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Statement (Session 2)

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UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

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PROPOSED AGREEMENT STATE PROGRAM POLICY STATEMENT

(SESSION 2)

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PUBLIC MEETING WEBINAR

+ + + + +

WEDNESDAY,

JULY 27, 2016

+ + + + +

The Public Meeting met via webinar
teleconference, at 1:00 p.m., Sarah Lopas,
Facilitator, presiding.

PRESENT:

SARAH LOPAS, Facilitator

LISA DIMMICK, Senior Health Physicist

CINDY FLANNERY, CHP, Senior Health Physicist

JULIAN SESSOMS, Health Physicist

DUNCAN WHITE, CHP, Senior Health Physicist

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ALSO PRESENT:

JENNIFER OPILA, Colorado
MIKE WELLING, Virginia

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

1:01 p.m.

OPERATOR: Welcome, and thank you for standing by. At this time, all lines are in a listen-only mode until the question and answer portion of today's call. At that time, to ask a question, you may do so by pressing star and then one on your touch-tone phone.

Today's call is being recorded. If you have any objections, you may disconnect at this time. And I will now turn today's call over to Sarah Lopas. Ma'am, you may begin.

MS. LOPAS: Hi, everybody. Welcome to the meeting. This is the second of our two webinars to discuss and take your comments on the draft revision to the Agreement State Policy Statement. My name is Sarah Lopas, and I'm going to be facilitating today's webinar.

Welcome everybody that's joined us here on the webinar and the phone. If you're on the phone line but you haven't tuned into the webinar, I encourage you to go to the NRC's public meeting web page, and that's where you can find this meeting listed for today.

If you then click on today's meeting, in

1 that listing for the meeting, there's a link to
2 register for this webinar, and as soon as you
3 register, you get an email right back to you that
4 gives you access to the webinar, so please sign onto
5 the webinar if you aren't already there.

6 And I'm going to get started with the
7 folks that are in the room with me here today. We
8 have - everybody are health physicists from our NRC's
9 Agreement State Program Branch. We have Cindy
10 Flannery, Lisa Dimmick, Duncan White, and Julian
11 Sessoms.

12 And in just a moment, I'll be handing the
13 meeting over to Cindy who will be going through a
14 presentation on the proposed changes to the Agreement
15 State Policy Statement. After Cindy goes through the
16 slide set, she'll then walk you all through the
17 revised policy statement.

18 And after each section of the statement,
19 we'll be opening up the phones to take your questions
20 and comments on those specific parts of the statement.
21 And then, you know, after we go through the whole
22 statement, there will be plenty more time to record
23 more of your comments and answer more of your
24 questions in general.

25 As our operator, Erin, noted, you are in

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1 listen-only mode, so we're just asking that you hold
2 your questions for now until we get through Cindy's
3 initial presentation.

4 And an important thing to note is that
5 beyond giving you information on the proposed revised
6 policy statement today, the purpose of today's webinar
7 is to collect your comments for the record, so this
8 call is being transcribed. And when you do ask a
9 question or make a comment, just speak clearly, and
10 state your name and affiliation.

11 The other thing you could do if you wanted
12 is you could submit a question or a comment through
13 the GoToWebinar software. I believe there's a, if you
14 look to the right-hand side of your screen or wherever
15 you kind of dragged the control panel, there should be
16 a chat portion, and I think you can type in there and
17 ask us a question or state a comment, and we'll go
18 ahead and read that out loud for you if you're more
19 comfortable submitting a comment or asking a question
20 that way, so again, if you could maybe try to hold
21 those typed questions until after the presentation.

22 And I just want to make you aware that the
23 comments that you submit here today, either speaking
24 over the phone or through the webinar software, they
25 count as much as written comments. So, you know, if

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1 you don't feel like submitting written comments, go
2 ahead and please, you know, speak them today because
3 they will be transcribed.

4 So I think that covers it for the ground
5 rules, and I'm going to hand the presentation over to
6 Cindy Flannery.

7 MS. FLANNERY: Hello, everybody. My name
8 is Cindy Flannery. I'm a health physicist in the
9 Agreement State Program Branch, and I'm going to be
10 presenting the Proposed Agreement State Program Policy
11 Statement this afternoon.

12 And what I'm going to do is I'm going to
13 start out by just giving a schedule of the process of
14 soliciting and receiving public comments on the
15 proposed revisions. I'll provide some background and
16 history on the Policy Statement. I will cover the
17 proposed revisions to the Agreement State Program
18 Policy Statement, and then I'll talk about the next
19 steps.

20 So where we are right now is that the
21 draft consolidated policy statement was published in
22 the *Federal Register* on June 2 of this year, and this
23 will be the first time that the consolidated proposed
24 policy statement is published for public comment. The
25 *Federal Register* notice has four main sections.

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1 It provides instructions on how to submit
2 comments, as well as some background, which I will
3 cover today. The *Federal Register* notice discusses
4 the proposed changes, so I'll cover that in a little
5 bit more detail today as well, and the actual proposed
6 policy statement is included in the *Federal Register*
7 notice.

