

UNITED STATES

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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WEDNESDAY,

MARCH 20, 2019

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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 10:00 a.m., Kristine L. Svinicki, Chairman, presiding.

COMMISSION MEMBERS:

KRISTINE L. SVINICKI, Chairman

JEFF BARAN, Commissioner

STEPHEN G. BURNS, Commissioner

ANNIE CAPUTO, Commissioner

DAVID A. WRIGHT, Commissioner

ALSO PRESENT:

ANNETTE VIETTI-COOK, Secretary of the Commission

MARIAN L. ZOBLER, General Counsel

OAS AND CRCPD LEADERSHIP:

TERRY DERSTINE, Radiation Protection Program

Manager, Pennsylvania Department of

Environmental Protection (OAS Chair-Elect)

JENNIFER OPILA, Director, Hazardous Materials and

Waste Management Division, Colorado Department

of Public Health and Environment (OAS chair)

JEFF SEMANCIK, Director, Connecticut Department of

Energy and Environmental Protection, Radiation

Division (CRCPD Chair-Elect)

DAVID TURBERVILLE, Director, Office of Radiation

Control, Alabama Department of Public Health

(OAS Past Chair)

P R O C E E D I N G S

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10:02 a.m.

COMMISSIONER SVINICKI: (presiding) Good morning, everyone. I call the Commission's meeting to order.

We gather this morning for one of our periodic meetings and engagements with the Organization of Agreement States and the Conference of Radiation Control Program Directors. Again, these meetings generally address a series of topics of our important partnerships that we have on a host of very important issues with our Agreement State partners and, more generally, with all of the states and the Radiation Control Program Directors.

So, this is kind of, for someone watching the first of these, you're stepping into the middle of a dialog that's been going on for a very long time, but we'll try to step back and make our questions understandable to people who want to follow along.

Before we begin, I would ask if any member of the Commission has any comments to make.

(No response.)

Okay. Well, we will hear, again, from a number of representatives of both -- I'm going to use the acronyms -- OAS and CRCPD. I have your presentations listed in a certain order. I'm going to go by this, but please, if you have an arrangement between yourselves and it's different than what I have listed here -- but I have that we will begin with Jennifer Opila, the Director of Hazardous Materials and Waste Management Division, the Colorado Department of Public Health and Environment.

And if you will lead us off?

1 MS. OPILA: Thank you very much. Thank you,
2 Commissioners and Chairman Svinicki.

3 My name is Jennifer Opila. I am happy to be here as the
4 Chair of the Organization of Agreement States, and I'll be talking to you
5 today about the National Materials Program.

6 The mission of the National Materials Program is to create
7 a veritable partnership of the NRC and Agreement States that will ensure
8 protection of public health, safety, and security, and the environment from
9 the hazards associated from radioactive material. The vision of the National
10 Materials Program is to provide a coherent national system for the regulation
11 of agreement material with the goal of protecting public health, safety,
12 security, and the environment through compatible regulatory programs.
13 Through the National Materials Program, the NRC and the Agreement
14 States function as regulatory partners.

15 As you know, in 2017, the NRC's Office of the Inspector
16 General conducted an audit of the NRC's implementation of the National
17 Materials Program. OAS welcomed the OIG audit and really appreciated
18 the efforts that the OIG team took to gather input from the Agreement States.

19 The OIG findings were published in April of 2018. And in
20 last year's Commission briefing, I spoke about the OAS's responses to those
21 findings. Today, I would like to briefly reiterate the findings and the
22 recommendations and update the Commission on the steps we have taken
23 in partnership with the NRC to address the findings and recommendations.

24 The OIG found that stakeholders do not have a consistent
25 understanding of some of the National Materials Program's tenets, that 45
26 percent of Agreement States are not satisfied with the level of influence that

1 they have on the National Materials Program, and there was inconsistency of
2 addressing the National Materials Program at these annual OAS and
3 CRCPD Commission briefings.

4 Additionally, the OIG found that the Regional State
5 Agreement Officers serve an important liaison role between the NRC and the
6 Agreement States, and that frequent NRC management turnover can
7 negatively impact the National Materials Program.

8 The OAS agreed with these findings and believed that the
9 April 2018 audit report accurately depicted the state of the National Materials
10 Program at that time. The OIG had two recommendations in their audit
11 report.

12 The OIG recommended that the Executive Director of the
13 NRC formalize the National Materials Program framework in a document that
14 included a definition, a vision, mission, goals and objectives, membership,
15 members' role and responsibilities, and activities.

16 The OIG also recommended that the Executive Director of
17 the NRC designate an NRC individual to serve as the National Materials
18 Program champion and to encourage the Agreement States to create a
19 co-champion.

20 OAS has taken a number of steps in partnership with the
21 NRC on addressing the findings and recommendations of the audit report.
22 In November of 2017, the OAS Board sent a letter to NRC emphasizing the
23 role of the Regional State Agreement Officers, or RSAOs. This letter
24 expressed the Agreement States' partnerships with the RSAOs and
25 emphasized the value of having such a resource readily available, usually
26 just a phone call or an email away.

1 OAS also encouraged the NRC to continue the practice of
2 including the RSAO as part of the IMPEP teams for the Agreement State
3 program reviews.

4 The OAS has also committed to including the National
5 Materials Program in its remarks at future annual OAS-CRCPD Commission
6 briefings, as evidenced by my remarks today.

7 The OAS dedicated two hour-long sessions at our 2018
8 annual meeting to discuss the OIG recommendations and to work with the
9 NRC on developing a framework document of the National Materials
10 Program, as well as selecting a champion and a co-champion.

11 These discussions led to NRC's development of Procedure
12 SA-10 titled, "Oversight of the National Materials Program". This procedure
13 is an important step to formalize the National Materials Program framework
14 into one document. The procedure outlines the objectives and activities of
15 the National Materials Program as well as the roles and responsibility of both
16 the NRC and Agreement State participants.

17 The draft version of SA-10 was provided to the Agreement
18 States on January 22nd, 2019, and NRC staff conducted two webinars with
19 the Agreement States in February 2019 to discuss the draft procedure.

20 The OAS Board discussed the draft with Andrea Kock, MIS
21 Director, at our annual Board meeting last week and submitted our
22 comments to NRC just this past Monday.

23 Our comments reflected a general support of the
24 procedure, but we did have some suggestions for improvement, such as
25 changing the title of the procedure from "Oversight of the National Materials
26 Program" to "Joint Oversight of the National Materials Program," to reflect

1 the spirit of the partnership between NRC and the Agreement States.

2 The second audit recommendation was the Executive
3 Director designate an NRC individual to serve as the National Materials
4 champion and to encourage the Agreement States to create a co-champion.

5 The OAS Board will be recommending to its membership that we change
6 our Bylaws to add a position to the OAS Board to be the Agreement States
7 co-champion. If this change is passed, we are hoping it will be before
8 August, when we have our annual meeting, and we hope to elect that
9 position in August at our annual meeting. And we are hoping that they will
10 serve a three-year term.

11 As I said to many of you when I was here in January
12 meeting with you and CRCPD, the OAS Board believes that the relationship
13 between the NRC and the Agreement States is the best that it has ever
14 been. NRC staff have formally given Agreement States more input in the
15 regulatory development process through including us in the development of
16 rulemaking plans and on the common prioritization of the Rulemaking
17 Working Group.

18 NRC staff frequently coordinate with the OAS Director of
19 Rulemaking to adjust the timing of requests for comments in a manner that
20 does not overwhelm Agreement State staff.

21 NRC management are genuinely engaged in issues that
22 are important to the Agreement States and personally reach out to the Board
23 to communicate issues as soon as possible, so that we are not blindsided.

24 These actions demonstrate a commitment to partnering
25 with the Agreement States. And OAS also remains committed to enhancing
26 our partnership with the NRC in implementing the National Materials

1 Program.

2 Thank you.

3 COMMISSIONER SVINICKI: Thank you very much,
4 Jennifer.

5 Before that feedback, I say that not only because it was
6 uniformly positive feedback, but I have been here when we've had some
7 frank discussions across this table between our Commission and some of
8 your predecessors when there were a number of areas where the agency
9 and the staff could do better. And the Commission, of course, has a role in
10 that as well. So, it's particularly gratifying. So, thank you for providing that
11 feedback. It means we can't go anywhere but up from here, right? No,
12 continue to go up.

13 The next presenter I have on my list is Mr. Terry Derstine.

14 And I should have mentioned for Jennifer that she is the
15 Chair of the OAS.

16 I will mention for Terry that he is the OAS Chair-Elect and
17 he is also the Radiation Program Manager for the Commonwealth of
18 Pennsylvania, Department of Environmental Protection.

19 And, Terry, if you would like to proceed? Thank you.

20 MR. DERSTINE: Yes, thank you for this opportunity to
21 confer with you on some of the radiation safety topics that we think are
22 important. Today, I would like to discuss the financial impact of security and
23 share just a couple of the experiences Pennsylvania has had to date.

24 On May 2015, the property management at Avax
25 Technologies, Philadelphia, a small investor-funded biotech firm, notified the
26 Department that, due to a landlord-tenant dispute, Avax had lost access to

1 their site. Avax essentially ceased operation during the spring of 2014, but
2 its 600 curie cesium-137 research irradiator remained at the site.

