

# OFFICIAL TRANSCRIPT OF PROCEEDINGS

## NUCLEAR REGULATORY COMMISSION

Title: National Materials Program  
Stakeholders' Meeting

Docket Number: (not applicable)

Location: Rockville, Maryland

Date: Wednesday, March 31, 2004

Work Order No.: NRC-1397

Pages 1-254

NEAL R. GROSS AND CO., INC.  
COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVENUE, N.W.  
WASHINGTON, D.C. 20005  
(202) 234-4433

1 UNITED STATES OF AMERICA

2 NUCLEAR REGULATORY COMMISSION

3 + + + + +

4 NATIONAL MATERIALS PROGRAM STAKEHOLDERS' MEETING

5 + + + + +

6 WEDNESDAY,

7 MARCH 31, 2004

8 + + + + +

9 ROCKVILLE, MARYLAND

10 + + + + +

11 The Stakeholders met at the Nuclear Regulatory  
12 Commission, Two White Flint North, Room T2B3, 11545  
13 Rockville Pike, at 8:20 a.m., Lance Rakovan,  
14 Facilitator, presiding.

15 ROUND TABLE PARTICIPANTS:

16 RALPH L. ANDERSON, Health Physics Society

17 CINDY CARDWELL, Texas Department of Health, Conference  
18 of Radiation Control Program Directors

19 DIANE D'ARRIGO, Nuclear Information and Resource  
20 Service

21 R.D. "DONNY" DICHARRY, Source Production & Equipment  
22 Co., Inc., NDTMA/ASNT

23 LYNNE FAIROBENT, American College of Radiology

24 MARGARET FEDERLINE, NRC Office of Nuclear Material &  
25 Safeguards

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

1 STAN FITCH, New Mexico Environment Department,  
2 Organization of Agreement States

3 PAUL GENOA, Nuclear Energy Institute

4 JUDITH JOHNSRUD, Sierra Club (Waste Committee)

5 PAUL LOHAUS, NRC Office of State and Tribal Programs

6 GEORGE PANGBURN, NRC Region I

7 CARL PAPERIELLO, NRC Office of the Executive Director  
8 of Operations

9 KATE ROUGHAN, AEA Technology QSA, Inc.

10 LEONARD SMITH, Perkins Elmer Life Science/CORAR

11 SHAWN SMITH, NRC Office of State and Tribal Programs

12 KATIE SWEENEY, National Mining Association

13 JARED THOMPSON, Arkansas Department of Health

14 KEN WAGNER, North Dakota Department of Health

15  
16 OTHER ATTENDEES:

17 JAN ENDAHL

18 ROBERT GALLAGHAR

19 MARCIA HOWARD

20 KEVIN HSUEH

21 MICHAEL MARKLEY

22 RUTH MCBURNEY

23 JIM MYERS

24 THOMAS YOUNG

25

1	C-O-N-T-E-N-T-S	
2	<u>AGENDA ITEM</u>	<u>PAGE</u>
3	Welcome	
4	Carl Paperiello, NRC	4
5	Objectives, Format, Groundrules,	
6	Participants Introduction, Agenda Overview	
7	Lance Rakovan, NRC	11
8	Genesis and Background on the National	
9	Materials Program	
10	Paul Lohaus, NRC	16
11	Status of National Materials Program Pilot Projects	
12	-Overall Pilot Project Activities	
13	Shawn Smith, NRC	30
14	-Progress of Pilot Projects	
15	Pilot 1: Establishment of Priorities	
16	Ruth McBurney, TX	34
17	Shawn Smith, NRC	42
18	BREAK	67
19	Status of National Materials Program Pilot	
20	Projects (Cont.)	
21	-Progress of Pilot Projects (Cont.)	
22	Pilot 2: National Industrial Radiographer	
23	Certification Program	
24	Jan Endahl, TX	67
25		

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

## C-O-N-T-E-N-T-S

	<u>AGENDA ITEM</u>	<u>PAGE</u>
1		
2		
3	Pilot 3: Operating Experience Evaluation	
4	Marcia Howard, OH	
5	Michael Markley, NRC	78
6	Pilot 4: State Guidance Development	
7	Robert Gallagher, MA	106
8	Pilot 5: Revised Inspection Manual Chapter 2800,	
9	Materials Inspection Program	
10	Thomas Young, NRC	121
11	-Questions and Discussion	133
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

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

8:21 a.m.

FACILITATOR RAKOVAN: Good morning. If everyone could take their seats, we're going to get underway in a few minutes. Thank you. To kick things off this morning, we're going to have Carl Paperiello, Deputy EDO, come up and say a few words. Carl, if you would.

MR. PAPERIELLO: Good morning. I would like to welcome everyone to this workshop to discuss the National Materials Program. I think this is a workshop. Is that what you are billing it as? Okay. We have meetings and workshops. What is the National Materials Program? It's a term or word that was developed to define the broad framework in which the NRC and the Agreement States function in carrying out their roles in regulating radioactive material.

Although the term appears to be new, the program is not. It began with Section 274 of the Atomic Energy Act. I have said all along we will always have a National Materials Program because it's what we do in the United States. The question is, what are the roles or the players or the various parties? What has changed and evolved over the years is what I will call the existential situation.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

1 Over 40 years ago, the AEC had most of the  
2 licensees. Man-made radioactive isotopes were rare at  
3 least in the sense of being out in commerce. The  
4 industry, technical, and educational infrastructures  
5 to support the use of commercial isotopes was just  
6 beginning. In fact, I'm old enough to remember in the  
7 fifties - that really makes me old - that one who  
8 wanted to show some kid being really smart was reading  
9 a book that said "Nuclear Theory" which of course is  
10 funny because "Nuclear Theory" never gave right  
11 answers in the sixties when I was in graduate school  
12 and from the latest readings I have done on the web,  
13 it doesn't give right answers now anyway even though  
14 it's tremendously complicated primarily because we  
15 don't know the nuclear force.

16 Today, Agreement States have most of the  
17 material licensees. Man-made radio isotopes are  
18 widely used. In many areas, there's an extensive  
19 support system for commercial activities including  
20 professional societies, professional certification,  
21 and consensus standards, things that we did not have  
22 40 years ago. But this all gives us new challenges.

23 In the past, since the federal government  
24 was the dominant user and regulator of radioactive  
25 material, it provided as a service and frequently a

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 free service things like training, equipment, and  
2 procedures that the states could make use of. My  
3 Ph.D. was paid for by a combination of NASA and the  
4 Atomic Energy Commission.

5 Those programs don't exist anymore. In  
6 fact, my field is dead. In fact, I was told by a  
7 retired nuclear physicist from the University of  
8 Columbia on Sunday - we were having dinner together -  
9 who still had a few graduate students finishing up  
10 that he had to send his students to a radio chemistry  
11 course because low energy nuclear physics, which was  
12 my field, is no longer taught. So there's things like  
13 that that don't exist.

14 And the government provided a lot of  
15 stuff. With the change in the environment and what  
16 we're in, we have to make changes. As a complication,  
17 many aspects of radiation protection have grown far  
18 more complicated. When I got involved in health  
19 physics in 1970, I taught myself health physics. I  
20 never took a course before I got certified. I did it  
21 out of the NCRP and ICRP standards.

22 I can derive all of the ICRP-2 maximum  
23 permissible concentrations using that book and a slide  
24 rule. Today, you need computers and you have to get  
25 your hands on computer codes. I cannot personally

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701



1       derive ICRP-66, ICRP-67 dose conversion coefficients.  
2       And the standards have come down.

3               So therefore, what we used to do 30 years  
4       ago, which was bounding calculations which you could  
5       do with a slide rule and paper, you can't do it  
6       anymore. You have to use computer models to show  
7       compliance because you are dealing with much lower  
8       levels. Instrumentation has grown more complicated.  
9       Our job and part of this meeting is how to structure  
10      the regulatory program in the U.S. within the  
11      framework of existing legislation so that both the NRC  
12      and the states can most efficiently and effectively  
13      meet their responsibilities.

14             Now, I'm going to add something because I  
15      think it's important and relevant. Last week, I was  
16      at the RASC meeting which is the Radiation Advisory  
17      Standard Committee for IAEA. I'm the U.S.  
18      representative on there. ICRP made a presentation.  
19      The fact of the matter is, before the end of the  
20      decade, we are likely to iterate radiation protection  
21      standards again in the United States.

22             A couple of things are going on. The EPA  
23      is reexamining a public dose limit. It still  
24      officially sits at 500 millirem per year. We've been  
25      kicking things around with them, even going out to the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 people and asking them, what should we do or how  
2 should we change it? Part of the issue is, should  
3 there be the NRC as a limit of 100? Should the EPA  
4 set a national limit of 100?

5 Of course, as we all know, the EPA has the  
6 risk standard. The risk standard is down in the order  
7 of a few tens of millirems. The problem is, as you  
8 lower the standard, problems or issues that could fit  
9 quite nicely under a 500 millirem umbrella become a  
10 real problem. For example, TE-NORM. You have a lot  
11 of stress and strain with TE-NORM at 100 millirem per  
12 year let alone if you want to put a constraint of 30  
13 millirem which is what ICRP is likely to come out  
14 with.

15 A practical matter is, even here in the  
16 NRC, we've had to be loopy goopy. We have had to  
17 write some exceptions. In particular, the medical  
18 community wanted visitors to patients to be allowed to  
19 get up to 500 millirem on a one time basis or let  
20 patients go home and maybe family members get 500  
21 millirem on a one time basis. In the European  
22 standard, that's written in. In fact, what they just  
23 do is call it medical dose. So we don't call it  
24 public dose anymore.

25 So there's a lot of issues when you do

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 that: homeland security, emergency worker dose,  
2 cleanup, PAG criteria for the long-term - what will  
3 that come under - and lastly, ICRP. ICRP is going to  
4 roll out in May at the ERPA Conference its new 2005  
5 recommendations. Although, they said last week they  
6 will probably not get published until 2006. After  
7 they roll it out at the ERPA Conference in May, it  
8 will go on their website in June for a six month  
9 comment period.

10 Internal dosimetry coefficients will  
11 change again because they are going to change the  
12 organ waiting factors. They said they almost have to  
13 because the thyroid is clearly wrong. One of the  
14 things we know now is that the adult thyroid is not  
15 very sensitive to radiation in terms of carcinogenic.  
16 The child thyroid is different. I almost wonder if  
17 they are going to need waiting factors for children  
18 that are different than they are for adults.

19 So I don't know. I don't know what they  
20 are going to look like. I am just summing up what  
21 they said. Public dose. They are going to come out  
22 with a public dose not being a limit but a constraint.  
23 Why? For all the reasons I told you. When you go  
24 from 500 millirem a year and you bring it down, the  
25 NRC is lucky. We don't have to regulate it.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 But the Europeans and in countries where  
2 there is a comprehensive radiation program, you do.  
3 In Europe, health spa workers are radiation workers  
4 because radon and stuff like that are running around  
5 all the European health spas. So that's going to  
6 happen. The occupational limit will probably stay  
7 where it is in ICRP which is essentially five rem a  
8 year but ten rem averaged over a five year period.

9 Then with all that going on, the United  
10 States is going to have to decide what to do. And I  
11 say the United States. I don't just say the NRC. I  
12 say the United States because the EPA has a  
13 responsibility in here and the President's Science  
14 Advisor by law has a responsibility. We are all going  
15 to be in this.

16 I have made this remark to the Commission.  
17 Even if we stay put and make no changes, we are going  
18 to have to justify doing what we do. From my view  
19 point, I'm going to be looking at putting more  
20 resources in the basic radiation protection standards  
21 in this agency over the next several years just so we  
22 can engage.

23 Anyway, that's the brave new world that's  
24 in front of us. You have a number of topics that you  
25 are going to discuss today. I hope you have a good

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 meeting. As I started out, when we got into this  
2 business about maybe 1999 and made up the term  
3 "National Materials Program," I have tried to point  
4 out to the Commission we have a National Materials  
5 Program. We have always had one at least since 274.  
6 We will keep on having one. The question is, what are  
7 the respective roles and responsibilities of all the  
8 parties involved? Thank you.

9 (Applause.)

10 FACILITATOR RAKOVAN: Thank you, Carl.  
11 Can everyone hear me all right with this on? Again,  
12 my name is Lance Rakovan. I'm going to be acting as  
13 facilitator for today's meeting. Before we get things  
14 kicked off with the presentations and such, I just  
15 wanted to take a moment or two to go over the agenda,  
16 go over some groundrules, talk about objectives and  
17 these kinds of things.

18 I'd like to go around and have everybody  
19 at the table introduce themselves, if that's possible,  
20 to start out with. Jared, since you got first  
21 position, would you like to start? Just tell us your  
22 name and who you are representing if you would.

23 MR. THOMPSON: Jared Thompson. I'm with  
24 the Arkansas Department of Health.

25 MR. WANGLER: Ken Wangler with the North

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 Dakota Department of Health.

2 MS. CARDWELL: Cindy Cardwell with the  
3 Texas Department of Health here representing the  
4 Conference of Radiation Control Program Directors.

5 MR. FITCH: Stanley Fitch, Organization of  
6 Agreement States. I'm a health physicist with the New  
7 Mexico Environment Department.

8 MS. ROUGHAN: Kate Roughan, AEA  
9 Technology. We manufacture sources for industrial  
10 radiography equipment and medical uses.

11 MR. DICHARRY: Donny Dicharry. I  
12 represent Source Production and Equipment Company. We  
13 also are an industrial radiography equipment and  
14 source manufacturer. I'm also representing the Non-  
15 Destructive Testing Management Association.

16 MS. FAIROBENT: I'm Lynne Fairobent. I'm  
17 representing the American College of Radiology.

18 MR. ANDERSON: I'm Ralph Anderson. I'm  
19 representing the Health Physics Society.

20 MS. SWEENEY: Katie Sweeney, National  
21 Mining Association.

22 MR. SMITH: Leonard Smith representing the  
23 Council on Radionuclides and Radiopharmaceuticals  
24 whose members are the major manufacturers and  
25 distributors of radionuclides in North America for

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 medical therapy diagnosis, biomedical, and  
2 environmental research, safety, and quality  
3 applications.

4 MR. PANGBURN: I'm George Pangburn. I'm  
5 representing NRC's Region I. I'm the Director of  
6 their Division of Nuclear Material Safety.

7 MS. FEDERLINE: I'm Margaret Federline.  
8 I'm representing the Office of Nuclear Material Safety  
9 and Safeguards. I'm here for Marty Virgilio.

10 FACILITATOR RAKOVAN: Thank you. Paul,  
11 would you like to continue?

12 MR. LOHAUS: Sure, I'm Paul Lohaus,  
13 Director of NRC's Office of Tribal and State Programs.

14 MR. PAPERIELLO: I'm Carl Paperiello.  
15 Most people know me. I'm Deputy Executive Director  
16 for Materials, Research, and State Programs.

17 FACILITATOR RAKOVAN: I know we have the  
18 chairs of the various pilot groups sitting over here.  
19 They will be introducing themselves when they get up  
20 to do their presentations. With that, I would like to  
21 go to the agenda just to give a quick run through of  
22 that.

23 For the morning session, essentially what  
24 we're going to be doing is giving some updates on the  
25 pilot programs and having presentations. For the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 afternoon session, we're going to be having more of a  
2 roundtable discussion. Primarily the roundtable  
3 discussion will be between the members at the table,  
4 but we'll definitely allow times for the audience to  
5 participate.

6 We have one mic that is set up for that if  
7 people want to get up. Please use the mics when you  
8 can. If you are going to speak, please identify  
9 yourself and the organization that you are  
10 representing if that's appropriate. That way, our  
11 stenographer can make sure that she has you down as  
12 speaking.

13 Also, you will notice that we don't have  
14 any chairs in the front row here for the morning  
15 session. That's primarily because we're going to be  
16 using the overhead screen for the presentations, and  
17 we didn't want anybody to get in the way. Once we're  
18 done with the presentations, we'll probably have some  
19 chairs here and have Paul, Carl, and whoever else  
20 wants to come and sit at the table to close things in  
21 and have a roundtable discussion that's a little more  
22 intimate so to speak.

23 For those of you who don't have copies of  
24 materials, everything that you need should be on the  
25 table in the back. There's focus questions for this

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701



1 afternoon's session. There's copies of the  
2 presentations that are going to be given by all the  
3 presenters. There's also a copy of the agenda.

4 If you are a member of the public, please  
5 pick up a form that you can send back. It's an  
6 evaluation form to let us know how we did today and  
7 give us some hints on how we might be able to improve  
8 things in the future. And those are on the table as  
9 well.

10 In terms of groundrules, again, if you are  
11 going to speak, make sure that you use the  
12 microphones, identify who you are and what group you  
13 are with. For the roundtable discussions, we're going  
14 to use the same old trick that's normally used at  
15 these things. If you have something that you want to  
16 say, put your tent up. I'll try to get to you  
17 eventually. I might not get to you in the order that  
18 you put the tent up. But I promise you that we will  
19 get to you, and we'll try to keep the discussions  
20 going.

21 The transcript is going to be publicly  
22 available. So check back in with us or look back to  
23 the website. We'll have information on how you can  
24 get a hold of that after the meeting. Other than  
25 that, we have a white board here to use as a parking

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 lot.

2 If there are issues that come up that we  
3 want to put off until the roundtable discussions, I  
4 can write it down up there and we'll make sure we get  
5 to those. There will be time for question and answer  
6 and clarification periods in the morning with the  
7 presentations. But we ask that you let the presenter  
8 get through their entire presentation and save your  
9 questions until the end of their presentations if you  
10 have anything that needs to be clarified.

11 Are there any other questions? I'm going  
12 to ask Paul to come up. Paul is the Director of the  
13 Office of State and Tribal Programs. He's going to be  
14 talking this morning about the National Materials  
15 Program in terms of the genesis and the background of  
16 the program.

17 MR. LOHAUS: Good morning. I wanted to  
18 also welcome you and express our appreciation for your  
19 willingness to come here and participate with us.  
20 Although Lance indicated that he would like to see us  
21 hold questions to the end, at least during my  
22 discussion, I would like this to be interactive. So  
23 if there are questions that you have as I'm going  
24 through, please stop me and I'll answer those.

25 But what I wanted to do was provide some

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 background information and maybe a grounding in terms  
2 of how did we get to where we are today and maybe move  
3 on to the first slide. Carl really covered this. But  
4 an important aspect that we always need to keep in  
5 mind is there is a National Materials Program today.

6 In many cases, we talk about this as a  
7 future activity or future state in terms of the  
8 interactions of the NRC and the Agreement States. But  
9 we have an existing program today. What is that  
10 program made up of? It's basically the collective  
11 programs that NRC and the Agreement States carried out  
12 in the materials program area.

13 As Carl indicated, that program was really  
14 started with Section 274 of the Atomic Energy Act.  
15 That set the framework for federal and state  
16 cooperation, for the assumption of authority by the  
17 states in the materials program area, and the  
18 relinquishment of that authority by NRC. If you look  
19 at the program today, there's 33 Agreement States.  
20 The important aspect here is that they regulate about  
21 80 percent of the national total of materials  
22 licensees.

23 Also see that the relationship between NRC  
24 and the Agreement States has been evolving and is  
25 continuing to evolve. If you look at where the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 program was ten years ago, what you would have seen is  
2 NRC would really have had lead responsibility for  
3 almost all of the materials program activities. A lot  
4 of the developmental work was done. Then it was  
5 shared with the states for review and comment.

6 Today, what we have is a collective,  
7 cooperative program where states and NRC work together  
8 on common problems, where the Organization of  
9 Agreement States has taken the lead for certain of the  
10 activities. For example, they have the lead for the  
11 annual meeting of the Agreement States. In the past,  
12 that meeting was done by NRC. The agenda was  
13 developed by NRC. Today, it's handled by the states  
14 through their Organization of Agreement States.

15 Another area where there's a lot of  
16 evolution going on today is the area of security.  
17 This is a tough area for the states. The activities  
18 that are being carried out to further enhance security  
19 relate to common defense and security. As such, they  
20 are a reserved function to the NRC. So this is an  
21 evolving area. It's a new area where there's a  
22 different relationship. There's a different  
23 interaction with licensees.

24 There's a direct contact by NRC to  
25 agreement state licensees. So it's a different and

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 evolving area. There's a continuing evolution that's  
2 going on in the program. As I mentioned, there is a  
3 greater need and role and responsibility for the  
4 states. I want to come back and talk more about that  
5 in a minute.

6 In recognition of the growth in the number  
7 of Agreement States and the shrinking licensee base  
8 that NRC has given that, the Commission chartered an  
9 NRC and agreement state working group to look at  
10 options that should be considered for a National  
11 Materials Program. This working group examined a  
12 range of options which ranged from NRC basically  
13 taking back all authority and having a central program  
14 within NRC to an option where all of the authority  
15 with the exception of maybe a few categories of  
16 licensees, for example federal facilities, were  
17 transferred to the state.

18 So you basically had all states being  
19 Agreement States carrying out all the programs. There  
20 were also a number of options that were within those  
21 two extremes. Two of those options that you are going  
22 to hear about during the discussion from the pilot  
23 chairs and during the meeting today, one is the  
24 current program and the other is the alliance option.

25 If you look at the working group report

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 that this working group prepared, the current program  
2 reflects some aspects of where we were in the past, in  
3 other words, where NRC had a greater lead in the  
4 program and some of the current evolution where there  
5 are working groups where NRC and the states worked  
6 together to address common problems.

7 The alliance option also reflects somewhat  
8 where we are today. It's a collaborative, cooperative  
9 structure where the states and NRC work cooperatively  
10 together to identify priorities that need to be  
11 addressed in the materials program, to identify how  
12 those priorities would be addressed, in other words,  
13 whether they be done by NRC, by a state, by the  
14 Conference of Radiation Control Program Directors, by  
15 a working group, how that would be carried out. But  
16 the idea is that it's a further evolution of where we  
17 are today.

18 It's really a coalition, if you will, of  
19 NRC and the states that work together to ensure that  
20 the envelope of national infrastructure needs, the  
21 regulations, the guidance, the supporting implementing  
22 procedures are in place and are known and developed on  
23 a schedule to meet the needs in the program. The  
24 working group identified that they had been able to go  
25 so far in looking at where the National Materials

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 Program should go.

2 They discussed a need for additional  
3 information. They talked about a need for some pilot  
4 projects to really demonstrate how this relationship  
5 could work. The Commission provided direction in a  
6 staff requirements memo in August 2002. Basically  
7 what they approved was a blending of the current  
8 program and the alliance options to carry out five  
9 pilot projects. The pilot projects have a specific  
10 design. I'm just going to touch on each one. You're  
11 going to hear more about these as we go through.

12 The first pilot project was to provide a  
13 demonstration and to gain some experience in terms of  
14 NRC and the states working together to identify  
15 priorities and areas within the national program that  
16 need to be addressed and to look to how those  
17 priorities could be addressed. Could they be  
18 addressed by a state? Could they be addressed by a  
19 group of states? Could they be addressed by the  
20 Conference of Radiation Control Program Directors?  
21 Would it be NRC that would do it? Would it be a  
22 combination of NRC and the states working together to  
23 carry that out?

24 The second pilot project was directed at  
25 using an existing committee within the Conference of

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 Radiation Control Program Directors to demonstrate the  
2 ability of the states through that organization to  
3 take on an area that would serve the nation. This is  
4 the National Industrial Radiography Certification  
5 Program. So that group was focused on demonstration  
6 in that area.

7 The third pilot project was to demonstrate  
8 the ability of NRC and the states to work together to  
9 assess the national suite of operational information,  
10 events, incidents that occur. What's the significance  
11 of those? How should they be folded back into the  
12 regulatory program and to share across the NRC and the  
13 states the review of those and the actions that would  
14 come out of that as opposed to having NRC, if you  
15 will, take the lead in that area.

16 The fourth pilot was designed to provide  
17 a demonstration that a state or the Organization of  
18 Agreement States would take on the responsibility for  
19 developing the licensing and inspection guidance for  
20 a new use of material or a new modality. The idea  
21 here was to provide a demonstration that the states,  
22 either working individually within a state or  
23 collectively together, could establish guidance that  
24 could serve the nation, serve both NRC's needs in its  
25 material program as well as individual agreement state

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701



1 program needs.

2 The final pilot was really an existing  
3 working group that was developing inspection guidance  
4 that was focused on risk informing NRC's inspection  
5 program. The thought here was to use an existing  
6 working group to further demonstrate the collaborative  
7 process and the cooperative interactions and the  
8 effectiveness of those interactions in the alliance  
9 framework.

10 The Commission indicated that their  
11 consideration and future direction relative to how we  
12 should proceed would be guided by information coming  
13 out of the pilot projects. They also noted the  
14 importance of having stakeholder involvement. We have  
15 tried to operate and work in a very open framework.  
16 The meeting here is part of that to provide an  
17 opportunity for us to talk about what we've done and  
18 to hear from you in terms of what you see as issues,  
19 where you see the challenges are, where you see the  
20 program going, and to have the benefit of your  
21 expertise and thinking.

22 We developed this to try and provide some  
23 clarity to what we're talking about again with respect  
24 to the National Materials Program. If you look on the  
25 left side, it talks about individual program

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 activities. These are activities that each program  
2 that the Agreement States and NRC are going to carry  
3 out regardless.

4 We're going to be doing the licensing. We  
5 have inspection responsibilities. We need to respond  
6 to incidents. We need to make sure our staff is  
7 trained and qualified. We need to work our  
8 enforcement and investigation programs. They are  
9 really activities that cannot be shared, if you will.  
10 They are really individual program activities that  
11 each program carries out.

12 You can maybe argue that there can be some  
13 sharing in terms of staffing and training. You'll see  
14 that we do quite a bit there. On the other side  
15 though, that's really the focus of the National  
16 Materials Program. It's really the shared program  
17 activities. It's really the infrastructure that is  
18 necessary for each of the programs to carry out the  
19 individual program activities. This is the area of  
20 key focus of the National Materials Program.

21 What we're talking about here are  
22 development of a supporting base of rules, development  
23 of the guidance, evaluating programs so there's  
24 consistency and adequacy across the nation among all  
25 the programs of NRC and Agreement States, our in PEP

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 (PH) or integrated performance evaluation program, and  
2 the policies that would be applied in those programs.  
3 It's hard to see, but you'll see a dotted line in the  
4 box below there between NRC and the Agreement States.

5 Right now, the focus of the program is  
6 given the greater proportional share of licensees that  
7 the states have, should the program begin to move that  
8 line a little bit to the left and maybe more to the  
9 left such that the proportional share of  
10 responsibility in the work to maintain the  
11 infrastructure is proportionally shared within the  
12 larger agreement state program. If you think about  
13 it, the expertise that the states have, the larger  
14 share of licensees, their programs, the staffing, et  
15 cetera, that is a resource that, coupled with NRC's  
16 resources, can help ensure that there's an effective  
17 program.

18 As Carl mentioned, that's part of the key  
19 here. How do we look at the roles and  
20 responsibilities? How do we ensure that there's an  
21 effective program and an efficient program that  
22 effectively utilizes the suite of resources that are  
23 within the program across the nation, the states and  
24 the NRC to meet the licensing needs and inspection  
25 needs and other needs of the program? That completes

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

1        what I wanted to talk through. I will be pleased to  
2        answer any questions at this time. George.

3                MR. PANGBURN: Just an observation. I  
4        would note under the individual program activities,  
5        one of the areas where we interact a lot with states  
6        in the regions are response to incidents and  
7        enforcement investigations because frequently we have  
8        events that cross jurisdictional boundaries or that  
9        have implications that affect states as well as NRC  
10       regions.

11               It is an area where we do share and work  
12       very closely. That's not necessarily true for  
13       individual licensing and inspection decisions and  
14       inspection and training. Those areas are key areas  
15       where under this current National Materials Program we  
16       do, in effect, work very closely. Just an  
17       observation.

18               MR. LOHAUS: Thank you very much. That's  
19       a very good observation. There's many cases where  
20       there's just excellent coordination and cooperation  
21       between the states and the NRC in the response to  
22       incidents.

23               MS. FEDERLINE: Paul, if I could just add  
24       one point. One area that I think the states and NRC  
25       are beginning to work very effectively in is the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 planning process. Looking ahead and trying to  
2 understand what assumptions or what new events are  
3 coming down the pike helps us plan our resources. The  
4 better we do in joint planning, the better off we're  
5 going to be in the future.

6 MR. LOHAUS: Yes, thank you. Any others?

7 MR. ANDERSON: Ralph Anderson, Health  
8 Physics Society. I noted in the Commission's response  
9 in providing some guidance for this effort that they  
10 had called out the initiatives within the security  
11 areas as almost a virtual sixth pilot program.

12 MR. LOHAUS: Yes.

13 MR. ANDERSON: Is that actively being  
14 integrated into this process at this point?

15 MR. LOHAUS: Yes, we are. We can maybe  
16 talk about that more later. We're very fortunate.  
17 Stan Fitch is co-chair of a materials security working  
18 group that was set up. It's a joint effort on the  
19 part of the states and NRC to develop additional  
20 security measures and look at the overall framework  
21 for the program in terms of how that program would be  
22 implemented and the kinds of measures that would be  
23 adopted and in terms of a graded approach within that  
24 program. So yes, that information is being considered  
25 and folded in as a part of the evaluative process. We

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 can talk a little more about that.

2 MR. ANDERSON: In particular, I would be  
3 interested in hearing about how lessons learned coming  
4 out of the process might be generically applicable to  
5 the overall consideration of roles and  
6 responsibilities. So if we get to that, I would  
7 appreciate it.

8 MR. LOHAUS: Good. Thank you very much.  
9 That's good, yes. Thank you. Others? Stan.

10 MR. FITCH: I would like to expand a  
11 little bit on what George mentioned a while ago. The  
12 states and the NRC currently interact a great deal on  
13 sharing information on different program activities.  
14 It's more common between the states to share ideas and  
15 topics. To be really effective, the states that agree  
16 have to start pushing more of it up out of their own  
17 ranks up into the NRC as well. But we do currently do  
18 that.

19 MR. LOHAUS: Thank you, Stan. Lynne?

20 MS. FAIROBENT: Yes, thank you, Paul. One  
21 of the things hits me when I look at this overall  
22 program system and stuff. One of the pieces that I  
23 don't see or I have not heard anybody talk to either  
24 from the states or from the NRC side is perhaps an  
25 earlier on - and Margaret touched on it with the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 planning process - discussion piece as federal  
2 legislation may be being developed that would then  
3 flow down and impact the regulatory system for  
4 materials use whether it's NRC or within the states.  
5 I have never heard any discussion on any involvement  
6 in looking at the legislative process as it's being  
7 developed.