8 Now, the public comment period will be
9 open for 75 days from the time it was published, so it
10 will be open until August 16, and we do encourage
11 States' review and input on the draft. Provided in
12 this slide are the various ways in which comments can
13 be submitted.

14 You can go to the regulations.gov website,
15 enter in the docket number NRC-2016-0094 to submit
16 comments electronically, or the other option is to
17 submit comments via regular mail to Cindy Bladey in
18 the Office of Admin, Mail Stop - One White Flint North
19 12-H08 at the U.S. Nuclear Regulatory Commission in
20 Washington, D.C. 20555.

21 So once the comments are received, they
22 will be posted and available for public viewing on the
23 regulations.gov website under the same docket number,
24 NRC-2016-0095. And for those that are mailed to the
25 NRC, there's a little bit of a delay, perhaps a few

1 days from the time that it's received at the NRC to
2 the time that it gets posted up on the website, but
3 all submitted comments will be available for public
4 viewing.

5 I'm trying to - bear with us here.

6 MS. LOPAS: Yes, sorry, folks, I might
7 have messed with something. Hang on tight. There we
8 go. I think we've got it. Okay, we're back, sorry.

9 MS. FLANNERY: All right, just to provide
10 some background before I get into the revisions, in
11 the 1990s, NRC developed two policy statements on
12 NRC's Agreement State program, the "Policy Statement
13 on Adequacy and Compatibility of Agreement State
14 Programs" and the "Statement of Principles and Policy
15 for the Agreement State Program." These policy
16 statements were developed by working groups consisting
17 of Agreement State representatives, as well as NRC
18 staff, and the policy statements became effective on
19 September 3, 1997.

20 The NRC staff's efforts to update the
21 Agreement State policy statements began in 2010 with
22 the Commission's direction to update the "Policy
23 Statement on Adequacy and Compatibility of Agreement
24 State Programs," and associated guidance documents to
25 include both safety and source security considerations

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1 in the determination process.

2 And because Agreement State adequacy and
3 compatibility are key components of IMPEP, the
4 "Statement of Principles and Policy for the Agreement
5 State Program" was revised concurrently. So as
6 directed by the Commission, the revisions to the
7 policy statements added that public health and safety
8 includes physical protection of agreement material.

9 The draft updates to the policy statements
10 were provided to the Commission for approval in August
11 2012, then published for public comment in the *Federal*
12 *Register* in June 2013. And following disposition of
13 both comments that were received during the public
14 comment period, as well as written comments, input
15 from two public meetings, and an OAS topical session,
16 a staff proposal to the Commission to consolidate both
17 policy statements was done in July of 2014, and the
18 Commission very quickly responded approving staff's
19 proposal in August 2014.

20 So following Commission approval of
21 staff's proposed path forward, the NRC drafted the
22 consolidated policy statement for Commission
23 consideration, and so what does that proposed
24 consolidated policy statement include?

25 Well, first of all, the consolidated

1 policy statement addresses the Commission direction
2 from 2010 that I talked about a minute ago, that is to
3 include both safety and source security
4 considerations.

5 It also incorporates revisions based on
6 written public comments received from the *Federal*
7 *Register* notice in June of 2013, input received from
8 the public meetings that were held at that time, the
9 OAS topical sessions, and in response to an RCPD
10 letter on the proposed policy statements that was sent
11 out immediately following Commission's approval to
12 consolidate the two policy statements.

13 So in consolidating the policy statements,
14 NRC staff identified redundant language between the
15 two policy statements, and noted that the "Statement
16 of Principles and Policy for the Agreement State
17 Program" contained some detailed information on IMPEP
18 implementation and the "Principles of Good Regulation"
19 that is not typically included in a high-level policy
20 statement.

21 Language was added to provide context to
22 make the policy statement more clear and uniform as a
23 result of the feedback from the Agreement States, and
24 I'll get into what some of that language is in just a
25 few minutes.

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1 Staff also added a paragraph on the
2 National Materials Program to explain how the NRC and
3 Agreement States fulfill their roles and
4 responsibilities to regulate agreement material across
5 the nation.

6 And the proposed policy statement,
7 consolidated policy statement was sent to the
8 Commission on June 19, 2015, and approved by the
9 Commissioners just a few months back, March 22 of this
10 year.

11 The *Federal Register* notice that was
12 published last month, as well as this webinar, is
13 responding to the Commission's approval to move
14 forward with publishing the proposed consolidated
15 policy statement for public comment.

16 So we'll start with just an overview of
17 the revisions, and then at the end, I'll pull up the
18 proposed policy statement and describe the substantive
19 edits that were made section by section, and offer an
20 opportunity to provide input, comments, ask questions.

21 And so what are those revisions? First,
22 there were some changes to the language, new language.
23 NRC's Agreement State activities carried out in the
24 National Materials Program is described.

25 As directed by the Commission, the

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1 revisions to the policy statements added that public
2 health and safety includes physical protection of
3 Agreement material. That actually was what initiated
4 the revisions in the first place. Also the new
5 language described the need for a periodic program
6 assessment and describes what IMPEP is.