3 To gain entrance, the property manager or the landlord, he
4 had to disable much of the required security for the irradiator. So,
5 Department representatives conducted an immediate inspection of the
6 licensee to verify the security and condition of the radioactive materials. We
7 discovered that the key card entry system was disabled, the locks had been
8 changed on the entrance doors to the site. We also discovered that the
9 property manager had been inside the clean room side of the site, where the
10 irradiator is located, to complete an inventory.

11 Department representatives explained to the property
12 manager that no one except approved Avax personnel should be allowed
13 access to the site, and that 24-hour security for the irradiator must be
14 maintained. We requested that the power to the clean room be restored to
15 provide the needed 24-hour security.

16 The Philadelphia police, who had a district office in that
17 building, and the Philadelphia Office of the FBI were notified.

18 The Avax Assistant RSO arrived before the inspectors left
19 the premises, and later in the afternoon the Avax representative notified the
20 Department that the power was restored.

21 Our next move was to order Avax Technologies to properly
22 remove and dispose of the irradiator. In July of 2015, we met with
23 representatives from Avax and their investors. Avax indicated that it would
24 be difficult to conduct business without the irradiator. They asked what
25 measures they needed to take for us to reconsider and allow them to keep
26 the unit.

1 Well, we entered into a consensual order and agreement,
2 pointing out the items that needed to be in place if the device remained at
3 the facility, including a surety bond of \$200,000, as well as assurances that
4 the security of the device would be maintained by Avax at all times moving
5 forward.

6 All of this was occurring as the City of Philadelphia was
7 preparing for the Papal visit, which was to occur just blocks from this location
8 in September of 2015.

9 So, in June of 2016, we were notified by the Avax RSO
10 that the situation was becoming critical again. Several of the security
11 measures that were in place to protect the irradiator were in jeopardy of
12 being terminated by the supplier for lack of payment. Also, Avax received a
13 notice from the property manager that they were going to change the locks
14 due to lack of payment of the rent. We had to execute the surety bond.

15 So, the total cost that we had to take from the surety bond
16 was \$143,912.58. At that point, we started -- we have a mechanism to track
17 staff costs. So, that was over \$39,000. We had to pay utilities the total of
18 \$4,762. We had Comcast, T-Mobile, Slomin's, Philadelphia Gas and Water,
19 and the S&D. And we also had to hire a consultant to handle all of this
20 stuff. The consultant was over \$100,000.

21 So, other expenses that were considered that we didn't
22 have to pay was rent. We almost had to pay an export license to dispose of
23 the source. We thought it was going to have to go to Canada, but we found
24 a place in Texas. So, the \$9,000 export license. For it to go to Canada, it
25 was \$87,000, and Texas was almost \$68,000.

26 And then, the next incident was Valley Advanced Gamma

1 Knife, and this happened back in March 2008. Pennsylvania had just
2 become an Agreement State. In May of 2008, the Department became
3 aware that the licensee was no longer using this facility when the increased
4 controls and fingerprinting orders were returned by the post office after being
5 mailed to the address on the license.

6 The Department inspected the site to ascertain whether
7 the radioactive material was secure and under the control of the licensee.
8 The inspection revealed that, in April 2008, the landlord changed the facility
9 locks. Valley Advanced Gamma Knife owed \$100,000 in rent. The
10 licensee was denied access to the site and there was no means for the
11 licensee to assess and respond to any alarms. Furthermore, unauthorized
12 individuals had been provided alarm codes for the site alarm system.

13 Throughout 2008, the Department attempted to work with
14 the licensee to expedite the removal of the radioactive materials from the
15 site. In February of 2009, the Department ordered the licensee to remove
16 the sources. The sources were eventually finally removed in June of 2009.

17 These are just two incidents that Pennsylvania has had to
18 deal with. How would a financial assurances instrument have helped?
19 First, if the investors involved in both incidents had been aware of the
20 commitment they were making to assure the safety and security of their
21 investment, thanks to some instrumentality of financial assurance, they may
22 not have just walked away. They may have made a smaller investment to
23 properly dispose of the sources, so they could take their financial assurance
24 instrument with them.

25 Next, had money been immediately available for the DEP
26 via execution of the financial assurance, it could have greatly expedited the

1 reinstallation of the security measures and decreased the lag time for proper
2 disposal of the sources.

3 Both facilities described above were in very public places.
4 Valley Advanced Gamma Knife was in a neighborhood strip mall right next
5 door to a very busy imaging center. Avax in Philadelphia was in the Rodin
6 Building right next to the Rodin Museum, and the next block over is the
7 Barnes Foundation Museum, both housing priceless art and thousands of
8 visitors.

9 Oh, and lest we forget the Papal visit in 2015 and the
10 Democratic National Convention in 2016, in both situations had the
11 radioactive material in these devices been compromised due to not being
12 properly secured, priceless could have been damaged, but, more
13 importantly, many people could have easily been exposed.

14 I understand that the Commission is considering the
15 expansion of financial assurance requirements to include Category 1 and 2
16 sealed sources. Please consider the impact that security requirements may
17 have on the financial assurance as well.

18 The proposed CRCPD SSR Part S requirements for
19 financial assurance state that, "For sealed sources greater than 37
20 gigabequerel or 1 curie, a decommissioning funding plan and a
21 decommission cost estimate with enough detail to provide assurance that
22 the surety amount is adequate to cover all required costs of
23 decommissioning". And under that, they have nine months of security
24 accommodations for those categories of sources requiring security under
25 Part 37 or equivalent.

26 Thank you.

1 COMMISSIONER SVINICKI: Thank you very much for
2 that presentation.

3 Next, we will hear from Mr. David Turberville, who is the
4 Director of the Office of Radiation Control for the Alabama Department of
5 Public Health. He is also the Immediate Past Chair of the OAS.

6 David, please proceed.

7 MR. TURBERVILLE: Good morning. I want to thank you
8 for the opportunity for allowing OAS and CRCPCD to brief you on the subjects
9 that are important to the Agreement States.

10 Today, I'm here to discuss the current Integrated Materials
11 Performance Evaluation Program, or IMPEP. I'll also be bringing the
12 Southern accent portion of the group here.

13 (Laughter.)

14 COMMISSIONER SVINICKI: Thank you for that. That's
15 been sorely lacking so far this morning. Thank you.

16 (Laughter.)

17 MR. TURBERVILLE: I'm there for you.

18 COMMISSIONER SVINICKI: But we'll help you out on
19 this side of the table, not me, but somebody.

20 (Laughter.)

21 MR. TURBERVILLE: All right. Thank you.

22 Well, if you recall, I did speak on IMPEP back at the 2017
23 briefing, as an OAS Chair-Elect. Matt McKinley, who was our Past Chair
24 last year, spoke on IMPEP.

25 It is an important subject for the Agreement States
26 because we all have to participate in it. Actually, Alabama's IMPEP is

1 coming up in May. So, I feel like I need to choose my words wisely.

2 (Laughter.)

3 But, as background, NRC began implementation of IMPEP
4 back in 1996 to enhance the evaluation process for the Agreement States
5 and the Regional NRC Materials Programs to assure a consistent level of
6 protection of public health and safety of the use of nuclear materials
7 nationwide.

8 The program, as you know, has a set of common
9 performance indicators that are reviewed and evaluated to determine
10 adequacy for the Agreement States and those NRC Materials Programs.
11 The indicators include technical quality of staffing and training, Status of
12 Materials Inspection Program, technical quality of inspections, technical
13 quality of licensing actions, as well as the technical quality of instance and
14 allegation activities.

15 There are additional areas identified as non-common
16 performance indicators which may also be addressed in the evaluation of an
17 Agreement State. That includes the compatibility requirements, the Sealed
18 Source and Device Evaluation Program, Low-Level Radioactive Waste
19 Program, and Uranium Recovery Program for those states that they're
20 applicable to.

21 The range of possible findings for an Agreement State
22 include adequate to protect the public health and safety, adequate but
23 needing improvement, and are not adequate. And then, we have the
24 compatibility assessment where a state can be either found compatible or
25 not compatible with NRC rules, regulations, and some procedures.

26 The IMPEP teams that perform these reviews are made up

1 of NRC and Agreement State representatives that are trained in the process.

2 We heard last week from Andrea Kock that there are more than 25
3 Agreement States staff currently qualified to participate in the IMPEP
4 reviews, and this is the highest number since the process began. That's
5 encouraging. I, myself, have been part of these teams in the past, and my
6 experience has been that the team members take their responsibility very
7 seriously.

8 The report of the 2017 focused self-assessment of IMPEP
9 came out last year. The self-assessment team, which was made up of NRC
10 and Agreement State personnel, they only focused on two of the common
11 performance indicators, that being the technical quality of staffing and
12 training and the status of the Materials Inspection Program.

13 Overall, the self-assessment team found the IMPEP
14 process to be an effective in fulfilling its objective of evaluating the adequacy
15 and compatibility of Agreement States and the NRC materials activities
16 under these two performance indicators, as I said earlier.

17 They did develop six recommendations for consideration to
18 enhance the program process. Much of the self-assessment was focused
19 on reviewing potential factors that could lead to inconsistencies in evaluating
20 these two performance indicators, which was outlined as Objective 2 of the
21 assessment.

22 Although the self-assessment team officially did not find
23 inconsistencies in the findings as it pertains to these indicators,
24 recommendation was made that the IMPEP Team Leader Workshop should
25 be held annually in conjunction with the annual IMPEP team member
26 training, and the workshop should include topics such as indicator criteria.