8 MR. LOHAUS: Thank you. That's a very  
9 good comment. I think we should come back and talk  
10 about that later in the program. But that is one of  
11 the areas that the OAS executive board and the CRCPD  
12 board has identified. Just quickly, as a part of our  
13 routine conference calls, we do try and share  
14 legislative initiatives that we're aware of with the  
15 states to help ensure that there's good grounding and  
16 opportunity for input into that process. That's a  
17 very good thought and part of the program too. I'm  
18 going to stop at this point. Again, thank you very  
19 much. I will turn this back to Lance and we'll  
20 proceed.

21 FACILITATOR RAKOVAN: Thanks, Paul. Lynne  
22 and Ralph, if you could give me a brief synopsis of  
23 those points you just made so I can put them in the  
24 parking lot to make sure we get them covered later.  
25 Mr. Anderson, if you would go first please.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 MR. ANDERSON: Okay, yes, an interest and  
2 understanding how lessons learned from the process of  
3 implementing enhanced security requirements will be  
4 utilized in the next iteration of the National  
5 Materials Program.

6 MS. FAIROBENT: Yes, basically Lance, the  
7 early on look and discussion of legislation  
8 development and flow down to the regulatory scheme.

9 FACILITATOR RAKOVAN: Is that okay the way  
10 that I have it characterized? Okay, it's awkward with  
11 only having one mic. So it leaves me to have to find  
12 a mic to go to but that's okay. Thank you, Paul.  
13 Next up is going to be Shawn Smith. Shawn is  
14 currently coordinating all of the pilot projects. She  
15 is also the co-chair of pilot project number one.

16 Shawn actually has quite a lot to say this  
17 morning so I'm going to be brief. Something that I'm  
18 going to try to do - and I hope it's not going to be  
19 very disruptive - is try to patch into the phone line.  
20 We established a listen-only phone line for the other  
21 members of the pilot project to listen in. We have  
22 been having trouble getting through, so hopefully I  
23 won't be disruptive in attempting to do that. Shawn.

24 MS. SMITH: Is this on? Good morning. As  
25 Lance said, I'm going to give a brief overview of the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701



1 pilot project activities to date before hearing from  
2 each of the pilot project chairs as they give a  
3 progress report to date of the activities related  
4 specifically to their pilot projects.

5 Some of the major pilot project  
6 milestones. As Paul stated in August 2002, the  
7 Commission approved the implementation of a blending  
8 of the current program and the alliance option through  
9 the initiation of five pilot projects. In October  
10 2002, pilot project chairs were selected. For pilot  
11 project one, that's myself, Shawn Smith, and Ruth  
12 McBurney of Texas.

13 Pilot project two is Jane Endahl of Texas.  
14 Pilot project three is Mike Markley of NRC and NMSS,  
15 Nuclear Material Safety and Safeguards, and Marcia  
16 Howard of Ohio as co-chairs. Pilot four is Bob  
17 Gallagher of Massachusetts. Pilot five is Thomas  
18 Young of NMSS, Nuclear Material Safety and Safeguards.

19 Charters were developed for each of the  
20 pilot projects in 2002 as well. Subsequent working  
21 groups were established for each of the pilot  
22 projects. In December 2002, NRC and agreement state  
23 staff jointly developed a National Materials Pilot  
24 Project Implementation Plan which includes milestones  
25 and schedule for each of the pilot projects to meet.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1           The plan provides a step-to-step guide for  
2           implementing the pilot projects leading to the  
3           submission of the final report of all the pilot  
4           projects to the NRC Commission in November 2004. Once  
5           established, each working group then developed a pilot  
6           project specific work product plan, pretty much a  
7           schedule, to meet the milestones identified in the  
8           implementation plan.

9           Overall project management of the pilot  
10          project activities. The lead responsibility to carry  
11          out the overall project management of the National  
12          Materials Pilot Project has been with NRC's Office of  
13          State and Tribal Program Director Paul Lohaus. STP  
14          also provides administrative support for the pilot  
15          projects.

16          This includes helping to coordinate the  
17          logistics of working group meetings. We act as a  
18          centralized point of contact for the pilot projects  
19          including maintaining documentation of the assignments  
20          that the pilot project working groups develop. We  
21          accomplish this mainly through our monthly pilot  
22          project chair calls that we have with the pilot  
23          project chairs.

24          We also provide a centralized point for a  
25          collection of information, reports, and products to be

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

1 disseminated to the leadership of OAS, CRCPD, and NRC  
2 management. We also provide funding for state working  
3 group members to attend the working group meetings.

4 Paul went through each of the pilot  
5 projects, so I'll go through them briefly. The lead  
6 organization for pilot project one is the Office of  
7 State and Tribal Programs. As Paul stated, the goal  
8 is to have the Agreement States involved in  
9 establishing materials and priorities for the  
10 development of a materials policy and rulemaking  
11 guidance products.

12 The lead organization for pilot project  
13 two is the Conference of Radiation Control Program  
14 Directors. The goal of this one is to have the  
15 Agreement States, CRCPD, take the lead responsibility  
16 for the administration of a national radiographer  
17 safety certification program. For pilot project  
18 three, the lead organization is NRC's Office of  
19 Nuclear Materials Safety and Safeguards. The goal  
20 here is to develop and test a structured process for  
21 evaluating cumulative licensing data and perform it.

22 For pilot project four, the lead  
23 organization is the Organization of Agreement States.  
24 The goal here is to have an agreement state assume the  
25 lead responsibility for the development of licensing

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 and inspection guidance for new use of material or a  
2 new modality not previously reviewed or approved.  
3 Finally, for pilot five, the lead organization is  
4 NRC's Office of Nuclear Material Safety and  
5 Safeguards. The goal of this one is to revise  
6 Inspection Manual Chapter 2800 and this associated  
7 non-medical inspection procedures and temporary  
8 instructions.

9 That completes the brief overview of the  
10 pilot project activities. You will now hear from each  
11 individual pilot project chair to give you more  
12 information related specifically to their pilot  
13 projects. If I can have Ruth McBurney, the co-chair,  
14 come up as well.

15 MS. MCBURNEY: Good morning. As it's been  
16 discussed several times this morning, the pilot  
17 projects were set up to test the process. The pilot  
18 number one has early on gotten the nickname as the  
19 monster project because of the high expectations of  
20 what might come out of this because it gets to the  
21 essence of the alliance concept on can NRC and the  
22 states work together to establish the priorities for  
23 what are we going to work on collaboratively and also  
24 then make the assignments to working groups or  
25 whatever entities might be working on those high

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 priority items such as rules, guidance, and so forth.

2 The make up of the working group. We  
3 wanted input from several different aspect of both NRC  
4 and the state process. We have Shawn Smith who is  
5 from the NRC State and Tribal Programs and myself, a  
6 state person, as the co-chairs for this group. We  
7 have representation from NRC's Office of the Chief  
8 Financial Officer to provide budget input. I see Kim  
9 back there. We have several of our committee members  
10 here.

11 Jane Halvorsen from NMSS provides valuable  
12 input on financial management. Anita Turner is from  
13 NMSS who provides input on the technical aspects of  
14 this. We also have a regional Agreement States  
15 officer, Jim Lynch, from Region III and another state  
16 director, Bob Walker, from the State of Massachusetts.  
17 So it was a good blend of folks to discuss the co-  
18 establishment of priorities and then how that might  
19 work.

20 The alliance concept has been mentioned by  
21 several of our speakers this morning. It came out of  
22 the recommendation of the national materials working  
23 group that an alliance concept be used in the  
24 development of the National Materials Program. Just  
25 for a definition, this is a collaborative process

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 between the Agreement States and NRC that identifies  
2 radiation safety regulatory priorities and the means  
3 to address those priorities. Basically this is what  
4 our pilot project was set up to test.

5 The current programs in each of the  
6 jurisdictions would still continue. But state and  
7 federal agencies would work together in a  
8 collaborative process and, as Margaret mentioned,  
9 joint planning for the future to optimize resources -  
10 we're all being hit with budget cuts - and to promote  
11 consensus between the regulatory agencies and work  
12 together to produce standards, rules, and guidance and  
13 to look at other options such as consensus standards  
14 for achieving those work products.

15 The purpose of pilot one was to develop a  
16 process whereby we could identify and prioritize the  
17 regulatory needs of both NRC and the Agreement States  
18 and also to ensure that both the Agreement States and  
19 NRC had input on those regulatory needs and that all  
20 were considered in establishing those national  
21 priorities. Then the third purpose was to demonstrate  
22 a shared decision-making process between the NRC and  
23 the Agreement States.

24 The expectations for the work products to  
25 come out of this Committee were a national priority

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 list that could be agreed upon by both the NRC and the  
2 Agreement States and a framework and process whereby  
3 we could go into the future and continue updating and  
4 having a clearinghouse for new needs that come along  
5 that could be used to prioritize the regulatory needs  
6 and the National Materials Program under that alliance  
7 option.

8 Our first work product is we did develop  
9 a national priority list. Step-wise the way we  
10 accomplished this was to obtain and analyze input. We  
11 just had everybody send in lists of their regulatory  
12 needs as it affected their regulatory jurisdiction  
13 both from the states and the NRC offices. Then we  
14 developed what we call a prioritization package.

15 We took that long list and analyzed it.  
16 There were a lot of duplicates, a lot of overlap.  
17 There were items that were not done by NRC or they  
18 might not be in the purview of the states. So we took  
19 out those and we made a list of those items that were  
20 shared by both the Agreement States and the NRC. We  
21 also developed an evaluation strategy to look at how  
22 do we go about ranking these as to high priority,  
23 medium, or low priority? Then we analyzed the results  
24 and produced a list of needs.

25 So we collected the list of regulatory

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 needs from the NRC headquarters and the regional  
2 offices and from the Agreement States. From that, we  
3 developed the list for prioritization. The worksheet  
4 that we sent out then, in order for NRC offices and  
5 regions and the states to go about the prioritization  
6 process, were based on actual performance goals.

7 They weren't just say rank them one, two,  
8 three, four, five. We wanted you to rank them based  
9 on a list of performance goals. Those were protection  
10 of public health and safety, the security of  
11 radioactive materials, and then efficiency and  
12 effectiveness and to rank those as high, medium, and  
13 low under each of those performance goals. So what we  
14 wound up with was a matrix to do that ranking.

15 So then the NRC offices and the agreement  
16 state program directors completed the prioritization  
17 worksheets. We got those back in and did a  
18 statistical analysis on that to come up with what was  
19 truly a priority matrix of the high priority needs.  
20 So we had one list that was just based on overall  
21 level of priority and then another list that was based  
22 on the performance goals. We chose to use the one  
23 based on performance goals to actually roll out what  
24 the high priority needs were.

25 We compared the top ten needs from the NRC

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701



1 and the Agreement States to see where there were  
2 differences. There were only a few differences.

3 There were a couple of items that were of high  
4 interest to the states such as the role of the states  
5 in homeland security type operations. Of course, that  
6 would not be a high priority for NRC but would be of  
7 interest to the states.

8 And likewise there were a couple of things  
9 that were of higher priority to NRC than to the  
10 states. But overall, the top ten of each group were  
11 pretty much the same. So we now have a list. The  
12 next part of that would be to test the framework and  
13 how to get the decision-makers involved in actually  
14 making a decision on accepting some of those lists and  
15 assigning the resources to those to get them  
16 accomplished.

17 The other work product that was to come  
18 out of this pilot was to set up the framework for  
19 continuing prioritization and assignment of work  
20 products to be accomplished because priorities are  
21 going to change from year to year. Carl mentioned  
22 this morning that sometime in the future we may need  
23 to relook at basic radiation protection standards. So  
24 that may rise to a high priority item for both NRC and  
25 the states in the next few years. That might be a

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 project then for some joint group to work on.

2 In the National Materials Program report  
3 from the earlier committee, there had been suggested  
4 a basic framework for how the alliance might work that  
5 there would be some sort of prioritization group and  
6 then some level of decision-makers that would be made  
7 up of both Agreement States and NRC and then some sort  
8 of administrative core to handle the administrative  
9 duties. So in setting up our framework and process,  
10 we identified what groups in the alliance would be  
11 involved in this process.

12 We are developing a process for  
13 prioritization of the regulatory needs and  
14 establishing the regulatory agenda and defining the  
15 specific work products. The groups within the  
16 alliance, as I mentioned earlier, would be a  
17 priorities committee, a steering committee - that  
18 would be the decision-makers - and then an  
19 administrative core.

20 Under the pilot, the pilot one working  
21 group actually worked as the priorities committee in  
22 the continuing framework. The priorities committee  
23 would be composed of NRC and agreement state  
24 representatives. We're recommending that it be almost  
25 an equal representation in the future that would

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

1 develop and provide recommendations to a steering  
2 committee, to the decision-makers on what are the  
3 priorities that both NRC and the Agreement States are  
4 needing in the way of regulations, guidance documents,  
5 standards, and maybe inspection guidance, licensing  
6 guidance, whatever that need might be?

7 Also then we would look at each of the  
8 high priority items, figure out, define what work  
9 products need to come out of that, what resources are  
10 going to be needed, where the centers of expertise  
11 are. There might be an existing working group in  
12 CRCPD as in what pilot two is doing. The NRC might  
13 have a lot of expertise in a certain area.

14 If we combine that with some expertise  
15 from the states, for example in the area of financial  
16 assurance, then there might be other options that we  
17 can look at such as if an ANSI standard is being  
18 developed in that area, if HPS has worked on a  
19 standard that could be used, just other resources that  
20 we can pull in and buy into that will optimize the  
21 resources that we have available and then also to  
22 assess the level of commitment from, for example, the  
23 Organization of Agreement States, NRC, CRCPD, or an  
24 individual state if an individual state has already  
25 come up with a solution that could be used without

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 these other groups having to reinvent the wheel.

2 The priorities committee would also act as  
3 a clearinghouse for new ideas, new priorities that  
4 spring up, for example, the security issue that came  
5 up last year. That would then rise to a top priority  
6 and be identified. It would then go through the  
7 process of making those recommendations to a steering  
8 committee.

9 We would foresee this group actually  
10 meeting at least twice annually to do a prioritization  
11 of items that have come in to that committee and have  
12 been identified. We might go through a similar  
13 process of evaluating those among the program  
14 directors as well as the NRC offices in order to make  
15 sure that everybody has input onto where these  
16 priorities fall because we can't do everything every  
17 year. But as things come to the top, then they can be  
18 addressed. Shawn will take us through the rest of the  
19 framework by discussing how the steering committee  
20 would then act as well as the administrative core.

21 MS. SMITH: Pretty much Ruth talked you  
22 through the priorities committee. Members serve for  
23 staggered terms and convenes twice annually for a  
24 prioritization process meeting. The other group  
25 identified is the steering committee. The steering

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 committee will be composed of NRC management and the  
2 chairs pretty much of OAS and CRCPD or their  
3 designees. This group will provide the management  
4 oversight of the alliance process and make decisions  
5 on cooperative agreement state and NRC regulatory  
6 efforts.

7 The administrative core is the third group  
8 that we identified in the alliance. This group will  
9 provide the administrative and logistical support for  
10 the alliance products and priorities committee  
11 recommendations and work products to be developed by  
12 individual working groups or state or NRC  
13 organization. This group also tracks assignments and  
14 products and maintains an information infrastructure,  
15 pretty much the collection of work product data and  
16 information and work products.

17 As I spoke earlier to what the pilot  
18 projects overview overall activities are and similar  
19 to our process that we're recommending, the  
20 administrative core currently is state and trial  
21 programs, the pilot projects. We pretty much provide  
22 the administrative and logistical support for all the  
23 pilot projects and track assignments, projects and  
24 maintain an information infrastructure. So it's  
25 similar to what we're operating under the pilot

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 project initiative.

2 The prioritization process that we're  
3 proposing. Ruth talked you through some of it. I'll  
4 just highlight some of the major points. Step one  
5 would be to identify regulatory needs by the Agreement  
6 States and NRC and communicate those to the priorities  
7 committee. Pilot project one, under a process that we  
8 completed under the pilot project, acted as this  
9 priorities committee.

10 As Ruth said, we collected regulatory  
11 needs from NRC and the Agreement States. This is step  
12 one of our process. For licensees, public, and other  
13 stakeholders, NRC and the Agreement States will  
14 consider their input and it's fed up through your  
15 regulatory agency. So either through the Agreement  
16 States or NRC is how your input is considered into  
17 what regulatory needs are identified.

18 For step two, the priorities committee  
19 then analyzes the regulatory needs and develops and  
20 maintains a database of regulatory needs. As you see  
21 again for what we're proposing and what we did very  
22 much similarly, we collected the needs, analyzed, and  
23 identified them. We currently have a list of  
24 prioritized regulatory needs from both NRC and the  
25 Agreement States. We're maintaining that currently.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1           Like Ruth said and as we mentioned  
2           earlier, the priorities committee will meet twice a  
3           year. If an issue is deemed to be urgent such as a  
4           security matter and other issues, the priorities  
5           committee will then research that issue immediately  
6           and make a recommendation to the steering committee  
7           regarding its priority and disposition. We meet twice  
8           a year for the prioritization process and then once  
9           with the steering committee.

10           For step three, the priorities committee  
11           then seeks input annually from the NRC and Agreement  
12           States. First, we receive regulatory needs. Then we  
13           need to prioritize them so that we can have a  
14           prioritized list of regulatory needs. The level of  
15           priority for each identified regulatory need will be  
16           addressed during our prioritization process meetings.  
17           Mechanisms for providing input can include surveys,  
18           worksheets like we use, or focus discussion at the  
19           annual OAS, CRCPD, or other special called meetings  
20           such as the HBS meeting and others.

21           Step four of the process. The priorities  
22           committee then numerically evaluates the input on  
23           priorities for regulatory needs and makes  
24           recommendations to the steering committee. Ruth  
25           pointed out pilot project one did this. We haven't

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1       went to the point where we make recommendations to the  
2       steering committee, but we have evaluated the input  
3       and developed a prioritized list of regulatory needs.  
4       Another thing I wanted to point out on step four is  
5       when we evaluate and the committee does our research,  
6       we're going to research the top ten priorities.

7               This is our proposed process. We'll  
8       research the top ten NRC and agreement state  
9       priorities and based on those top ten, make  
10      recommendations on those top ten to the steering  
11      committee. Like Ruth said, we're going to define  
12      specifically what the regulatory need is, identify  
13      where the expertise is to develop the regulatory need  
14      or alternate resources, identify the specific work  
15      products that need to be developed because the  
16      regulatory need isn't necessarily the work product  
17      that needs to be developed of course, and other  
18      recommendations as appropriate.

19             Step five. Once we make recommendations  
20      to the steering committee, based upon our  
21      recommendations, the steering committee will establish  
22      the regulatory agenda pretty much based on the top ten  
23      items and all of the information that the priorities  
24      committee gives to the steering committee. The  
25      steering committee pretty much says we have resources

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701



1 to do this, defines the specific work products, and  
2 commit appropriate NRC and/or agreement state  
3 resources to get the work product developed.

4 The steering committee also uses input  
5 from the administrative core, who are tracking the  
6 alliance assignments and products throughout this  
7 process, to evaluate progress on the assignments.  
8 Like I said before, they provide the overall  
9 management and oversight of the work products and  
10 assignments, but the administrative core are tracking  
11 them. So those two groups are working together.

12 The next steps for pilot project one.  
13 Like I said before, we have gotten to the point where  
14 we have identified regulatory needs and prioritized  
15 them. Now we have a list. What we're going to do is  
16 constitute a steering committee because we don't  
17 currently have an official steering committee. We are  
18 calling them the regulatory decision-makers but we all  
19 know who that is composed of, pretty much NRC  
20 management and the chairs of OAS and CRCPD, and also  
21 constitute an administrative core so that when we run  
22 through the rest of our proposed process, in the  
23 components, the other two groups are there and  
24 constituted so we have an official group to work from.

25 Instead of ten, like I said earlier in my

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 earlier discussion, the report on all of the pilot  
2 projects are due to the Commission in November 2004.  
3 So instead of researching top ten, because that's  
4 going to take a little bit of time, we're going to  
5 research two regulatory needs identified in our  
6 prioritized list.

7 Since this is just a pilot, we figured two  
8 should be enough to at least get an idea. The  
9 steering committee will have an idea of what the  
10 recommendations look like and what information it will  
11 be composed of. And then there's complete a test of  
12 our proposed prioritization process that I talked you  
13 through and issue our final report in September of  
14 this year. Any questions on this process?

15 MS. CARDWELL: Consider mine after  
16 George's. I just can't reach it.

17 MS. SMITH: Okay, go ahead, George.

18 MR. PANGBURN: Just two questions. You  
19 mentioned that the steering committee is not yet  
20 composed or comprised. What parts of NRC management  
21 or organizations do you envision being on the  
22 committee?

23 MS. SMITH: We recommended the steering  
24 committee be composed of the Director of State and  
25 Tribal Programs, Paul Lohaus, or their designee,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 Director of NMSS, Marty Virgilio, Director of NSIR,  
2 Roy Zimmerman, or their designees so it could be  
3 someone else, and an NRC Regional Division Director  
4 such as yourself or Mark Depas, and then the chairs of  
5 OAS and CRCPD or their designees of course.

6 MR. PANGBURN: Okay, and one other process  
7 question, maybe you haven't gotten there yet. But  
8 once you have developed your list of regulatory needs  
9 and made recommendations to the steering committee,  
10 have you thought ahead to how that might be  
11 incorporated into the budget process? Assume for the  
12 sake of argument that you have ten products that you  
13 identify regulatory needs, three or four of which  
14 might be NRCs to have the lead, have you thought about  
15 how you would factor that into the budget development  
16 process?

17 MS. SMITH: We have. We're currently  
18 thinking about that. As you saw the make up, we have  
19 a representative from PMBA and CFO. So we are  
20 considering how to structure the process and to budget  
21 so that the resources will be identified before and  
22 will be available at the time for work products to be  
23 developed and resources committed. So we're looking  
24 at this as a timing issue maybe of when we work the  
25 process. Just thinking, this isn't finalized.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 MR. PANGBURN: I understand.

2 MS. SMITH: Just thinking from the working  
3 group, we were thinking that the process will have to  
4 be run through when it's time for the budget. So  
5 that's our thinking.

6 MR. PANGBURN: Thank you.

7 MS. SMITH: It's more of a timing that  
8 we're looking at initially. But we are considering  
9 that as we look further to our report.

10 MR. PANGBURN: Thank you.

11 MS. MCBURNEY: Also on that, a lot of  
12 times that will come up as high priority for the  
13 combined groups will already be on a high priority  
14 item that has gone into NRC's budget. So there are  
15 already planning on working on that issue. What this  
16 would propose is how to do that most efficiently. It  
17 might be that NRC could do it even less expensively  
18 than they had planned for in their original budget by  
19 incorporating some expertise from the states as well  
20 rather than just having all staff from NRC working on  
21 that particular issue.

22 MR. PANGBURN: Thanks.

23 MS. SMITH: Cindy?

24 MS. CARDWELL: Two questions actually.  
25 One was the fact that stakeholder input was a vital

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 part of what was envisioned in the alliance concept  
2 and was addressed in the National Materials Program  
3 working report. I wondered if the committee discussed  
4 that or if the committee saw that stakeholder input as  
5 a part of this process or the next step which is the  
6 product development once the regulatory agenda is  
7 established and resources are committed.

8 MS. SMITH: Actually both. Considering  
9 input, when we go to the NRC and Agreement States to  
10 obtain regulatory needs for the upcoming year, we  
11 think that since those are the groups that are hands  
12 on with the licensees and other stakeholders that as  
13 those issues are communicated through your licensees  
14 and your stakeholders and industry and professional  
15 groups within your state or NRC jurisdiction then  
16 those are filtered through the regulatory agency being  
17 the state or NRC region and then are brought into the  
18 process at that point.

19 So it's not necessarily the priorities  
20 going directly to the industry and stakeholders but  
21 their input filtered through the regulatory  
22 jurisdiction or agency. And then for the second part  
23 of your question, as far as work products being  
24 developed, we did consider that also. That's what we  
25 call our alternate resources.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1           So not only could there be an NRC or  
2           agreement state working group. There may be a group  
3           within HBS that's working on a specific guidance  
4           document or has some expertise so we can pull in that  
5           professional input as well or other groups. Like, if  
6           there is something dealing with a radiographer, we can  
7           go to radiographer licensees and they provide input.  
8           For example, pilot two, Donny Dicharry is on that  
9           pilot so he's been providing input. That's another  
10          way too. In the front end, it's filtered through.  
11          Then when work products are developed, it's filtered  
12          through at the end as well.

13                 MS. CARDWELL: So it's going to be clear  
14                 in the report then so that stakeholders can see  
15                 clearly where they have opportunities for input.

16                 MS. SMITH: Yes.

17                 MS. CARDWELL: Like to the organizations  
18                 or as they do currently.

19                 MS. SMITH: Yes, it will be identified in  
20                 our process.

21                 MS. CARDWELL: The second one had to do  
22                 with the establishment of priorities. You said early  
23                 on that there were priorities that were priorities  
24                 that were specific to states and specific to NRC.  
25                 That's because of the regulatory scheme or regulatory

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 framework.

2 Not that you don't care, but NORM is not  
3 an issue for the NRC. It is for the states. So those  
4 priorities are there. It was also part of the  
5 alliance concept within the original national  
6 materials working group report that those still be  
7 readily identified so that you get to the point when  
8 you are at what you are calling the steering committee  
9 looking to make decisions on not only the combined  
10 ones but then commit resources, that there's an  
11 awareness already that there are other competing  
12 priorities and resources may be dedicated to those  
13 other priorities that are individual to one or the  
14 other groups so that when you commit resources you are  
15 not over-committing or over-extending those resource  
16 commitments.

17 MS. SMITH: Yes, and we're looking at that  
18 issue as well. Early on in our process, we only asked  
19 for regulatory needs that were shared program  
20 activities so not including fuel cycle for NRC and not  
21 including NORM and X-ray for the states. We only  
22 wanted those items that fell under both NRC and  
23 Agreement States. It gets back to the budget.

24 What you are saying is, how does NRC deal  
25 with - I forgot what Paul called it - but the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 regulatory licensing inspection and all the other  
2 stuff you have to do as a part of your day-to-day  
3 activities? The working group is taking that into  
4 consideration. As far as how far, we'll get to that.  
5 But we are looking at that issue as well.

6 MS. CARDWELL: Because that was a major  
7 point that we made in the National Materials Program  
8 report that that be certainly addressed and recognized  
9 certainly with the understanding that resources,  
10 regulatory, jurisdictions don't always permit one  
11 group to work on one or visa versa. But that needs to  
12 be out there for resources issues.

13 As Carl pointed out earlier, if we're  
14 going to change public dose, it involves X-ray in the  
15 states as well. It's an issue we have to consider as  
16 well. So those kinds of things need to be out there  
17 as identified as high priorities individually and then  
18 the combined priorities.

19 MS. SMITH: Yes, Paul.

20 MR. LOHAUS: Thank you, Shawn. I wanted  
21 to comment on the issue that George raised. To me,  
22 that's one of the real challenges that the National  
23 Materials Program will face. That is as soon as we go  
24 through a process, we come up with a list of  
25 priorities. How do the individual programs then

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701



1 decide yes this is one that I can do, and will there  
2 be assurance that that program can budget the  
3 resources for it and have the resources survive that  
4 agency's budget process?

5 I don't know what the answer to that is,  
6 but to me, that's one of the challenges. Just to  
7 think about NRC's budget process, there's different  
8 steps in that process that we go through in terms of  
9 review and approval including commission. There's  
10 OMB, President, Congress, et cetera. So exactly how  
11 that is going to come together is one of the  
12 challenges. Maybe you all can think about that.  
13 Maybe there's some thoughts that you will have too  
14 that you can offer on that.

15 But the discussion has very clearly  
16 identified that as a part of that process it will have  
17 to be a shared decision by both the states and NRC.  
18 The states will need to be prepared to come away from  
19 that discussion and say yes we can do these activities  
20 and we'll be able to budget that. I think the same  
21 would need to apply for NRC.

22 Otherwise, you end at a point where you  
23 don't really have any assurance that this cooperative  
24 program will in fact be effective and be able to  
25 produce products on time to meet agency needs. Just

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 thinking through this, to me, that's one of the  
2 challenges in the program.

3 MS. MCBURNEY: Just to comment on that.  
4 For the most part, most of these items that are going  
5 to float to the top probably have already been  
6 identified and earmarked. Somebody is going to be  
7 throwing some resources to that. It's not very often  
8 that you will have a priority need coming to the top  
9 that nobody has done anything about or thought about  
10 or even started some sort of development on.

11 So folding that into an existing budgeting  
12 process I don't think will be as difficult as one  
13 might think. In fact, what we're trying to do is  
14 optimize the resources of all the groups, all the  
15 regulatory agencies, and trying to cut down on those  
16 individual costs rather than putting all the  
17 requirements on one group to do or one particular  
18 state program or so forth.

19 MR. LOHAUS: Thank you, Ruth. That's very  
20 helpful. Thank you.

21 FACILITATOR RAKOVAN: If we could go to  
22 Lynne, she's had her hand up for a while now.

23 MS. FAIROBENT: I can't reach my sign  
24 either. These tables are made for non-vertically  
25 challenged individuals.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 FACILITATOR RAKOVAN: We'll have to move  
2 those back.

3 MS. FAIROBENT: Two points. One, I wanted  
4 to follow up on the budget questions too because the  
5 initial response focused on how NRC would deal with it  
6 within their budget process. But I have a little more  
7 concern with how either CRCPD as an organization would  
8 handle it if it should be a priority item that comes  
9 back to them for the lead and also knowing the great  
10 concern and constraints on state budgets today, how  
11 that falls or would be looked at to be handled within  
12 the state.

13 I feel a little bit better having heard  
14 the follow up discussion as a result of it. But I do  
15 think that those are two absolutely critical issues  
16 that need to be looked at. The federal budget is also  
17 being extremely constrained as each fiscal year cycle  
18 comes up and there are more and more competing  
19 priorities. So I do think that's probably going to be  
20 one of the key stumbling blocks overall.