7 There are some terminology changes as
8 well. There was an inconsistent use of "radioactive
9 material" and "agreement material." So "agreement
10 material" is used throughout with a definition in the
11 footnote of the first sentence of the policy
12 statement.

13 "Discontinue" was used in Subsection 274b
14 of the Atomic Energy Act, so "relinquish" has been
15 replaced with "discontinue," throughout the proposed
16 policy statement, really just for consistency with the
17 AEA terminology. This also is in the footnote of the
18 first sentence of the policy statement.

19 And also with regard to terminology,
20 there's a few places where "shall" is replaced with
21 "should" and vice versa, and I'll get into where those
22 changes are made in a few minutes when we go through
23 the changes.

24 With regard to changes in definition, the
25 definition and description of Compatibility Category

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1 B was improved to address variation on the
2 interpretation, so more specifically, "transboundary
3 implication" was replaced with new language, "cross
4 jurisdictional boundary," to eliminate confusion
5 surrounding the language incorporated in the '97
6 version of the policy statement.

7 Clarification changes, this policy
8 statement clarifies the meaning and the use of the
9 terms "adequacy" and "compatibility." The word
10 "adequate" is modified to be "adequate to protect
11 public health and safety," and the word "compatible"
12 now reads as "compatible with NRC's Regulatory
13 Programs as applied to Agreement State Programs." And
14 this is really just to ensure that an Agreement State
15 program serves an overall nationwide interest in
16 radiation protection.

17 Slide nine here is just really an outline
18 of the proposed policy statements, so what I'll do is
19 I'll go through each of these sections in just a
20 minute, so I'll come back to this slide here.

21 So what are the next steps? So during
22 this open public comment period, we held two webinars.
23 Today's webinar is the second of two webinars. The
24 webinars are public meetings and are recorded, or
25 transcribed, I should say. The webinars are intended

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1 to be more than just informational. They are intended
2 for collecting input and comments on the proposed
3 policy statement.

4 To date, we have not received any comments
5 via the regulations.gov website or through submission
6 by mail. However, comments do tend to come in when we
7 get a little closer to the deadline, and we still have
8 a few weeks left, so.

9 We did receive four comments at the last
10 webinar that we held on June 28. Those comments can
11 be viewed by accessing the transcripts from the last
12 webinar which are available by going to the public
13 meeting schedule website, clicking on the link that
14 reads "Shows recently held meetings," and selecting
15 the appropriate public meeting for June 28. And the
16 slides to that presentation are also available.
17 Following this webinar today, we'll post the
18 transcript and the slides on that public website as
19 well.

20 The timing of the public comment period is
21 such that the comment period closes by the time of the
22 OAS meeting in August, but we will be in a position
23 hopefully that we can provide a summary of the
24 comments received at the meeting.

25 As for what's going to be done after the

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1 public comment period closes, there will be a comment
2 resolution and a proposed final version of the policy
3 statement which will be, you know, completed for
4 submission to the Commission by the end of this year,
5 and this will hopefully result in a final Commission
6 approval and publication in the *Federal Register*
7 sometime next year.

8 So that's really it with regard to
9 background on the proposed policy statement, and what
10 I'd like to do now is pull up the proposed policy
11 statement and go through the revisions section by
12 section. And what I'll do is I'll stop at the end of
13 each section and open it up for comments or questions
14 at that time, and this was similar to how we did it
15 last webinar.

16 The only thing that's really different is
17 I'm also going to talk a little bit or point out some
18 of the Commissioners' changes as well. Changes such
19 as editorial changes, places where the wording was
20 changed around without changing the meaning, or really
21 just improvements in wording I'm not going to address
22 here today, but instead I'm really just going to home
23 in on those modifiers that do, in fact, change the
24 meaning, revisions that I discussed earlier, that is
25 new language, terminology, definition, and

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1 clarification, as well as any other substantive edits.

2 So with that, I will go over to a copy of
3 the proposed policy statement and I will start with
4 the first section, Section A, which is "Purpose," and
5 I'll go through some of changes here that were made.
6 Okay, so in line 10 here and line 16, here's a couple
7 of examples of how agreement material was used to
8 replace what was there previously, which was either
9 "radioactive material" or "byproduct material."

10 Line 19 here, this was a Commission
11 change, "NRC's regulatory program;" it used to say
12 "National Radioactive Material Program." And this
13 last paragraph here in this section, this would be
14 line 20 through 29, this was added and really just
15 explains how the NRC and Agreement States fulfill
16 their roles and responsibilities to regulate agreement
17 material across the nation, so it really describes the
18 National Materials Program.

19 In the footnote here, it defines what
20 agreement material is, and that was changed throughout
21 the document for consistency so you don't have nuclear
22 material, radioactive material, or some other version
23 of the intent.