1 As stated in the report, this recommendation would help ensure that
2 consistent IMPEP review outcomes are sustained in the future.

3 I appreciate the effort to address potential inconsistencies,
4 but I would like to see a review of all of the performance indicators, not just
5 those two to make sure we have a consistency overall, that we achieve
6 overall consistency. I believe we all can agree that any evaluation program
7 should strive to apply standards in a consistent and fair manner.

8 Another recommendation made by the group was to
9 include in the IMPEP Team Leader training the importance of monitoring the
10 IMPEP Management Review Board, or the MRB, meetings. Those that
11 have had to live through the MRB -- this includes the IMPEP team
12 members -- they'll tell you that it can be intense as the IMPEP report is
13 routinely dissected.

14 OAS has a liaison as part of the MRB, and from what I've
15 seen, the MRB does solicit and consider the comments of the OAS liaison
16 during those meetings. Also, his or her vote is routinely counted in the
17 minutes, when there is a vote, although, according to SA-121, which is the
18 written procedure for the Agreement States liaison to the MRB, the OAS
19 liaison's vote is not official. So, my recommendation here today, if at all
20 possible, would be to formalize what already is being done by revising
21 SA-121 to allow the OAS liaison to have an official vote at these meetings.
22 That would further enhance our role as regulatory partners.

23 In the matter of rule development and the compatibility
24 requirements, many states still have the administrative roadblocks when
25 trying to implement rule changes to meet the compatibility requirements
26 within three years. This can be labor-intensive for states that don't do it on

1 a routine basis and a time-consuming process to get a revised rule through
2 the system for many of the Agreement States.

3 With the continued Agreement State representation on the
4 Standing Committee of Compatibility and the recent addition of
5 representation on the Prioritization of Rulemaking Working Group, we are
6 encouraged and optimistic for the future in this area. But some Agreement
7 States will continue to have those issues meeting the three-year timeline for
8 rule implementation. So, I ask that the NRC continue to show flexibility in
9 regards to the compatibility for those states.

10 As we move forward, the success of any individual
11 Agreement State program is largely dependent upon your support here at
12 NRC. Through retirements, attrition, and budget cuts, many state programs
13 have to do more with less. In Alabama, our program also regulates x-ray
14 registrants -- that would include medical as well as non-medical -- users of
15 particle accelerators and service providers for those equipment. Just like
16 the majority of the other Agreement States, we also have our Radiological
17 Emergency Preparedness Program for our two nuclear power plants. We
18 regulate NORM activities, and we have an environmental sampling program
19 which includes our radon program.

20 And we do this with a staff of 22 professionals when we're
21 fully staffed, and we're not fully staffed. In the last two years, through
22 retirements, we've had to replace our Program Director, our Assistant
23 Director, as well as supervisors from our Emergency Planning and X-Ray
24 Compliance Branches.

25 To address those losses, we've had to promote personnel,
26 reorganize, and rethink our program. But, as we do this, we recognize that

1 the training we receive through the NRC-sponsored training courses is an
2 invaluable resource. Speaking for Alabama, losing that resource would
3 create a very difficult hardship for our program, and I'm sure my colleagues
4 here would have the same concerns. We appreciate the work done by NRC
5 in this area to accommodate the needs of the Agreement States.

6 We also must continue to rely on an open line of
7 communication. This is where our relationship with the Regional State
8 Agreement Officers and the NRC staff is so important. I think we do have
9 that open line of communication, and I believe that during my time on the
10 Board that communication has improved. I'm a new Program Director, and I
11 find myself relying heavily on that communication, specifically the RSAOs.

12 Last week, we heard from Andrea Kock that it is the NRC's
13 plan to have the revision of Management Directive 5.6, which addresses
14 IMPEP, completed sometime this year. With the major changes to MD 5.6,
15 NRC needs to quickly revise the indicated procedures to be aligned and
16 useful for the IMPEP teams. The OAS Board is working with the NRC staff
17 to recruit Agreement State personnel with experience in IMPEP and with the
18 relevant indicators to participate in teams to accomplish these tasks. The
19 revised Management Directive will be the subject of a two-hour panel
20 discussion at the OAS meeting in Minneapolis this August.

21 So, in closing, we at OAS believe the IMPEP program
22 serves its purpose well. I believe it is a positive example of federal-state
23 partners working together, and we at OAS value that partnership.

24 I want to echo the comments that Jen made that the OAS
25 Board believes the relationship between the Agreement States and the NRC
26 is the best it's ever been.

1 And I want to thank the Commission for allowing OAS to
2 be an active participant in the IMPEP program.

3 And thank you.

4 COMMISSIONER SVINICKI: Thank you very much for
5 that presentation.

6 I would note that Andrea Kock I think has been mentioned
7 in every single presentation. She is here taking just note after note after
8 note. But I just wanted, for the record, to note that she is here in the room
9 taking onboard anything that you all, any feedback you have to give.

10 And the final presenter on our panel, although I would note
11 that we originally had one other presenter, and she had a last-minute
12 unexpected need to change her presence here today, but we wish her well.
13 But, so ably carried forward on all the CRCPD activities will now be Mr.
14 Jeff -- and I would say "Semancik". Is it a "ch" sound or an "s" sound?

15 MR. SEMANCIK: Semancik is fine.

16 COMMISSIONER SVINICKI: Oh. It's neither right nor
17 wrong, but it's fine. Well, you're a very accommodating individual.

18 (Laughter.)

19 MR. SEMANCIK: I'm used to them all.

20 COMMISSIONER SVINICKI: But you never know with a
21 "c" like that. That can be, depending on the language of origin, it could be a
22 "ch" sound.

23 MR. SEMANCIK: I think, technically, it's the "ch" sound,
24 but it's --

25 COMMISSIONER SVINICKI: Oh, okay, but it's been
26 Americanized, just like my name.

1 MR. SEMANCIK: -- Americanized.

2 COMMISSIONER SVINICKI: Yes, okay, the same thing.

3 All right. Well, in any event, Jeff is the Director of the
4 Connecticut Department of Energy and Environmental Protection, and he is
5 the CRCPD Chair-Elect.

6 And you will be presenting on the totality of the CRCPD
7 input for today's meeting. So, please proceed. Thank you.

8 MR. SEMANCIK: Thank you.

9 Good morning. On behalf of the CRCPD, I want to thank
10 the Commissioners for their time and this opportunity to address talks of
11 interest to the members of our nonprofit professional organization whose
12 membership consists of states and local radiation control officials, and
13 others interested in the work of radiation protection in the public interest.

14 Dave Allard, our Past Chair, was unable to be here this
15 time. And as you mentioned, Karen Beckley, who's the Chair of the
16 CRCPD, had planned to attend, but, unfortunately, is sick and sends her
17 regrets at not being able to present in person, but she has asked me to
18 present her material for her. So, I'll start with Karen's.

19 So, Karen's first topic for the presentation is the ongoing
20 assessment of the regulation of Category 3 sources. The U.S. NRC, the
21 Organization of Agreement of States, and the Conference of Radiation
22 Control Program Directors have been assessing the need to include
23 Category 3 radioactive material sources into the National Source Tracking
24 System, License Verification System, and to require increased security,
25 pursuant to 10 CFR Part 37, since 2013.

26 The NRC provided the opportunity to comment on the

1 determination to revise processes governing Category 3 Source Protection
2 and Accountability Draft Risk-Significant Radioactive Material Checklist and
3 Guidance in 2016. In March 2017, both the OAS and the CRCPD issued
4 position letters to the NRC agreeing with Chairman Svinicki and
5 Commissioner Burns that the current regulatory process was adequate to
6 protect public health and safety and was proportionate with the associated
7 risk.

8 Subsequently, the NRC Commission directed the NRC
9 staff to collaborate with the Agreement State partners, non-Agreement
10 States, and regulated entities, for the purpose of conducting a reevaluation
11 of Category 3 source security and responsibility. The NRC worked with
12 stakeholders and conducted an extensive cost-and-benefit analysis, a risk
13 assessment, and impact to stakeholders summary, which supported the
14 position that there is adequate source protection and accountability of
15 Category 3 sources.

16 The GAO is schedule to release a new report sometime
17 this year, again, addressing the issue to increase regulation of Category 3
18 sources. Determination based solely on consideration of socioeconomic
19 consequences without assessment of cost-benefit risk impact to the
20 regulated community and patient care issues may be too limited in scope.
21 And we hope the report takes these other factors into proper account.

22 The OAS and the CRCPD look forward to continued
23 collaboration with the NRC to ensure appropriate decisions are made
24 regarding the regulation of Category 3 material.

25 This is a good segue into Karen's next topic, which was the
26 source collection events in Puerto Rico. Approximately two years ago, the

1 NRC approached the CRCPD Directors with a request to perform a large
2 Source Collection and Threat Reduction Project, known as SCATR, of
3 unwanted sealed sources on the island of Puerto Rico. Although both the
4 offsite recovery program and the CRCPD had previously sponsored the
5 collection of sealed sources on the island, it was to be on a facility-by-facility
6 basis.

7 The Offsite Recovery Program has responsibility for
8 collecting and disposing of greater than Class C and high-activity wastes.
9 The SCATR program, administered by the CRCPD, has responsibility to
10 encourage and incentivize disposal of licensees of commercially-disposable
11 sealed sources.