21 But I do think that in moving to the  
22 National Materials Program it will help to better  
23 everyone if we can share resources. Then that leads  
24 to me following up on Cindy's comment on stakeholder  
25 involvement because listening to your process and

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 stuff I'm very much concerned that there is not as  
2 much up front incorporation as stakeholder input as  
3 perhaps was initially envisioned in the initial  
4 working group report that went forward.

5 I don't believe that it will benefit the  
6 entire community by relying on stakeholder input to be  
7 a very informal catch as catch can process which is  
8 what I was hearing the response to be. Yes, we at  
9 ACRD work very closely with CRCPD as an organization.  
10 We provide a lot of resources and stuff. But it still  
11 needs to be a formal thought through process on  
12 getting early input from the stakeholders into the  
13 development of the regulatory agenda.

14 For example, I know we haven't talked  
15 about working group four. But you had mentioned that  
16 Donny was on working group two for the radiographers.  
17 But when I look at working group four, there is no  
18 stakeholder on working group four. That is very much  
19 a very focused medical issue or new use, I would  
20 assume you are terming it. There is no stakeholder  
21 member on that.

22 As far as I know, there has not been any  
23 request to the stakeholder community for any input in  
24 your development of the work going on in that area.  
25 So that does give me some concern. The other question

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 I have is, can you tell us what the two regulatory  
2 needs are that are going to be researched in the next  
3 several months to fall into your September '04 report?  
4 Are those publicly available?

5 MS. SMITH: We do have the regulatory  
6 needs, the top ten of those. We haven't specifically  
7 chosen which ones to identify. I can tell you what  
8 the top ten are that we're going to choose from if you  
9 want. The first one was develop licensing and  
10 inspection guidance for new medical technologies  
11 including medical devices and procedures.

12 Number two was to identify the roles of  
13 state radiation control programs and homeland  
14 security. Three was financial assurance for  
15 decommissioning, funding of accidents, disposition of  
16 orphan material in small industries going bankrupt.

17 Number four was the resolution to the  
18 collection of disposal and storage of orphan sources.  
19 Five is security review of general license device  
20 programs. Six is rulemaking on americium neutron  
21 sources and large activity source disposal. Seven was  
22 to identify or develop subject matter experts and  
23 technical assistance personnel that would be useful in  
24 cases of emergencies.

25 Eight was guidance for first responders

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 who will be equipped with radiation monitors. Nine is  
2 codify estimates not overly conservative of doses to  
3 be received by the public during performance  
4 assessments. Ten was develop guidance for  
5 veterinarian medicine treatments involving radioactive  
6 material in release of animals.

7 MS. FAIROBENT: But for example, is that  
8 list on the website somewhere that it's publicly  
9 available?

10 MS. SMITH: No, the list is not on the  
11 website where it's publicly available.

12 MS. MCBURNEY: It will be a part of our  
13 final report. What we thought we would do is take one  
14 public health and safety item and one security of  
15 radioactive materials item to further develop and  
16 figure out what are the resources that are available  
17 on that and how could it best be optimally carried out  
18 to get the work product?

19 For example, number one, the development  
20 of the licensing and guidance for new medical  
21 modalities is really what pilot four is already taking  
22 on. It's to develop some sort of guidance for a new  
23 medical modality. So then we would make  
24 recommendations to the steering committee on a couple  
25 of those for the purposes of the pilot and work with

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1       them on how best to do that to accomplish those.

2                   MS. FAIROBENT:  Then the other thing,  
3       Ruth, you had made a comment that in the future you  
4       were going to look at the priorities committee  
5       membership to be more equally distributed between  
6       states and feds.  A similar question comes to mind in  
7       looking at the steering committee being constituted.  
8       It's four feds to two state representatives.

9                   Again, what is the equal voice?  Is that  
10       the optimum representation in order to ensure that  
11       there is a balance on determining the collective  
12       priorities if you are going to have a fully integrated  
13       program?  It may be.  It's just something to consider.

14                  MS. McBURNEY:  For the purpose of the  
15       pilot, that's the way we're going to set it up.  Since  
16       we haven't really constituted that group and had  
17       discussions with them, that might be something that  
18       comes up during the steering committee discussions.  
19       Back to your earlier comment on having early input  
20       from the stakeholders on establishing priorities, how  
21       would you think that would be best accomplished?  
22       Should there be something that goes out to the  
23       professional societies early on to get their --

24                  FACILITATOR RAKOVAN:  If I could, is this  
25       something that we could put in the parking lot for

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 later?

2 MS. MCBURNEY: Yes.

3 MS. FAIROBENT: Yes, I think it's a  
4 discussion topic.

5 FACILITATOR RAKOVAN: We're talking  
6 getting the priority list out to stakeholders.

7 MS. FAIROBENT: We're talking about  
8 priority lists out and publicly available but more  
9 importantly, Lance, is the incorporation of  
10 stakeholder input in the early development of what  
11 becomes the regulatory agenda.

12 MR. MARKLEY: Lance, I think the budget  
13 process should also be part of the parking lot here.

14 FACILITATOR RAKOVAN: Okay.

15 MS. SMITH: Margaret?

16 MS. FEDERLINE: Yes, two things I wanted  
17 to raise probably for the parking lot. We're dealing  
18 with the '06 budget now. One thing we're finding is  
19 that there are so many emerging issues that come upon  
20 the scene even in the year that we're working in that  
21 we're continually doing add/shed.

22 So I think we're going to have to have a  
23 very open communication process between the states and  
24 NRC and with the stakeholders to understand the  
25 emerging issues and look at priorities so we all have

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701



1 a common understanding there. I know George  
2 understands that we go through this add/shed process  
3 on the budget. Keeping open communication will help  
4 on that.

5 The other issue I wanted to raise is my  
6 first comment relates to planning assumptions. One  
7 thing I think would be particularly important is to  
8 have an earlier stage before the prioritization where  
9 we talk about planning assumptions and perhaps look  
10 out two to three to four years and have the  
11 stakeholders involved in that discussion and perhaps  
12 once a year have a meeting like this and talk about  
13 what we should assume for the next three to five years  
14 and plug that into our planning process. Thank you.

15 MS. SMITH: Thank you. Leonard Smith.

16 MR. SMITH: This is Leonard Smith. I have  
17 a question. Is there a provision for involving other  
18 federal agencies in this process like EPA and DOT and  
19 Homeland Security?

20 MS. MCBURNEY: Certainly they are  
21 stakeholders in a lot of this particularly some of the  
22 homeland security issues and transportation issues and  
23 disposition of orphan sources. So yes, we will be  
24 needing to involve those other agencies.

25 MS. CARDWELL: As a clarification point on

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 that, that was part of the original National Materials  
2 Program report. The other federal agencies are  
3 considered stakeholders in the report, but they are  
4 indeed involved early in the process. The report was  
5 done prior to 9/11. So I think Homeland Security has  
6 put a whole new twist on a lot of what the  
7 recommendations were and interactions that need to  
8 happen.

9 MS. MCBURNEY: Yes, and if there is early  
10 planning, they need to be involved with that as well  
11 on the planning assumptions as Margaret mentioned.

12 MR. MARKLEY: On that issue of the other  
13 federal agencies --

14 FACILITATOR RAKOVAN: Could you please  
15 identify yourself?

16 MR. MARKLEY: Yes, I'm Mike Markley with  
17 NMSS. There are two pieces of that with Homeland  
18 Security that typically impact us. One is the  
19 security thing which you are most familiar with now.  
20 But the other is the emergency planning and response  
21 because a lot of the interagency exercises we're  
22 dealing with now were not things we budgeted a few  
23 years ago. Of course, we're all spending resources on  
24 it. So to me, this also fits into the budget piece as  
25 well.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 MS. SMITH: Thank you.

2 FACILITATOR RAKOVAN: Okay, I see two more  
3 tents up. Stan, we'll go to you first.

4 MR. FITCH: I have one comment to Lynne  
5 about pilot four. Actually our new modality wasn't  
6 identified until just very recently. When we put  
7 together the working group, the intent was to research  
8 all options about which would be the best way to go.  
9 The feedback we got from the most recent OAS meeting  
10 was that the membership for that pursued something on  
11 homeland security.

12 In our discussions with NRC, we went back  
13 to the point that we really need to focus on a new  
14 modality. Just recently, a week or so ago, a new  
15 modality was settled on. As part of that research  
16 process, the pilot group worked with several  
17 stakeholders in identifying this and receiving  
18 feedback. Mr. Gallagher will identify that later. I  
19 think there are three or four people from the medical  
20 community that they involved. So we definitely did a  
21 stakeholder feedback early on in the process.

22 One comment, and I know we're going to be  
23 talking about budget later. But if you are looking at  
24 50 states and 50 states full of legislators, you will  
25 get a very small percentage who actually are going to

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1       commit to the National Materials Program. They are  
2       going to look at it. They are going to have their  
3       budgets and their figures. They are not going to  
4       commit themselves to NMP. There are alternatives for  
5       participation. We can discuss that later.

6               FACILITATOR RAKOVAN: Would you like that  
7       on the board?

8               MR. FITCH: Just with the budget portion.

9               FACILITATOR RAKOVAN: Lynne?

10              MS. FAIROBENT: Yes, Lance, one other  
11       parking lot item needs to probably be brought up later  
12       and thought about. That's the impact of petition for  
13       rulemakings and how do they fit into this whole  
14       overall process and switch your priorities?

15              MR. WANGLER: Lance, do you have steering  
16       committee membership as a parking lot item?

17              FACILITATOR RAKOVAN: I do now.

18              MS. MCBURNEY: Okay, is there anything  
19       else?

20              MS. SMITH: I think it's time for a break.  
21       Thank you for your attention.

22              FACILITATOR RAKOVAN: We're going to take  
23       a 20 minute break I believe. Be back here and ready  
24       for the next round of presentations starting with  
25       pilot project two at 10:20 a.m. Off the record.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 (Whereupon, the foregoing matter went off  
2 the record at 9:59 a.m. and went back on  
3 the record at 10:21 a.m.)

4 FACILITATOR RAKOVAN: On the record.

5 We're going to reconvene. For the next session, we're  
6 going to have the various chairs of pilot projects two  
7 through five giving short presentations on their pilot  
8 projects. The way we'll probably work this is have  
9 short clarification, Q and A after each individual  
10 presentation so that way it doesn't get all mixed up.  
11 So if you have any specific questions on pilot project  
12 two, we can handle them right after pilot project two.  
13 With that, I will turn it over to Jan Endahl.

14 MS. ENDAHL: Thank you. It made me  
15 nervous when you all got so quiet. I'm Jan Endahl.  
16 I'm with the Texas Program and Industrial Radiographer  
17 Certification. We do testing of the industrial  
18 radiographers. I'm also the chair of G-34 Committee  
19 with CRCPD, the Conference of Radiation Control  
20 Program Directors and as such ended up as the chair of  
21 pilot project number two.

22 What were we charged to do? We were  
23 charged with serving as the lead organization to  
24 oversee a National Industrial Radiographer Safety  
25 Certification Program. We were the logical choice for

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 this particular project because we are a ready-made  
2 working group within CRCPD.

3 We have representatives from NRC, Jim  
4 Myers from STP, Bruce Carrico from NMSS. We also have  
5 an industry representative here today, Donny Dicharry,  
6 who has already been noticed. He has for years served  
7 double duty on our committee serving as a  
8 representative from ASNT and also from NDTMA. The  
9 other two members of our project were Lauren Palmer  
10 from Georgia and David Turberville from Alabama.

11 The oversight activities that we were  
12 directed to take a look at were reviewing and  
13 approving initial applications from states and  
14 independent organizations, such as the American  
15 Society for Non-destructive Testing, to be recognized  
16 as certifying entities, also to review changes to  
17 existing programs, and to develop recommendations for  
18 the follow up evaluations of the program status which  
19 would include such activities as test administration,  
20 program maintenance activities, and data collection,  
21 document review, et cetera.

22 The question might arise in some of your  
23 minds as to why we think that a national program is  
24 important. Let me just take a couple of minutes to  
25 give you some information regarding that. Consider

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 that currently there are ten states and the American  
2 Society for Non-destructive Testing that are  
3 recognized as certifying entities.

4 In addition to Texas, there's Louisiana,  
5 Oklahoma, Iowa, Illinois, North Dakota, Georgia,  
6 Alabama, South Carolina, and Maine. These states and  
7 ASNT offer certifications anywhere from radioactive  
8 materials only certification to X-ray only  
9 certification to a combination certification that  
10 involves both X-ray and radioactive materials.  
11 Currently only ASNT has ever submitted applications to  
12 have their programs requested recognition of as  
13 programs. No follow up evaluations of any of the  
14 existing certification programs has been conducted.

15 We believe that centralized certification  
16 concept promotes the efficient use of resources and  
17 expertise. Essentially the individual states don't  
18 have to do independent reviews of new applications in  
19 order to determine whether states or independent  
20 organizations should be recognized as certifying  
21 entities, nor do the states or NRC have to keep up  
22 with program changes.

23 We believe that a centralized concept  
24 ensures comparable programs nationwide, that they all  
25 have the same program components which facilitates the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 uniform acceptance of certification cards and what  
2 they mean. We know that the industry is very mobile.  
3 Being able to move from job to job is very important.  
4 Essentially then centralized certification ensures the  
5 integrity of the centralized certification programs.

6 So what did we do and how did we do it?  
7 Well, we created flow charts that define the  
8 application review and the evaluation process for the  
9 states and for the independent certifying  
10 organizations, associations. These were first  
11 outlined during this process. We didn't actually  
12 create them. They were previously discussed and put  
13 on paper in May 2000 during a G-34 committee meeting  
14 when we were discussing an industrial radiographer  
15 certification center of expertise.

16 From the flow charts, we went to documents  
17 that formalized the review criteria which are based on  
18 nationally accepted standards and good practices. We  
19 used 10 CFR Part 34 for radioactive materials and  
20 CRCPD's suggested regulations Part E for the X-ray and  
21 combination certification programs. Originally an NRC  
22 working group made up of state and federal  
23 representatives developed the criteria in 1997 for  
24 evaluating ASNT's request to have its radioactive  
25 material program recognized.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701



1                   Once that happened, ASNT turned around and  
2                   said now that we're recognized for radioactive  
3                   material, we would like to be recognized for our X-ray  
4                   programs and for our combination programs. So the G-  
5                   34 committee at that time then took that criteria that  
6                   was developed by the NRC working group, expanded the  
7                   application to include X-ray machines, and in 2001  
8                   completed the evaluation of ASNT's request for  
9                   recognition of its X-ray and combination programs.

10                  Once we had the flow charts and the  
11                  process established, we needed a volunteer for testing  
12                  the criteria. We sent out letters to ten states along  
13                  with ASNT and the Canadian Nuclear Safety Commission  
14                  and invited them to be our test case. We chose  
15                  Louisiana. Of the people we polled, eight  
16                  organizations said yes, choose us, and four of them  
17                  declined participation in the actual criteria testing.

18                  We also solicited comments on the criteria  
19                  and the process from the people we had sent the  
20                  letters to the current certifying states, ASNT, and  
21                  Canada. We also added one more state to our list of  
22                  people we invited and solicited comments from. That  
23                  would be the State of California since they are in the  
24                  process of developing a certification program and  
25                  could potentially be the first group to actually go

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 through this process if we go forward with this  
2 concept.

3 So what did we learn? We learned that  
4 early communication between a prospective certifying  
5 entity and an oversight committee is really important  
6 and should be encouraged. For Louisiana, we  
7 deliberately fabricated a false situation in that we  
8 didn't allow them to ask us questions like what do you  
9 mean, send us this or what do you mean in the  
10 criteria? We as a group had decided before soliciting  
11 information from Louisiana that we wanted to see how  
12 the criteria stood on its own.

13 If there were gaps in how it was written,  
14 how it should be conveyed that we could better improve  
15 on, then it would be incumbent on us to do that. So  
16 we didn't let them ask questions. But we did think in  
17 the response that we got back from Louisiana that any  
18 gaps in the information that we received could very  
19 well have been minimized by allowing that back and  
20 forth dialogue between the oversight committee and the  
21 program.

22 We learned that the present criteria is  
23 adequate for reviewing a proposed state certification  
24 program as well as that of an independent certifying  
25 organization. We have sensible criteria that focuses

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 on the key elements necessary for sound certification.  
2 We have an outline of a process that we believe is  
3 necessary for a successful program.

4 Together, these provide a solid basis for  
5 future certification program reviewers for assessing  
6 the minimum requirements for an effective  
7 certification program. They also provide the basis  
8 for reviewing existing certification programs to  
9 ensure uniformity and continued credibility.

10 Naturally we had to make some  
11 recommendations. The group decided that there were  
12 certain rulemaking, administrative, and procedural  
13 improvements that could be made to the current and  
14 envisioned future certification system. These would  
15 include parallel rulemaking activities by NRC in its  
16 Part 34 and CRCPD in its SR Part E to facilitate the  
17 criteria changes that are necessary.

18 We also recommend that there be a  
19 promotion of sharing of information concerning the  
20 individual radiographer's radiation safety  
21 certification status and history, performance, and  
22 safety and that there be included provisions that make  
23 individuals on the job site responsible for their  
24 actions. Additionally, some other actions we  
25 identified that need to occur is the formal

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

1 establishment of an oversight committee of qualified  
2 individuals with specific responsibilities and  
3 authorities to administer a national program.

4 Also there's the establishment of  
5 protocols for a systematic and uniform sharing of  
6 information regarding enforcement actions, final  
7 actions, and orders and sanctions and that they be in  
8 sufficient detail to give opportunity for other  
9 certifying states to reciprocally recognize those  
10 sanctions. And finally that there be formal  
11 evaluations of independent certifying organizations  
12 and state certification programs at regular intervals.

13 So what's next for this group? After 39  
14 conference calls and 1,160 hours spent on the project,  
15 I wish I could say we're going to Disney World. But  
16 I don't think that's even on the screen of the  
17 prioritization project. We do appreciate the  
18 opportunity to focus again on refining the building  
19 blocks for a national certification program.

20 It seems like in the past when we have had  
21 the opportunity or been forced into the opportunity of  
22 taking a look at the process and the criteria that  
23 we've always had an application waiting in the wings.  
24 So we have always felt rushed to get through the  
25 criteria and make sure that we were working together

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 to review the application. That was not the case this  
2 time. So we had some extra time to really ask  
3 ourselves, why are we asking that question and why are  
4 we requiring that?

5 For some of us, going back to '97 to the  
6 original criteria was a mental exercise that was  
7 somewhat challenging as to why we made those  
8 recommendations back then. Essentially this was  
9 another day at the office for this group. You got a  
10 group who has been working on certification issues for  
11 well over a decade through CRCPD. Because this  
12 project was an extension of these activities, we will  
13 continue to be proactive on the issues that involve  
14 industrial radiographer safety certification.

15 We anticipate refining the criteria that  
16 we presented to Louisiana and to the states  
17 incorporating the information and feedback that we got  
18 from ASNT and from the states. Additionally, CRCPD  
19 has recently established an industrial radiographer  
20 certification page to share information with states  
21 and with others regarding this particular project and  
22 certification issues. You can visit that at their  
23 website at [www.crcpd.org](http://www.crcpd.org). I'll take any questions.

24 MS. FAIROBENT: This might sound a little  
25 strange but as you went back and looked at your

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 process and stuff, did you look at other types of  
2 equivalent programs? What comes to mind is the  
3 National Mammography Program. In that case, ACR is  
4 the only national entity that accredits or certifies  
5 facilities and stuff. But then there are five states  
6 that do it and you have FDA oversight on it. I just  
7 wondered if in looking at how your process maybe  
8 should be refined or adequate or needs to change, et  
9 cetera, did you look at any other types of similar  
10 programs that are addressing the same type of  
11 elements?

12 MS. ENDAHL: No, we did not.

13 MR. WANGLER: Hasn't the IR process been  
14 around longer than mammography?

15 MS. FAIROBENT: Yes.

16 MR. WANGLER: Quite a bit longer.

17 MS. FAIROBENT: Yes, and one of the major  
18 differences - and I know you just used that as an  
19 example - is that there's not the image reviews that  
20 are required. It's not a patient dose industrial use.

21 FACILITATOR RAKOVAN: Paul?

22 MR. GENOA: I wanted to offer two items  
23 for the parking lot. Really they deal with what's  
24 next. The first is in going back and looking at the  
25 earlier material, in particular the commission paper

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 that laid out each of the pilots, one of the things  
2 that you can see within the description of this pilot  
3 is that to the extent possible this should be a  
4 demonstration that the conference could take the lead  
5 for the nation, if you will, for the states and NRC in  
6 implementing a radiography certification program.

7 I guess the thought is whether the working  
8 group can do additional work to actually identify --  
9 In other words, they talk about the oversight  
10 committee or review committee. But to me, that  
11 committee could very well be the CRCPD. If the states  
12 are willing to accept it and NRC is willing to accept  
13 it, that could serve as the mechanism for basically  
14 running the nation's program. So I guess my thought  
15 is whether that should be explored further by the  
16 working group and either a recommendation or a  
17 proposal developed along those lines.

18 The second part of it relates to the  
19 evaluation piece. That's a very important piece that  
20 the working group has identified. I guess the thought  
21 is, could there be some consideration relative to  
22 whether the current integrated materials performance  
23 evaluation program could be expanded, if you will, or  
24 a new non-common performance indicator identified or  
25 prepared, drafted that would serve as the mechanism

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 for doing the evaluation? I don't know but these may  
2 be two areas we can talk about further this afternoon.

3 FACILITATOR RAKOVAN: Thank you Paul. Any  
4 other clarifying questions or discussion on this topic  
5 before we move on to the next pilot project? Thank  
6 you, Jan. While we are switching presenters, we have  
7 had another member of our roundtable discussion join  
8 us. Ms. Johnsrud, if you could grab a mic and  
9 introduce yourself please.

10 MS. JOHNSRUD: My name is Judith Johnsrud.  
11 I represent Sierra Club's National Waste Committee.  
12 I do chair the club's nuclear waste subcommittee as  
13 well as directing a Pennsylvania-based environmental  
14 coalition on nuclear power among others. So it's  
15 public interest representation.

16 FACILITATOR RAKOVAN: Thank you, Ms.  
17 Johnsrud. Next on pilot project number three, we have  
18 Mike Markley.

19 MR. MARKLEY: I'm with the Office of  
20 Nuclear Material Safety and Safeguards. My co-chair  
21 is Marcia Howard with the State of Ohio. Our other  
22 members were Debbie Gilley from Florida and Duncan  
23 White from Region I. We did not have a big team. We  
24 did have equal representation between states and NRC.  
25 We had an outstanding team. I couldn't ask for more

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701



1 enthusiastic participants than what we had.

2 Just to tell you a little bit about how we  
3 got started on this, it was initially chartered to  
4 look at events and how generic implications were  
5 reviewed. Along the same time that we were getting  
6 started, the Davis Besse event occurred. There was  
7 a well logging event in a particular state and a  
8 medical event in another state.

9 So there was a huge effort at the NRC -  
10 and I think it was shared by many people among the  
11 Agreement States and state and tribal programs - that  
12 we couldn't really look at the events. We had to look  
13 more at the operating experience program. At that  
14 time, the NRC created an action plan and ultimately  
15 had a task force looking at operating experience  
16 evaluation.

17 That did create a few problems for us  
18 because of the vocabulary and dialogue between us and  
19 the states. That became rather apparent during our  
20 meetings with CRCPD and OAS. But nevertheless, we  
21 proceeded and we modified our mission to the great  
22 extent early on to focus on operating experience  
23 evaluation. Our mission was really to increase the  
24 partnering of that kind of an activity with the  
25 Agreement States.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1           We met with ACMUI twice. So we have had  
2 public meetings on this where others had the  
3 opportunity to participate. We have had to go through  
4 this process of describing what do we mean by  
5 operating experience? It's really domestic and  
6 foreign event data, special studies, generic issues,  
7 reviews that we might do, risk studies, whatever they  
8 may be, industry issues and studies that may exist.  
9 The material there doesn't really have an NEI like the  
10 reactor program does. It's out there doing things and  
11 leading initiatives on the part of the industry.

12           But that would normally be what we would  
13 consider part of that process too, and of course, the  
14 feedback process for regulatory action. I really  
15 would suggest that this probably could have been a  
16 little bit different too because ultimately what we're  
17 trying to do is affect licensee behavior and  
18 performance. So that is really a major part of what  
19 operating experience is all about.

20           So what did we do? We tried to address  
21 three basic questions. How can we better communicate  
22 between the NRC and Agreement States on operating  
23 experience information? How can this information be  
24 used to better trend and optimize our resource  
25 utilization? How can we better use risk insights in

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 our decision-making? I emphasize integrated decision-  
2 making, that it's looking at things collectively and  
3 not just looking at a particular event in isolation.

4 We looked back over history. We looked at  
5 some of the major events and inspection activities and  
6 some of the NUREG reports that summarized those over  
7 time to try to examine some of the lessons learned and  
8 delineate common threads across those. We conducted  
9 interviews and questionnaires both with NRC and  
10 agreement state participants.

11 We issued surveys, as I think probably  
12 every pilot did. We got some feedback from OAS that  
13 surveys are probably not always a good thing to do  
14 because everybody is doing it and it does have a  
15 burden associated with it. So we definitely want to  
16 fold that into our forward look. We had two test  
17 cases. One was intervascular brachytherapy. The  
18 other was portable gauges.

19 What I'm going to talk to you about here  
20 today mostly is about issues and options. In the  
21 issues that we came up with essentially communication  
22 was the big thing. We all do things well. The NRC  
23 does a lot of things well. They come up with good  
24 evaluations and studies. But they are not necessarily  
25 shared or disseminated in a timely manner. Likewise,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 we don't necessarily --

2 MR. PANGBURN: Before you go on, could you  
3 just clarify what you mean by the test cases? I'm a  
4 little confused on that point as to how it factored  
5 into what you were doing.

6 MR. MARKLEY: What we looked at in the  
7 test cases was we had a survey to address what are you  
8 doing currently to evaluate these areas, what has  
9 worked, what hasn't worked, and what can we do  
10 differently or do better in each of these cases? The  
11 common thread we had a hard time getting off of  
12 initially. As I said, it was a vocabulary thing of  
13 operating experience evaluation.

14 But really the states do many things well.  
15 We realize that and so does the NRC. But it's how we  
16 communicate with each other and share things to work  
17 collectively and to partner on common things. One  
18 thing I would say about this pilot which was probably  
19 unique - and this is a lesson learned for the  
20 materials program itself - we did this entire pilot  
21 via teleconference. We did not travel for a single  
22 meeting.

23 So in terms of the efficiency and the  
24 limitations of constraints for travel and so forth,  
25 which both the NRC and states have now, there are ways

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 to work around it and to try to accomplish things.  
2 One of the primary options and really recommendations  
3 that we're probably going to be carrying forward here  
4 - and we're looking for feedback from you on all of  
5 these options that we're talking about - is a  
6 clearinghouse on operating experience information.

7 It was discussed in the context of the  
8 Davis Besse task force report. We looked at that. We  
9 also participated in the meetings of NMSS and in an  
10 office-wide committee that was evaluating the Davis  
11 Besse lessons learned on an office-wide basis. We  
12 participated in those via teleconference. I was the  
13 chair of that as well. But we made sure that these  
14 two things were going on in parallel and were  
15 communicating with each other and that the ball wasn't  
16 dropped.

17 But the central clearinghouse is where you  
18 could go and find studies, issues, events, lots of  
19 different kinds of information. Now, what we're  
20 talking about here is not necessarily telling the NRC  
21 or Agreement States how to do these things or what  
22 should be in a clearinghouse exactly but that a  
23 clearinghouse, from what we delineated from feedback  
24 and the agreement state participants, was that would  
25 be something that would benefit everyone. Right now,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 if you look at even our websites, the NMSS has one,  
2 the SDP has one, it would be really nice to have one  
3 stop shopping to be able to go and look for the things  
4 that you are trying to find and to be able to spin off  
5 into NMED and other things from that.

6 The other thing is ready to use products.  
7 If the NRC is doing risk studies or something, it's  
8 not going to do us any good to drop a three inch  
9 document on someone's desk, whether it's an inspector,  
10 a reviewer, or a manager, that you don't have the time  
11 to read or use. What inspectors, reviewers, and  
12 managers need for the most part, that we deliniated  
13 back, was a user friendly product that provided the  
14 insights and the vulnerabilities.

15 Participation. One of the downsides,  
16 unfortunately, of working groups - and that's  
17 something I would like to carry back - is that these  
18 things are typically conducted with existing  
19 resources. There's no extra FTE being allocated due  
20 to these working groups. That does to some extent  
21 constrain the participation. We had a small group.  
22 We were very fortunate. They were all really good  
23 people. But it's very difficult to put together a  
24 group when people are not being given up some of their  
25 other responsibilities to do these things. That's

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 part of it.

2 The other point that we would like to make  
3 here as far as participation is we think that in  
4 addition to working groups - and maybe working groups  
5 should be done more selectively - that the real value  
6 added activities that could occur and would provide  
7 more timely opportunities for sharing are really  
8 decision-oriented activities where you would come  
9 together. These are just a few examples of things.

10 If you like them, tell us. If there are  
11 other things that we haven't considered here, tell us,  
12 something like an NRC/OAS roundtable or the NRC  
13 typically on a quarterly basis has counterpart  
14 meetings with the regional managers and the  
15 headquarters management here. It seems to us that  
16 would be an ideal opportunity for state issues to be  
17 brought to the table and for some partnering and  
18 mutual sharing of issues to occur.

19 The agency action review meeting, the  
20 annual report is in development right now. That  
21 process of nominating licensees or areas of concern  
22 for consideration by the Commission and by the senior  
23 executives of the agency and to disseminate that kind  
24 of information more broadly, it seems that's another  
25 opportunity where state participation would be of

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 benefit.

2 And lots of routine meetings and things  
3 that we're all focusing on or issues that may be  
4 coming up in the states, lots can be done by a  
5 teleconference. It doesn't have to be that you travel  
6 for a meeting. There are lots of things that we're  
7 not doing in terms of outreach, not just to the states  
8 themselves but deriving licensee input on these types  
9 of activities. If you look at the risk informed arena  
10 in particular, the majority of those, even on the  
11 reactor side of the house, have come from licensees  
12 who see the burden that we don't necessarily.

13 Data evaluation and trending. Although  
14 NMED and the SDDR are not perfect and probably never  
15 will be perfect in everyone's eyes, they're the best  
16 thing we have right now. That's the conclusion we  
17 came up with looking at the information that was  
18 available. It is a tool that's there. It can be  
19 enhanced. It is currently under development for more  
20 changes.