24 This is another change here, an example of
25 how "discontinues" replaces "relinquishes." And the

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1 other - the last change in this section here is a
2 sentence, lines 27 through 29 that reads, "Two
3 national organizations, the Organization of Agreement
4 States and the Conference of Radiation Control Program
5 Directors, which are composed of state radiation
6 protection programs, also play important roles within
7 the NMP." This was a statement that was added by the
8 Commission, but at the last webinar, there was a
9 comment that was made to remove this statement.

10 So that covers all of the changes in this
11 first Section A of "Purpose." And before I go onto
12 the next section of background, I guess what I'd like
13 to do is open it up for any comments or questions.

14 OPERATOR: If you would like to ask a
15 question or make a comment, please press star one on
16 your touch-tone phone, unmute your phone, and record
17 your name as your name is required in order to
18 introduce your question. So again, that's star and
19 then one on your touch-tone phone, and it will take a
20 few moments for any questions to queue. And I'm
21 currently showing no questions in queue at this time.

22 MS. LOPAS: All right, Cindy, do we want
23 to keep moving on? And folks, at this point you can,
24 you know, if you have a question or comment, like Erin
25 our operator said, you can just press star one and

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1 that will let Erin know that you would like your phone
2 line unmuted, and you can also type a question through
3 the webinar software, but we'll just let Cindy
4 continue on with the policy statement.

5 MS. FLANNERY: Okay, this next Section B
6 for "Background" here, there's really only a few
7 changes, minor changes. Here is another place where
8 "Agreement State Program," this was changed by the
9 Commission. Originally, it was worded as "National
10 Materials Program." There's a few examples of that in
11 this document.

12 Lines 40 through 41, this was a statement
13 that was added. And in line 42, here is an example of
14 how "adequate" was modified to "adequate to protect
15 public health and safety," and "compatible" also was
16 changed to have a modifier, "compatible with the NRC's
17 regulatory program."

18 Line 46, just another example of how
19 "discontinues" replaces "relinquishes." And I believe
20 that's it for changes in "Background," in the
21 "Background" section, so any questions on this
22 section?

23 OPERATOR: Again, it's star and then one
24 to ask a question, and I show no questions.

25 MS. FLANNERY: Okay, so the next one, the

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1 next Section C; "Statement of Legislative Intent,"
2 line 73, another example of "discontinue" replacing
3 "relinquish."

4 And probably the most substantive edit
5 made by the Commission is the very first sentence here
6 in this paragraph, lines 79 through 80 which reads,
7 "The legislation did not authorize a wholesale
8 relinquishment or abdication by the Commission of its
9 regulatory responsibilities, but only a gradual,
10 carefully considered turnover." So this was something
11 that was added by the Commission.

12 Another Commission change in this section
13 in this sentence here, 83 through 85, those lines,
14 "Accordingly, the legislation authorized the NRC to
15 provide training, with or without charge, and other
16 services to State officials and employees as the
17 Commission deems appropriate." So the phrase "with or
18 without charge" as well as the phrase "as the
19 Commission deems appropriate," these were two phrases
20 that were added by the Commissioners.

21 Line 90 and 89, another couple of examples
22 of how "discontinue" replaces "relinquish," and I
23 believe that's it under this Section C. Any
24 questions?

25 OPERATOR: Our first question comes from

1 Jennifer Opila. Your line is open.

2 MS. OPILA: Thank you. This is Jennifer
3 Opila from the State of Colorado. Cindy, I was
4 wondering if the NRC could make available to the
5 Agreement States a version of the new policy statement
6 that would highlight all of the items that you are
7 highlighting as you go through it for us to be able to
8 key on when we do our comments?

9 MS. FLANNERY: Yes, we can certainly do
10 that. I'm just trying to think what would be the best
11 method? Should I send it to OAS to distribute or post
12 it on the website? I'm just -

13 MS. OPILA: You can send it to OAS and
14 we'd be happy to distribute it.

15 MS. FLANNERY: Okay.

16 MS. OPILA: Thank you.

17 MS. FLANNERY: You're welcome.

18 OPERATOR: And I show no other questions
19 in queue at this time.

20 MS. FLANNERY: Okay, this next section
21 here, Section D: Program implementation, this is kind
22 of a big section, so I think what I'll do is I'll kind
23 of just break this down into two parts. I'll get
24 halfway through, and then I'll stop and open it up for
25 questions or comments before I continue on. There are

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1 quite a few changes in this section and it's kind of
2 a large section.

3 Okay, so line 104 here, "Agreement State
4 Program" again replaces "National Materials Program."
5 Lines 106 and 107, here is something I talked about
6 during the presentation where in response to
7 Commission direction, we added the phrase, "including
8 physical protection of agreement material."

9 And another change here, this is a
10 Commission change, Part E where it says, "sufficient
11 flexibility in program implementation and
12 administration to accommodate individual State needs,"
13 "needs" replaces "preferences," so that was the
14 previous wording.

15 Okay, the next page here, "Performance
16 Assessment," this is a new section that was added,
17 this whole section here, and this is just added to
18 describe the need for a period program assessment and
19 describes what IMPEP is. Here again is another
20 Commission change where "Agreement State programs"
21 replaces "National Materials Programs."