12 Several major hurdles were identified which created
13 challenges for this effort to be implemented. Communications, availability of
14 a facility for consolidation of the waste until shipped off the island, and a very
15 few registrations in the SCATR database were the primary challenges.

16 About a year ago, the NRC re-initiated the project by
17 proposing to send a notice to its Puerto Rican licensees about the availability
18 of the SCATR program. CRCPD updated its letter and sent it to the NRC
19 for translation. The NRC sent the letter to Puerto Rican licensees and
20 stimulated a significant response in the registration of unwanted sealed
21 sources.

22 The CRCPD asked a broker to investigate what it would
23 need in order to accomplish a cost-effective disposal in which to conduct the
24 collection on the island and transport the sources. In addition, they needed
25 to assess a way to consolidate and hold the collected sources for shipment
26 to the continental United States.

1 The original plan was to conduct one collection. However,
2 as the process was put into place, it was apparent that the broker would
3 have to perform two collections. In January 2019, the broker was
4 successful in collecting over 75 sealed sources. The second collection was
5 in March 2019. With only 50 percent of the data currently available, over 43
6 sources have been collected. The CRCPD appreciates the collaboration
7 between the NRC and the CRCPD to address these sources that were in
8 unsafe situations.

9 That concludes Karen's presentation.

10 Mine. Next slide, please.

11 First, let me just take the opportunity to thank the NRC for
12 recognizing the insights and value of working with state regulators through
13 the CRCPD.

14 Next slide.

15 Cooperative work between the CRCPD and the NRC staff
16 has been successful in addressing issues of common interest. For
17 example, the NRC and CRCPD, working together with the Centers for
18 Medicare and Medicaid Services, clarified the distinction between
19 radiobioassay used for regulatory compliance and clinical use. And this has
20 prevented unnecessary regulatory burden on licensees that would be
21 required for clinical laboratories improvement after CLIA certification.

22 Also, NRC collaboration with the state programs to identify
23 and survey sites formerly using non-military radium, and working efficiently
24 with property owners, states, and the EPA, to ensure that not only was the
25 extent of radium contamination properly characterized, but also effectively
26 remediated. Moreover, the NRC Memorandum of Understanding with the

1 EPA has proven effective in providing property owners with a path to funding
2 and support for removal of legacy contamination.

3 And finally, the NRC continues to play a central role in
4 ensuring the delivery and availability of high-quality training to ensure
5 regulatory oversight is consistently and technically applied to ensure the
6 safe, secure, and environmentally-responsible use of radioactive material.
7 NRC-sponsored training is critical to state radiation control programs. We
8 further appreciate the NRC opening web-based training opportunities to our
9 non-Agreement State personnel to help build knowledge across our
10 regulatory staffs. The CRCPD will continue to assist the NRC with state
11 needs through its Training Committee.

12 Next slide.

13 Next, let me provide CRCPD's perspective on offsite
14 emergency preparedness for decommissioned and next-generation reactors.

15 Next.

16 We recognize that emergency preparedness represents a
17 significant cost and resource burden to Part 50 licensees. With the
18 maturation of emergency preparedness over the last two decades and
19 reduced radiological risk of decommissioned and next-generation reactors,
20 CRCPD supports a graded approach to offsite emergency preparedness.

21 Next, please.

22 We do not, however, endorse the use of EPA protective
23 action guidelines as the sole threshold for determining the need for offsite
24 radiological emergency preparedness. While general all-hazards
25 capabilities have improved, our experience indicates that knowledge,
26 equipment, capabilities, and proficiency of responders to manage

1 radiological consequences are significantly better for states and local
2 organizations that support nuclear power plants than those attempting to
3 manage them based solely on all-hazards or even preventative rad/nuc
4 detection missions.

5 Next, please.

6 More importantly, public confidence in, and acceptance of,
7 nuclear power facilities in their communities is based, in part, on their faith in
8 the preparedness and competency of their local responders. When physics
9 presents us a failure that engineers missed, we must be prepared to
10 respond. Even when systems function as designed, a good zero measured
11 offsite builds public trust.

12 Our experience indicates that licensee support is critical to
13 ensure local responders are quick, trained, and ready. And we believe this
14 should be their obligation. Even with a well-organized national response,
15 local responders must be capable of responding to radiological incidents in
16 the first hours and days until federal assets are mobilized.

17 Next, please.

18 While we recognize the regulatory responsibility of the
19 NRC over commercial nuclear power facilities, our members maintain a very
20 serious interest in matters that could affect the health and safety of the
21 public and that ensure the natural resources of our states are fully protected
22 from any potential contamination via radioisotopes released from nuclear
23 facilities.

24 CRCPD, through its working groups, can facilitate
25 meaningful dialog between state and local radiation control programs and
26 the federal agencies, including the NRC, to develop cost-effective solutions.

1 One example would be the ROSS to support preparedness.

2 Next slide.

3 With that, that's a segue to our Radiological Operations
4 Support Specialist, and I want to provide you a brief update of this important
5 initiative that we have been working on.

6 Next, please.

7 The CRCPD has devoted thousands of significant
8 volunteer hours to help build the Radiological Operations Support Specialist,
9 or ROSS, position. The ROSS is a radiological and nuclear emergency
10 response and recovery subject matter expert, the Incident Commander's
11 Health Physicist.

12 Next, please.

13 Since 2016, over 100 experts have been trained to qualify
14 as a ROSS. To complete their qualifications, ROSSes have to participate in
15 that role in a tabletop or full-scale exercise. We have had many ROSS,
16 including myself, participate in improvised nuclear device and radiological
17 dispersal device exercises, and we recently had a ROSS strike team
18 participate in exercises, Cobalt Magnet 19 and plutonium-238 satellite
19 launch anomaly exercise on the Florida coast. The identification,
20 coordination, and implementation of ROSS in exercises continues to be a
21 top priority for the ROSS Steering Committee and the CRCPD.

22 Next, please.

23 One of the best opportunities we have developed is ROSS
24 participation in nuclear power plant exercises. This started with Southern
25 Exposure in 2015 at the H. B. Robinson Plant in South Carolina, and has
26 continued with exercises at Millstone in Connecticut, Duane Arnold in Iowa,

1 and Pilgrim in Massachusetts. Because these nuclear power plant
2 exercises occur regularly and in many states, they provide us the opportunity
3 to train more ROSS than has been available through other exercises.

4 Next, please.

5 The CRCPD would appreciate the support of the NRC,
6 FEMA, and the states, specifically to recognize the value and write ROSS
7 into their radiological emergency plans and to exercise ROSS in radiological
8 emergency planning exercises everywhere. The ROSSes provide
9 jurisdictions that do not have enough of this expertise at their disposal a
10 force multiplier to improve their readiness.

11 And if there are any questions on ROSS, I would ask you
12 to please forward them to Bill Irwin, who is a Past CRCPD Chair, who
13 represents the CRCPD on the ROSS Steering Committee.

14 Thank you for your time.

15 COMMISSIONER SVINICKI: Thank you very much, Jeff.

16 I would just note, before we begin the Q&A, that I look
17 forward to the opportunity to participate in the CRCPD annual meeting that's
18 coming up in May. And as I think I had mentioned to you and others from
19 CRCPD, when you have a national organization, the states that have lower
20 population density often -- you know, it's difficult to plan your annual meeting
21 there. So, I credit you all with meeting in Alaska. When I lived in Idaho, I
22 know that national groups were disinclined to meet just for the travel. But, if
23 you want to be truly nationally representative, then you need to be willing to
24 take your annual meeting to locations such as Alaska. So, I look forward to
25 the opportunity to participate in May's meeting.

26 MR. SEMANCIK: Thanks for those words, and we look

1 forward to having you.

2 COMMISSIONER SVINICKI: Okay. Thank you very
3 much.

4 Well, we will begin with the mellifluous voice of our
5 colleague from South Carolina who will regale us and propound his
6 questions with the musical tones of the land of us birth, Commissioner
7 Wright.

8 (Laughter.)

9 COMMISSIONER WRIGHT: I'm going to bring the
10 Southern drawl back.

11 (Laughter.)

12 It's good to see you again. And David is in the position
13 that is the most sought-after position of any organization, and that is
14 Immediate Past President or Past Chair.

15 (Laughter.)

16 And Terry, he doesn't appreciate it as Jennifer is getting
17 ready to understand it.

18 So, congratulations on the last year. You did a really
19 good job. I was able to attend your meeting last year, and I'm looking
20 forward to going again this year, this August, in Minneapolis, too.

21 So, first, thanks for the presentations. Last time we sat at
22 the table here, it was three weeks after we became Commissioners and we
23 didn't even know where the secret door was behind us here to get into the
24 room.

25 (Laughter.)

26 I didn't know what OAS stood for. I didn't know CRCPD.

1 I was learning acronyms one after the other.

2 So, here we are almost a year later. I do know what OAS
3 stands for. I do know the work that you do and I appreciate it very much,
4 and I haven't said that.

5 So, Jennifer, the update that you gave, I appreciated it, on
6 the National Materials Program and the OIG audit. A lot of dialog last year,
7 and you had a couple of hours, as it was mentioned. And I'm happy to see
8 that the staff's been working with you to make necessary changes.

9 So, it seems to me that this is, again, a real strong area to
10 include in our transformation initiative here. There are more Agreement
11 States today than there were just even a year ago, and when we first began
12 this thing, there's a lot more.