21 It's a place where the opportunity to look  
22 at precursor events and so forth can be built into it.  
23 The next generations are where we need to be thinking.  
24 How can we use this information? We don't have  
25 another alternative right now that we can say, we

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701



1 could do this or that. It's an ideal product and it  
2 may even be part of the clearinghouse that we were  
3 suggesting to work towards some of these things.

4 So we would like to enhance the usefulness  
5 of these tools. You were talking about the pilot  
6 cases. One of the things that we got feedback on, in  
7 particular the intervascular brachytherapy, was that  
8 they would like to have seen more information on  
9 malfunctions and failures and to be able to understand  
10 that within the population of the tools that we have  
11 so that quicker discussion and response can be dealt  
12 with.

13 We just issued an information notice last  
14 year on intervascular brachytherapy. But there was an  
15 ongoing discussion. ACMUI was involved in looking at  
16 things. But our tools aren't really necessarily that  
17 well suited for picking up some of those things just  
18 yet. So the failures and malfunctions were one of the  
19 primary recommendations of some of our participants  
20 and some of the survey results.

21 Again, incorporating the use of risk  
22 guidelines. Right now, the NUREG 66.42 risk byproduct  
23 study and tool that exists is not really being used  
24 very much. It may be used in some places. We are  
25 encouraging that it be used further. There's also an

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 ongoing activity with Brookhaven National Laboratory  
2 that the risk task group is doing to develop  
3 guidelines for developing tools.

4 Their focus right now is in many ways  
5 toward revising regulations. The recommendations that  
6 we would have along those lines is pick something  
7 easier to do than rulemaking. It's easier to do  
8 licensing, inspection guidance, and other things and  
9 to have quick impact and to make changes to  
10 accommodate your risk insights.

11 If you know where the vulnerabilities are,  
12 you can focus your time and your resources better.  
13 Those are the quick paybacks that we see. Rulemaking  
14 is going to take longer. Quick rulemaking is  
15 sometimes two years. Generic communications, NRC  
16 bulletins, bulletins and generic letters are fairly  
17 rare in this area. We mostly issue information  
18 notices and regulatory issue summaries.

19 The NMSS newsletter, the NMED newsletter  
20 are fairly good at capturing some of those things.  
21 But again, if you had a one stop shopping place where  
22 you go say here's the newsletter and here are some of  
23 the things that are there, it would be a very useful  
24 tool. The one thing in looking at some of the events  
25 and some of these incidents that we examined is that

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 we probably need to look at how we're evaluating  
2 bulletin genetic letters right now.

3 We went away from the GAP or generic  
4 assessment panel at least as far as the NRC is  
5 concerned. So we haven't issued a generic letter or  
6 bulletin over time and in quite some while. There are  
7 a couple of incidents that we thought may actually  
8 have warranted it. So that process probably needs to  
9 be looked at a little bit more.

10 So what we're suggesting is a self-  
11 assessment. Here's the process. Look at your  
12 procedures. Let's see how it's working. Go back and  
13 look at them a little bit more. That's our  
14 recommendation, a self-assessment. I would mention  
15 that that has already begun.

16 NMSS and IMNS are already looking at the  
17 quarterly report to see, do we have things that are  
18 being issued as information notices that probably  
19 could have been bulletins or generic letters? There  
20 is a burden associated with those documents and  
21 issuing them. But at the same time, there are safety  
22 issues that need to be addressed as well.

23 As I mentioned before, there's quite a bit  
24 of risk guidance development and process right now.  
25 It would certainly be helpful if the Agreement States

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 were up to speed with what the risk task group is  
2 doing. Maybe that's something that we could advertise  
3 a little bit more. Resource utilization and so forth.  
4 It really does have a potential payback, but again, it  
5 has to be in a product that's user friendly for people  
6 that don't have much time like inspectors and  
7 reviewers and managers.

8 If you can't get the insights quickly and  
9 you can't understand the vulnerabilities, it's not  
10 going to really get you very far. I looked at a  
11 document the other day. It was three inches thick.  
12 You get to page six and it's onerous. So that's what  
13 we prefer that it be and that it be procedural to help  
14 you get there rather than tutorial. A tutorial is not  
15 going to help an inspector go out and do something  
16 better.

17 Communication plans. This is generic  
18 across all of these areas. If you had something  
19 substantial that occurred, even if it's an AIT  
20 inspection or something like that, it's very  
21 advantageous to have a communication plan to lay out  
22 we developed this or we have this result, how are we  
23 going to notify the various stakeholders? When are we  
24 going to notify the Agreement States? When are we  
25 going to notify Congressional Affairs, if needed? How

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 is the Commission going to be notified?

2           There's a lot of stakeholders involved  
3 that if you just sat down and created a one page to do  
4 list and laid out the sequences, it's really not that  
5 difficult. It worked rather well for a few things.  
6 I understand they did it with the Honeywell AIT  
7 recently. So again, there are common threads that we  
8 can learn from here. Really, when you get down to it  
9 for risk information, the ultimate point is that you  
10 really want the licensees to address the  
11 vulnerabilities, not just that we use our resources  
12 better. That's the end point that really matters.

13           Consistency. We do have four regions and  
14 33 Agreement States. There is going to be a certain  
15 amount of variability. We would like to think that  
16 the clearinghouse could create an opportunity for  
17 people to be looking at a lot of the same information  
18 to the extent that we can, that the Agreement States  
19 and others could volunteer things that would go into  
20 that location, and that quality assessments still need  
21 to occur.

22           Right now, the MPEP (PH) is getting a lot  
23 of accolation (PH) (PH) because of the success that  
24 it's having as compared with other agencies and their  
25 programs. But there were issues that were raised in

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 some of our discussions about we have to make sure  
2 we're not glossing over things here. So it's not as  
3 though you can walk away from the table and say we're  
4 being successful. It's a continuous process.

5 You have to have timely closure. The one  
6 thing about bulletins and generic letters which are  
7 problematic for us as regulators, whether it's the NRC  
8 or Agreement States, is that they typically require  
9 some degree of follow up. We're all resource  
10 constrained. They have to be done judiciously, but in  
11 some cases, they may be warranted.

12 The other point that we would like to make  
13 is that budgeting for relationship building  
14 participation is really what the outcome should be for  
15 operating experience. It's more of an ongoing  
16 activity as opposed to something where you would have  
17 a working group come up with a product. Those kinds  
18 of meetings that we talked about earlier would be very  
19 useful.

20 Let me back up just a little bit because  
21 there are things that if you don't put it in a budget  
22 it isn't going to happen. That's the bottom line.  
23 Whether it's in the state or NRC, it has to be  
24 budgeted and allocated for and accounted for somehow.  
25 That's just the groundrule. I did want to go back to

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 the clearinghouse issue one time here because I failed  
2 to mention something that we were tossing around the  
3 other day.

4 The Agreement States don't really have  
5 access to our technical assistance requests, TARs.  
6 The regions, George's group among the others, send us  
7 TARs to do evaluations and so forth. Typically, we'll  
8 share that information with an agreement state if they  
9 know it exists and they call. But that's not the kind  
10 of relationship that we really want to build.

11 Some of those things that are resolved  
12 within the context of a TAR, one of the thoughts that  
13 we had is that it might be something that could be  
14 converted into a branch technical position or  
15 something like that that could be disseminated more  
16 openly than what we have. So these are the kinds of  
17 things that we've been tossing around. None of these  
18 things are all decisions right now. We're really  
19 still in the process of converting options to  
20 recommendations. So if you have suggestions and  
21 feedback, we would like to have it.

22 MR. DICHARRY: Getting back to issue three  
23 and the sharing of data evaluation and better use of  
24 tools that currently exist, was there a recommendation  
25 to make the NMED available to the public?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 MR. MARKLEY: That certainly constrains  
2 some things. That's something we have debated a bit.  
3 That is feedback we need. It certainly is not  
4 available right now. If you are talking about  
5 safeguards, security, and proprietary information,  
6 right now we don't have to go through and redact  
7 anything from it to share it with the Agreement States  
8 in that regard.

9 If we were to make it publicly available,  
10 it would probably send us through a major activity.  
11 That doesn't say that it's not worthwhile, but again,  
12 there's a balance of how that would fit. So I don't  
13 have an answer for you right now. We're still forming  
14 recommendations.

15 MS. ROUGHAN: In relation to issue three,  
16 you made a comment on data evaluation trending in  
17 reference to the SSDRs. What was the recommendation  
18 or the thought process there?

19 MR. MARKLEY: Well, right now the feeling  
20 and the feedback that we've received is that the  
21 things we're missing that we would like to see are  
22 information failure data and malfunctions and that  
23 even one recommendation was along the lines that it  
24 would be worthwhile to have an expiration date on the  
25 SSD so they have to be updated periodically.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701



1 MS. ROUGHAN: So the proposal of the  
2 recommendation is to include malfunctions and failures  
3 within each device or source SSDR during the review  
4 process.

5 MR. MARKLEY: That's possible. That's a  
6 suggestion that we received from one individual, yes.  
7 Like I said before, we haven't made decisions on these  
8 things. These are some of the issues that are out  
9 there. How we would incorporate issues such as  
10 malfunctions and failures we could even consider  
11 within the context of the inspection process. So  
12 there are tools, but we're not really at a point of  
13 saying what the recommendation is. We're still trying  
14 to see how it would all fit. You are shaking your  
15 head.

16 MS. ROUGHAN: Well, because we manufacture  
17 sources and devices. It would be very difficult to  
18 update each SSDR with a history of failures and  
19 malfunctions. AEA has about 120 SSDRs through the  
20 State of Massachusetts. We rely more on NRC  
21 information notices or bulletins if there's something  
22 out in the industry for a particular product and how  
23 it's used to communicate that information. I just  
24 have a very hard time understanding how we would  
25 implement that from an SSDR standpoint.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 MR. MARKLEY: I'm not answering your  
2 question. I'm just taking it in at this point.

3 MS. ROUGHAN: That's fine.

4 MR. MARKLEY: I appreciate it.

5 FACILITATOR RAKOVAN: If we could go to  
6 Ralph Anderson from HPS. I'll remind all of you, even  
7 those sitting at the table, if you could identify  
8 yourself because our stenographer can't see a lot of  
9 people on this side of the room because of the pillars  
10 especially.

11 MR. ANDERSON: Ralph Anderson, HPS.  
12 Within this, is there in place already or was there  
13 consideration of a common system for classifying and  
14 prioritizing incoming information to make sure that  
15 the important stuff is recognized early, evaluated,  
16 and communicated more promptly?

17 MR. MARKLEY: We were looking at the NRC  
18 management directive 6.4 and the inspection manual  
19 chapter as well as the PPNLs, the policy and planning  
20 procedures. Those were the primary documents we  
21 looked at. The Agreement States did not really bring  
22 to the table their methods, if you want to call it.  
23 If I look at what we got back from our survey, what  
24 are you evaluating? I mean, everybody is looking at  
25 the same stuff for the most part, the Agreement States

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 as well as the NRC. And most of that stuff goes into  
2 NMED.

3 MR. ANDERSON: I was just thinking that  
4 because so many of these things are resource dependent  
5 and the attention that they get, resources that are  
6 available right at that time. I just wondered if  
7 there was a thought toward lending itself towards a  
8 common prioritization scheme to assure that things  
9 don't get lost on the cracks for a while and then  
10 surface at a very inopportune time.

11 MR. MARKLEY: We're asking for self-  
12 assessment because we have a little bit of concern  
13 that some of the things aren't necessarily always  
14 being done.

15 MR. ANDERSON: I might suggest that as a  
16 parking lot issue, a common scheme of the  
17 classification prioritization especially for incident  
18 and event analysis. That would be my largest concern  
19 including things like failures and malfunctions.

20 FACILITATOR RAKOVAN: Can you clarify that  
21 for me please, Ralph?

22 MR. ANDERSON: Yes, consideration of a  
23 common system for classification prioritization of  
24 incident and event analysis and communication. You  
25 hate to read two weeks after you have had something

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1       happen the answer to how to make it not happen.

2                   FACILITATOR RAKOVAN:   Thanks, Ralph.   I'm  
3       going to go to Paul Lohaus next because I saw his flag  
4       first.

5                   MR. LOHAUS:   Paul Lohaus, State and Tribal  
6       Programs.   My comment - and really it's a parking lot  
7       issue - is very similar.   I think a key issue within  
8       this pilot is the role of the Agreement States - and  
9       I'll   use   the   term   "clearinghouse" - in the  
10      clearinghouse.   Again, looking at the fact that the  
11      states have responsibility for 80 percent of the  
12      licensees, what's their role and what's the process  
13      for reviewing the operational experience and event  
14      information for generic implications and then folding  
15      that information into some type of regulatory action  
16      at the national level?

17                   What's identified here is that NRC may  
18      issue an information notice.   But there have been  
19      cases where states have also issued information  
20      notices and got them all promptly.   To me, that's part  
21      of the spirit here is in terms of doing the review,  
22      looking for generic implications, and then getting the  
23      information out and sharing it with the other  
24      regulatory agencies and the licensees.

25                   MR. MARKLEY:   Well, that's the notion of

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 the clearinghouse, Paul, is that they would have the  
2 opportunity to provide that kind of input to it.

3 MR. LOHAUS: But in terms of really  
4 identifying the role and the expectation, if you will,  
5 from the national materials standpoint. What's the  
6 role of the states? What's the expectation that's  
7 held there? And having that understood, if you will.  
8 To me, it's a parking lot issue to come back and talk  
9 about more maybe.

10 FACILITATOR RAKOVAN: Okay, I see one more  
11 tent, Ken Wangler, North Dakota.

12 MR. WANGLER: Ken Wangler from North  
13 Dakota. I guess I would even expand on Kate's  
14 concern. I don't think the SSND is necessarily a good  
15 place to be putting incident issues because oftentimes  
16 those are corrected. One thing that comes to mind is  
17 an incident that we just had involved an improper  
18 source placement for a high dose rate remote after-  
19 loader.

20 It's a software problem. As soon as that  
21 software gets updated, that problem shouldn't exist  
22 anymore. To put it in the SSND seems like a permanent  
23 record of something that's not going to be all that  
24 permanent. But I also agree with Paul. I think the  
25 information notice route is a good route.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1           This incident is real close to home right  
2           here because we investigated that incident involving  
3           the HDR. I quite frankly don't know how to get the  
4           information out to the states. I think the  
5           information notices are good. I don't think it would  
6           take that much to make that accessible to the states  
7           even in the near future.

8           MR. MARKLEY: How do you address issues  
9           like Part 21? Do you consider it within that context?

10          MR. WANGLER: Part 21?

11          MR. MARKLEY: Reporting defects and  
12          noncompliance.

13          MR. WANGLER: It is an NMED issue. But  
14          quite frankly, NMED is a good idea for the right  
15          reasons. But it's not something that people go and  
16          spend time perusing to look for issues that might be  
17          out there. Information notices are proactive. They  
18          end up on the director's desk. Then action can be  
19          taken as far as spreading that information. I have  
20          never gone to the NMED to see some issues that might  
21          be there that I should be doing something about. So  
22          the information notices are much more proactive and  
23          demand a response.

24          MR. MARKLEY: We're not in any way  
25          criticizing information notices.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 MR. WANGLER: No, but Paul just said, how  
2 do the states participate nationally with the  
3 information notice? And I don't know how. Can I send  
4 it to you? Can I send this information to you?

5 MR. MARKLEY: That's where they would  
6 come, yes. That's our division's responsibility.

7 PARTICIPANT: So it's a communication  
8 issue.

9 MR. MARKLEY: Yes, probably.

10 FACILITATOR RAKOVAN: Okay, I see a lot of  
11 tents coming up here. Let's try to get through some  
12 of these comments briefly so we can move on to the  
13 next pilot. I saw Lynne's first. Jim, I'll get to  
14 you second and then Stan.

15 MS. FAIROBENT: Lynne Fairobent, ACR. I  
16 would just like to follow up on what Ken was just  
17 addressing. I think a key thing goes back to Don's  
18 question on the availability of NMED being publicly  
19 accessible and it isn't. One of the concerns in fact  
20 from the user community is sometimes also being able  
21 to share when somebody has a software problem because  
22 there's somebody else who has that same software  
23 program.

24 If it's simply put into NMED or into  
25 another secure database that only the state and the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 federal regulators can have, sometimes that is not  
2 disseminated. Also, we have communications problems  
3 on the other side of the house. So in the parking lot  
4 issue for this pilot, Lance, I would also suggest that  
5 in any establishment of anything to better  
6 communication there is also consideration for public  
7 accessibility of that information.

8 MR. MARKLEY: Well, information notices  
9 and regulatory information.

10 MS. FAIROBENT: Exactly, and those are.

11 MR. MARKLEY: So good tools for  
12 communicating things especially risks and getting the  
13 word out quickly.

14 FACILITATOR RAKOVAN: Thanks, Lynne. I'm  
15 going to go to Jim Myers from the Office of State and  
16 Tribal Programs, NRC.

17 MR. MYERS: Good morning everybody. I'm  
18 Jim Myers if you haven't met me. I'm with State and  
19 Tribal Programs. I guess I'm one of those evil people  
20 who brought this National Material Program thing  
21 because I was on that working group. On this  
22 particular project, there's a couple of things that  
23 struck a chord with me because I have worked with  
24 SSNDs. I have touched NMED a little bit. I do the  
25 website and I do all those kinds of things that are

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701



1       communicative I guess. And I hope I do them okay.

2               But one thing that just hit me is that you  
3 always have to look at the SSNDs as just a tool for  
4 licensing. That's what they are. When you start  
5 encumbering them with all kinds of other information  
6 about defects and stuff like that, I don't think  
7 that's appropriate because what you want to do is have  
8 the people who issued that SSND review the device and  
9 amend the sheet for the conditions of use to prevent  
10 a future event and not use it as a vehicle to  
11 publicize some generic issue.

12              That's my opinion. But I think that's how  
13 most people use these, as strictly licensing tools.  
14 That's what they are. Kate's point is very good  
15 because for a big company like that you have lots of  
16 sheets. It's really expensive to do all of them.  
17 Maybe you are not going to do them all. But you might  
18 have a group of them to do. So again, that's another  
19 process that really doesn't really get to the heart of  
20 the matter.

21              I had the good fortune or bad fortune to  
22 work with Jan again which is always good for her.  
23 It's a good relationship that we have. But we've been  
24 working on this two person crew thing for quite some  
25 time. We have looked at NMED data. We really cut it

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 to see what two person crew does in terms of safety  
2 things.

3 I have to tell you, that database is just  
4 what it is. The data is what it is. You really can't  
5 interpret too much out of it because it's the way it's  
6 entered. Everybody enters everything differently.  
7 There's no consistency. The questions you ask today  
8 or tomorrow, nobody had a crystal ball to put that  
9 information in NMED.

10 MR. MARKLEY: What would you have us use?

11 MR. MYERS: Okay, I'll tell you what I  
12 would do. I'll base this on about 32 years of  
13 military experience. I grew up as an Air Force brat.  
14 I was surrounded by safety stuff. The Air Force  
15 publishes a magazine on safety. They have an active  
16 safety culture. The Army has an active safety  
17 culture.

18 We had a brachytherapy event. I think it  
19 was Omnitron, not to mention a name, but it was in  
20 Pennsylvania someplace. I think that was it. There  
21 was a fatality. It was a really bad thing. We made  
22 a hoo-rah about that. Oddly enough, does anybody  
23 remember the second event? There was a second event.  
24 Yes, ma'am, you are going to get the award today for  
25 remembering.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1           There was a second event. It occurred  
2           about a month or month and a half later. It was in  
3           Pittsburgh, if I remember. The guys did all the right  
4           stuff. They had a kit together. They did their  
5           surveys. They got the source back. They put it safe.  
6           Did we say anything about that? Not one word was  
7           mentioned about doing it right. Those guys should  
8           have been poster guys.

9           That's the kind of information that you  
10          have to put out so that users know what to do which  
11          goes back to Ken's point. What do I do right here,  
12          right now? Or maybe it was Mr. Anderson's point about  
13          I don't want to find out how to fix something a week  
14          after I had the event. That's a proactive safety  
15          concept. So I'll leave it at that.

16          MR. MARKLEY: I think we're really on the  
17          same page. All we're really after is being able to  
18          identify precursor events and be able to get that  
19          information out in a timely manner and communicate it  
20          better.

21          MR. MYERS: That I think I would agree  
22          with. That's where you maybe want to go.

23          FACILITATOR RAKOVAN: Stan, one last  
24          comment.

25          MR. FITCH: Well, actually I was thinking

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 about it, Jim, before I get ready for this comment.  
2 How do you get the information out? Well, having come  
3 from the world of Department of Energy, they have a  
4 weekly operating summary with health and safety  
5 concerns.

6 I am not necessarily advocating that NRC  
7 and the states adopt something DOE does, but there's  
8 something to be learned from this. It's a simple  
9 digest of an occurrence. This is what happened. It  
10 doesn't go into the root analysis or anything else  
11 like that. That would provide interested stakeholders  
12 like HPS or licensees to say this is what happened.  
13 Now, the NRC and states may be doing an analysis later  
14 on but at least they find out right away. So I would  
15 recommend the NRC and the states consider a weekly  
16 operating summary.

17 FACILITATOR RAKOVAN: Thank you. All of  
18 these have been very good comments and good input.  
19 We're going to move on to pilot project four which is  
20 chaired currently by Robert Gallagher from the State  
21 of Massachusetts.

22 MR. GALLAGHAR: Good morning and thank  
23 you. Again, my name is Bob Gallagher. I'm with the  
24 Commonwealth of Massachusetts. What Lance is  
25 referring to, as I'll mention later on, I am recently

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 named the chair of this group. I wanted to start this  
2 morning, as others have, with what is our charge?

3 For this pilot project, a group of  
4 Agreement States assumes responsibility for  
5 development of licensing and inspection guidance for  
6 a new use of material or a new modality not previously  
7 reviewed and approved. The pilot would demonstrate  
8 that the regulatory agency, having jurisdiction over  
9 the new use of material or a new product or a device,  
10 would develop in coordination with other Agreement  
11 States and the NRC the licensing and inspection  
12 guidance which reviewers should apply in reviewing  
13 applications, issuing licenses, and conducting  
14 inspections for the new use, product, or technology.

15 This pilot will better define the  
16 feasibility and viability of the alliance option  
17 recommendation by the National Materials Program  
18 working group. The pilot, as has been said earlier,  
19 is implemented by the Organization of Agreement  
20 States. Why is this important?

21 The development of licensing inspection  
22 guidance along with the associated sealed sources and  
23 reviews for new products for modalities, if  
24 applicable, by a single regulatory program would  
25 provide efficiency gains for all programs and

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 eliminating the need for each program to independently  
2 develop the supporting implementing guidance. The  
3 regulatory products resulting from this effort would  
4 be a set of licensing and inspection guidance which  
5 all programs could use in the review of applications,  
6 for the use of the new procedure, product, or device,  
7 and the revised inspection guidance.

8           Who are we? In December 2003, I was asked  
9 by Stan Fitch, Chair of the Organization of Agreement  
10 States, to replace Kathy Allen as chair of the pilot  
11 four working group. My first goal was to assemble a  
12 team of agreement state personnel who are actively  
13 involved with licensing new medical technologies. I  
14 was very fortunate to find what I think is the ideal  
15 group to develop the guidance information in the short  
16 time remaining.

17           The members of my working group are Debbie  
18 Gilley of the Florida Department of Health, Bureau of  
19 Radiation Control, who is also sharing duty on pilot  
20 three I understand, Eric Jameson of the Georgia  
21 Department of Natural Resources, Radioactive Materials  
22 Program, Gibb Vinson of the Illinois Emergency  
23 Management Agency, Division of Nuclear Safety, and  
24 Cassandra Frazier of NRC Region III.

25           How did we choose the new use or medical

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 use of material? The pilot four working group held  
2 its first meeting during the week of February 15,  
3 2004. During this meeting, we reviewed the  
4 prioritized list of regulatory needs analyzed by pilot  
5 project one, which you heard earlier about. This list  
6 identified the development of licensing and inspection  
7 guidance for a new medical modality ranked among the  
8 top third in the protection of public health and  
9 safety.

10 We then took a look at what emerging  
11 technologies exist on the radar screen for the  
12 development of our licensing inspection guidance. To  
13 accomplish this, we reviewed what guidance has been  
14 developed for such new emerging technologies as the  
15 GliaSite radiation therapy system involving Iodine 125  
16 balloon catheters, the Yttrium 90 microspheres such as  
17 the TheraSpheres, the Nucletron seed selected  
18 brachytherapy device for use with Iodine 125 sealed  
19 sources, and Iodine 125 seed localization for non-  
20 palpable breast lesions.

21 We also surveyed the Agreement States and  
22 the NRC regions utilizing the rad\_rap server and  
23 contacted major medical institutions and manufacturers  
24 and distributors throughout the United States. What  
25 we learned was that the states and the NRC have

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 already developed guidance for the GliaSite balloon  
2 catheters, the Yttrium microspheres, and the Nucletron  
3 seed selected device. However, no regulatory program  
4 has yet to develop licensing inspection guidance for  
5 the use of Iodine 125 seeds for localization of non-  
6 palpable breast lesions.

7           What medical use have we chosen and why?  
8 After determining that no regulatory approach to  
9 license the use of Iodine 125 for the localization of  
10 non-palpable breast lesions has been performed, we  
11 began to look closely at this new procedure. We  
12 contacted the institutions directly involved with the  
13 clinical trials and learned that the procedure is not  
14 only a significant improvement over existing surgical  
15 techniques but it is beneficial for the patient in  
16 that the surgeon can more precisely locate the area of  
17 interest with minimum surgical intervention.

18           The technique involves the implantation of  
19 an Iodine seed or several seeds, the same type of seed  
20 that is currently used and approved for use in  
21 permanent prostrate implants, around the edges of the  
22 lesion. The seed or seeds are then identified by the  
23 surgeon using a common hand-held gamma probe and  
24 surgically removed with the lesion. The lesion is  
25 then brought to the pathology department. At what

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701



1 stage the Iodine seed is removed is one of the issues  
2 identified by our working group as requiring  
3 clarification.

4 Why have we chosen this procedure? First,  
5 Iodine 125 is a radioactive material and is therefore  
6 regulated by both the NRC and the Agreement States.  
7 Second, this particular application of Iodine sealed  
8 sources does not fit into brachytherapy because they  
9 are not being used to deliver a dose to any tissue,  
10 nor does it fit into the use of sealed sources for  
11 diagnosis because they are being used to localize a  
12 lesion.

13 Therefore, this application falls into the  
14 newly created category in 10 CFR 35.1000, other  
15 medical uses of byproduct material or radiation from  
16 byproduct material. Finally, we chose this  
17 application because no regulatory program has reviewed  
18 the procedure and developed licensing and inspection  
19 guidance information.

20 Where do we go from here? The working  
21 group is currently working on various elements of the  
22 licensing guidance. These will be submitted to the  
23 chair by April 16, 2004 for inclusion in the draft  
24 guidance document. The chair will prepare the draft  
25 work product document and submit it to the NRC, the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 Organization of Agreement States, and the Conference  
2 of Radiation Control Program Directors on May 14,  
3 2004.

4 This will begin the process which will  
5 ultimately lead to the final document for presentation  
6 to the Commission in November. The working group will  
7 also prepare our draft, pilot project report, for  
8 submission to the NRC, the OAS, and the CRCPD in  
9 September 2004. The members of the working group are  
10 in agreement that the process we have begun in the  
11 partnership between the Agreement States and the NRC  
12 is an important step in the development of a workable  
13 National Materials Program.

14 We would like to see this partnership  
15 continue with a further development by the centers of  
16 expertise, be they the Agreement States or non-  
17 Agreement States, of licensing and inspection guidance  
18 for use by all regulatory programs. For example, I  
19 learned just yesterday of a manufacturing agreement  
20 between a Massachusetts manufacturing distribution  
21 licensee who is sitting at our table today and a  
22 nanotechnology company interested in the development  
23 of a silicon-based P-32 product called BrachySil which  
24 is for the intratumoral (PH) injection into liver  
25 tumors. Could this be our next project? Thank you.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 FACILITATOR RAKOVAN: Thank you, Bob. Any  
2 clarifying questions or comments?

3 MR. ANDERSON: Ralph Anderson, HPS. Bob,  
4 in terms of developing the draft work product, are you  
5 doing that as a group or are you simulating how this  
6 might occur in the future by having one of the  
7 individuals take it on through their state agency?  
8 How is the product itself being developed?

9 MR. GALLAGHAR: The product itself is  
10 being developed by the entire group. Each of us sat  
11 down and took a look at what we consider to be the  
12 core elements of that action, what we as license  
13 reviewers need to look at to effectively approve a  
14 request to use this material, issues like training,  
15 issues like security, issues like training for all  
16 those people who are involved be it the radiologists,  
17 be it the surgery staff, be it the pathology  
18 department.

19 All of us have selected two or three  
20 elements to work on our guidance under some templates  
21 that we're using now, similar to a TAR that's been  
22 talked about earlier. These will then be coordinated.  
23 They will all come in to me. I'll be working with the  
24 other members of the NMSS to format it into an  
25 existing format which will then lead to the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 development of the work product.

2 MR. ANDERSON: Thank you.

3 MR. GALLAGHAR: And we have been  
4 soliciting input from the stakeholders.

5 FACILITATOR RAKOVAN: I'm going to go to  
6 Ms. Johnsrud first.

7 MS. JOHNSRUD: Judith Johnsrud, Sierra  
8 Club. I'm a bit curious about whether you intend any  
9 opportunity for other outside parties that may have an  
10 interest above and beyond submission of your draft  
11 work to NRC, CRCPD, and the Agreement States. Is  
12 there any consultation with the medical community  
13 apart from any representatives that may be part of  
14 your working group, any opportunity for review by  
15 scientists working in relevant areas, and any review  
16 by the public prior to a final submission to the  
17 Commission?

18 MR. GALLAGHAR: In a partial answer to  
19 your question, I have talked with the people who first  
20 came up with this procedure in Florida and at the Mayo  
21 Clinic in terms of technical input so I understand  
22 exactly what the procedure involves. They are  
23 involved at the early stage.

24 To answer your second question, I have  
25 asked that same question since I am new to this

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 process myself of Shawn and Lance and others. Where  
2 does the public get involved in this? Where do I  
3 solicit input from stakeholders for an advisory  
4 position on the committee? So we are working on that  
5 internally.