22 Another change in this section is to this
23 first sentence here that reads, "To ensure that
24 Agreement State programs continue to provide adequate
25 protection of public health and safety and are

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1 compatible with NRC's regulatory program, periodic
2 program assessment is needed." And it used to also
3 have a phrase at the end, "to ensure that the programs
4 under the NMP continue to be adequately compatible."
5 That was deleted by the Commission so you will not see
6 that here in this proposed version.

7 Line 135, here again the phrase added to
8 address the Commission's direction from 2010;
9 "including physical protection of agreement material,"
10 was added.

11 Lines 147 and 148, it talks about areas of
12 national significance, and it lists several items like
13 licensing, inspection and enforcement, responses to
14 incidents and allegations, and safety reviews.

15 There is another item in this list that
16 has been removed by the Commission and that item is
17 "security of aggregated radioactive materials listed
18 in Appendix A of 10 C.F.R. Part 37." That used to be
19 in the other version and it has since been removed by
20 the Commission.

21 Another thing that was added in this
22 section, "NRC and Agreement State programs for
23 agreement material with respect to protection of
24 public health and safety are essential to maintaining
25 a strong National Materials Program."

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1 The phrase here, and this is in lines 152
2 to 154, the phrase "maintaining a strong NMP," that
3 was added by the Commission. But this was another
4 section that was added by the Commission that a
5 comment was made at the last webinar to remove the
6 word "strong," because it wasn't really clear what the
7 intent was there, so instead it would read, "to
8 maintaining a National Materials Program."

9 Okay, so the next section under
10 "Flexibility," here again, this was added, "adequate
11 protection of public health and safety." That's line
12 161. And in this last sentence here, this is lines
13 162 and 163, "However, the exercise of such
14 flexibility should not preclude a practice authorized
15 by the AEA, and in the national interest."

16 And there used to be a phrase at the end,
17 "without an adequate public health and safety or
18 environmental basis related to radiation protection."
19 That phrase was deleted by the Commission so you will
20 not see that here in this proposed version.

21 And then in line 181, here is just another
22 example of how "adequate" and "compatible" were
23 revised with new terminology. I think with that, I'll
24 stop right here. This is kind of halfway through
25 Section D, and I'll open it up for any questions or

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1 comments.

2 OPERATOR: As a reminder, it's star and
3 then one to ask a question.

4 MS. LOPAS: Go ahead, and press star one
5 if you have any questions for us, or feel free to type
6 a question or comment in the chat box in the control
7 panel of the webinar software.

8 OPERATOR: Our first question comes from
9 Mike. Your line is open.

10 MR. WELLING: Hello, Mike Welling from
11 Virginia. Can you describe that from the very
12 beginning, please?

13 MS. FLANNERY: Very beginning of the
14 document?

15 MR. WELLING: No, this section you
16 started.

17 MS. FLANNERY: Program under Section D
18 here?

19 MR. WELLING: Mm-hmm.

20 MS. FLANNERY: Let's see here. That's too
21 far. Bear with me just one second. Okay, here we go.
22 Was it further down or -

23 MR. WELLING: Can somebody there please
24 opine on Part A, "Principles of Good Regulation" when
25 it comes to an Agreement State program as we're bound

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1 by compatible regulations, and we have very limited
2 input to the regulations themselves?

3 Because you put in the tasks, it was - the
4 "Principles of Good Regulation" was limited to talked
5 about to the NRC. Now in here, it's saying Agreement
6 State program is part of "Principles of Good
7 Regulation."

8 MS. FLANNERY: So is your question why
9 this section is included in here?

10 MR. WELLING: Why is that statement now
11 saying that for an Agreement State program, we have to
12 have "Principles of Good Regulation?" Previously we
13 talked about it's an adequacy in regulation, so the
14 good regulation perspective was a federal NRC
15 jurisdiction, and we have compatible regulations.

16 MR. WHITE: Mike, this is Duncan. The
17 Principles of Good Regulation was included in the
18 previous policy schedule back in '97, and I guess with
19 the exception of removing the actual policy statement
20 itself and just making a reference to it, I mean, it
21 would shorten the document.

22 We kept the original language from the '97
23 policy statement pretty much intact. You know, we
24 just needed to note a few changes here and there that
25 they were made, but we didn't really need working

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1 groups, and, you know, staff didn't really do much to
2 make changes to that.

3 So really, there's not much to comment on
4 in the sense that, you know, we didn't - it was part
5 of the original policy statement and we just decided
6 to bring it forward. Saying that, if you have a
7 particular comment that, you know, that it doesn't
8 pertain to certain aspects of the Agreement Program or
9 it should be modified, we're certainly interested in
10 hearing specific comments on that.

11 The way, as you well know, the way it is
12 written, it does indicate that there is applications
13 to the agreement program, but if there's something
14 that's a particular modification to the language, you
15 know, certainly we would love to hear a comment on
16 that. Again, you know, you can send that in later,
17 you know.