13 In case of uranium recovery, we transferred nearly all of
14 our remaining licensees to Wyoming when they became an Agreement State
15 last year. So, in light of this shift, were there any really transformational
16 ideas discussed in the Working Group? I guess, for example, what about
17 the states taking a greater earlier role in the regulation or of guidance
18 development, or possibly input as to which budgeting activities are a priority
19 for the states, or maybe even something else, you know?

20 MS. OPILA: Yes, thank you, Commissioner, and we look
21 forward to having you in Minneapolis with us. We were there planning our
22 meeting last week, and we truly experienced Minnesota nice and we're
23 looking forward to going back.

24 (Laughter.)

25 Our meeting after that will be in the lovely State of
26 Pennsylvania, in Philadelphia, and we're not sure that we'll be experiencing

1 as nice of folks there, but we're hoping it's going to be lovely as well.

2 That being said, we are looking forward to being in
3 Minneapolis. And one of the things that we have -- there are two things as
4 far as transformational work that's been happening with the National
5 Materials Program. The first thing is that we did work in the last year with
6 some folks that started a working group to bring Organization of Agreement
7 States earlier into the rulemaking development process. So now, we are
8 going to have input on the Agreement State impact part of rulemaking plans,
9 and we now have a spot on the Common Prioritization of Rulemaking
10 Working Group, which I think is very important. It goes to what you were
11 talking about with bringing the Agreement States into the idea of which rules
12 do need to be worked on.

13 One transformational idea that we're continuing to have
14 discussions with the NRC staff on is whether or not the OAS, if they have a
15 good idea, being that we do regulate the majority of radioactive materials
16 licensees, whether we should have to put in a petition for rulemaking to have
17 change happen or if we could just bring that to the Common Prioritization of
18 Rulemaking Committee and be able to just have that idea be in the
19 discussion without us having to be like a stakeholder that would have to put
20 in a petition for rulemaking.

21 In addition to that, what we will be working on in the next
22 month or so, actually, is, again, Andrea has put together a working group.
23 It's a very short-term working group that's going to look to exactly what
24 you're talking about, the idea of the current framework of the National
25 Materials Program and whether those roles and responsibilities do need to
26 shift. We welcome those discussions, and we think that's very exciting.

1 We do have some concerns about the resources that we'll
2 be able to bring to bear, and I think that's a tension that we all understand.
3 The Agreement States do not have the resources traditionally that the NRC
4 has, but we are committed to enhancing and bringing to the table that
5 resources that we need to be a true partner. And so, I think that those
6 discussions in this short-term working group that we're manning-up right now
7 will continue to have those transformational discussions.

8 COMMISSIONER WRIGHT: So, let me follow up on that
9 right there. You mentioned the desire for the states to be an equal, more of
10 an equal partner in the NMP. And I'm trying to get my head around this a
11 little bit because not every state has the same resources, and some states
12 struggle. We know that. I'm trying to figure out what that looks like and
13 what that really means to the states. Can you shed any -- give me a little bit
14 more flavor?

15 MS. OPILA: Well, I think that we also realize that some
16 states are more passionate or involved or engaged in certain topics than
17 others. And so, our job, as the OAS Board, is to identify where we have
18 those pillars of excellence within the Agreement States. Uranium recovery
19 is a great example. Our partners in Wyoming and Texas and Utah have
20 some great experience there. Low-level waste, obviously, the Agreement
21 States regulate that sector. And so, our job, as the Board, is to identify
22 where those areas of interest and pillars of excellence are in the Agreement
23 States and to encourage those states to get involved where they can.

24 And the other thing that we are looking at as far as
25 resources is trying to identify resource sharing. So, not necessarily always
26 looking to the NRC for training, guidance, opportunities, but being able to

1 develop that within ourselves and share that information with each other.

2 COMMISSIONER WRIGHT: Thank you for that.

3 So, either you or David, because you talked a lot about
4 IMPEP, too. I'm happy to hear about the progress that you are making on
5 improving and everything with the training and the consistency of it.

6 Are there any thoughts on how to further improve it
7 possibly or to get the Agreement States more involved? Because I do
8 remember last year when you were giving out awards, it seemed like they
9 were all coming from the same area, and these guys were working, and gals,
10 were working themselves to death. So, are there any areas or ways that
11 you can get states more involved? Or how the training can be further
12 developed? Does anybody want to tackle that?

13 MR. TURBERVILLE: Well, once again, it comes down to
14 resources and experience. As far as the IMPEP process goes, we do have
15 more -- we have 25 people that have been trained to be in IMPEP, which is
16 the most we've ever had. And that's a good balance, from what we heard
17 from Andrea last week. To further our involvement, it's going to take just
18 basically hard work from the OAS Board to try to reach out to those states
19 that are, as Jen was talking about, the pillars of excellence. But that's a
20 side thing as it applies to Agreement States over my years, is what I've seen.

21 We've seen states that have had a lot of input into the
22 program nationally, and retirements, attrition, or whatever, causes those
23 states to, I'll just say decrease their involvement in the program, and other
24 states have to step up. It's a role that OAS needs to take seriously as we
25 move forward, to try to get that accomplished.

26 Jen, do you want to add to anything?

1 COMMISSIONER WRIGHT: Okay. Thank you very
2 much.

3 COMMISSIONER SVINICKI: Well, thank you all for that.

4 Maybe I'll just make a couple of comments before I begin
5 with my questions. The first is I take note of the OAS position suggesting
6 that perhaps the Agreement State liaison member of the Management
7 Review Board under IMPEP could have a voting role. I would just note that,
8 traditionally, NRC has identified some potential legal obstacles to that. I
9 would note, though, that we do continue to have that under advisement and
10 take a look at that, but I just wanted to mention it in case some folks weren't
11 aware that we had had dialog on it previously. But I think it's something that
12 we keep under evaluation. But I appreciate that you've mentioned once
13 again that that is something of interest.

14 I was reflecting a little bit on the number of these
15 discussions that we've had over the years. And after the economic
16 downturn in the United States in 2008, I think at the federal level we felt that,
17 but we were a little bit buffered from it. The states felt it keenly in terms of
18 state budgeting processes in 2009, 2010. I remember discussions across
19 this table about securing the needed budgets, and then, employee retention
20 and recruitment. Kind of a lingering effect is compensation scales and
21 things like that.

22 Maybe CRCPD for all states or the Agreement States, if
23 you had to characterize today that, since kind of the depths of the impact of
24 that time period on state budgets, in terms of recruiting and retaining the
25 needed personnel to carry out your programs, would you say that it is a
26 consistent level of challenge? Is it improved over the severe impact of that

1 time period? I'd be hard-pressed to be pessimistic enough to say it could
2 be more severe than it was in that time. But is that something -- how would
3 you all characterize that? Jeff, do you want to start?

4 MR. SEMANCIK: Yes, I think my characterization would
5 be it remains a consistent challenge, and perhaps even, as you said, you
6 hate to say it, but it may even be more challenging at this point. We've
7 seen not only a lack of states providing funding and adjusting pay scales, but
8 I think we're starting to see a generation of people who are coming and not
9 staying in state service for a prolonged time. They're coming, gaining the
10 training, gaining some experience, and then, moving out to the private
11 sector, where they can get a better compensation off of that.

12 In the past, we would have thought, if we got a younger
13 demographic in, that we would be set for years, but now we're starting to see
14 them come in for three, four, five years, get some training, get a little bit of
15 understanding of where they want to be, and then, perhaps moving on. And
16 so, it's kind of a continuous cycle with that.

17 COMMISSIONER SVINICKI: Thank you.

18 Would anyone from OAS -- just kind of, is it a "us, too, the
19 same thing" or?

20 MR. TURBERVILLE: Well, personally, I think it's
21 dependent upon states, the individual states. I will just say, in Alabama,
22 which would be totally different from what's in Colorado, we have no health
23 physicist programs in our State. So, therefore, when we do get individuals,
24 we basically have to train them up. It comes down do we get science
25 degrees. If we can get somebody with a science degree, chemistry degree,
26 whatever it might be, we train them up through the NRC-sponsored

1 programs, which, as I say, that's very invaluable. But, as in Colorado, they
2 have a health physicist program, and she's able to hire master's degree
3 program individuals coming off the street.

4 But we don't pay as much as Colorado, but we have a
5 good salary, a good starting salary and benefits. But it goes back to what
6 Jeff what was saying, some of them stick around; some of them don't.

7 And I think that's part of the problem when it comes to
8 volunteerism within the programs themselves. They're not sticking around
9 long enough to have a buy-in to wanting to address national issues, going
10 back to your question earlier. So, that's what I would say.

11 COMMISSIONER SVINICKI: Jennifer?

12 MS. OPILA: So, at our meeting last week, we were joking
13 around the table that nobody goes into health physics; they just fall into it.
14 And we all have those stories.

15 And so, I think what we would really like to focus on is
16 bringing awareness of health physics as a viable career path to students and
17 trying to work that through some of kind of recruitment strategies or career
18 fair-type things. And we're looking to partner across kind of the states with
19 developing some kind of communication framework that we can put in the
20 hands of Agreement States to try to go out to their communities and try to
21 look at Agreement States as being -- I'm sorry -- as health physicists being a
22 good career path, and then, coming to work for a state like Colorado.

23 (Laughter.)