6 MS. JOHNSRUD: If I may, I would strongly  
7 recommend and urge that you do so. Certainly  
8 treatments of breast cancer are a matter of individual  
9 concern. My sense is that there are rapid changes  
10 going on in attitudes and decision by the affected  
11 people. So the greater the access to the information  
12 early I think would be beneficial to everyone.

13 MR. GALLAGHAR: I understand and we are  
14 working towards that.

15 MS. JOHNSRUD: Good.

16 FACILITATOR RAKOVAN: We're going to go to  
17 Margaret Federline next.

18 MS. FEDERLINE: Yes, it's an excellent  
19 process. It's very fertile for licensing guidance to  
20 be a very cooperative effort. I'm just wondering if  
21 we can look out several years through a planning  
22 process which involves the industry, stakeholders, and  
23 the public to try and identify what might be coming  
24 down the pike three to five years so that we could  
25 plan the resources.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 I know for folks like you and your team  
2 time is very valuable. If we could get people planned  
3 ahead of time that they are going to be working on  
4 something, do you think that's possible or are these  
5 products coming up so quickly that we can't anticipate  
6 them?

7 MR. GALLAGHAR: Well, to answer your  
8 question, what we chose to do as a working group was  
9 we took a look at some existing technologies that had  
10 already been submitted to the NRC or states. In  
11 addition, all of us sat in my hotel room actually and  
12 got on the cell phones and got on the computers and  
13 started to call people we knew. I called Mass.  
14 General Hospital in Boston to solicit their input on  
15 we know what currently exists in terms of approved  
16 modalities and procedures. What are you thinking of  
17 next?

18 So we solicited that input from the people  
19 who are actually doing that, the medical community,  
20 hospitals in Florida, hospitals in Arizona, hospitals  
21 in Illinois. When we started to focus on a medical  
22 technology, we certainly went out and called the  
23 people that all of us collectively knew in that  
24 industry and said, what do you see on your radar  
25 screen? What do you see coming up that shows promise?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 I will say that a number of cases came up  
2 with boron neutron capture therapy. It's going to  
3 come back again. It's an old technology that's been  
4 around for 20 or 30 years, but there's a renewed  
5 interest in that. So that's something that it's not  
6 quite ready for us to develop yet in terms of  
7 licensing and inspection guidance but it's out there  
8 still and it's going to come back.

9 So yes, we did solicit the participation.  
10 We did take a look at, what do you see that's coming  
11 up on the radar screen? That's why I was informed by  
12 the gentleman from AEA technology to let me know that  
13 yes we can now tell you that in about a year's time  
14 you are going to see this on your desk to help us to  
15 license this particular technique using the  
16 nanotechnology.

17 MS. FEDERLINE: That's why I feel if we  
18 had a list of planning assumptions in addition to a  
19 prioritized list of activities we could capture those  
20 future looking items. Thank you.

21 FACILITATOR RAKOVAN: We have time for two  
22 more quick comments. Lynne.

23 MS. FAIROBENT: Margaret, to follow up  
24 just a little bit in answer to that, one of the things  
25 that we do at the college and with our sister

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 organizations is obviously many of our members are  
2 involved in the early stages of clinical trials. We  
3 certainly probably have the best insight collectively  
4 as to what might be coming down the pike via our  
5 members who are out there doing the phase one, phase  
6 two clinical trial work along with the manufacturers  
7 who are developing it.

8 That is why my concern was raised. It's  
9 fine to go out and call those you might know, but they  
10 may not be the ones with the information or have an  
11 appreciation of the information collectively from the  
12 community-at-large. So I do think that is something  
13 that needs to be factored in a little bit different.  
14 In the reactor world, it's nice and simple because we  
15 have NEI. It's not as clear cut as one entity in the  
16 medical community. However, there is workmanship to  
17 integrate what we're all doing in the professional  
18 societies.

19 I just had a question on one of the things  
20 that I heard when you were discussing who the draft  
21 work product will go to. Since I know this, one group  
22 will not be publicly available initially if it follows  
23 the suit with the others. I did not hear mention of  
24 this being shared with the Advisory Committee on  
25 Medical Use of Isotopes.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701



1 MR. GALLAGHAR: Again, I'm new to this  
2 process.

3 MS. FAIROBENT: Right.

4 MR. GALLAGHAR: That was a recommendation  
5 that actually NRC staff made to me to share it not  
6 only with the group that participated in the Part 35  
7 rulemaking changes but also the ACMUI group.

8 MS. FAIROBENT: Yes, and in particular  
9 since ACMUI has an emerging technology subcommittee  
10 now that Ruth is currently chair of.

11 FACILITATOR RAKOVAN: Okay, we're going to  
12 do to Ken Wangler from North Dakota.

13 MR. WANGLER: Ken Wangler from North  
14 Dakota. I would ditto Margaret's and Judith's  
15 comments regarding fast track on this. In North  
16 Dakota, fast track is different than it is for some  
17 other states.

18 (Laughter.)

19 MR. WANGLER: We're just licensing our  
20 first PET cyclotron here in the next week or so. We  
21 rely heavily on guidance that's been developed by  
22 other states. Certainly other states have more  
23 resources in a lot of cases than we do. But the  
24 medical use of radionuclides is expanding rapidly.

25 The microspheres and things like that, if

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 we even had an idea of who had licensed some of these  
2 uses of radioisotopes, it would help us in knowing who  
3 to contact. What we do when there's no licensing  
4 guidance available is we begin to poll the states or  
5 the NRC regions to see who has something. Then we  
6 pull in several of these guidance documents and piece  
7 together one for ourselves. So if we knew who had  
8 these, that in itself would be beneficial yesterday  
9 already for us.

10 FACILITATOR RAKOVAN: Thanks, Ken. You  
11 got your tent up just before the wire.

12 MS. ROUGHAN: I'll be quick. From the  
13 manufacturing standpoint, a lot of the background work  
14 and the R & D is going on for quite a while. Until  
15 the product gets to a state where we know we want to  
16 issue it to people, at that point, we start looking at  
17 the regulatory issues. That's why we have talked to  
18 the State of Massachusetts saying, this is a new type  
19 of usage of this material, and we'll start getting  
20 involvement there. So this is a great effort to get  
21 these things out to the market quickly and safely.

22 MR. GALLAGHAR: Thank you.

23 FACILITATOR RAKOVAN: Thank you. We're  
24 going to finish up with the last pilot project,  
25 project five, which is chaired by Tom Young from NRC

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 NMSS.

2 MR. YOUNG: Good morning. I wanted to  
3 tell you about the revisions to Inspection Manual 2800  
4 which is the materials inspection program. It's  
5 posted in the NRC Inspection Manual which is publicly  
6 available on the NRC website. Just to let you know  
7 that we started our work in February 2002. We had our  
8 work products developed and were already testing them  
9 by April 2002.

10 We sent Bob Gallagher. He was our OAS rep  
11 on our working group and CRCPD because he participated  
12 in the CRCPD meeting in Minnesota in 2002 and then  
13 again at the OAS annual. Then he visited again in  
14 Anaheim in 2003. Then we had a little bit of a  
15 presentation at OAS annual in 2003 to try to keep the  
16 states informed. We also had opportunities for the  
17 states to provide comments to the NMP pilot project  
18 webpage during last summer 2003.

19 So we were a working group developing  
20 revisions to the inspection program that came out. We  
21 were tagged or identified as pilot five in the spring  
22 of 2002. Then we changed our milestones to fit the  
23 implementation plan which was then developed February  
24 2003 or so. We have completed our testing period. We  
25 have completed our analysis. So we just have a few

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 more details to complete for this pilot project.

2 We had about six meetings where the  
3 working group came for a full week here to Rockville.  
4 We worked together on developing our products, doing  
5 our analysis, and also developing the inspection  
6 procedures for non-medical routine inspections. There  
7 were seven of those. There was a separate writing  
8 team that worked on the medical types of use  
9 inspection procedures. So that lets you know how we  
10 were working. We also had an oversight committee that  
11 was comprised and included an OAS representative from  
12 South Carolina.

13 So this is the basis for the IMC 2800  
14 changes. There were some high or elevated extremity  
15 exposures at manufacturing plant and also at some  
16 nuclear pharmacies. That working group developed  
17 their set of recommendations which then went to a  
18 phase two working group which was a high level broad  
19 review of the materials of the program to try to  
20 identify targets for effectiveness and efficiency and  
21 empowerment.

22 We also consulted the national materials  
23 working group final report during this review period.  
24 George Pangburn was the chairperson for our working  
25 group. That was available in August 2001. The

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 recommendations from phase two included this set of  
2 quick hits that could be used to enhance effectiveness  
3 and efficiency. They were incorporated into  
4 Inspection Manual Chapter 2800.

5 The audiences that we had, we assume we  
6 were writing to qualified inspectors, inspectors who  
7 were in the qualification process, and NMSS interns.  
8 So we kept that in mind as we were writing. Now, to  
9 revise the inspection priorities, we changed the  
10 inspection intervals on the routine inspections. If  
11 they were ones, they became twos. We were relaxing  
12 the inspection intervals because we found on the  
13 routine inspections we were extending good performance  
14 about 80 percent of the time.

15 So ones became twos, twos became threes,  
16 threes became fives, and sevens became fives. We  
17 brought them back to a five year routine inspection  
18 interval. Like I said, fives remained fives. After  
19 our analysis, we left industrial radiography at  
20 temporary job sites at a priority one. We have also  
21 adjusted medical uses that involve written directives.  
22 We've adjusted those back to threes so they are back  
23 where they were before the pilot period started.

24 Then we empowered inspectors. Actually  
25 flexibility remained with the supervisors and the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 managers had discretion. Then we streamlined the  
2 inspection preparation. This was important because  
3 supervisors could take experienced inspectors and  
4 expect that they would just look at previous  
5 enforcement and the previous inspection and the recent  
6 amendments, look at NMED, and they would be ready to  
7 go out to the field and do the inspection.

8 They wouldn't necessarily have to look at  
9 all the back-up material that was in the license and  
10 the applications. If they had a question on that,  
11 they could ask the licensee for it while they were  
12 onsite. Then we also revised the initial inspections  
13 to make them more flexible and more simplified. They  
14 just need to be completed within 12 months of the  
15 issuance of the license.

16 10 CFR 35.1000, emerging technology, those  
17 types of amendments are included in the initial  
18 inspection adjustment. Then we made field office  
19 inspections more flexible. The Form 591 that you see  
20 here is a short form that's introduced at the end of  
21 the inspections during the exit interview where the  
22 inspector can document that there were no violations,  
23 they closed out violations, or there were violations  
24 that they were citing and then there were non-cited  
25 violations.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1           Then I wanted to tell you that we used  
2           these focus elements to risk inform the inspection  
3           procedures. Inspectors were already working to look  
4           at these focus elements. But we revised the  
5           inspection procedures then to reflect what the  
6           approach was that was already being used in the field  
7           by the inspectors.

8           I'm just going to move quickly. The  
9           impact that we want to tell you about is that it  
10          remains a performance-based approach which means the  
11          inspector observes the work in progress, interviews  
12          and talks to the people that are on the site and  
13          involved with the work, the cognoscente people. They  
14          take independent measurements. They compare radiation  
15          measurements with the licensee.

16          They review records as a secondary need.  
17          There are some records that they need to look at like  
18          those records to workers and members of the public,  
19          that type of thing, but it's a limited records review.  
20          Then the changes in preparation of documentation of  
21          the inspections were significant because we used the  
22          591 short form to just do a brief narrative of the  
23          inspection findings where they would just document the  
24          scope of use, the people they contacted.

25          They would have to support the violations

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 that were recorded on page one of the form. Then the  
2 inspectors were empowered to sign that out, actually  
3 to post it in the docket file without further  
4 management review according to instructions from their  
5 supervisor.

6 For that last bullet there, I wanted to  
7 tell you that we did see a reduction in the labor  
8 rate, 14 percent FTE, full time equivalent, reduction  
9 overall for the materials inspection program. The  
10 value for just documentation alone was a 25 percent  
11 reduction. That helped a lot.

12 On the last slide here, again, this is  
13 just a schedule on what we did. For 2004, we're going  
14 to go out to the states and ask them to what extent  
15 they have implemented the revised IMC 2800 and the 12  
16 inspection procedures for routine inspection. Have  
17 they implemented all of that or none of it or part of  
18 it and let us know are they using the revised  
19 inspection procedures? And did they find them to be  
20 helpful?

21 The lessons learned. Early communication  
22 is necessary and essential for the Agreement States to  
23 be full partners in what we do. That's for sure.  
24 Communication with State and Tribal Programs Office,  
25 we have to be very consistent in the way that we

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701



1 include them as well because they were keeping up with  
2 us even though we weren't really talking to them as  
3 much as we should have.

4 Then the method of working with our  
5 working group was an advantage for implementation  
6 because our senior HPs from the regions were on our  
7 working group. They were involved in the training  
8 initially and the refresher training in the regions.  
9 They could handle questions from individual inspectors  
10 during that implementation as they came back from the  
11 field. Of course, they were the writers on the  
12 changes in the revision process.

13 Bob Gallagher was giving us the state  
14 perspectives on whether this could be adopted by an  
15 agreement state. So he influenced in that way and  
16 then helped us with our meetings. He did poster  
17 sessions. He did plenary sessions. He did break out  
18 sessions at all of the meetings that he attended for  
19 us. So that's what I needed to tell you so thank you.

20 FACILITATOR RAKOVAN: Thank you, Tom. Are  
21 there any clarifying questions? I see Lynne has her  
22 tent up.

23 MS. FAIROBENT: Tom, just to follow up, it  
24 peaked my interest that you said you were going to go  
25 out with a survey to the states to see how many have

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 implemented it. Cindy and Stan from CRCPD and OAS,  
2 since the states haven't yet fully implemented the  
3 comparable Part 35 changes, should we expect to see  
4 that states have implemented the changes to the  
5 inspection process?

6 MS. CARDWELL: I can tell you they  
7 haven't. I think there was a run of - was it last  
8 year, or help me out, Tom, the year before that - run  
9 of training that was done that the states attended?

10 MS. FAIROBENT: Right, in '02.

11 MS. CARDWELL: I can't tell you how many  
12 of them right now have adopted that. Bob may be  
13 better able to do that. I can speak for one who  
14 hasn't. One, two, three that haven't.

15 (Laughter.)

16 MS. FAIROBENT: I'm just curious. You may  
17 not get any valuable data if they haven't implemented  
18 the comparable Part 35 changes yet. So the timing of  
19 the survey to come into change your philosophy on the  
20 inspection process may have to wait until they  
21 implement the regs. I don't know.

22 MR. YOUNG: Well, one anecdotal comment we  
23 had was that the states were in some ways already  
24 performance-based in their approach. So we're hoping  
25 to see that they will say yes we are in-sync with the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 changes in the routine inspection procedures.

2 MR. FITCH: This process moves very  
3 slowly. It is performance-based. This performance is  
4 really based on whether or not management sees it  
5 important to implement it as quickly as it is coming  
6 forth. They may see it as not being necessary. So it  
7 could be a little bit behind. I wouldn't hook the  
8 Part 35 adoption promulgation to that. It's probably  
9 not a good comparison.

10 FACILITATOR RAKOVAN: Ken Wangler, please.

11 MR. WANGLER: Yes, Ken Wangler from North  
12 Dakota. I raised my hand. We have adopted Part 35.  
13 We do try to do performance-based inspections. I  
14 don't think IMC 2800 would change. We're now trying  
15 to look at the new criteria in Part 35 even as we try  
16 to understand it.

17 But my question for Tom is, did you speak  
18 in general terms that you think the states have  
19 adopted IMC 2800, the new version that you say is out  
20 as of fall of last year? I hate to sound uninformed.  
21 We know there were changes in the works. Some of  
22 those we've even implemented like the priority changes  
23 and things like that. But is this a formal thing  
24 that's been --

25 MR. YOUNG: Right, when something goes to

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 the inspection manual on the web, the change notices  
2 are distributed to the Agreement States.

3 MR. WANGLER: Right, so it's come out.

4 MR. YOUNG: Right, so the final one of  
5 those was distributed to the Agreement States I  
6 believe in November 2003. It's on the web now. We  
7 weren't sure that the states were going to implement  
8 the changes in the priority. So that's one of the  
9 reasons why we want to query them now to see to what  
10 extent they have implemented the changes.

11 MS. CARDWELL: And you are going to do  
12 that this summer.

13 MR. YOUNG: We want to be done by  
14 September. We're just now getting that out, so there  
15 should be time to analyze it.

16 FACILITATOR RAKOVAN: I see a couple more  
17 tents up. Ms. Johnsrud.

18 MS. JOHNSRUD: Yes, I'm in one of those  
19 still non-Agreement States, I think, more or less. I  
20 am curious. Is there a difference in your priority  
21 establishment sharing cooperation with or discussion  
22 with the non-Agreement States as opposed to the  
23 Agreement States?

24 MR. YOUNG: No.

25 MS. JOHNSRUD: How are you handling that

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 relationship which is a bit different from the  
2 Agreement States?

3 MR. YOUNG: Well, we didn't specifically  
4 talk to the non-Agreement States during the  
5 development of this. They are within our  
6 jurisdiction, and we're dealing primarily with the  
7 regional offices that have to implement these changes.  
8 If you are asking, did we talk specifically with  
9 Pennsylvania, no, we did not.

10 MS. JOHNSRUD: That may be good or bad.

11 FACILITATOR RAKOVAN: Okay, one last  
12 comment, George.

13 MR. PANGBURN: George Pangburn, Region I.  
14 Just to clarify things, as Tom mentioned, I led the  
15 phase two effort here. Phase two was really intended  
16 to focus broadly on the entire byproduct materials  
17 program and not specifically linked to Part 35. The  
18 changes we made to inspection priorities were across  
19 the board.

20 The 2800 revisions were made. We  
21 presented this phase two report to Marty Virgilio, the  
22 Director of NMSS. There were some recommendations  
23 that were taken fairly near-term and found their way  
24 into 2800. Others that involved the process changes  
25 to the specific inspection procedures happened at a

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 later time.

2 That's what Tom was talking about in terms  
3 of going out and looking and doing the inspections  
4 differently and focusing on these seven focus  
5 elements. But the most immediate change and the one  
6 that we saw the greatest benefit from were the  
7 priority changes and the revisions to how the  
8 inspectors prepared and documented their inspection  
9 findings. I just wanted to try and clarify that  
10 because it is sequential. It happened over a several  
11 year period.

12 FACILITATOR RAKOVAN: Thanks, George. I  
13 saw somebody got their tent up as I was trying to move  
14 on to the next one. That's all right. We'll go to  
15 Cindy.

16 MS. CARDWELL: Just a quick suggestion,  
17 Tom. You mentioned earlier that some of the states  
18 you think may have implemented some of this maybe  
19 without knowing so. It's just due to the variations  
20 and how we do inspection processes. Maybe those  
21 variations are truly indeed part of the risk informed  
22 process. If you go out with your survey, you might  
23 try to capture that somehow in the survey. If you  
24 just say, if you implemented INC 2800, they may say no  
25 and not realize that you are looking at it that way.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 MR. YOUNG: Thanks.

2 FACILITATOR RAKOVAN: Ms. Johnsrud, did  
3 you have a follow up?

4 MS. JOHNSRUD: No, I'm sorry.

5 FACILITATOR RAKOVAN: That's okay. I just  
6 wanted to make sure. That concludes the presentations  
7 on the pilot projects. Before we go to lunch, we have  
8 a short session that will involve just some general  
9 comments on the National Materials Program. First up  
10 is Paul Lohaus from the Office of State and Tribal  
11 Programs.

12 MR. LOHAUS: Thank you, Lance. I have one  
13 slide I want to talk from. What I have tried to do  
14 here is to identify what to me are maybe five key  
15 issues or key areas or key challenges relative to  
16 looking to the future on the National Materials  
17 Program. I think one of these is, as several said  
18 starting with Carl and others, there's an evolving  
19 environment that we're dealing with.

20 Security is one that I mentioned. There  
21 are others that people have mentioned. That's going  
22 to continue. We're going to continue to have an  
23 evolving environment. There's going to be issues.  
24 For example, there's been issues relative to fiscal  
25 constraints that states face. So there's a lot of

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 issues like this that are going to have to be taken  
2 into consideration in looking to the future.

3 The second key area - and this really goes  
4 to the heart of pilot number one and also to the item  
5 that Margaret raised in terms of the planning process  
6 and looking at identifying things that are coming down  
7 the pike when you put that together - that's our  
8 ability to share with the states identification of  
9 what the planning assumptions are and establishment of  
10 the priorities and sharing in that process. That to  
11 me is a key ingredient and necessary part of looking  
12 to the future.

13 The third - and we have talked about this  
14 - is the ability of states to assume and carry out  
15 greater responsibility for the development and  
16 maintenance of the products that are necessary to  
17 maintain the infrastructure for the National Materials  
18 Program. As you can see, each of the pilots touched  
19 on aspects of that. But that's a key item.

20 Although it's not stated there, along with  
21 that goes the ability of NRC to accept and use  
22 products that are prepared by the state without  
23 putting a lot of additional effort into putting those  
24 products into a form that may fit within NRC's  
25 structure. That's two aspects of that challenge

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701



1       there.

2                   The fourth - and we have talked about this  
3       as well - is the ability of states to commit  
4       resources. You could certainly add NRC to that. But  
5       the idea is you have 33 separate programs. How is  
6       that going to work? Are certain states going to put  
7       a lot of effort in at one time and then others at  
8       another? Is there going to be a blending among the  
9       programs that would provide the resources necessary to  
10      do that? How is that going to work?

11                  Finally - and Carl touched on this right  
12      at the front - what are the respective roles of NRC,  
13      of the Agreement States, of CRCPD, of the Organization  
14      of Agreement States? How will we continue to work  
15      together to improve the effectiveness and efficiency  
16      of the materials program? But that to me is five key  
17      items to keep in mind during the discussion this  
18      afternoon and to me are important for both the success  
19      and future direction of the National Materials  
20      Program. Thank you.

21                  FACILITATOR RAKOVAN: Thank you, Paul.  
22      Seeing no one looking like they would like to comment  
23      at this point, we'll move on to Stan Fitch.

24                  MR. FITCH: Having reached old age or  
25      nearby, I decided to put on my glasses so I could at

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 least read what's on the piece of paper. If I have a  
2 presentation that's about five or six minutes and  
3 it's funny. I was sitting the hotel last night and  
4 kept writing more stuff on there because you continue  
5 to think about more things and usually I just speak  
6 off the cuff. I looked at my own bullets, but it kind  
7 of grew.

8           You may be asking what is OAS? For those  
9 of you who are not familiar with the OAS, the  
10 Organization of Agreement States or AOS for short is  
11 a nonprofit, voluntary, scientific and professional  
12 society incorporated in the District of Columbia. Our  
13 membership consists of staff from states that have  
14 entered into a effective agreement with the NRC under  
15 Section 274(b) of the Atomic Energy Act. These states  
16 I'll refer to as "Agreement States."

17           The OAS promotes cooperation and  
18 communication among Agreement States, NRC and those  
19 states that are seeking to become Agreement States.  
20 We support our members by preparing, disseminating and  
21 promoting the exchange of information on matters  
22 affecting Agreement States' programs.

23           Since the earliest history of the National  
24 Materials Program, the OAS has represented the  
25 concerns of its membership by working for an NMP

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 framework that accounts for the very perspectives and  
2 resources of the Agreement States. Now with the pilot  
3 projects drawing to a close in a few months, the OAS  
4 commits itself to representing its membership in a  
5 permanent NMP framework.

6 What is the future of the NMP alliance?  
7 I use that word alliance because for people who are  
8 outside of the state/NRC domain where we have  
9 interactions, we currently have an NMP alliance. What  
10 is the future of that alliance? It looks like it's  
11 going to be much more formalized.

12 The OAS believes that the pilot projects  
13 are successfully demonstrating the suitability and  
14 viability of the NMP. Many of the challenges are  
15 being resolved. However, the specifics of integration  
16 lie ahead. The NMP has significant effort primarily  
17 because separate organizations must be meshed into a  
18 single coordinated program.

19 It means successfully developing a  
20 structure of autonomous organizations working  
21 collectively to develop effective guidances, policies,  
22 procedures, and regulations. The OAS encourages NRC  
23 toward equal prioritization of need and equal  
24 regulatory stature with the states.

25 The states have long sought greater

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 opportunity for affecting materials regulation. In  
2 fact, the states are frequently the sources of  
3 expertise on a number of radiation regulatory issues.  
4 With the Commission's decision to share materials  
5 program responsibilities with the states, the focus is  
6 shifting closer to the public because the public is  
7 closely represented by their respective state  
8 radiation control programs.

9 The result will be a greater say outside  
10 the federal domain on how materials and radiation  
11 usage will impact business and the health and safety  
12 of the public. As stated before, America already has  
13 a semblance of the National Materials Program.  
14 However, now more than ever is the time to optimize  
15 our collective resources and harmonize the national  
16 regulatory process.

17 Along this line of the discussion,  
18 efficacy of NRC state cooperation is being tested in  
19 the realm of material security. It must be noted that  
20 NRC's actions in Syria caused many states to question  
21 its willingness to accurately release authority to  
22 make the NMP a reality. Nevertheless, because of my  
23 involvement as co-chair of the material security  
24 working group, I see material security to be an  
25 excellent springboard capable of proving the NMP

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 concept through NRC and state cooperation.

2 Many productive strides have been made  
3 through that working group. Even though our  
4 representation has not been equal, the states have  
5 surely been equal partners with the NRC. To make the  
6 National Materials Program a success, the NRC and  
7 states must commit the resources necessary to create  
8 products that are attractive and appropriate for the  
9 NMP alliance as a whole.

10 The OAS endorses the vision of the NMP  
11 that embraces the collective diversity of our  
12 membership and the NRC. A challenge for OAS is to  
13 better identify personnel, resources, and broaden  
14 participation. Centers of expertise are frequently  
15 staff members, not a state as a whole. Working in an  
16 alliance framework means that supporting organizations  
17 like OAS must act intrinsically to facilitate the  
18 participation of its membership. We, the OAS, commit  
19 ourselves and our resources to this cause. Thank you.

20 FACILITATOR RAKOVAN: Thank you, Stan.  
21 Last up we have Cindy Cardwell. I believe your proper  
22 title is chair.

23 MS. CARDWELL: Actually I am the current  
24 past chair of CRCPD here in place of Richard Ratliff,  
25 also from Texas, who is the current chair.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 FACILITATOR RAKOVAN: Thank you for the  
2 clarification.

3 MS. CARDWELL: Just in case you think  
4 Texas is trying to do any kind of take over thing, I  
5 want to assure you that our chair elect does not  
6 current live in Texas. Remember, I'm the only thing  
7 between you and lunch right now so listen carefully.  
8 The comments I have represent the views of the CRCPD  
9 Board of Directors. So for those of you who have seen  
10 me talk before know I ad lib quite a lot. I'm going  
11 to try not to do that. I'm going to try to read this  
12 more because they have been reviewed by the rest of  
13 the board members and do represent their viewpoints.

14 CRCPD firmly believes in the alliance  
15 concept that was developed by the National Materials  
16 Program working group several years ago. It's a  
17 cooperative consensus process. It provides a flexible  
18 structure that permits task organization of national  
19 resources and expertise. These are some of the  
20 concepts that CRCPD has embraced for many years now.  
21 In fact, the main purpose of our organization is to  
22 serve as a common forum for the many governmental  
23 radiation protection agencies to communicate with one  
24 another and to promote uniform radiation protection  
25 regulations and activities.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1                   Here's where I'll ad lib some. Stan  
2 explained that OAS, for those of you who may not be  
3 familiar with either organization, is also made up of  
4 state members and deals primarily with issues  
5 associated with the agreements between the Agreement  
6 States and NRC. CRCPD's purview is a little bit  
7 broader in that we also concern ourselves with issues  
8 that the states regulate on a broader basis, meaning  
9 essentially non-AEA materials and X-ray machines and  
10 non-ionizing sources of radiation. So there's a  
11 little bit of difference between the two there.

12                   CRCPD products such as the adjusted state  
13 regulations for control of radiation, guidance  
14 documents, and other technical reports that have been  
15 developed are done so using the same cooperative  
16 consensus process among the state agencies that's  
17 envisioned with the alliance concept that we've heard  
18 about today. We think it's a process that works.  
19 However, there are challenges to the alliance that we  
20 see, some of which Stan and Paul have already  
21 mentioned both in conjunction with the pilots that  
22 have been done and even possibly outside of the  
23 pilots.

24                   The first challenge we're going to call  
25 cultural baggage. The alliance will not work if any

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 one of the pertinent parties involved is unwilling to  
2 drop their mindset that doesn't allow things to be  
3 done differently and to accept that. The outdated  
4 idea that it's always been done this way and therefore  
5 it will be done this way is something that we all have  
6 to take care with.

7 It can easily become attendant of any kind  
8 of organization, especially regulatory programs  
9 because we're so tied to prescriptive regulations and  
10 procedures. It has to be done this way. So we must  
11 be very careful about that. When it is ingrained in  
12 an agency's overall mindset and decision-making, it  
13 becomes part of that agency's culture. That's why we  
14 call it that cultural baggage.

15 I'm going to throw out an example of that.  
16 Bob's pilot group, pilot four, was working on the  
17 development of licensing and inspection guidance for  
18 a new modality or a new use of materials. However, we  
19 learned at a recent symposium just a few months ago  
20 that NRC is in the process of developing guidance on  
21 some of the very uses and modalities that that group  
22 explored in the beginning.

23 The disturbing thing was we found out that  
24 there was no state involvement in that. There's not  
25 been any state involvement in the developing of that

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701



1 kind of guidance. So this is the status quo that  
2 we're seeing carried forward as cultural baggage that  
3 we need to do something about.

4 Along with that, probably the thing that  
5 was most disturbing was that some of those very  
6 modalities were first licensed in the Agreement States  
7 and used in the Agreement States. In fact, the SSND  
8 sheets were done in the Agreement States. So it needs  
9 to be a cooperative process. That's something we have  
10 to be careful about.

11 We think one of the second challenges for  
12 all of us in the alliance is the challenge not to lose  
13 the forest for the trees. I have had the opportunity  
14 to talk with several of the pilot chairs. My office  
15 happens to be right in the middle of two of them.  
16 It's not just those two. But I have observed that  
17 there appears to be a substantial amount of reporting  
18 requirements that were required of the pilot project  
19 chairs and the members of the pilots themselves.

