for us to highlight the  
17 areas where we've had good interaction and need to implement new as  
18 in the case of Part 37, new requirements. And I, again, appreciate the  
19 contribution that both the organization and the conference give to us.

20 I want to congratulate on the implementation of Part 37  
21 once again. We'll be adjourned, but I think we're all expected to pose  
22 for a picture at the conclusion.

23 We are adjourned.

24 (Whereupon, at 10:40 o'clock a.m. the meeting was  
25 adjourned.)

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