24 COMMISSIONER SVINICKI: All right. Well, you and
25 your master's degree employees, you're just getting greedy now, I think.

26 (Laughter.)

1 I don't know that this is really appropriate to squarely direct
2 at any of you, but, as a part of compiling information for this meeting, the
3 NRC staff always provides our Commission the status of Agreement State
4 regulations. And it's always a bit of a mixed bag state by state. Some
5 states have developed a bit of a number, a large number of overdue
6 amendments. I'm not saying that's necessarily any of the states
7 represented at the table. I know that there are state-by-state challenges
8 and reasons. Some states have part-year legislatures that only meet
9 infrequently, and some of these things require legislative action by the
10 states.

11 But I have to ask this question. Are there any
12 transformative ideas that anyone's aware of that could help? Because, see,
13 I don't have an actual year-by-year, but in some cases it does appear that
14 the states' backlogs are growing. And I know that it is factors outside of the
15 control of the individual state programs. But do you talk as a community at
16 all about this or lessons learned or ways to maybe get these issues in front
17 of legislatures?

18 MS. OPILA: So, I've been thinking a lot about this.
19 Actually, the conversations that I've been having have been with our CRCPD
20 partners. So, they do have or take on the responsibility, I guess it should be
21 said, for doing the suggested state regulations. And they're challenged with
22 getting enough partners in their membership to be on those groups, and
23 they're also challenged with keeping up with the amount of amendments that
24 are coming out of NRC. And so, we've been having discussions with
25 CRCPD, and we'll continue to have those discussions about whether
26 suggested state regulations for NRC regulations that are of a high

1 compatibility are really necessary to develop.

2 And the reason why that focuses-in on your question is
3 that some states maybe would be waiting for a suggested state regulation to
4 come on a particular change, and if it's delayed, then they're delaying their
5 rulemaking. So, I think that's one transformative idea that we're going to be
6 having, you know, discussion we're going to be having with the CRCPD.

7 And then, just going back to my experiences we're making
8 in Colorado, when we look at our rules, we look at the rule part in whole
9 when we go to make a change. And then, we will incorporate all of the
10 amendments that we need to make for the NRC, plus anything else that our
11 stakeholders have brought to us.

12 I don't know if the NRC could take that kind of an
13 approach, but it does seem like, you know, the way that the NRC does
14 rulemaking, it's on issue by issue, but it ends up creating amendments that
15 could be across many of what are our state parts. And so, then, we're
16 having to do rulemaking on a number of parts to address one issue, instead
17 of maybe being able to do amendments by specific parts of the regulations
18 instead of issue-specific. It's an idea that just came to me as you were
19 asking the question. I don't know how feasible it is.

20 COMMISSIONER SVINICKI: Well, and the idea that, the
21 thought that came to me as I was listening to your responses, though, sadly,
22 I think that we have tried to take things up issue by issue, with the thought
23 that we could do them a little more quickly, and that hasn't necessarily been
24 the experience. So, of course, the theory being that, if you tried to collect
25 changes, and then, do an update to a part or a provision of the regulations,
26 that it would take longer. But I'm not sure in some instances it could take

1 much longer than it's taking even to do the issue by issue. But I know it's
2 something that we continually reexamine. So, I'm not surprised to hear that
3 you all are looking for ways that you could maybe build in some efficiencies
4 to that.

5 Jeff, had you wanted to say anything on behalf of CRCPD
6 or did Jennifer cover it?

7 MR. SEMANCIK: I think Jennifer covered it. The one
8 item was the high-compatibility regs and what's our need to massage them
9 additionally is a topic that we are addressing with that.

10 COMMISSIONER SVINICKI: Okay. Thank you.

11 And then, before I close, I don't really have a question to
12 ask, but I just want to acknowledge that I continue to be aware, for both OAS
13 and for CRCPD, that the financial assurance dialog that we have been
14 having as federal and state partners for some years is an important one.
15 And it relates a bit to maybe emergency planning for advanced reactors,
16 which is the great joy of our work, is striking this balance between the
17 needed and appropriate level of regulatory control or financial assurance in
18 that case, or maybe advanced planning, but, then, also having a
19 risk-informed approach to things and making sure that whatever it is that we
20 require is rooted in a strong justification and foundation.

21 Jeff, you mentioned cost-benefit on the source security
22 issue. And so, our objectives are not to eliminate the use of certain
23 materials out for productive purposes, but to have a regulatory framework
24 that provides the necessary levels of public health and safety and security
25 protection while striking that balance. Striking a balance is always
26 something that requires a lot of dialog, judgment, input. And it's likely, even

1 if you think you've done it right, you'll have as many critics as supporters who
2 will have some other balance that they would have struck.

3 But I do appreciate that I know your organizations continue
4 to raise these issues. And if I'm quiet about it, it's not because it's not
5 important or it's not on my mind, but it's just it's a complicated topic.

6 So, thank you for your presentations again today, and I
7 know we'll continue to push to find the right answers on those questions.

8 And with that, I will turn it over to Commissioner Baran.

9 COMMISSIONER BARAN: Great. Well, thank you. It's
10 wonderful to have you all here. Good to see you.

11 And I thought maybe I'd start where the Chairman left off,
12 which is, Jeff, you spent some time discussing CRCPD's views on offsite
13 emergency preparedness. I think it's a timely discussion because it relates
14 to several matters currently before the agency or that come before the
15 agency pretty routinely: the decommissioning rulemaking, the small
16 modular reactor emergency preparedness rulemaking, the Clinch River SMR
17 early site permit series of decommissioning reactor exemption requests. A
18 lot of these relate in some way to these kinds of offsite emergency
19 preparedness questions.

20 Rather than getting into the details of any of these
21 particular matters, though, I'm interested in hearing the panel's thoughts on
22 some bigger-picture questions related to emergency preparedness. And
23 maybe it makes sense to give Jeff the first crack at these, since he
24 presented on it, but please chime-in if you have thoughts, others on the
25 panel.

26 As a general matter -- and this gets to kind of a point that

1 the Chairman was making -- how much do you think risk should drive
2 decision about emergency planning zone sizes and when offsite emergency
3 planning is necessary? And how much should defense-in-depth and public
4 confidence factor into those decisions?

5 MR. SEMANCIK: Yes, thanks. I think, as I try to convey
6 in my remarks, I think public confidence plays a tremendous role, and should
7 play a tremendous role. There is an expectation of our citizens that we are
8 there, we are able to monitor, and we are able to independently, from a
9 defense-in-depth, you could put it, view what's going on at the site. And it
10 really doesn't matter, anything that goes on today at a nuclear facility is
11 going to garner that attention and kind of require that amount of work.

12 We see this with, you know, a good example might be the
13 Naval Nuclear Propulsion Program. In Connecticut, we have an interesting
14 condition where we have both a naval base that's inside an EPZ, which I
15 think is the only place in the country that it happens. But, even though their
16 risk profile would show that there's very little possibility of offsite, there is still
17 a very active outreach from the Naval Nuclear Propulsion Program to the
18 local communities of education, support, and ability to do that, and make
19 sure we understand.

20 I worry risk sometimes is only for those things that we
21 know and put in our cut sets. And we drive the cut sets and we pick a
22 number. We assume things and we drive it out that way. And there are
23 cases where we just didn't see it and didn't even have that fault tree in our
24 minds.

25 And that's where the defense-in-depth plays a key role,
26 when you look at those things that have a consequence that we really can't

1 tolerate. The example would be the outwash. Well, right, you can't tolerate
2 not having a rods insert. So, we're going to have a defense-in-depth
3 because who know how they may not happen? The same with the SBO
4 rule. There were some things that helped with that.

5 But, again, my experience has been in various cases
6 where there have been, I would say sometimes in other power plants,
7 sometimes in other facilities, very, very low levels, very low-risk things,
8 there's still an expectation that we're out measuring, that we're able to
9 communicate what's going on. And it also allows the public to take that.

10 And that's among responders as well. My experience is
11 personally that many first responders, tech hazards people, are not
12 comfortable with radiation. There's an over-response if we're not able to be
13 out there and kind of calm things down.

14 COMMISSIONER BARAN: In the context of a
15 decommissioning reactor, how long do you think we should require offsite
16 emergency planning? What should be the trigger for either scaling back or
17 dropping that requirement?

18 MR. SEMANCIK: Well, again, we do support a graded
19 approach. We recognize we don't need the full requirements that the REP
20 may have on an operating light-water reactor. But, certainly, I think the
21 expectation is there's an emergency planning element as long as the fuel is
22 there. I mean, that's kind of the public perception and what our public
23 demands of us, is that we're capable of responding and measuring and
24 demonstrating with good measurements that nothing's going on, will happen.
25 So, our position would be as long as the material is there.

26 COMMISSIONER BARAN: And do you see movement to

1 dry cask storage as a significant milestone that should affect the level of
2 emergency preparedness requirement?

3 MR. SEMANCIK: I think, from our point of view, I mean, it
4 certainly makes it more passive and a little able to explain. But, even in
5 Connecticut Yankee, this is the only facility, and there's still an active
6 outreach with the emergency planning community. We actively drill with
7 them and people still kind of expect that to occur. We do get questions on
8 it.

9 COMMISSIONER BARAN: You mentioned, I think, in
10 your presentation briefly the EPA Protective Action Guides. NRC has had a
11 practice of taking the EPA PAG dose level for evacuation and using that as
12 the regulatory threshold for determining whether offsite emergency planning
13 is necessary. Do you have thoughts about that use?