20 Just as a reminder, in our current  
21 economic state - and I mean both federal and state  
22 agencies - we're facing more limited resources. As  
23 such, we have to accomplish what we need to accomplish  
24 more effectively and more efficiently. In hindsight,  
25 we believe it was probably unnecessary to have

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 required an interim progress report in addition to  
2 monthly updates of the progress of each one of the  
3 pilot projects.

4 It appears to be especially true since the  
5 final interim progress report is due to the Commission  
6 only two weeks before the final pilot project reports  
7 are due to NRC, OAS, and CRCPD for review. It's a  
8 detailed example I'm giving you, but it's just a way  
9 to point out that we have to be careful not to try to  
10 mold this into busy paperwork that we're used to doing  
11 because we're regulatory agencies and not lose sight  
12 of the bigger picture. We have to try to resist our  
13 tendencies to mold what we're doing into any one of  
14 our existing processes.

15 The final challenge is broader in nature.  
16 It's really outside of the pilot projects themselves  
17 I believe. It involves the question of whether all  
18 parties are truly committed to a cooperative consensus  
19 process. Recent material security issues and the way  
20 in which they have been handled - and this is from the  
21 initial onset of them - helped to raise this question.

22 NRC has chosen to evoke common defense and  
23 security as a means of ordering and ensuring that  
24 certain security measures are implemented for NRC and  
25 for Agreement State licenses. The Agreement States

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 have been very vocal in stating they play a vital role  
2 in this security effort. Many states maintain that  
3 these security measures are also a component of public  
4 health and safety and as such are more appropriately  
5 implemented through the current Agreement State  
6 structure and the NRC-Agreement State partnership as  
7 we now know it.

8 Implementation of security issues under  
9 the common defense and security clause of AEA seems to  
10 be moving us toward a hybrid, more limited partnership  
11 than what we're envisioning in this alliance. While  
12 many of us are striving to ensure that security  
13 measures are developed and implemented in a  
14 cooperative process, there were early concerns raised  
15 - and I believe they are still held out there in many  
16 places - that efforts in the security arena represent  
17 the antithesis of this alliance concept.

18 I will add on a personal note and will  
19 mimic what Stan has said from this time a year ago  
20 coordination and cooperation has tremendously improved  
21 in this area. So we're moving forward and more  
22 towards this alliance. Again, to state, the alliance  
23 concept has worked for CRCPD for many years. The  
24 cooperative consensus process has been modified  
25 numerous times in our organization in order to make

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

1       them more efficient and our organization more dynamic.

2               I anticipate that that will continue to  
3       happen over the years and hope that it will. We  
4       believe that it will work for both federal and state  
5       radiation control programs in developing and  
6       maintaining what is a true National Materials Program.  
7       It's a two way street that involves commitment on all  
8       sides. For the alliance to succeed, it takes the  
9       willingness of both NRC and state radiation control  
10      programs to drop that cultural baggage and be willing  
11      to practice the alliance concept until that becomes  
12      our cultural. That's the end of my comments.

13              FACILITATOR RAKOVAN: Thank you, Cindy.  
14      Comments? Diane, if you could please introduce  
15      yourself as well since you joined the table.

16              MS. D'ARRIGO: Yes, I'm Diane D'Arrigo  
17      with Nuclear Information and Resource Service. I  
18      really can only stay until lunch and apologize for  
19      only coming for a short piece of the workshop today.  
20      I think Stan mentioned that the state regulatory  
21      agencies are closer to the general public and would  
22      represent the public perspective.

23              My question is really, how does the public  
24      intersect with the CRCPD and the Organization of  
25      Agreement States? It seems like the public kind of

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 knows that the NRC is the regulator. Then when you  
2 are in an Agreement State, you deal with your state  
3 agency on certain issues.

4 But now if we have an alliance or  
5 something else forming or if CRCPD or OAS is having a  
6 more formal role in either doing a rulemaking or  
7 making policies both on AEA and non-AEA materials,  
8 this is something that those of us in the general  
9 public need to figure out how to interact with.

10 MS. CARDWELL: To answer question --

11 FACILITATOR RAKOVAN: If you could  
12 identify yourself please.

13 MS. CARDWELL: Cindy Cardwell from Texas  
14 CRCPD.

15 FACILITATOR RAKOVAN: Thank you.

16 MS. CARDWELL: That is one of the ways  
17 that our organization has started to change.

18 MS. D'ARRIGO: Which organization?

19 MS. CARDWELL: CRCPD. One of the things  
20 that we did a couple of years ago was look at the way  
21 we developed suggested state regs. One of the  
22 recommendations from the working group was that that  
23 process needed to be more like what each individual  
24 state does and what the federal agencies do in terms  
25 of soliciting more public input.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1           We currently have and have had for some  
2           time advisors to all of our committees that develop  
3           those regulations that are a part of industry. Donny  
4           has been on it. Kate's been on it. Lynne's been  
5           there. I can name people who are around the table.  
6           But we realized that we were lacking in terms of  
7           getting some of the public input.

8           An example of how we're trying to change  
9           that most recently was our suggested state regs for  
10          TE-NORM. We solicited comments from the public.  
11          Sierra Club I believe was one of the ones for sure  
12          that solicited comments from. So we're making an  
13          effort to improve in that such that the SSRs can  
14          include the public component as well.

15                 MS. D'ARRIGO: SSR is what?

16                 MS. CARDWELL: It's the suggested state  
17          regulations for radiation. I hate to throw acronyms  
18          here. The organization has been developing those  
19          almost since its inception in 1968. They are model  
20          regulations that states can then use to adopt their  
21          own without having to do all of the leg work over  
22          again.

23                 MS. D'ARRIGO: It sounds like so far that  
24          you knew that Dr. Johnsrud was potentially  
25          knowledgeable on that one issue. But although she

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 represents a large organization, it doesn't mean that  
2 the members of that whole group know that that issue  
3 is now out for some public comment.

4 People that may have some expertise in  
5 that area or interest in that area wouldn't know say  
6 in Louisiana or somewhere. I guess they would deal  
7 with their own agency. I'm just trying to figure out  
8 if there's going to be some kind of Federal Register  
9 announcements, not that everybody reads that.

10 MS. CARDWELL: Well, it's part of our  
11 long-term initiative. Part of the process of this  
12 alliance coming forward is if we can be assured that  
13 NRC is going to have buy off on some of that. In fact  
14 some of our SSRs, that's happened in the past. The  
15 states were the first ones to do radiography  
16 regulations. NRC followed.

17 The states were the first ones to do well  
18 logging regulations. NRC followed. But that's old  
19 history now. One of our things that we have pegged as  
20 something we have to look at is how to identify the  
21 public interest groups that would have interest in  
22 these specific SSRs, for instance, the medical ones or  
23 the X-ray ones or some of the ones that are more  
24 environmental in nature. Again, we'll point to our  
25 latest effort which is Part N. That had a long list

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 of stakeholders when we first promulgated that rule,  
2 Sierra Club being one of them.

3 MS. D'ARRIGO: Because the CRCPD does have  
4 an SSR - I'm not sure what it is - but you have a  
5 position on what used to be below regulatory concern.  
6 I don't know what you call it now, an exemption level  
7 or something like that.

8 PARTICIPANT: Name of the month.

9 MR. FITCH: Somebody had to say BRC.

10 (Laughter.)

11 MS. D'ARRIGO: Well, people have been  
12 writing into the EPA, the NRC, the DOE, the DOT, the  
13 IAEA, various places. But a lot of people didn't even  
14 know that there was a CRCPD to give input into. That  
15 was done back a long time ago. So I'm just trying to  
16 see if there are other things that are going to be  
17 coming down the pike that we may or may not know  
18 about. You may have routine relationships with  
19 certain people.

20 If the National Material Program is going  
21 to proceed and have states, which we have  
22 traditionally very much supported state authority on  
23 these issues, so I don't think it's necessarily  
24 adversarial. It's just how are we going to know that  
25 there's something happening if we're not part of the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701



1 radiation community or whatever?

2 MS. JOHNSRUD: Or even being, I guess in  
3 a way, part of the community. I found myself  
4 wondering, having submitted my comments, where am I  
5 going to find them? Since they are model regs that  
6 are being proposed for NORM, where are they going to  
7 be? Are they going to be in the Federal Register?  
8 Will each state, all states publish the CRCPD final  
9 version?

10 Will it become available to any members of  
11 the public only when there is an actual model reg  
12 being adopted having gone through some process without  
13 members of the public or other states either knowing  
14 what the history and the background has been which  
15 would be very beneficial to them? Then I guess I have  
16 one other related question. I'm curious about the  
17 statutory origins of CRCPD, OAS, and who am I missing?  
18 I know about the Agreement States obviously and the  
19 AEA. But what is the statutory authority of each? I  
20 don't know whether that's yours, Cindy, or Paul's.

21 MS. CARDWELL: Do you want me to respond?  
22 Let me make sure I give you all the answers.

23 MS. JOHNSRUD: Sorry.

24 MS. CARDWELL: Well, some of it I don't  
25 have it insofar as good feedback. Obviously the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 organizations don't have a Federal Register. There's  
2 not a Federal Register.

3 MS. JOHNSRUD: That's right.

4 MS. CARDWELL: There's not a Texas  
5 Register or New Mexico Register, whatever else, to put  
6 that kind of thing forward. So that's one of our  
7 challenges to do. In answer to your question, Ms.  
8 Johnsrud, about comments to the questions that were  
9 submitted on Part N, this is also one of the first  
10 ones where the board has actually directed that all  
11 those responses be made part of the rationale that  
12 goes along with the rule and will be made available on  
13 our website.

14 MS. JOHNSRUD: You mean all of the  
15 comments that are submitted including those from other  
16 governmental agencies.

17 MS. CARDWELL: That's correct. They will  
18 go on the website when that's finally approved. There  
19 was another question on statutory jurisdiction.  
20 Neither one of the organizations have any kind of  
21 jurisdiction in order to promulgate rules that are  
22 enforceable. But for years what CRCPD has done is  
23 develop these model regulations - and again call it  
24 the pre-alliance movement - in trying to utilize the  
25 most effectively all the state resources.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1           Rather than each one of us doing our own  
2 rules and doing our own thing, there's a model out  
3 there that states can use. To answer your question do  
4 states have to adopt them verbatim, no, there's no  
5 requirement for that. Do states do that? Yes, and  
6 implement their own specific wording where they need  
7 to in terms of their statutory requirements. But each  
8 state has to go through its own statutory obligations  
9 in order to promulgate the rule meaning it will go  
10 back through the process.

11           MS. JOHNSRUD: So an Agreement State would  
12 have to conform with NRC's requirements with respect  
13 to the agreement.

14           MS. CARDWELL: If there were any. It's  
15 for the compatibility rules. But there is a whole  
16 series of suggested state regs that NRC doesn't have  
17 statutory jurisdiction for.

18           MS. JOHNSRUD: Well, are you going to be  
19 seeking a statutory status?

20           MS. CARDWELL: No, there's no plan for  
21 that.

22           MS. JOHNSRUD: No plan at all. So this  
23 really has no legal significance in terms of --

24           MR. FITCH: What you are really seeing  
25 here is more at OAS than CRCPD. CRCPD does work with

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 this with the SSR, suggested state regulations. We're  
2 almost like a union representing our membership  
3 conversely to another party.

4 MS. JOHNSRUD: The OAS you mean.

5 MR. FITCH: Yes, the OAS is conversely to  
6 the NRC. So that was a lot of the reason for it.  
7 However, the OAS and CRCPD - and we're both members of  
8 both --

9 MS. JOHNSRUD: Interlocking directorate.

10 (Laughter.)

11 MR. FITCH: We have committed ourselves in  
12 our organization to facilitating Agreement State  
13 action. So we're attempting the best we can to  
14 compliment the NRC and to improve upon the process.  
15 Eventually National Materials Program, the best way to  
16 look at it is we represent a membership but we can't  
17 speak for them legally. I cannot represent the New  
18 York Department of Labor as a certain person has  
19 reminded me.

20 (Laughter.)

21 MR. FITCH: So I can't represent a given  
22 state. However, I can represent the concerns of the  
23 membership as stated to the board. So we work to  
24 facilitate the concerns and represent them.

25 MS. JOHNSRUD: Now, let me ask, if I may,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 one final question. Sorry, it's going to be a late  
2 lunch. How can we, I, as a member of a public  
3 interest organization which is national in scope,  
4 assist members of the public in knowing, understanding  
5 the roles of these two state level semi-official, non-  
6 official organizations to have a better understanding  
7 of how all those rules and regulations really come  
8 about and where, when, how members of the public can  
9 have an active and I might add effective role in the  
10 decision-making? I was quite concerned. Apparently  
11 there were very few members of the public interest  
12 realm who were involved in the commenting on the NORM.

13 MS. CARDWELL: There were quite a few  
14 asked to comment and very few that actually did.  
15 That's probably the more accurate way to assess that.

16 MS. JOHNSRUD: I don't think I ever knew  
17 who it was.

18 MS. CARDWELL: I can't tell you off the  
19 top of my head, but I can get you the list. I would  
20 have the same question for you. How best can we get  
21 the information out to the public? We do have a  
22 website. The information is there.

23 MS. JOHNSRUD: You have to get people to  
24 know about it.

25 MS. CARDWELL: But if we could somehow

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 modify it to explain the role of the suggested state  
2 regs. They fill a void, not necessarily on the  
3 materials side where we try to work in cooperation  
4 with NRC when rules are being developed but most  
5 definitely on the machine produced radiation side,  
6 non-ionizing radiation, and of course the non-AEA  
7 material regulation where there is no federal agency  
8 that sets use requirements.

9           There may be a standard set, but there are  
10 no specific use requirements. So it most definitely  
11 fills a void for those particular areas. The states  
12 can use those as a model. I'll reiterate that it in  
13 no way alleviates the state from having to go through  
14 its own statutory requirements for development or  
15 rulemaking.

16           So there's yet another venue for comments.  
17 I know many states have gone back and used the CRCPD  
18 rationale when they developed the SSRs to use as their  
19 basis for their rule development. But we do need more  
20 public input. It needs to be more open. So I'm open  
21 to any suggestions that we can take back to the board  
22 and membership on how to make that happen.

23           MR. FITCH: One other comment on the SSRs.  
24 Just because a state adopts them does not mean they  
25 are compatible with the requirements of the NRC. The

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 NRC will remind us of that. You have to make sure you  
2 are compatible with our requirements. Yes, and you do  
3 have to go through the statutory process.

4 In my state, we go through a hearing  
5 process. The first one was with our radiation  
6 technical advisory council. They have to look at  
7 everything we propose to promulgate. Then we work  
8 with them. We work on the wording. We demonstrate  
9 the compatibility requirements because sometimes we  
10 have to go with what the NRC says and that's conveyed  
11 to them.

12 Otherwise, they are a board council  
13 appointed by the governor. They are there for  
14 staggered terms. They will review that. We'll go  
15 back and tweak it. If appropriate, they will approve  
16 it. Then it goes before our environmental approvement  
17 board. The environmental approvement board will hear  
18 that. They will analyze the language. So we have  
19 this formalized process within our state where the  
20 public has the opportunity to get involved and make  
21 comment and to make an appeal before bodies of people  
22 who are appointed by the governor so they are not  
23 government employees.

24 CRCPD has SSRs. Just because those don't  
25 necessarily at all times involve the public during

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 promulgation, the public can get involved within other  
2 areas. The CRCPD is not into itself. It's just  
3 simply a tool to help the states develop and meet  
4 certain regulatory needs.

5 MS. JOHNSRUD: May I then suggest that I  
6 have a little trouble with this? When finally a state  
7 decides to adopt a model or to alter the model to suit  
8 its own needs, it's as if it becomes the starting  
9 point given. Members of the public and other  
10 organizations with an interest will perhaps have had  
11 no opportunity to be involved in the original  
12 formulation of the draft finalized model. They may  
13 have some problems with that.

14 MR. WANGLER: Can I? That's a real good  
15 point because Cindy mentioned it just briefly but we  
16 oftentimes use that SSR, the suggested state  
17 regulation, in defense of the regulation we're  
18 proposing. This brings me back to why I first put my  
19 tent up in the beginning.

20 I think the private sector has really made  
21 a good point here today about their level of  
22 participation in all of this, not only in the  
23 rulemaking that goes on with the SSR, the suggested  
24 state regulations, but even in if we're going to have  
25 an alliance, what's their level of participation in

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701



1 receiving things like information notices, putting out  
2 guidance documents for licensing? It's one thing to  
3 write out a regulation, but it's a whole other thing  
4 to license a material.

5 I can tell you that the regulation is a  
6 big framework whereas the guidance documents are very  
7 detailed. There is virtually, to my knowledge, little  
8 or no public input from the private industry, the  
9 health physics society, or the ACR when we do those  
10 licensing guidance documents. That's really where the  
11 rubber meets the road is when we issue the license and  
12 all the conditions that go in there and those kinds of  
13 things. So you have done a good job of telling us  
14 that you are not being heard very well in some of  
15 those areas.

16 FACILITATOR RAKOVAN: Ruth, I will get to  
17 you in a second. Paul Lohaus has had his tent up for  
18 far too long and has sat there so I'm going to give  
19 him an opportunity to speak.

20 MR. LOHAUS: Thank you, Lance. Paul  
21 Lohaus with State and Tribal Programs. I wanted to  
22 ask that we capture this discussion and add this to  
23 our parking lot. The discussion has several aspects  
24 to it. I did want to comment on a couple of these.  
25 One, this to me is what I would call a pure or true

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 National Materials Program issue.

2 I'll just use the suggested state  
3 regulations as an example. Generally in the past, the  
4 suggested state regulations would be based on NRC's  
5 rule with respect to Atomic Energy Act material.  
6 There are exceptions because in some cases CRCPD has  
7 taken the lead and developed the rule where NRC did  
8 not have an equivalent rule. Basically NRC eventually  
9 adopted that rule and it was more in the reverse.

10 But normally the route is that the  
11 conference develops a rule based on NRC's rule. More  
12 recently what we have tried to do - and there's a  
13 commitment on the part of CRCPD and the NRC staff - is  
14 to try and work in parallel so that the process of  
15 developing the NRC rule and the CRCPD rule are done in  
16 parallel. It's not done in all cases but that's part  
17 of it.

18 The third part of it is that we do review  
19 each of the suggested state regulations for  
20 compatibility. Our goal - and I think the goal of the  
21 conference would be - is that the SSR is compatible  
22 with NRC's rule so that when each state uses that rule  
23 to go through its internal process of adoption -  
24 obviously there's going to be individual preferences  
25 and there's going to be public input as a part of that

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 process that may result in changes in the rule - but  
2 the end product hopefully is within the bounds of  
3 compatibility similar to as NRC goes through its  
4 rulemaking process and considers all of the input.

5 Our rule is also going to be within those  
6 bounds of consistency and compatibility across the  
7 nation. But as you pointed out, in looking to the  
8 future under a National Materials Program that's been  
9 pushed out here today in terms of what this could be,  
10 you may have cases where CRCPD may take the lead or  
11 the states may take the lead and develop a rule.

12 At the same time though even though they  
13 put all that work into it and they are going to save  
14 a lot of resources, NRC and each state will need to go  
15 through its own administrative process and provide  
16 opportunity for public comment, input, consideration  
17 as a part of that process as is normally done. But  
18 the challenge for the National Materials Program, as  
19 you point out - and we need to capture this - is, how  
20 do you gain that input early when the model, if you  
21 will, or the basis for what's going to be carried  
22 forward is being developed? That's the challenge I  
23 think. Thank you.

24 FACILITATOR RAKOVAN: Thanks, Paul. Ruth,  
25 one last comment before we break for lunch, please.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 MS. McBURNEY: Wearing another hat, I also  
2 chair one of the suggested state regulations working  
3 groups. It's the one developing regulations for  
4 financial securities for decommissioning. We have on  
5 that committee two members of the public as advisors.  
6 One represents a manufacturing firm who would have to  
7 comply with such regulations on developing a  
8 decommissioning funding plan.

9 The other is an attorney who is a member  
10 of the health physics society who has had a lot of  
11 experience in dealing with financial matters and on  
12 the funding of decommissioning funding plans and  
13 working out those for a uranium firm. We do assign  
14 people who have an interest in a particular suggested  
15 state rule that's being worked on as advisors. I do  
16 value all the other opinions that people work with on  
17 that. So that's a good point.

18 FACILITATOR RAKOVAN: Thank you, Ruth.  
19 Barring any other further comment, I would like to  
20 take this opportunity to break for lunch. I would  
21 like to thank all the presenters from this morning.  
22 I would like to thank everyone who added to the  
23 comments and discussion. It was a very productive  
24 session. I'm expecting that the afternoon will be as  
25 productive if not more so.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 I'm going to ask the group at large a  
2 question. We're ending about ten minutes late. Is  
3 everyone okay with starting back on time at 1:20 p.m.  
4 to begin the roundtable discussions? Is that all  
5 right with everyone? Okay, then by this clock, we're  
6 going to start at 1:20 p.m. Have a good lunch. Off  
7 the record.

8 (Whereupon, at 12:29 p.m., the above-  
9 entitled matter recessed to reconvene at  
10 1:27 p.m. the same day.)  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

**A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N****1:27 p.m.**

MR. RAKOVAN: On the record. Okay. If everyone will take their seats. I think we're ready to get started for the afternoon session and the roundtable discussion. Before we get started, I just wanted to go through few ground rules again just to make sure that everybody's on the same page.

What we are trying to do is make sure that there is only person speaking at a time. The putting the tents up on the side is a good way to do that. In a lot of discussions that we've had today so far, it really hasn't been a problem. Everybody seems to be respecting each other quite well and it seems to be working out. But do your best to make sure that only person is talking at a time. That way everybody can follow along and more specifically we can make sure that we get it all on the transcript.

We've had a recommendation from those on the phone line to make sure that you do use your speakers. It's a small room so a lot of us, even the transcriber, can probably hear you even if you don't speak directly into your mike. But if you could try to use them, it definitely helps keep everything at a louder level so that the people on the phone can hear.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

1                   And one more time, I'm going to ask you if  
2                   at least initially you could introduce yourself again.  
3                   I know we've been through this a number of times. I  
4                   know most of us know who each other are at this point  
5                   of the day. But especially like the people kind of  
6                   over here on this side of the room, it's difficult for  
7                   her to see you when you start talking. So it's  
8                   especially important to make sure that our transcriber  
9                   knows who you are.

10                  Having said that, I want to make sure that  
11                  everybody has a copy of the focus questions that were  
12                  on the back table when you walked in. If you don't,  
13                  we'll make sure that we run and get you a set right  
14                  now. The focus questions are in four different groups  
15                  and what I'm just going to do is go group by group,  
16                  throw it out there for discussion.

17                  The first group primarily is just to make  
18                  sure that people are on the same page. Everybody  
19                  understands what we've discussed. Everybody  
20                  understands what the current state is and we can move  
21                  on from there. What I wanted to know before we  
22                  started though if there are any left questions or  
23                  anything else that we wanted to throw into the parking  
24                  lot before we started into the focus questions.

25                  Okay. Having said that, the first set of

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 focus questions focuses on Structure and  
2 Responsibilities? The first questions are "Is the  
3 National Materials Program Clear? If not, please  
4 offer suggestions on ways to improve the information  
5 being communicated?" Anyone? Paul.

6 MR. LOHAUS: Thank you. I wanted to offer  
7 a comment on the question. This question came from me  
8 and there is maybe an aspect to it that's not clearly  
9 identified here. What I'd like is feedback. Given  
10 our discussion this morning when we talk about the  
11 National Materials Program, when we're communicating  
12 about the National Materials Programs, is our  
13 communication clear? Is it understood what we are  
14 talking about? What the aspects are?

15 That's what I wanted to get. Because in  
16 some of the discussions I've had, I'm not certain in  
17 all cases that we are in fact clearly communicating  
18 and some feedback on that I think would be very  
19 helpful for all this in terms of we interact, how we  
20 communicate, how we share information in the future.  
21 Thanks.

22 MR. RAKOVAN: Thank you, Paul. I saw,  
23 Jared, your tent first.

24 MR. WANGLER: Excuse me. Can I just  
25 respond to Paul?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701



1 MR. RAKOVAN: Please.

2 MR. WANGLER: I would say I was not clear  
3 on it until this morning. So I suspect that there are  
4 probably other regulators out there with some of the  
5 same questions. In fact, I told Jared that's one of  
6 the reasons when he asked that I agreed to come for  
7 this was because I thought it would help clear it up  
8 and it did.

9 Carl's discussion made it very clear that  
10 this is nothing new and for some reason, it seems like  
11 we have a brand new title here and where does it fit?  
12 I think perhaps just for other regulators, other  
13 states, just saying that this is nothing new, this is  
14 just trying to redefine how we do things. I know it's  
15 been said before but it cleared it up for me.

16 MR. LOHAUS: Thank you.

17 MR. RAKOVAN: Jared.

18 MR. THOMPSON: Jared Thompson, Arkansas.  
19 To follow up on Paul's comment there, feedback from  
20 last year's OAS meeting seemed to indicate that  
21 there's some membership of OAS that's unclear on the  
22 National Materials Program much as Ken just spoke. A  
23 lot of that is due to the fact that there has been  
24 some turnover particularly on the upper management  
25 side of radiation control programs and you're having

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 influx of new people who have been out of the loop.  
2 We have to somehow reeducate and get people to rethink  
3 about the National Materials Program.

4 MR. RAKOVAN: Thank you, Jared. I saw Dr.  
5 Johnsrud's tent first.

6 DR. JOHNSRUD: Yes. I thought I had  
7 participated in some sessions related to this program  
8 much earlier with regard to materials management and  
9 the non-AEC materials or AEC, AEA materials. I was  
10 quite puzzled by what was described in and not  
11 described perhaps because I had to unfortunately be  
12 late this morning.

13 I was thinking over lunch how on earth do  
14 I describe this relationship if I understand it now  
15 and I don't think I really do to other members of the  
16 public, to groups of people with concerns about some  
17 of the materials that are not necessarily either  
18 associated with the industry or with public interests  
19 organizations. I think it is not clear. So it needs  
20 very definitive explanation for the public  
21 particularly.

22 MR. LOHAUS: If I could just interject, if  
23 I could. If you have some suggestions, write them  
24 down, pass them on to us. Any of the members of the  
25 group, please do that because I think that will help

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 all of us. I'm looking at this collectively in terms  
2 of the NRC staff and the agreement states and the  
3 working groups. The extent that we can clearly  
4 communicate and impart understanding.

5 It also reflects a degree of understanding  
6 on our part as well. Because if we're not clear, then  
7 it may indicate that we don't fully understand this.  
8 And you're seeing as people talk work in progress.  
9 There are not clear answers to a lot of this so that's  
10 part of it. Any suggestions, please pass them on to  
11 us.

12 DR. JOHNSRUD: Yes. As a communications  
13 start, it would have been nice to have emails to get  
14 in touch with you on the participant list.

15 MR. LOHAUS: Okay. Thank you.

16 MS. CARDWELL: It may be helpful. I heard  
17 several comments today that could be put into bullets  
18 and a lot of them had to do with the why and one that  
19 Ken just said. Unfortunately, I think, Dr. Johnsrud,  
20 that you may have missed some of that this morning in  
21 talking about some of the whys. It's about 80 percent  
22 of the materials licenses are now regulated by the  
23 states. So it gets to the why.

24 DR. JOHNSRUD: Yes.

25 MS. CARDWELL: Those can be bullets. Yes,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 it has a name, but it's not new. It's redefining  
2 responsibilities based upon that allocation of  
3 regulation. So maybe bullets like, maybe we could put  
4 on an NMP site on the website to try to get that  
5 summary out so somebody could quickly go and say "Oh,  
6 okay." Some of our new managers like Jared said that  
7 have not been a part of the process or not have been  
8 steeped in this over the last several years, they are  
9 clueless and rightly so.

10 MR. RAKOVAN: I'll get to you in a second.  
11 Smith.

12 MR. SMITH: This is Leonard Smith, CORAR.  
13 I want to say similar things about what Ken mentioned  
14 earlier. When I first came to the meeting, I didn't  
15 really have a full understanding of what materials  
16 program was. I think if you go into your website and  
17 look at the information on the website, there doesn't  
18 seem to be a clear definition of the program or the  
19 scope of the program. I think that's probably what  
20 you really need to have.

21 MR. RAKOVAN: Thank you. I'm going to go  
22 to Mike Markley from the NRC really quick.

23 MR. MARKLEY: I was going to say the same  
24 thing, Paul. You know your SECY 0112 actually had a  
25 pretty good description in there of what the program

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 is about, but updating with Carl's concept of things  
2 would be really worthwhile if there was a single  
3 mission statement type page or something there to  
4 describe it. The previous suggestion is actually very  
5 good.

6 MS. CARDWELL: We need a primer.

7 MR. RAKOVAN: Mr. Anderson.

8 MR. ANDERSON: I guess I'll just second  
9 the motion a little bit. I already know how to go to  
10 SECY. I suspect most members of the public really  
11 don't know what a SECY is.

12 DR. JOHNSRUD: That's right.

13 MR. ANDERSON: But at the same time, I  
14 just went through your standard website stuff and I  
15 did manage to find after a great search through all of  
16 NMSS, you do use the words "National Materials  
17 Program" in a paragraph that talks about how you  
18 regulate it. But aside from that, the only other  
19 information I could really get was to know where to go  
20 to look for documents. I think if you're going to  
21 pursue this that you might want a keyword something on  
22 the NMSS portion of the website so somebody can  
23 immediately can put "National Materials Program" and  
24 then get that perspective. But right now, it ain't  
25 there. It was very hard to get it over.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 MR. RAKOVAN: I'm going to stick to the  
2 table and then I'll go to the audience. Ms.  
3 Fairobent.

4 MS. FAIROBENT: I'm going to say something  
5 totally different because I don't think it matters a  
6 hill of beans to the average licensee that there's a  
7 National Materials Program. I think that the fact  
8 that there is a slight transition in who may be taking  
9 a leadership role to the average licensee isn't going  
10 to matter.

11 I think that what matters is that the  
12 regulatory process and in particular the guidance that  
13 is out there is actually accurate and implementable.  
14 I think that for those of us who have been in the  
15 field for many years - and I started with NRC in 1977  
16 so I go back a long way - this definitely is no  
17 different than how we've done business. The  
18 difference is whether or not the lead responsibility  
19 is going to be in Texas or the lead responsibility is  
20 going to be sitting here in Rockville. So from the  
21 average licensee standpoint, I don't think it matters.