18 MR. WELLING: Well, right, but my question
19 is look at the last year when we had the consolidated
20 paper and we pushed it out. When we merged it
21 together, there was one section on "Good Regulation
22 Principles" and it started off and it says, "The NRC
23 adopted principles of good regulations," and the whole
24 paragraph discussed the NRC's perspective on good
25 regulations.

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1 Now that verbiage is all gone from what
2 was there last year. So my question is what happened
3 to that language from that year to now we put in this
4 sentence for an Agreement State program?

5 MR. WHITE: I'm looking at some of those
6 changes from last year. I think we'll - one thing I
7 note just looking at the changes from last year's
8 version, we had something about the National Materials
9 Program which was just taken out, and other stuff was
10 moved up and renumbered so it looked like what
11 happened.

12 So what you're saying then, you think that
13 we should kind of go back to some of that language
14 that was proposed back in, I guess, this was back in
15 2015? Oh, 2014, it would be 2014 at the consolidation.

16 MR. WELLING: I mean, we can meet more to
17 discuss it, but I mean, yeah, if we're going to talk
18 Principles of Good Regulation, then, yeah, that
19 language needs to specifically talk about what that
20 means as far as - especially from the federal NRC
21 level.

22 MR. WHITE: Okay, so just to be clear,
23 that means that there was language from the, I guess,
24 the version from late in 2014 that was proposed that
25 was subsequently taken out, and you're proposing that

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1 that language should be put back in?

2 MR. WELLING: Or just taken out of these
3 lines and put it somewhere else. I just - my question
4 to you guys as staff is what happened, and why this
5 statement is now tied to an Agreement State program?
6 I mean, was it staff or was it Commission that changed
7 that and put that verbiage in that sentence?

8 MS. DIMMICK: Mike, this is Lisa. I
9 believe as the Commission paper went through
10 concurrence, there were some edits in that concurrence
11 process, and so some of the edits that you're - that
12 we can see, some may have been from the Commission,
13 but some might have been through management
14 concurrence on the document before the paper went to
15 the Commission, so that's maybe where some of the
16 edits - where some of those edits occurred was through
17 concurrence.

18 MR. WELLING: Okay.

19 MR. WHITE: Mike, just to make sure we
20 understand your comment, you would like to see that
21 comment, you would like to see that language restored?

22 MR. WELLING: Well, a little bit below if
23 you look at one at Paragraph I, 1(I) starts the
24 discussion, but now all of a sudden above in one,
25 you're specifically calling out "Principles of Good

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1 Regulation" for an Agreement State program when that's
2 not true. We have to be compatible.

3 I mean, and right below, it talks about
4 the Commission adopted regulations, and we have a
5 chance to opine, you know, when regulations are coming
6 or revisions are made. But as far as calling out that
7 as part of an agreement program, I don't think
8 "Principles of Good Regulation" exist as long as we're
9 compatible.

10 MR. WHITE: Okay, I think we understand
11 your comment, okay, in terms of what you think should
12 be put back into the statement. Thank you.

13 MS. LOPAS: Thanks, Mike. Erin, are there
14 any other questions queued up?

15 OPERATOR: I show no other questions on
16 the audio.

17 MS. LOPAS: Star one if you guys want to
18 ask a question, but we'll go back to Cindy.

19 MS. FLANNERY: Okay, so I think we left
20 off with the subsection here, "Program Assistance."
21 If you go down to lines 195 through 197, it provides
22 a list of specialized technical assistance that the
23 NRC can provide to the Agreement States, and it lists
24 things like licensing, inspection, incident response,
25 and limited enforcement issues. In this list, the

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1 item "incident response" was something that was added
2 later on from the original version, so that's new,
3 "incident response" provided in line 196.

4 Lines 203 and 204, this sentence here,
5 "Under certain conditions, an Agreement State can also
6 voluntarily return all or part of its Agreement State
7 program." And this used to be followed by some
8 examples of what returning part of an Agreement State
9 program would be. It had listed sealed source and
10 device evaluations, and uranium recovery regulatory
11 oversight. Those examples were removed, and this was
12 a Commission change.

13 Line 208, here again "compatible with
14 NRC's regulatory program." That was revised from the
15 original version. And that is it for the rest of
16 Section D: Program Implementation, so I'll stop right
17 here before I go onto Section E on "Adequacy and
18 Compatibility." So are there any questions?

19 OPERATOR: As a reminder, it's star and
20 then one to ask a question. And I show no questions
21 on the audio.

22 MS. FLANNERY: Okay, thank you. Next,
23 Section E: Adequacy and Compatibility, this section
24 has several changes that I referenced in the
25 presentation where "should" replaces "shall," and vice

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1 versa. So in this first paragraph here in lines 264
2 and 265, there is two places here where "must" is
3 used, and that replaced "should."

4 Lines 287, here is another change that the
5 Commission made. I'll read the sentence. "In
6 identifying those program elements for adequate and
7 compatible programs, or any changes thereto, the NRC
8 staff will coordinate with the Agreement States."
9 "Coordinate with" replaced "seeks the advice of," in
10 the previous language.