14 MR. SEMANCIK: Yes. Again, I would reiterate what I
15 put in there. We think kind of that myopic view of only that criteria doesn't
16 recognize, again, the public confidence issue. But it also doesn't recognize
17 the possibility that something else might be out there. And if you're not out
18 checking and measuring and verifying, you may think your analysis supports
19 no Protective Action Guideline, but, in reality, there could be conditions that
20 would cause it.

21 The other thing I would indicate is the Protective Action
22 Guideline Manual does have certain thresholds where protective action is
23 required, but it also does have guidelines for those areas that are below the
24 PAGs and still require simple decontamination techniques and other items in
25 there. So, the PAG Manual thresholds for early evacuation is just one
26 element of that entire guideline. So, whether it's ingestion pathway,

1 relocation criteria, those are at much lower levels and even below their
2 threshold levels, the guideline levels. The EPA PAG Manual will tell you
3 that there are these other actions that should be taken in those areas,
4 anywhere where there's elevated readings.

5 COMMISSIONER BARAN: As you mentioned, when NRC
6 doesn't require offsite radiological emergency planning, there's still general
7 hazards planning. From your point of view, how does the all-hazards
8 planning compare to the offsite radiological emergency planning? What do
9 you get with the dedicated offsite emergency planning that you don't get with
10 all-hazards?

11 MR. SEMANCIK: I've had the ability to run a couple of
12 radiological exercises in areas without an REP, both in the state and, then,
13 exercises outside the state. And while the all-hazards approach probably is
14 adequate for things that are common, how to evacuate people and how to
15 determine shelter setup, and things like that, the specific nature of the
16 radiological event is what drives it differently.

17 And I can speak from my experience, that I go to
18 communities, even if maybe they got a grant sometime and bought some
19 equipment, if you try to drag it out in a drill or an exercise, it doesn't work; the
20 batteries aren't there. They can't read it. If they could read it, they don't
21 know how to use it. There's just not that level that's available and proficient
22 in those communities. And almost all the training staff receive on
23 emergency preparedness comes, for radiological events, comes out of the
24 REP for most things. And you see a dramatic difference between states
25 with and without REP in their ability to measure, mobilize teams, and get
26 that.

1 While we know that federal resources mobilize, even the
2 most immediate resources is 12 to 24 hours away, not in that time. The
3 local tech hazards guys don't routinely respond to radiological events, and
4 therefore, their skill and proficiency is not the same as it is with other
5 chemical hazards, where they're kind of proficient because there are a
6 number of events that occur. So, the limited scope that we're dealing with
7 makes that a challenge.

8 COMMISSIONER BARAN: Any other thoughts from
9 panelists on any of those questions or the topic in general?

10 MS. OPILA: I'm just happy we have Jeff here to answer
11 your questions.

12 (Laughter.)

13 COMMISSIONER BARAN: Well, thank you very much.
14 That's all I had. Thanks.

15 COMMISSIONER SVINICKI: Thank you.

16 Commissioner Burns, from the South as well, please
17 proceed.

18 COMMISSIONER BURNS: Yes, yes. I'm actually from
19 Queens now, South Bronx. But that is the southern part of New York.

20 (Laughter.)

21 Anyway, well, thanks for all. It's nice to see you all again.

22 I was able to participate in the OAS meeting last August
23 with Commissioner Wright, which actually happened to be my first trip to
24 Alabama. So, I checked another state off the list. I've still got a few more
25 to go. I'm sorry, I won't get to the Alaska one. The Alaska one, that's one
26 of them as well.

1 In any event, again, I do appreciate the presentations and
2 the insights.

3 I know one of the things at the conference last year -- this
4 is relatively soon, I think, after the Inspector General report came out -- so, I
5 remember we heard a lot of the discussion on the next steps. So, I was
6 interested and grateful that Jennifer served next.

7 And one of the things I think some of you had said, one of
8 the challenges, which is on really both sides of the table, is the question on
9 resources. The individual state programs have resource challenges.
10 Sometimes that's budgetary. Sometimes it's personnel and getting people
11 to get into the programs or be interested in terms of that employment, and
12 then, the retention has become more of an issue.

13 But I think, on our side, one thing which I think you do, and
14 I would just encourage you to continue to do, is that, while the NRC at this
15 point has the lower percentage of the total number of licensees in the
16 Agreement States than the Agreement States do, the importance, because
17 of the role, you know, the compatibility role that the NRC has, but also some
18 roles in terms of the training, almost a coordination, helping the coordination,
19 even though perhaps licensee count may be down, there is still an important
20 aspect to what we do that requires a core budget and core resources. So
21 that, basically, we can work well together and help you, and you help us in
22 terms of providing the insights into the program and providing the overall not
23 only context, but the strength of the program overall.

24 I think all I'm saying is that I appreciate what you all say,
25 particularly training. We know in the training, that's one we've raised every
26 year. We've looked at and you think about modernizing or transforming

1 training. We've looked at that in terms of, and worked at that doing more
2 remote-type training, where it's appropriate, in-person, if you will, however
3 we call it, training, where that's appropriate. So, that's an area where, yes,
4 we've looked at the resource savings or efficiencies, but, again, I think it
5 remains core. So, I just want to make that observation on that issue.

6 One question I had related to, again, given the importance,
7 I think, the Agreement States have in leading the direction and priorities on
8 the National Materials Program, we talked a little bit of things in terms of
9 IMPEP or looking at the document. I haven't seen it. I haven't looked at it
10 as yet, but the document you talked about, the framework going forward.
11 Are there particular impediments or perhaps we really ought to look at this
12 issue or a particular issue that would help smooth a way for perhaps a better
13 coordination and better program? You kind of mentioned, I think, a few
14 things, but I'd just be interested in hearing that.

15 MS. OPILA: I keep looking at David, and for the all the
16 members that are watching, David keeps giving me all the jobs over here.

17 (Laughter.)

18 So, your question is if there's a certain one or things that
19 we could do, I think --

20 COMMISSIONER BURNS: Yes.

21 MS. OPILA: -- that would increase coordination. I'm not
22 sure I could pinpoint a certain one or two.

23 COMMISSIONER BURNS: Okay.

24 MS. OPILA: I think we have mentioned on IMPEP we
25 need to make sure that we are providing a number of Agreement State
26 members to the IMPEP teams. On the IMPEP teams, one of the things that

1 we've seen improved is the number of Agreement State participants on each
2 IMPEP team. So, instead of it when I started years ago, it would be one
3 Agreement State, and then, the rest of the team would be NRC. And now,
4 we're seeing almost half or more of the IMPEP team members be from
5 Agreement States. So, I think that's really important.

6 We talked extensively about the MRB and the OAS
7 liaison's participation in the MRB. I think that that's something that's really
8 important to us. We are continuing to talk to the NRC staff and
9 attorney -- this comes back to your attorney issue, Chairman, about whether
10 there's an appeal process for the Agreement States if they don't feel like they
11 got a fair shake at the MRB. Again, that is not the norm. We feel like most
12 of the MRBs, the MRB members are very thoughtful and they take into
13 consideration our issues. But maybe we need to look at some kind of a
14 mechanism for that.

15 And getting back to your discussion on resources, I think
16 that you're right, that having the Commission continue to fund the Agreement
17 State Program within the NRC is critical and vital. You guys do things that
18 there's no way that we could do. The training is a great example. We
19 couldn't develop the online training that you guys have done, the changes
20 you've made there in the time or with the excellence that they have. So, I
21 think that's very important.

22 I think the SA-10, National Materials Procedure, National
23 Program procedures will really start us on that path of determining where are
24 those pinch points.

25 COMMISSIONER BURNS: Okay. Good. Thanks for
26 that, Jennifer.

1 Jeff, I have a couple of issues I want to ask you about. In
2 terms of the ROSS -- and I'm using the acronym because I can't remember
3 what it stands for -- make sure I understand this, though. One of the
4 objectives of it, it sounds like, is to have people that might be available and
5 could go anywhere in the country, if you had an event that required that type
6 of assistance. Am I getting that right?

7 MR. SEMANCIK: Yes, it's somebody that can deploy kind
8 of as a tech advisor to local incident management, that's correct. And
9 they're usually local people trained in that role, but, also, we have some
10 federal retirees and some federal members that have also been trained in
11 that role --

12 COMMISSIONER BURNS: Okay.

13 MR. SEMANCIK: -- and kind of work for us in the states
14 or in a locality, an incident command post, anything like that.

15 COMMISSIONER BURNS: Okay. So, yes, I think what
16 you describe is you might have, within any particular state you might have
17 some available. But, if there was a real need because of the nature of
18 some event or something like that --

19 MR. SEMANCIK: Yes. For instance, Connecticut, my
20 entire staff, including me, is 12 people.

21 COMMISSIONER BURNS: Yes, yes.

22 MR. SEMANCIK: And that's for everything. So, pretty
23 quickly, in an event, if an incident command post or a local community wants
24 to have somebody to answer some questions, we might reach out and
25 deploy a ROSS to that location.

26 COMMISSIONER BURNS: Yes. Okay. A different

1 subject entirely. I think I noted that the CRCPD is providing some
2 assistance into the IAEA for some types of programs. I'd be interested to
3 hear that, given my background.