22 However I do think what matters is that  
23 whatever we transition the program and the emphasis to  
24 needs to be sure that the third member party which are  
25 truly the stakeholders that was envisioned in the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 original alliance concept is not lost in the early on  
2 process. I think the concern the licensees have and  
3 it's more so from those who are left in the 17 NRC  
4 states is carrying a bigger burden dollar wise to have  
5 NRC remain the overall lead for everything and to  
6 continue to be able to support or fund the activities  
7 out in the states as the agreement state numbers have  
8 grown or perhaps to have to be carrying the burden to  
9 have a more comprehensive regulatory infrastructure  
10 remaining at NRC as your level of responsibility have  
11 decreased due to the lower number of licensees that  
12 you have the authority for.

13 But I think for the average licensee, all  
14 they care about is that they send a license request.  
15 The license request gets approved. They can do their  
16 work. They can function and we're all protecting  
17 public health and safety. So I don't know how  
18 important this is. I wouldn't spend a lot of time  
19 reemphasizing the definition of what the program is.

20 I do think that there are things that can  
21 be done to beef up the website area or to bring  
22 together the concept of the bullets and stuff so  
23 somebody could have a one-pager. But that's not where  
24 we should be spending our time, our money, our  
25 emphasis on as we move forward with this program being

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 redefined and refashioned.

2 MR. RAKOVAN: Okay. Mr. Dicharry.

3 MR. DICHARRY: Donny Dicharry, NDTMA/ASNT.

4 I think that the program is quite clear, but I've been  
5 involved with it for quite some time now. The only  
6 think that maybe I'm not clear on is whether or not in  
7 fact it is established program that is going to stay  
8 or is this still a concept that is under  
9 consideration?

10 As far the radiography segment of the  
11 industry goes, I am quite certain that it is not clear  
12 to them despite the fact that there have been a couple  
13 of presentations at national conferences by NRC  
14 personnel simply because at this point, the  
15 radiography licensees do not perceive either an impact  
16 or an opportunity on them. I think that to the extent  
17 that licensees perceive an opportunity to participate  
18 in the process you will find their interest and  
19 enthusiasm for the program to increase.

20 MR. RAKOVAN: Thank you. Mr. Pangburn.

21 MR. PANGBURN: Yes. George Pangburn,  
22 Region 1. I think I would agree with Lynne on the  
23 point that she made and that is while licensees may  
24 not have a strong interest at this point in time to  
25 the extent that the program moves towards that

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701



1 alliance concept and that results in a realization of  
2 lower user fees, there may not be a ground swell  
3 support for it. But you will certainly find in  
4 licensees' interests.

5 I would also agree that licensees do  
6 appreciate having a clear and implementable guidance  
7 and an expectation that they'll receive a license in  
8 a reasonable degree of time from when they submit.  
9 Although we still have our fair share of licensees who  
10 say "Guidance? What guidance?" But that's another  
11 matter. Thank you.

12 MR. RAKOVAN: Ruth McBurney.

13 MS. MCBURNEY: If there could be some  
14 bulleted or some sort of article written about the  
15 basics of the National Materials Program and what this  
16 means to licensees, what this means to the public and  
17 what sort of opportunities for stakeholder input, if  
18 something like that could be written up, it could be  
19 communicated through professional newsletters and  
20 through the newsletters of the public stakeholder  
21 organizations. It's just another way of communicating  
22 it.

23 I know there have been articles about the  
24 program since Joan did one, I believe, for the  
25 Health/Physics newsletter because she provides

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 articles from what's going on at NRC and so forth. So  
2 that would be one way of communicating that other than  
3 having something at the website. Or people could have  
4 clickable links to that website for more information  
5 if it were put there as well.

6 MR. LOHAUS: Just to mention quickly, we  
7 are planning to do a poster at the Health/Physics  
8 Society Meeting this year too. That's a good thought.

9 MS. MCBURNEY: That's a good opportunity  
10 because that's going to be here in Washington this  
11 year.

12 MR. RAKOVAN: Okay. I'm going to go with  
13 the tents in the order that I saw them. Ms. Roughan.

14 MS. ROUGHAN: Kate Roughan, AEA  
15 Technology. When I started back in 1999, I thought I  
16 understood the concept and it was going to be NRC  
17 agreement states and key stakeholders to participate  
18 in making rulemaking that would be effective,  
19 efficient and the people that actually had to  
20 implement the regs on a day to day basis could  
21 implement them as Lynne has already said. I see that  
22 we've gone away from that a little bit and now it's  
23 more saving of resources which is a good thing. But  
24 we're missing a little bit from the original concept  
25 that I thought we were going towards on this.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 MR. RAKOVAN: Mr. Anderson.

2 MR. ANDERSON: That's really a comment  
3 that I was going to make. I'll just build onto that.  
4 Part of the difficulty I've had as I've seen this  
5 surface over time including articles we've had earlier  
6 is I've haven't been able to pin down just how far  
7 reaching is this project. Now that might be because  
8 that's not known.

9 For instances, when I look down through  
10 your questions, suddenly you're talking about "Gee  
11 should we throw norm and other things under this as  
12 well?" That's about 15 times as large of another  
13 understanding of what it is which is to find the most  
14 efficient way to use resources within the existing  
15 program. So somehow nailing down how an end of this  
16 is probably creates a direct function of interest of  
17 stakeholders.

18 Because if we're rearranging the deck  
19 chairs, I think we'll all put a certain amount of  
20 effort into that. As Lynne said, most people frankly  
21 won't care. But if we're doing something more  
22 profound than that, that's what needs to be  
23 communicated. That's the opportunity and impact issue  
24 that Don was referring to. It has to be relevant and  
25 clearly you're thinking that way or you wouldn't be

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 asking these kinds of questions.

2 MR. LOHAUS: Just quickly, it has aspects  
3 of both. I mean we're really looking to improve the  
4 effectiveness and the efficiency of the overall  
5 program. But at the same time, I'll steal some  
6 thoughts that Cindy talked about at one of your  
7 earlier meetings and that is that it's going to take  
8 place in steps and some of the steps are going to be  
9 small steps. Others may be larger steps, but it's  
10 hard to characterize that because it's an evolution in  
11 a sense.

12 There are a number of steps going on, but  
13 at the same time, the goal is effectively utilize the  
14 suite of resources that the states and the NRC staff  
15 represent to meet the needs in the Materials Program.  
16 How do we do this most effectively, most efficiently,  
17 and meet the needs of everybody, all the stakeholders,  
18 the licensees, the public as well as the regulatory  
19 agencies that implement the program?

20 I have to agree. It's very difficult to  
21 get your hands around this. You have to get steeped  
22 in it if you will. But the idea that Cindy had in  
23 terms of this is some of this is going to be small  
24 steps that you may not really see a big change. But  
25 when you put all those steps together, you will see an

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 increment in change that occurs.

2 MR. RAKOVAN: Margaret Federline.

3 MS. FEDERLINE: Margaret Federline, NMSS.  
4 My perception is that we will all understand this  
5 program when we all work together to define success  
6 measures because I think we're each sitting with our  
7 own idea of what success would be for us and I think  
8 this group or a similar representative group of  
9 stakeholders, if we could work to define some success  
10 measures then it would probably be clear to all of us  
11 what the outcome should be.

12 MR. RAKOVAN: And that's part of the  
13 further questions. So we'll get to that later. We'll  
14 put that on the parking lot that's already there so to  
15 speak. Mr. Fitch.

16 MR. FITCH: Yes, just one comment. I  
17 would like to quote Kathy Allen who was on the  
18 original working group, not verbatim, but she talked  
19 about the fact that well the whole concept was to  
20 somehow make the most of the resources of the  
21 agreement states in conjunction with the NRC because  
22 the NRC's fee base is shrinking more and more over  
23 time. There has to be a way to get the states  
24 involved and the states are looking for the  
25 opportunity to get involved.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1           So the idea is we'll sit down and we'll  
2 talk about how we're going to start merging this  
3 tomorrow. But then as typical when you redevelop a  
4 process is you ask yourself who are our stakeholders.  
5 To quote Kathy, well we considered the public and our  
6 licensees to be stakeholders. So we identified them  
7 and that was the right idea.

8           That is the correct idea, but now we see  
9 a challenge where the states and NRC have to go back  
10 and assess the primary challenge of merging resources  
11 together. How are we going to make this work? I'm  
12 confident that as they try to get their ducks in a row  
13 if you will they will start bringing the stakeholders  
14 into this more and more to where they can better  
15 address stakeholders. Because until the framework is  
16 best defined or best salvaged, it's going to be  
17 difficult for them to do that satisfactorily. Dr.  
18 Johnsrud.

19           DR. JOHNSRUD: Yes. Judith Johnsrud. I  
20 have a feeling that my governor is going to want  
21 something a little stronger than an aspirin  
22 financially. From the sound of what I'm hearing  
23 today, the NRC is concerned about its financial  
24 resources as well it might be. But the states are in  
25 a lot of financial trouble. It appears to me that

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 this program while there would be an NRC control, at  
2 the same, will involve substantial increases in the  
3 responsibilities of the states. They are in trouble  
4 as well as the Federal Government. That's point one.

5 My second question is how will this affect  
6 the preemptive authority under the AEA currently held  
7 by the NRC or will it? Will it be increased? Will it  
8 be lessened? Will the states take over, be permitted  
9 to take over greater authority?

10 MR. FITCH: It think we should take over.

11 DR. JOHNSRUD: Well.

12 MR. RAKOVAN: I think the points that  
13 you're making leads good into the next set of  
14 questions, but I do want to stop one moment just to  
15 see. I see Margaret Federline's tent is up before we  
16 move on to the next set. All right. Great.  
17 Excellent segue. Thank you, Dr. Johnsrud. The next  
18 set of questions is "Are the roles and  
19 responsibilities of all stakeholders clear? What  
20 should be the respective roles and responsibilities of  
21 the NRC? Agreement states? The Conference of  
22 Radiation Control Directors (CRCPD)? The Organization  
23 of Agreement States (OAS)? Licensees? Then Licensee,  
24 medical and industry associations?" I think like I  
25 said the points that you made kind of lead directly

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 into that. Cindy.

2 MS. CARDWELL: I guess to answer maybe  
3 some of your questions or to help out with that I'm  
4 going to give the vision of the National Materials  
5 Working Group in response to some of those questions  
6 when we put the program together in the first place  
7 and yes, there was great stakeholder input in the  
8 beginning. But we didn't envision any change  
9 statutorily on the Federal level or on the state  
10 level.

11 We said it at lunch. We've essentially  
12 done this all along. We're doing a shifting the  
13 amount of contribution the states are making and I'm  
14 not talking monetarily. We've done this for years and  
15 years and it's the work effort. Realistically, no  
16 state is going to put a line item in their budget that  
17 says we're going to support the National Materials  
18 Program because they are not just going to.

19 But the states have budgets that are not  
20 that specific. There is a budget out there for  
21 radiation control and it covers certain activities  
22 that happen under that. Our regulatory concerns that  
23 were addressed in some of the working groups, the  
24 Pilot 1, where we had combined, those are still our  
25 priorities if we chose not to participate at all and

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701



1 we would have to put the effort into developing the  
2 products that are necessary whether it be rule or  
3 guidance documents or anything else that we can come  
4 up with.

5 So it's to our benefit to cooperate, the  
6 states' benefit to cooperate, in a process that could  
7 get it done potentially more quickly, with more  
8 resources and ideally with a better product. That was  
9 the vision behind the initial working group report.  
10 It was that we didn't see a big change in any of the  
11 agreements or statutory responsibility, but it was a  
12 shifting of that responsibility towards where what  
13 we're calling the centers of expertise are.

14 With 80 percent of the licensees there are  
15 some states that regulate that have a lot of  
16 experience regulating certain kinds of licenses. Over  
17 time, it just makes logical sense that they will then  
18 have the experience in not only what the industry has  
19 but what the public's response to that industry is and  
20 then the regulatory responsibilities associated with  
21 that. It therefore is the next logical step to say  
22 "Well that should be the group that leads in  
23 developing the documents with the input of everyone  
24 else." So it's a shifting. We're not trying to  
25 reinvent a whole lot of statutory obligations here.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

1 DR. JOHNSRUD: May I ask a follow-up?

2 MS. CARDWELL: Go ahead.

3 DR. JOHNSRUD: How are you going to  
4 balance the variations among the states in terms of  
5 the extent and the types of their responsibility and  
6 the amounts that are variable from one state to  
7 another while retaining a cohesion of these proposals?

8 MR. FITCH: I'm sorry. Two years ago,  
9 Pallo House (PH) was with us sat in a board meeting of  
10 the OAS out in Salt Lake City and one of the  
11 challenges that came up was the fact that any given  
12 state cannot contribute the same amount any given  
13 year. In fact, there are going to be some states due  
14 to budget restrictions or changes of personnel or  
15 other effecting factors that might cause their  
16 participation to be diminished or increased.

17 So one thing that the OAS insisted upon is  
18 that sufficient latitude be understood in this because  
19 the states cannot be bound by that. While they might  
20 be willing, they are going to be able to have the  
21 latitude and the flexibility to contribute on what  
22 they see to be their priorities. I am confident.  
23 Besides being confident, that's the reasons why the  
24 NRC is relying on the CRCPD and the OAS to help  
25 facilitate this because we're going to have to remain

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 a driving force to keep prompting our members to keep  
2 participating. That's the reason why the NRC needs to  
3 see the level of commitment from the two organizations  
4 to ensure that this perpetuates.

5 MR. RAKOVAN: I saw Ms. Fairobent's tent  
6 up.

7 MS. FAIROBENT: Yes, Lynne Fairobent, ACR.  
8 From my perspective as one who has been in the field  
9 for a number of years on all sides of the table, I  
10 guess the only side of the table I haven't been on is  
11 I have not worked for a state agency. I've worked for  
12 licensees. I've worked for the NRC. I've worked for  
13 other Federal agencies that may or may not come into  
14 play because of some broader issues. I've worked for  
15 associations across the board.

16 I'm in total agreement with Cindy. I  
17 don't see the vision that the original working group  
18 had. I see no change to statutory authority as far as  
19 what falls under the 274 type agreements today. I  
20 think when we get down the mission and scope and the  
21 second question there some of that could change, but  
22 that has nothing to do with the vision of the National  
23 Materials Program per se.

24 I think that all we're talking about is if  
25 we go back historically - and they were brought up

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 earlier - and look at that original industrial  
2 radiography licensing requirements and we look at the  
3 initial well-logging requirements, they were developed  
4 because those materials were being used in a certain  
5 state and the state kept seeing more and more our  
6 increased interest in it. They had to come up with a  
7 regulatory process to deal with it.

8 NRC at the time wasn't dealing with that.  
9 Their licensees weren't coming into that fold. So it  
10 made sense that the state develop the first set of  
11 regulations. I see no difference. The only think  
12 we're looking at now is a broader definition to use  
13 Cindy's term of where does that center of excellence  
14 exist. For example, well-logging, industrial  
15 radiography, there is a handful of states where it's  
16 really prevalent.

17 Well-logging I don't ever see prevalent in  
18 the Northeast. It just is not going to lend itself to  
19 that. So I would not expect Massachusetts to become  
20 the center of excellence for well-logging. However  
21 there's an awful lot of medical developments that are  
22 done in the Commonwealth of Massachusetts either be it  
23 because of the industries that are there that  
24 supporting the development of new devices and new  
25 modalities or because of the high concentration of

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

1 Ford medical research centers that are in essence in  
2 the medical communities centers of excellence so they  
3 are moving forward in the medical technology.

4 Massachusetts could become a center of  
5 excellence in some part of the licensing arena.

6 Collectively none of us can afford to duplicate the  
7 effort of somebody else. We should be working  
8 together to just development and establish if you want  
9 an initial protocol or guidance package that then  
10 could be utilized while incorporating the concepts of  
11 everybody else as far as they then can take it and fit  
12 it into their legislative and regulatory structure  
13 within the state themselves.

14 MR. RAKOVAN: Thank you. Paul Lohaus.

15 MR. LOHAUS: Thank you. I just want to  
16 stop for some thoughts to stimulate a different view  
17 if you will. Lynne really touched on this and Judith  
18 Johnsrud did too. The thought is if you look at the  
19 program and given how Cindy and Pierce have  
20 characterized it that there would be confidence that  
21 the states would provide resources. In some cases, it  
22 may be three states. In other cases, it could be ten  
23 states, but it may not be all the states at any one  
24 particular point in time.

25 But the other side of that is should the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 expectation though be that there be a more formal  
2 establishment of a commitment and maybe even a  
3 commitment with respect to either a portion of the  
4 fees or a line item that's included in the budget  
5 within a state program that really is directed at the  
6 resources necessary to help contribute to the overall  
7 National Materials Program. It's just a different way  
8 of looking at it.

9 If you think about it, it would be  
10 extremely difficult to accomplish. But at the same  
11 time, it goes to the heart of the issue of would the  
12 nation have confidence that the informal grouping in  
13 cooperative, collaborative process is going to be  
14 effective in meeting the needs of the nation or does  
15 it have to be done in a more certain and hard sense in  
16 terms of how we normally handle the commitments that  
17 are made to provide the resources to do the work  
18 that's necessary to carry on our respective programs?

19 I don't know the answer to that, but I  
20 just wanted to throw that out as a different way of  
21 looking at it. It's an issue I think that we'll  
22 continue to wrestle with for a long time. There is no  
23 clear answer today to me, but I just wanted to throw  
24 that out for thinking.

25 MR. RAKOVAN: Mr. Smith.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 MR. SMITH: Leonard Smith from CORAR.  
2 Answering the question of roles of responsibilities  
3 for industries, associations and licensees, I think  
4 first of all there needs to be an understanding that  
5 licensees especially in the manufacturing distribution  
6 arena need a comprehensive framework of regulations.  
7 We need uniform regulations. We need uniform Federal,  
8 state, local and international regulations. If we  
9 don't have that kind of framework, it makes our  
10 business very difficult.

11 One thing you should be aware of is that  
12 virtually all the licensees in the country are being  
13 supplied by these suppliers and distributors. We take  
14 a very active role in helping those licensees develop  
15 their safety programs. So we're not just sending  
16 material off to people that we don't have any  
17 relationship with. If we find that our customers have  
18 different regulations that apply to them, we're less  
19 likely to be able to help them. Frankly we would tend  
20 to not do that because it becomes too expensive and  
21 too difficult for us.

22 So we're really a very supportive kind of  
23 program because we see that what you're trying to do  
24 is to come up with more uniform regulations. I think  
25 our role is probably reflecting back to you the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 current condition of the regulations how they impact  
2 on our operations and we should stay engaged. I see  
3 that as a role and responsibility in this process.

4 MS. FAIROBENT: Yeah, Lynne Fairobent.  
5 Paul, to answer your question a little bit, I'm going  
6 to flip the table on you. Does the National Materials  
7 Program show up as a line item in NRC's budget. I  
8 think that gets to Donny's issue. We've talked about  
9 the formal concept of this now for a number of years  
10 and we're still in pilot programs. Is there truly the  
11 commitment on the Federal side to use an earlier term  
12 to embrace a cultural change and recognize that NRC  
13 does not have to be the lead in all of these areas?

14 So I'm not so sure for the agreement  
15 states in particular. I think that the commitment on  
16 the part of the state is the governor's signature on  
17 the agreement to undertake 274 material and to commit  
18 to having their state program for it. So I don't know  
19 that adding a line item entitled "National Materials  
20 Program" in the state budget would give me much more  
21 of a warm fuzzy than the fact knowing the governor had  
22 signed the initial agreement and committed to having  
23 the totality of the program and concept anyhow.

24 But I throw it back because I think it has  
25 to be whatever sort of visible burden in essence you

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701



1 put on the states. I think it has to be an equivalent  
2 visible commitment within the NRC structure, whether  
3 it is a line item in the budget or how one would  
4 define it.

5 MR. LOHAUS: Right. Well, I'll ask for  
6 some help from Margaret here too. But to answer your  
7 question, you won't find a line item in our budget.

8 MS. FAIROBENT: I know.

9 MR. LOHAUS: But you will find that  
10 there's resources identified to support working groups  
11 and interface and interaction with the states in terms  
12 of the cooperative, collaborative process that we've  
13 evolved to and we're continuing to further evolve in  
14 that area. So you'll find that it's budgeted. So in  
15 a sense, it's there from that standpoint, but,  
16 Margaret, you may want to comment as well.

17 MS. FEDERLINE: Yeah, if I could just add.  
18 We've gone to outcome oriented budgets. So the  
19 outcome. That's why to me the planning assumptions  
20 are so important and the success measures. Because if  
21 we can define what we're going to do together, we can  
22 put line items in our budgets for the outcomes. Can  
23 I?

24 MR. RAKOVAN: Yes, I was going to say. I  
25 noticed your tent was up before being requested to

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 speak.

2 MS. FEDERLINE: I was just wondering.  
3 We're talking about taking advantage of the expertise  
4 in NRC and the states. Is there a way we can take  
5 better advantage of the expertise that's in the  
6 industry and the professional societies and how would  
7 you recommend that we go about that in a fair and  
8 equitable public process?

9 MR. RAKOVAN: That was a good lead-in.  
10 Mr. Anderson, would you like to comment on that lead-  
11 in?

12 MR. ANDERSON: That's why I raised my  
13 card. Actually I was reflecting off some comments  
14 that Lynne Smith made. Ralph Anderson, Health Physics  
15 Society. You know obviously one of the things that  
16 the Society encourages very strongly is a single  
17 coherent framework for radiation health and safety in  
18 this country. And as that leads to this involvement  
19 by other parties, it just continually strikes me that  
20 the differences in implementation of standard  
21 frameworks most often arises because of new issues  
22 that emerge that just weren't visible at the time that  
23 the standard framework was put together.

24 In my own observation given the role that  
25 I have for one segment of the industry is when you get

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 a broad base of stakeholders involved on the front end  
2 you surface 95 percent of the issues. When you don't,  
3 you always miss two or three key issues that show up  
4 at the most inopportune times.

5 So I would suggest to you that it's not  
6 just the industry and the professional societies. It  
7 really goes more to the National Materials Program  
8 helping facilitate a process to get broader based,  
9 earlier input so that you have a more coherent  
10 framework that is implemented more uniformly. That's  
11 an huge opportunity that I see in the process and  
12 that's a role that I think all those organizations  
13 play in the process.

14 MS. FEDERLINE: Can I just follow up and  
15 ask you?

16 MR. ANDERSON: Yes.

17 MS. FEDERLINE: How can we ensure that  
18 people have the right level of information and are  
19 able to participate because it's an investment in  
20 time. I know when NEI on the reactor side presents  
21 proposals that takes quite a bit of time to develop  
22 those. How do we go in Materials Program about asking  
23 people to make those investments because there clearly  
24 are centers of expertise out there?

25 MR. ANDERSON: Well, I think there's

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1       probably two ways to do that. One way is if you  
2       started with the notion that NRC is the broad umbrella  
3       under which this activity is taking place then it  
4       seems to me that the NRC website becomes a very  
5       effective nexus for distribution of information.

6               Whether or not it makes the Federal  
7       Register, whether or not it's being done in a  
8       particular state or among three or four states, there  
9       is no reason that it can't be advertised through the  
10      NRC. You're allowed to put things on your website  
11      that aren't Federal Register notices. You do it all  
12      the time. And if you had a central location to go to  
13      look for that thing, that would be fairly simple to  
14      do, fairly low cost and fairly easy for people to  
15      access.

16             I think also as a part of the process that  
17      you probably need to find a mechanism for over  
18      communication to groups that have participated in some  
19      of the various initiatives you've undertaken over the  
20      last three or four years. My colleague, Judy and I,  
21      for instance would represent the issue of NRC  
22      rulemaking on disposition of materials. Well, that  
23      probably surfaced a whole range of interested groups  
24      that are interested most of the time. So if you pick  
25      up the NUREG on those public comments, you have a list

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

1 of organizations.

2 If you look to some of the major  
3 initiatives you'd undertaken when you feel that you  
4 have an appropriate description of the program, it  
5 would seem to me that you can communicate that to  
6 those organizations and direct them to where  
7 information is going to be conveyed in the future and  
8 invite them to participate in the process as it goes.  
9 So I don't think it's difficult to do these things.

10 That struck me when I looked in that  
11 NUREG, Margaret, on the disposition of materials for  
12 comments. I opened that one section and it listed all  
13 the organizations that provided input. I thought  
14 "Well that's probably 90 percent of the usual  
15 suspects." So I don't think it would be that hard to  
16 develop a generic list to inform people where they can  
17 go and then it's up to them after that if you give  
18 them an easy access location to track what's going on.  
19 Anyway, that would be my input.

20 MR. RAKOVAN: Okay. I'm going to go to  
21 Mr. Dicharry next.

22 MR. DICHARRY: Donny Dicharry. Yes, this  
23 also is in response to Margaret's question regarding  
24 what sort of communications could be most effective at  
25 getting the involvement of industry and industry

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 groups. My response is not so much focused on means  
2 of communications but rather what should be in the  
3 communication.

4 I think that as long as licensees  
5 recognize an opportunity to participate in a process  
6 that can result potentially in reducing the cost of  
7 the implementation of a rule I think that you won't  
8 have to struggle to obtain their participation.  
9 Licensees and those groups that represent licensees  
10 all share in that one same motive of trying to  
11 implement rules in a way that is most cost effective.

12 The question that Lynne posed earlier  
13 today is whether or not industry participation would  
14 be on a catch-as-catch-can basis. Well, I fear that  
15 in fact it will be catch-as-catch-can unless industry  
16 has a proper incentive to be involved. The incentive  
17 goes far beyond in my opinion simply gaining some  
18 benefit by reducing the overhead of the NRC and the  
19 states and enjoying reductions in fees and such that  
20 are passed onto the licensing community.

21 I think that the greatest opportunity to  
22 offer an incentive to the licensees is to suggest that  
23 in fact this new concept will provide opportunity to  
24 participate at all ends of the program. From a  
25 resource sharing standpoint, it is important to

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 recognize that there are most probably more experts in  
2 health physics and regulatory compliance matters in  
3 the halls of private industry than there are in the  
4 halls of government especially since most of them have  
5 come from government at one time or another. All we  
6 need is the proper incentive to participate and we  
7 will be there.

8 MS. FEDERLINE: I have another quick  
9 follow-up. How do we make it into a manageable  
10 process? I can see perhaps putting these products on  
11 the web and getting 400,000 comments, all which  
12 disagree with one another. How do we deal with a  
13 process like that?

14 MR. DICHARRY: If I may follow up, I would  
15 suggest that the example that has already been created  
16 by CRCPD is a very workable model. Industry advisors  
17 have been participating in working groups of CRCPD  
18 successfully for years and I would think that it would  
19 be a good model to build upon.

20 MR. RAKOVAN: Okay. Ms. Fairobent.

21 MS. FAIROBENT: Margaret, a couple of  
22 perspective points. I think with both of us having  
23 come out of the reactor industry at one point in our  
24 lives, it's really nice that there is truly one voice  
25 that you can go to and it makes it much simpler. If

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 we take a look just at the medical piece of the  
2 Materials Program, I think you can accomplish the same  
3 thing and we've seen it. In the past three years,  
4 you've seen some movement in this in that if you go to  
5 the key associations of which there's four to six  
6 depending on how you cut the issue that are going to  
7 deal with NRC regulatory issues. If the initial  
8 communications on all of this is to those groups, you  
9 will get the technical experts you need to either  
10 serve as an industry advisor or resource on the group.

11 Or in fact, let's flip it a little bit.  
12 There is nothing to say that if a request came out to  
13 us to say "Collectively it gets to your planning  
14 process. Collectively we've identified the following  
15 things coming down the pike. Can you all fit this  
16 into your schematic for either technical guidelines or  
17 standards and come up with a guidance document?"  
18 There is no reason why industry would not embrace that  
19 sort of a request in my mind.

20 I think the other thing on the medical  
21 side that I do not believe NRC does utilize  
22 effectively enough is the Advisory Committee on  
23 Medical Use (ACMUI). I truly believe that the ACMUI  
24 is not utilized in the same fashion as the ACRS and  
25 ACNW are in their areas of expertise. I really think

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701



1       that process is something that is totally under  
2       utilized and I don't think is as effective as it could  
3       possibly be for the NRC in either helping to develop  
4       guidance or identify how to solve potential problems  
5       that are surfacing through either failures or  
6       inspection findings. That is something that as a tool  
7       that certainly is your in-house panel experts for the  
8       medical use.

9               MR. RAKOVAN: Okay. I'm going to go in  
10       the order that I saw the tents go up starting with Dr.  
11       Johnsrud.

12              DR. JOHNSRUD: Ralph referred a little  
13       earlier to having the usual suspects involved. I'm  
14       looking beyond the involvement of the industry with  
15       regulators at the state level as well as at the  
16       Federal level to the segments of the public who are  
17       ultimately the ones effected by whatever ruling-making  
18       guidance may be developed in this process. But by the  
19       time it gets to them at particular locations in which  
20       they have a personal, perceptual interest, there  
21       really is no mechanism, no opportunity, no opening for  
22       them to have any impact on the decisions that have  
23       been made if you will above or outside the realm of  
24       their opportunities for involvement.

25              It may be said that they should create the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 opportunities for involvement, but most members of the  
2 public are already holding two or three or four jobs  
3 per family and really don't read the Federal Register  
4 online or off all that often. So I don't see or hear  
5 from everything thus far how this program is going to  
6 manage to open to those who ultimately are the most  
7 effected by your decision making.

8 Diane said earlier "Gosh, we're going to  
9 have to deal with not only the NRC and DOE and EPA and  
10 the states, but some super coalescence of several of  
11 these." That's yet another step, another impediment  
12 to what I think many of us in the public realm would  
13 consider to be good, effective and accepted, trusted  
14 regulation.

15 MR. RAKOVAN: Okay. Ms. Roughan.

16 MS. ROUGHAN: This goes back to the  
17 original request of Margaret. In many cases there is  
18 depending on the segment of the industry an industry  
19 group representing that. Where there isn't, most of  
20 the larger manufacturers and distributors will solicit  
21 comments from their end users. So instead of the NRC  
22 getting tens of thousands of comments, we'll feed them  
23 in. We'll in some cases do a template to our end  
24 users saying this is how it will affect you. You need  
25 to comment and get that into the NRC. So that

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 consolidates all of the information. You still get  
2 the feedback to the NRC and that's a key piece of  
3 information. You have to go back to get it from the  
4 end user, but they sometimes don't see the larger  
5 picture. So it helps to get fed up through the larger  
6 company. Thank you.