11 Okay, and then there are several
12 subsections here. I'll list five of them, legislation
13 and legal authority; licensing; inspection and
14 enforcement; personnel incidents; and allegations.
15 And the introductory sentence for all five of these
16 sections starts with, "Agreement State statutes
17 shall." You'll see that same sentence in all of them.
18 This used to be a "should" statement. So all five of
19 these introductory statements have been replaced with
20 "shall."

21 In the very first one under legislation
22 and legal authority, there's a place where it's
23 actually the opposite. It was a "shall" statement and
24 was replaced with "should." It says, "Specifically,
25 Agreement States should adopt legally binding

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1 requirements based on those identified by the NRC
2 because of their particular health and safety
3 significance." It used to be a "shall" statement.

4 Under Subsection II: Licensing, lines 324
5 and 325, this phrase here was added. So, "The
6 Agreement State shall conduct appropriate evaluations
7 of proposed uses of agreement material, before issuing
8 a license to authorize such use to ensure that the
9 proposed licensee's need and proposed uses of
10 agreement material are in accordance with the AEA and
11 that operations can be conducted safely." So this
12 phrase, "need and proposed uses of agreement material
13 are in accordance with the AEA," was added by the
14 Commission.

15 Line 350, this phrase here, "authorized by
16 the AEA," was added by the Commission, so that
17 sentence reads "not preclude a practice authorized by
18 the AEA and in the national interest." So this
19 phrase, "authorized by the AEA," was added by the
20 Commission.

21 And at the end, there used to be a phrase
22 that was deleted by the Commission that said, "without
23 an adequate public health and safety environmental
24 basis related to radiation protection." That whole
25 phrase was removed, so you will not see it in this

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1 proposed statement.

2 And here is another example of how "shall"
3 replaces "should" in the sentence that reads - and
4 this is in lines 352 to 354 that reads, "For purposes
5 of compatibility, the State shall adopt program
6 elements assigned to Compatibility Categories A, B,
7 and C." That used to read "should address." "Should
8 address" has been replaced by "shall adopt."

9 In the footnote here, there is a minor
10 change as it talks about, "The level of protection of
11 public health and safety is essentially identical to
12 that afforded by NRC requirements." "Essentially
13 identical" used to read "from at least equivalent."

14 Category B, this was something I
15 referenced in the presentation. There's a
16 clarification here. "Cross jurisdictional" replaces
17 "transboundary implications." Here is another place
18 where "Agreement State Program" replaced "National
19 Materials Program." This is line 374.

20 And this whole last sentence here was
21 added, "Because program elements used in the Agreement
22 State Program are necessary to maintain an acceptable
23 level of protection of public health and safety,
24 economic factors should not be considered." This was
25 added to address protections.

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1 And since there's only one change in the
2 very last section here after the conclusions, I'll
3 just finish it off here. This is line 397. "The NRC
4 and Agreement States will continue to jointly assess
5 the NRC and Agreement State programs for the
6 regulation of agreement material to identify specific
7 changes that should be considered based on experience
8 or to further improve overall safety, performance,
9 compatibility, and effectiveness."

10 There was a phrase in here that said, "The
11 NMP is dynamic," and those beginning sentences read,
12 "The NMP is dynamic, and the NRC and Agreement States
13 will continue to jointly assess." That has been
14 removed, "NMP is dynamic," and that was removed by the
15 Commission.

16 So with that, that really finishes up all
17 of the comments - I'm sorry, the revisions for the
18 rest of the document. And I guess Duncan would like
19 to make a comment, and then we'll open it up for any
20 comments. That would be this last section that I
21 talked about as well as the entire document.

22 MR. WHITE: I would like to highlight a
23 change made by the Commission under Category B. This
24 particularly is the first sentence in that section,
25 lines 369 through 371. The sentence you see there was

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1 originally two sentences, and the Commission combined
2 it into a single sentence, and I'll read you the
3 previous language. We're interested in your comments
4 on this change in particular.

5 The original language sent up to the
6 Commission stated, "This category pertains to program
7 elements across jurisdictional boundaries. This
8 category will be limited to a small number of program
9 elements that will have an impact on public health and
10 safety, and that should be addressed to ensure
11 uniformity of regulation on a nationwide basis." That
12 was the language staff proposed, and as you can see,
13 the Commission modified the language at lines 369 to
14 373. Again, if you can, we're particularly interested
15 in your comments on that change.

16 MS. LOPAS: Okay, does anybody have any
17 questions or comments for us? Press star one. We'll
18 also keep an eye out on the chat box for the webinar.

19 MR. WELLING: Mike Welling.

20 OPERATOR: Your line is open.

21 MS. LOPAS: Hi, Mike.

22 MR. WELLING: Hello again. So Duncan, I
23 have two questions. One is specifically in regards to
24 our comment letter from the original verbiage on this,
25 so what happened with the word "significant?"

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1 MR. WHITE: Where was the word
2 "significant?"