4 MR. SEMANCIK: Yes, right now, we have a cooperative
5 agreement with the IAEA working on naturally-occurring radioactive material
6 and its treatment and all. We're working on, coming up in September, in
7 Jennifer's State, we have NORM 9, the conference that we'll be hosting,
8 co-hosting with the IAEA to kind of improve the regulatory framework around
9 naturally-occurring radioactive material and assessment of that. So, that's
10 the big issue, the big initiative that we have with them.

11 But we do work cooperatively with them in a number of
12 other areas as well, in some of this emergency response where we continue
13 to work with them as well.

14 COMMISSIONER BURNS: Oh, good. Good. Well,
15 thanks for that.

16 Probably the questions that I have -- I just want to express
17 my appreciation. This is probably the last time I will have a meeting with the
18 OAS since I'm headed out the door after about, well, 40 years total in the
19 business, when my term comes to an end. But I do appreciate the work
20 you've done. I think I appreciate the cooperation and collegiality you've
21 expressed.

22 Across the course of my career, I've always thought
23 materials licensees are far more interesting than reactor licensees.

24 (Laughter.)

25 And I will say, actually, my sort of parting shot at the RIC
26 last week, I actually showed a picture of me lying in a cemetery in Billings,

1 Montana, because I was out there for a hearing. And the interesting thing
2 was, what we were doing was enforcing not compatibility, but the
3 cross-border rules in Part 150. Some well owner in Montana decided he
4 could go store his stuff in North Dakota, and that wasn't allowed under the
5 license. So, I'm out there advocating for you as well from an early day.

6 Thanks very much.

7 MS. OPILA: Thank you, Commissioner. We have loved
8 working with you. Thank you very much.

9 COMMISSIONER SVINICKI: Well, thank you. And I
10 would note that you were not interred in the cemetery.

11 (Laughter.)

12 COMMISSIONER BURNS: No, no, no, no.

13 COMMISSIONER SVINICKI: You were simply visiting the
14 cemetery --

15 COMMISSIONER BURNS: No, no, I was a tourist.

16 COMMISSIONER SVINICKI: -- just the reviving of Steve
17 Burns.

18 COMMISSIONER BURNS: Yes.

19 COMMISSIONER SVINICKI: Okay. All right. Thank
20 you very much.

21 Commissioner Caputo?

22 COMMISSIONER CAPUTO: Good morning. I'm just
23 eager to go home and encourage my children to consider a career in health
24 physics.

25 (Laughter.)

26 And possibly pursue a job in Colorado. It sounds

1 fabulous.

2 (Laughter.)

3 So, Mr. Semancik, I guess I have a couple of questions for
4 you. You indicated that licensees should provide support for offsite
5 preparedness as part of their obligation to local communities. I thought that
6 they did. Can you just give me a little more detail on that?

7 MR. SEMANCIK: No, they do right now.

8 COMMISSIONER CAPUTO: Okay.

9 MR. SEMANCIK: That is true. My point was they need
10 to continue to provide some of that resource and support to those
11 communities. Despite whether there's an EPZ that requires evacuation or
12 not, there still should be some obligation going forward to make sure that
13 offsite response organizations are capable of responding to radiological
14 events.

15 COMMISSIONER CAPUTO: Okay. And does
16 Connecticut Yankee still support your efforts?

17 MR. SEMANCIK: Connecticut Yankee does provide some
18 funding, per State statute, still.

19 COMMISSIONER CAPUTO: So, is this in other states?
20 Is this not uniform?

21 MR. SEMANCIK: It's not uniform for -- ISFSI only
22 facilities, and just I think my main point was just to make sure that needs to
23 continue. I didn't want that to whittle away in any rulemaking because our
24 calculations show that you can't get to an EPA PAG, that we don't care if the
25 offsite organizations couldn't make an independent measurement of
26 radiation, for instance.

1 COMMISSIONER CAPUTO: Okay. And to follow on
2 Commissioner Burns' questions about the ROSS program, to qualify as a
3 ROSS requires exercise participation? How do you go about integrating
4 those ROSS program folks into exercises to get them that experience?

5 MR. SEMANCIK: Yes, so there's a ROSS Steering
6 Committee that looks across the national exercises and takes input on state
7 exercises that may go. I've kind of worked it both ways. I've had ROSS
8 come in and support my organization, and I've gone out in other
9 organizations to support.

10 In some cases, in our State, we have built into our
11 radiological response procedures, we have some consideration of deploying
12 ROSS to other locations. So, we might bring a ROSS in for a community
13 reception center, and that ROSS becomes a technical expert that deploys
14 over to the leader of that CRC and can answer the questions that people
15 have, that come up about how to screen material, people and material, and
16 things like that.

17 In national-level exercises, we typically have put them right
18 into the planning process. We have support from NNSA. They are one of
19 the members of the ROSS Steering Committee, and they've been active in
20 including ROSS into those exercises. We go out and recruit through our
21 classes of people who have participated who are able and willing to support
22 those classes.

23 For the federal exercises, they're typically funded by the
24 federal exercise. Like for my State exercises, I fund the ROSS to come
25 from other states to support our program.

26 COMMISSIONER CAPUTO: Thank you.

1 And Mr. Semancik mentioned, in talking about source
2 security, that there are other factors beyond socioeconomic consequences
3 that should be considered. And I note the Chairman had several remarks
4 about balance and how important it is to have a wide range of views in trying
5 to achieve balance, which I think is a challenge when it comes to source
6 security.

7 Could I just ask the three of you to go ahead and maybe
8 add some more context and your views on the factors that you think should
9 be balanced when considering source security?

10 MS. OPILA: Okay. So, source security, you know, when
11 we were looking, you know, reflecting on the idea of socioeconomic factors
12 and the panic factor from a dirty bomb being considered in your risk analysis
13 for source security, what came to us is that, if you're solely going to look at
14 people's reaction to some kind of a dirty bomb as an indicator of a factor,
15 you would have to secure all levels of radioactive material, right? Because
16 that fear, that concern, regarding just a small amount of radioactive material,
17 and if used in some kind of a terrorist type of event, that would cause a
18 significant amount of panic.

19 COMMISSIONER CAPUTO: Right. The fear is not
20 proportional.

21 MS. OPILA: Right. Thank you. Thank you. You said it
22 much more eloquently than me. Thank you.

23 So, we have a lot of concern about that being used. We
24 really feel like the work that the NRC did on the reevaluation, the NRC staff
25 did on the reevaluation of security for Cat 3 sources, particularly their risk
26 analysis and their cost-benefit analysis, it was very good work and a good

1 balance of the risks that we are looking at plus the cost-benefit analysis of
2 trying to increase tracking of Category 3 sources. It was really well done in
3 that evaluation. And it showed that the cost to the Agreement States and to
4 the licensees, and even to the NRC, of expanding those tracking measures
5 to Cat 3 sources, you know, that would be extensive. And I think that it
6 does not give the benefit that that would indicate that that's something that
7 we need to go forward with.

8 So, I think we need to really look at trying to be balanced
9 and measured about this. But we really feel that the requirements that
10 we've done, the security requirements that we've done on Category 1 and 2
11 have worked, and they are appropriate. And we are not in support of
12 expanding outside of that.

13 COMMISSIONER CAPUTO: Mr. Derstine or Mr.
14 Turberville?

15 MR. TURBERVILLE: Well, I think Jen said it eloquently.
16 She was involved in a lot of this on the front end. As she said, it's a
17 cost-benefit that would be -- I really don't have anything else to add, to tell
18 you the truth, because she said it eloquently. She was kind of holding me
19 up to that. She was looking, giving me -- no matter, I'll just stop right there.

20 (Laughter.)

21 MR. DERSTINE: Well, I'll just say that I feel like I'm in the
22 middle of -- I'm watching a tennis match here because I'm between these
23 two, and I'm just going back and forth.

24 (Laughter.)

25 But, no, she summed it up. It would be a lot of state
26 resources to extend that to Category 3, and that would be very difficult. So,

1 I think it's pretty unanimous, that we're all in agreement there.

2 COMMISSIONER CAPUTO: So, one of the issues that
3 you talked about extensively, though, is two licensees not properly
4 maintaining control. Is there a nexus, then, between security of some of
5 these sources and financial qualification? Does financial qualification give a
6 licensee more skin in the game to ensure they're continued maintenance of
7 the sources?

8 MR. DERSTINE: I mean, yes, I think that would have to
9 come into play. They have to be able to show that they're capable of
10 maintaining security, and the financial obligation is probably the primary way
11 of doing that.

12 We can hold them to all the other things via the license
13 and Part 37 security stuff, but that was kind of the whole point, was, yes,
14 they have to show that they're financially able to continue security.

15 COMMISSIONER CAPUTO: Okay. All right. Well, the
16 problem with being the last person to ask questions is most of the questions
17 already got asked, and I'm the only thing that stands between everyone and
18 lunch.

19 So, with that, that's it for my questions.

20 COMMISSIONER SVINICKI: All right. Well, thank you
21 very much. Again, I appreciate our continued dialog on all of these
22 important topics.

23 I would note that there's one other thing that stands
24 between us and lunch, which I think we have all agreed. Hopefully, you're
25 aware that we're going to take a quick group photo after we conclude the
26 meeting.

1 But, again, thank you all for your presentations.

2 And we are adjourned.

3 (Whereupon, at 11:34 a.m., the meeting was adjourned.)