3 MR. WELLING: Well, that's the point. It
4 was originally in there. It was always addressed as
5 "significant transboundary issues." It was taken out
6 until we made the comments with some other States that
7 "significant" is a major impact on a Category B and we
8 wanted it back in. So obviously, I'm just wondering,
9 so did - was a conversation held, or what happened
10 with the idea of throwing the word "significant" back
11 into Category B?

12 MR. WHITE: I apologize, I'm drawing a
13 blank on that. I would have to go back and check that.
14 I don't have an answer to that, why it was not
15 included. I'll have to go back and look at your
16 comment.

17 MR. WELLING: All right, and then the
18 second question is is there - are you guys writing up
19 any summary or indication of all of the comments that
20 are received and whether or not they were put in or
21 not put in this policy statement? Is it available for
22 review?

23 MS. FLANNERY: Okay, so all of the
24 comments that are received that are basically uploaded
25 directly to the regulations.gov, those will be

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1 available right away.

2 MR. WELLING: Well, I'm actually asking
3 for '14. When these improvements went in in 2014 when
4 it first went out, are all of those available anywhere
5 so we can review those against this again?

6 MS. FLANNERY: We're thinking about how to
7 locate it here.

8 MR. WHITE: Mike, this is Duncan. We'll
9 have to get back to you on that. I'm not sure if it's
10 been - there was - as you know, there was a lot of
11 changes, a lot of inputs into this thing. I know that
12 we've generated a number of comment resolution
13 documents.

14 And again, I'm trying to - and I
15 apologize, which, you know, which one pertains to
16 which comment, I'm just - again, I'm drawing a blank
17 on exactly when in the process that, you know, we
18 generated comments and when those were available.
19 Again, I apologize for not having that at hand, but
20 we'll get back to you on that.

21 MR. WELLING: So I would assume that
22 September 24 you had in '14, I think they were - yeah,
23 the due date was right around there for everybody.

24 MR. WHITE: Okay, that's very helpful.
25 Thank you.

1 MS. FLANNERY: So Mike, for clarification,
2 that word "significant" that you said was removed, did
3 you want, as a comment, that that be included back in
4 there?

5 MR. WELLING: Well, the OAS in 2014 had
6 that in there, that comment that we requested that
7 "significant" is placed in there. So obviously we, as
8 the Board, will talk again, and States will have the
9 option of making their own comments, but that was our
10 previous comment in 2014.

11 MS. FLANNERY: Okay.

12 MR. WHITE: Okay, thank you for the
13 comment.

14 MS. LOPAS: Any other questions or
15 comments?

16 MS. OPILA: Jennifer Opila.

17 MS. LOPAS: Hi, Jennifer.

18 MS. OPILA: Hi, in response to Mike's
19 question about the comments resolution table, that was
20 - the ADAMS number to that was listed in the *Federal*
21 *Register*, and I downloaded it and sent it out to the
22 OAS. I believe it was last week, so on July 22.

23 So if anybody wants to look at that, they
24 - if they're on the OAS list serve, they should have
25 gotten that from me. If anybody needs it, they

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1 probably know how to get ahold of me, and I'd be happy
2 to share it again.

3 MS. LOPAS: Great, thank you. Other
4 questions or comments?

5 OPERATOR: I'm showing no other questions
6 on the audio.

7 MS. LOPAS: All right, we'll hang on for
8 a little bit longer. Go ahead and either submit your
9 questions via the chat function or go ahead and press
10 star one. And what was the due date again for
11 comments, Cindy?

12 MS. FLANNERY: August 16th.

13 MS. LOPAS: August 16th, so obviously feel
14 free to submit written comments by August 16th.

15 MR. WHITE: Oh, just to make sure too, any
16 comments received during the two webinars will be made
17 note of and we will comment to reflect any written
18 comments, so any comments received today and the
19 previous webinar, we will be providing a written
20 response to.

21 MS. LOPAS: Right, right, the comments
22 today hold just as much weight as written comments,
23 so. Okay, and another thing to note, you know, if
24 you're still thinking about whether you want to ask
25 another question or submit another comment, if you

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1 have any feedback on today's webinar, you can go ahead
2 if you go to the public meeting notice a little bit
3 later today or anytime after today, I think there
4 should be a meeting feedback form, an online meeting
5 feedback form, and that, I think, shoots the feedback
6 forms right to Julian, our meeting organizer, so -

7 Julian's making a face like, "I don't
8 know," but I believe that's how that works. So if you
9 have some feedback for us - and of course I'm sure you
10 know how to reach all of the folks in this room. You
11 could always, I'm sure, give them your feedback too.
12 Erin, do we have any other questions or comments?

13 OPERATOR: I'm still showing no questions.

14 MS. FLANNERY: All right, so I guess just
15 as a reminder, we have until August 16th. If you have
16 any questions in the meantime, feel free to contact me
17 and I can get your questions answered before you
18 submit your comment.

19 MS. LOPAS: All right, everybody, thank you
20 so much for your participation. Have a good afternoon.

21 OPERATOR: This does conclude today's
22 conference call. We thank you for your participation,
23 and you may disconnect at this time.

24 (Whereupon, the above-entitled matter went
25 off the record at 1:56 p.m.)

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