7 MR. RAKOVAN: Mr. Anderson.

8 MR. ANDERSON: Seconding that motion, I  
9 think that's part of the answer to the 400,000  
10 comments is that by making sure everyone sees it  
11 people will take advantage of organizations that are  
12 already in place to have those interactions. So  
13 although you may get 700 copies of the same comment,  
14 it's still the same comment.

15 Alternatively, I think the more  
16 fundamental question is if you really had 400,000  
17 substantive differences and I'm just using that as a  
18 figure of speech that's even more important to get  
19 that on the front end of the process because it should  
20 tell you that you perhaps haven't properly evaluated  
21 the issue before starting forward. I mean if they  
22 really were substantive in nature. Whenever I've  
23 thought about that kind of question when it comes up  
24 and I know the Commission likes to raise that question  
25 a number of times, to me it's the backwards way of

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 looking at it. You should welcome hearing that  
2 there's a large diversity of use on the front end and  
3 deal with it rather than get two-thirds of the way  
4 through the process and then find out that you're  
5 going to have to do all over again. I think it  
6 corrects itself.

7 MR. RAKOVAN: Before I go to Mr. Fitch, I  
8 want to try to refocus. We've been having a lot of  
9 good discussions on getting public involvement,  
10 stakeholder involvement and these kinds of things, but  
11 in terms of the first set of focus questions on  
12 structure and responsibilities, there's a lot of areas  
13 that we haven't addressed yet and we're stuck a little  
14 bit if I may on one set.

15 What I wanted to make sure is that we're  
16 focused on these. It's coming up on 2:30 p.m. I know  
17 a lot of you have other things that you need to scoot  
18 off to. I just want to make sure that everybody is  
19 okay with the way that we're moving through these and  
20 is bringing up the topics that they want to make sure  
21 are discussed. Stan.

22 MR. FITCH: Probably the one group of  
23 people that are the most able to comment on radiation  
24 protection and how it affects your license or the  
25 licensing process are licensees or license applicants.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 This is certainly the opportunity for them to work  
2 with the licensing agency.

3 To be able to speak for my own state, I  
4 can tell you that many times we go back to the license  
5 applicant or the licensee and ask for clarification on  
6 several issues. This is certainly an opportunity for  
7 them to express themselves to express what they see to  
8 be their program and anything they might have so we  
9 can suit the license to meet their needs. I would  
10 really encourage people to do that.

11 Recently, I reviewed a lengthy application  
12 for a fuel enrichment facility proposed for New  
13 Mexico. Looking at the application, I realized that  
14 it was technically speaking left a lot of be desired.  
15 It's probably 20 percent of what I've been looking for  
16 in a way of somebody processing a licensing  
17 application.

18 So if the stakeholders, the licensees,  
19 especially need to express themselves better to the  
20 regulatory bodies in what they're looking for. Tell  
21 us what you see to be the health and safety issues or  
22 tell us what you see be your operational challenges.  
23 We can't anticipate those. We really have to be told  
24 what they are.

25 MR. RAKOVAN: Thank you, Stan. Wow, I

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 don't see any tents up. If that's the case, then I'm  
2 going to push on. Ruth, what are you going to do to  
3 me? Ruth.

4 MS. MCBURNEY: Well, just coming from the  
5 Pilot 1 project standpoint, I was just going to try to  
6 address on some of these roles and responsibilities  
7 and the budget issue just make a couple of comments.  
8 As has been mentioned, there probably is no line item  
9 in the state budget or in NRC's budget that would  
10 specifically address the National Materials Program.  
11 However, as Paul mentioned, there is support of  
12 working groups in NRC's basis and also what will come  
13 out as some high priorities as we mention in our  
14 report, a lot of these were already on NRC's top list  
15 anyway.

16 Likewise, there are lines items -- Of  
17 course, OAS doesn't have a real budget yet, but CRCPD  
18 certainly has a budget and the support of the  
19 Suggested State Regs Working Groups and other working  
20 groups as part of their budget. Based on that, I  
21 think how this will work into the budgets of both the  
22 organizations and NRC will be more important than what  
23 an individual state is bringing to the table in the  
24 form of money. What they are bringing is they are  
25 paying the salaries of those people who are working on

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 these working groups and the time that's involved.

2 The other thing is we've been tasked with  
3 working as the Priorities Committee in establishing  
4 not only what the priorities are but for those top  
5 ones, how most effectively to get those done. We'll  
6 probably be based on the topic specific thing going to  
7 some of these organizations and saying what sort of  
8 expertise can you bring to this particular issue.

9 For example, one of them may be the safety  
10 review of the General License Program. We will  
11 probably be going to some of the manufacturers. Or if  
12 there is a group of manufacturers that can bring some  
13 expertise to that as well as to the regulatory  
14 agencies.

15 MR. RAKOVAN: Okay. Thank you. I'm going  
16 to push on to the next set of topics, Mission and  
17 Scope. "Is the current National Materials Program  
18 meeting national needs? If not, how could it be  
19 changed? How would you define a successful National  
20 Materials Program" which I believe is something that  
21 popped up earlier that we said was on the list and  
22 that we'd get to. So I guess now is the time.

23 I'm going to throw in the second question  
24 that's in there too. That's something that's popped  
25 up a few times too. Should the National Materials

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 Program include regulatory authority over all  
2 radioactive materials such as AEA materials, NORM,  
3 NARM? I see tents all ready. Mr. Anderson.

4 MR. ANDERSON: Ralph Anderson, Health  
5 Physics Society.

6 MR. RAKOVAN: Could you speak more into  
7 your mike please?

8 MR. ANDERSON: Sure. Ralph Anderson,  
9 Health Physics Society. It would be the most  
10 appropriate opportunity for me to provide an input  
11 that is very important to the Society. That goes to  
12 both questions really so I'll start with the second  
13 question. Yes, the reasoning is that we think one of  
14 the key success measures ought to go to the issue of  
15 reducing the extent of and ultimately preventing  
16 orphan sources.

17 We have a position on that subject and we  
18 spread that around enough. I'm sure the agencies have  
19 seen that a number of times. CRCPD has positions on  
20 that. But we think that among other things that a  
21 plan to enhance the National Materials Program ought  
22 to have integrated into that how that will improve the  
23 situation with orphan sources. Again that's what  
24 leads to a yes answer on number 2. A source is a  
25 source is a source.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701



1 MS. FAIROBENT: Number 2 being "If not,  
2 how could it be changed?"

3 MR. ANDERSON: No, number 2 "Should the  
4 National Materials Program include regulatory  
5 authority over all radioactive materials?" A simple  
6 answer. Yes.

7 MR. RAKOVAN: Okay. Ms. Fairobent.

8 MS. FAIROBENT: Yes. First off in  
9 answering, we do have a National Materials Program  
10 now. It does in the broadest sense include regulatory  
11 authority over everything if you take all of the  
12 entities collectively together. What we don't have is  
13 we do not have a Federal agency that has single  
14 authority over all of the materials. But collectively  
15 between the states and NRC, we do have an integrated  
16 program that has it.

17 I'm not going to give it a yes or no  
18 answer as far as from the College's perspective on  
19 whether or not NRC's authority should be broadened to  
20 include non-AEA material. But from a health physicist  
21 standpoint, my personal view is much of what we're  
22 discussing today we're in the dilemma based on the way  
23 in which the original legislation was enabled because  
24 it had nothing to do with risk. It had nothing to do  
25 with source of origin or did have to do with source of

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 origin. It had no other basis in that, but that was  
2 the way in which everything was structured before  
3 then.

4 If we are going to proceed to a risk-based  
5 system however, it does make sense that the elements  
6 of the program are all the same. Because whether  
7 iodine is processed from a reactor or whether iodine  
8 comes from an accelerator, the health and safety risk  
9 and the implications to the patient or the environment  
10 or to the public or even to the workers are all the  
11 same. So there are some pros and cons for broadening  
12 authority and integrating everything together.

13 I think defining a successful National  
14 Materials Program would come about when we stop asking  
15 what it is because I think that would be the first  
16 step of success. I think it becomes then transparent  
17 because I do think it's just a title for how we do  
18 business and how the process works.

19 The pieces of the program that we're  
20 trying to redefine into something under a uniform  
21 title are in fact meeting national needs. One could  
22 say though how successfully and that's a very  
23 different question and you're going to get a very  
24 different answer depending on what part of the  
25 industry you're in. But I don't think we are missing

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 anything in the true broad, collective sense of how we  
2 all carry out our jobs and functions.

3 I mean overall we do provide adequate  
4 protection to public health and safety and the  
5 environment. I think that should not be lost. As we  
6 move forward to change whatever it is we're doing,  
7 we're not changing because we haven't been doing  
8 everything else to the best of our ability to date.  
9 We're not changing because something is drastically  
10 wrong and needs fixing. We're trying to make a better  
11 wheel, but we're not trying to make a new wheel.

12 MR. RAKOVAN: Mr. Smith.

13 MR. SMITH: This is Leonard Smith with  
14 CORAR. I agree very much with what Ralph and Lynne  
15 have been saying. I would just like to add a  
16 practical recommendation. If NRC was to take on the  
17 regulation of NARM, I think the cut point should be  
18 the accelerator facility should be left where it is  
19 with the states. But if you take material out of that  
20 facility, then it should come under NRC jurisdiction.  
21 That's actually rather similar to the way that you cut  
22 things between the agreement states when you look at  
23 power reactor versus radioactive materials that's  
24 generated in the reactor that could be removed from  
25 the facility.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 Another thought. One of the problems of  
2 course is yes, we are trying to differentiate between  
3 accelerator and the material from the point of view of  
4 regulatory compliance. Another definition that really  
5 could be improved is the definition of waste. That  
6 has provided a lot of problems with both the public  
7 and the licensees and everybody.

8 MR. RAKOVAN: If we can go to Margaret  
9 Federline please.

10 MS. FEDERLINE: Yes, Lance, I want to make  
11 sure. Can we also talk about what makes the program  
12 a success?

13 MR. RAKOVAN: Certainly. That's all part  
14 of this.

15 MS. FEDERLINE: Okay. I see three main  
16 challenges that I think are going to define success of  
17 the program at least in my view. The first is to  
18 define outcomes early, to see stakeholders, the states  
19 and NRC working together to define the outcomes early.  
20 That will help us in defining adequate resources. I  
21 think adequate resources are the other key point that  
22 I see.

23 I see it a little differently. I don't  
24 necessary see that we need to get a commitment in  
25 state budgets or our budgets, but budgets are going to

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 shrink. I think we need to bring more parties into  
2 the pool. If the state doesn't have a resource and we  
3 don't have a resource, then perhaps we need to bring  
4 in the professional societies or others who do have  
5 available resources. So we're going to have to make  
6 the existing resources that we have work.

7 I think the third element of success is  
8 stakeholder acceptance of the product. I think if the  
9 National Materials Program doesn't develop products  
10 that are acceptable to the stakeholders and that means  
11 both the public and the licensees that's going to be  
12 a key criteria. From what Ralph says, it means early  
13 involvement of those people to make sure that we  
14 understand the problems up front. Thank you.

15 MR. RAKOVAN: Ken.

16 MR. WANGLER: I guess I would on that  
17 second part of that question state yes. It should  
18 include all radioactive material. Then Lynne, you say  
19 that we're covering all the fields now. I won't  
20 challenge that but who covers PET in non-agreement  
21 states? Are all the states covering that? Do we  
22 know?

23 MS. FAIROBENT: I wouldn't say that.  
24 Lynne Fairobent. In answer to that, I wouldn't say  
25 all the states are covering it to the same extent or

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 perhaps to the same quality.

2 MR. WANGLER: Are they covering it at all?

3 I mean are there any states that don't have any  
4 regulation on cyclotron generated material right now?

5 MS. FAIROBENT: I can think of one right  
6 now off the top of my head that I don't think does.  
7 And that is part of the problem with there not being  
8 any overall or overarching vehicle. But I did want to  
9 follow up. One concern I would have is if NRC  
10 authority gets broadened over to the areas that have  
11 historically have been the jurisdiction of the states.

12 I would be very concerned or I would issue  
13 the caution that that expertise that's in the states  
14 not be overlooked or diminished because I think that's  
15 where the expertise in those areas definitely has  
16 resided. Margaret, that gets a little bit to your  
17 statement on having adequate resources.

18 Along with that, it's not simply the  
19 number of resources, but it's the right mix of talents  
20 and is becoming more and more challenging for many of  
21 the regulatory agencies. Both Federal and at the  
22 state levels, as pardon the expression those of us who  
23 have been in the field are getting older and nearly  
24 retirement, there is not so much new bloodline coming  
25 in many of these areas because there's not been new

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 opportunity for growth in many of them. I think that  
2 that is one of the biggest collective challenges that  
3 we have is ensuring that there is continuity and  
4 understanding that there remains a sound technical and  
5 scientific basis in the resources that are working on  
6 the technical issues as they confront us all.

7 MR. RAKOVAN: George.

8 MR. PANGBURN: George Pangburn, Region 1.  
9 Going back to the first question, is the program  
10 meeting national needs? I think it met national needs  
11 ten years ago if we define national needs as being  
12 assuring that we were adequate protection public  
13 health and safety. I don't think that was ever the  
14 question. The question is really if we weren't, we'd  
15 all be in big trouble, states and the NRC.

16 I think we first saw this term evolve if  
17 memory serves me correctly as I near retirement that  
18 increasingly is less frequently was in one of the  
19 Commission papers on the Integrated Materials  
20 Performance Evaluation Program. We talked about the  
21 concept of the National Materials Program by getting  
22 agreement states on the teams that were doing the  
23 actual reviews and in the Management Review Board.

24 We've moved a long ways since then to  
25 where working groups as Paul and Carl mentioned this

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 morning were routinely staffed. The question is is  
2 that sufficient to define success. Have we come far  
3 enough to say we've done it and this is as good as we  
4 can get? Or is there another increment to go?

5 I think defining success in that sense  
6 means that we do have a little bit further to go.  
7 It's the task of these working groups and ultimately  
8 the paper that goes on up to the Commission may help  
9 to define what an ultimate, if you will, National  
10 Materials Program might look like. I think we always  
11 need to keep in mind just how far we've come from a  
12 point where rules came out and went to states in very  
13 short notice with very little time frame for comment  
14 to where states are intimately involved in the  
15 development of those rules and guidance documents  
16 before they are issued.

17 MR. RAKOVAN: Margaret.

18 MS. FEDERLINE: I keep forgetting.

19 MR. RAKOVAN: Sorry.

20 MS. FEDERLINE: Thank you for waking me  
21 up.

22 MR. RAKOVAN: Ken.

23 MR. WANGLER: You know, George, I'm not  
24 sure that I agree that we're adequately covering all  
25 the bases. I look at North Dakota. We have the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701



1 western part of the state which has a fairly prolific  
2 oil industry. A lot of NORM generated. We do very  
3 little with it. We're on a reactionary basis only  
4 because it's not a priority on our plate.

5 One of the things I said about IMPEP was  
6 that it conditions the states to respond to the things  
7 that we all think are important. I said this at a  
8 previous meeting. That's true. So IMPEP has improved  
9 us in the areas that get reviews, but it's done  
10 nothing to move us towards NORM regulation. One state  
11 does nothing with cyclotron material. That's becoming  
12 fairly common. Cyclotron material is a pretty  
13 significant radiation hazard or can be. I don't know  
14 that I'd necessarily agree that we're covering all the  
15 bases. I wouldn't go that far.

16 MR. RAKOVAN: Mr. Anderson.

17 MR. ANDERSON: Ralph Anderson, Health  
18 Physics Society. Margaret, you triggered my thinking  
19 in another arena as well. You made the observation  
20 which I think is a very good one that to offset the  
21 predictable reductions in available resources in terms  
22 of budget, one good strategy is to broaden the pool in  
23 terms of available resources. I would add to that and  
24 suggest that a feature you might want to look at  
25 actively integrating into the goals and objectives of

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 the program is the continued development of resources  
2 to provide and an adequate number of resources to  
3 assure that protection of health and safety.

4 All of the studies that are coming really  
5 predict really grim news in the five to 15 year time  
6 frame in the field of radiation safety. Health  
7 Physics Society will be putting its report out a  
8 little later this year. My day job at NEI, we're  
9 already fully understanding that information among the  
10 whole fuel cycle complex. For the program in my mind  
11 to be successful, one element of it needs to be to  
12 provide for that. You mentioned before what are key  
13 assumptions that are being made. I think that one  
14 needs to be pivotal in the process.

15 What I would like to add to that is  
16 looking at Pilot Project No. 2 I think. Is that the  
17 training qualifications of radiographers? Industrial  
18 radiographers, that becomes in my mind a good model  
19 for another issue which is if we're going to  
20 potentially have fuel resources available, there needs  
21 to be an effective process for assuring that those  
22 people charged with radiation safety under the license  
23 have the adequate expertise to do so.

24 I look at that program and it just screams  
25 out to me "Boy, that's analogous to what we probably

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 need in a number of areas with direct radiation safety  
2 responsibility." Our countries have already  
3 recognized that because they are farther along on the  
4 resource curve than we are and they have created  
5 standardized certification testing and requirements  
6 for key radiation safety positions that if you want to  
7 have a license you have to have somebody that meets  
8 these requirements. So those kinds of issues should  
9 be well integrated into this process as an extension  
10 of Pilot Program No. 2.

11 MR. RAKOVAN: Okay. Stan Fitch.

12 MR. FITCH: I think you have to answer the  
13 question, is the current national geo-sporger (PH)  
14 meeting national needs? I would say yes, not as  
15 efficiently or as effectively as possible. However  
16 having dose-based standards insures that licensees and  
17 registrants in the states for instance use non-AA  
18 material are required to meet the most basic standards  
19 which are for whole body dose or for organ dose, that  
20 sort of thing. So in that sense, it is.

21 If we go and amend the Act, the Congress  
22 is going to put in there that it's incumbent upon the  
23 NRC to do this. The response is going to be on the  
24 NRC to do it when the centers of expertise are in the  
25 states for non-AA material. So the states for some

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 time have been screaming that if this happens we want  
2 to make sure that the NRC comes to us for this to be  
3 done because the work's already there. The  
4 infrastructure is already in place and we can make a  
5 huge difference. However at the Congressional level,  
6 they're not necessarily going to recognize that.

7 You have to careful what you ask for for  
8 the states will scream long and hard especially at  
9 things like the NORM regulations, like the NORM  
10 regulations in my state. I don't know if anybody in  
11 the NRC had a piece in that. Yet we did something.

12 We sat down with the stakeholders. We sat down with  
13 industry and with the environmental groups and with  
14 our own radiation advisory council and we came up with  
15 centers that were workable and obtainable for  
16 everybody and met the cost. So things like that are  
17 in place.

18 MR. RAKOVAN: Seeing as there is no tents  
19 up, we have a comment from the audience. James Myers,  
20 NRC.

21 MR. MYERS: Oh, James, it is this  
22 afternoon. I'm Jim Myers. I'm with the Office of  
23 State and Travel Programs. I worked on the National  
24 Materials Program Working Group. From what I'm  
25 hearing here, I thought I'd just hopefully add a

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 little bit of perspective in this.

2 The working group that looked at National  
3 Materials Program thought about all of this stuff. We  
4 really did. Cindy can probably tell you that. Yes,  
5 she's shaking her head now. We probably spent - what  
6 do you think, Cindy - maybe about three meetings  
7 looking at different scenarios of how to make a  
8 national materials program. We went through every  
9 iteration that we could think of. We went looked at  
10 things.

11 We got wild and crazy and said "Well you  
12 know actually the National Materials Program is  
13 actually what we're doing today." That's what we're  
14 doing today and that's what we continue to do. We're  
15 still doing this process of sharing of working groups,  
16 of bringing people in and trying to get better advance  
17 participation let's say in all those kind of things  
18 that you all are talking about. That is the program.

19 So it shouldn't be any big surprise except  
20 that gosh, oh gee, we're already there. I think  
21 that's what Lynne was trying to say which was maybe to  
22 move on. But you can agonize over it. I will say  
23 save yourself a lot of time because we did that for  
24 you and that was what we came up with. It was a  
25 program that really integrates all of the best things

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 and amplifies the best things that we saw in the  
2 existing program. That's National Materials.

3 MR. RAKOVAN: Okay. We'll go to one more  
4 comment. Mr. Gallagher from Massachusetts.

5 MR. GALLAGHER: Bob Gallagher,  
6 Massachusetts. I just wanted to point out for those  
7 of you who may not know the Serocipity (PH) does have  
8 an active working group looking at standardizing the  
9 NARM/NORM regulations throughout the agreement states  
10 and non-agreement states overall. So there's a  
11 national effort to bring all that into some semblance  
12 of commonality.

13 MR. RAKOVAN: Thank you.

14 MR. GALLAGHER: That will include doing an  
15 in-path like review of those programs.

16 MR. RAKOVAN: Okay. What I'm going to do  
17 at this point since we haven't formally put them on  
18 the table even though there has been some discussions  
19 on the challenges. I'm just going to go through the  
20 Challenges questions. "What challenges must be  
21 overcome to make the program a success? What are the  
22 key issues or areas that need to be addressed by a  
23 National Materials Program? What are the potential  
24 burdens on licensees and applicants?" I think in the  
25 flow of conversation we've touched on a few of these

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 things, but I wanted to use the focus questions to  
2 focus our discussion. At this point, we can look at  
3 any of the questions besides the Future Direction.  
4 Essentially if there's a topic that you think needs  
5 discussion and an opinion that you want to interject,  
6 now would be a good time to do it. I'm going with Mr.  
7 Pangburn because I saw his tent go up first.

8 MR. PANGBURN: George Pangburn, Region 1.  
9 Being a regional guy, I tend to focus on process and  
10 implementation. So one of the questions I have and  
11 challenge I see is in those instances where products  
12 would be developed by let's say a state's group as in  
13 OAS working group. How would those products be taken  
14 by NRC and somehow be implemented into something  
15 whether it's a rule or some other product that would  
16 be used by NRC licensees.

17 I'm not sure I know the answer to that  
18 question. I see that's a challenge that we as an  
19 agency have to be in the role of recipient as opposed  
20 to the person that's taking the lead in putting  
21 together the effort that we have to come up with.  
22 Maybe that comes under the cultural baggage kind of  
23 thing.

24 MR. RAKOVAN: Thank you, George. Mr.  
25 Dicharry.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1                   MR.    DICHARRY:  Donnie Dicharry,  
2   NDTMA/ASNT.  To the extent that the alliance concept  
3   will need to involve numerous ad hoc working groups  
4   and standing committees at centers of expertise  
5   throughout the country and to the extent that they  
6   will also need to engage the participation of industry  
7   and other private sector experts, it occurs to me that  
8   one of the problems that might need to be overcome is  
9   to have non-governmental participation that does not  
10  automatically trigger all of the public notice  
11  requirements that otherwise might be involved.  I  
12  notice that I'm the only industry participant in any  
13  of these working groups.

14                   Yet I should explain that I am here by  
15  virtue of my participation on the G-34 Committee of  
16  CRCPD.  Otherwise, I'm just wondering whether or not  
17  we would have had to have posted a public notice in  
18  advance of everyone of the 39 telephone conferences  
19  that we had.  That's just one issue that perhaps  
20  should go in the parking lot.

21                   MR.  LOHAUS:  Let me comment on that  
22  because that is a very important aspect and it was  
23  mentioned this morning and I thought I'd wait until  
24  this afternoon to talk about this.  But the conference  
25  committee process as Ruth and Cindy discussed includes

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701



1 opportunity to have advisors that are outside of NRC  
2 or agreement state government if you will.

3 If you actually even look at NRC  
4 participation, NRC participation is really identified  
5 as a resource representative. It's really a  
6 conference committee and it has advisors that may be  
7 licensee, industrial, medical, educational that serve  
8 and there are also NRC resource reps that serve on at  
9 least some of those committees as well. But as Donnie  
10 points out, when you move into the NRC/agreement state  
11 working group process which is under Federal law, we  
12 have the ability to operate in that as a working group  
13 with states and Federal representatives.

14 But once you bring in other stakeholder  
15 interest, there's a formality to the process, the  
16 Federal Advisory Committee Act, that comes into play  
17 and it does carry with it specific requirements in  
18 terms of appointment of individuals, noticing of  
19 meetings and how meetings are conducted and a whole  
20 series of pretty formal requirements that go with  
21 that. Under the working group process, we follow the  
22 guidelines that are set out in the Federal Advisory  
23 Committee Act, but there's not a binding requirement  
24 if you will that all of those be followed.

25 That's the reason that there's a

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 difference in one of the working groups. The reason  
2 is that we use the existing conference committee which  
3 has advisors and we did not want to disturb that. But  
4 at the same time, we did not want to violate if you  
5 will or affect the fact that we cannot have as a  
6 direct member of the working group, if you will, a  
7 party outside of the Federal or state government.

8 So it's a little bit of a fine line. We  
9 are using an existing conference committee. We did  
10 not want to effect that because that was part of the  
11 intent of the pilot. It was to use the conference  
12 committee as the group that would demonstrate that  
13 yes, the conference can take on the job of having a  
14 National Radiography Certification Program for the  
15 nation. If that's how that committee functions  
16 including advisors, we did not want to force a change  
17 to that process.

18 So I hope that's clear. Maybe Cindy or  
19 others may want to comment further on that. But  
20 that's the reason for that. At the same time, we've  
21 heard and it's on the list that we need to look at how  
22 we involve stakeholders in the public early in the  
23 process. That's an area for further consideration and  
24 part of the working groups in looking at the program.  
25 But I don't know if others may want to comment on this

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 aspect. Cindy or others? That's the genesis and  
2 reason.

3 MR. RAKOVAN: I'm going to go table  
4 members first. Dr. Johnsrud.

5 DR. JOHNSRUD: Judith Johnsrud. I have to  
6 say, Paul, I'm troubled by what you just said because  
7 that sounds to me as though you're skating on a pretty  
8 thin layer of ice with regard to FACA. Really it  
9 almost reverses everything that has been said  
10 previously about wanting input of the public of those  
11 who are ultimately affected by the regulatory  
12 decisions as well as violating the spirit of FACA.

13 Thus all of this work that has gone on has  
14 been without any opportunity for input for access to  
15 the discussions by the public at large or even  
16 representatives through public interest organizations.  
17 That seems to me very contrary to the spirit of what  
18 I thought you were doing.

19 MR. LOHAUS: If that's how you interpret  
20 it, that's not what I intended if you look at the  
21 process that we've tried to follow going back to the  
22 initial Federal Register notice.

23 DR. JOHNSRUD: Which would have been when?

24 MR. LOHAUS: I'll have to rely on my staff  
25 to give me the dates, but this goes back to probably

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 when we started these would be in the late 2002 time  
2 frame. But what we tried to do was we tried to follow  
3 a similar process that what we had used for the  
4 earlier working group where we set a place up on our  
5 website. We published a Federal Register notice.

6 The meeting announcements for the working  
7 group meetings were published and made available. The  
8 meetings were open meetings if you will. There was  
9 opportunity to provide feedback and comment based on  
10 information that was posted at the website. So I  
11 think the intent - and part of the spirit is having  
12 this meeting as well - was to provide additional  
13 opportunity for stakeholder input and to seek views.

14 But what I was trying to respond to though  
15 was the specific question on why there was a  
16 representative that participated on to the G-34  
17 committee as a part of that process. But there was no  
18 intent to not provide for full opportunity in terms of  
19 both knowledge as well as opportunity for input into  
20 the process.

21 DR. JOHNSRUD: And was that person then a  
22 formal invitee if you will and participant and were  
23 there comparable invitations then issued to  
24 representatives of other stakeholders if you will?

25 MR. LOHAUS: I guess what I will do is

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 maybe defer to the working group, but my sense is that  
2 the committee was used as the "working group" if you  
3 will. That committee included the advisor, but I'll  
4 defer to the chairs of the working group for a more  
5 direct answer on that question.

6 MR. RAKOVAN: Jan.

7 MS. ENDAHL: Jan Endahl. Yes, Paul, you  
8 are correct. The committee was the group elected for  
9 use and the committee members as they were intact were  
10 the ones who participated. Like I mentioned earlier,  
11 Donny was a double representative both for ASNT and  
12 NDTMA. During the process, ASNT has requested that  
13 another individual be their representative and he has  
14 since joined CRCPD and has joined G-34 as an advisor.  
15 Because we were in the middle of our project, he did  
16 not join us in the activities. Donnie remained as the  
17 representative for both ASNT and NDTMA during the  
18 duration of the project.

19 MR. RAKOVAN: Okay.

20 MS. CARDWELL: Jan makes an excellent  
21 point that Ken just whispered in my ear as well. The  
22 advisors on the CRCPD committees are members of the  
23 CRCPD. They are affiliate members and both qualify in  
24 terms of that category of membership.

25 MR. RAKOVAN: Donnie, did you have a

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 comment this context?

2 MR. DICHARRY: Yes, I just wanted to point  
3 out that as a stakeholder I had no more rights or  
4 opportunities to join CRCPD and volunteer my  
5 participation to them than you or anyone else or any  
6 member of the public would have.

7 MR. RAKOVAN: We're going to go to outside  
8 real quick and then, Mike, I promise I will get to  
9 you. Jim, very briefly please.

10 MR. MYERS: Very quickly, I would also say  
11 that in terms of the G-34 committee the actual members  
12 of the committee - and correct me if I'm wrong - are  
13 Jan Endahl, David Turberville and Lauren Palmer from  
14 Georgia. They are the actual members of the  
15 committee. Even my participation is under an advisory  
16 capacity because I'm not a member of the committee.  
17 I'm just there to help. So there are lots of advisors  
18 and few members.

19 MR. RAKOVAN: Mike Markley.

20 MR. MARKLEY: Mike Markley, NMSS. Pilot  
21 3 made a very deliberate effort to try to interact and  
22 seek early feedback in a public meeting with the  
23 ACMUI. We came back middle stage in a public meeting  
24 with the ACMUI. We also had a public notice and  
25 published telecon bridge number for public meeting on

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 an interview we held with Bob Emory at the University  
2 of Texas who had done work relevant to our project.  
3 So we've really tried very hard in soliciting and  
4 getting public participation at each stage of the  
5 process to the extent that we can. Thank you.

6 DR. JOHNSRUD: It was not clear from what  
7 you said, Paul.

8 MR. LOHAUS: Okay. Thank you.

9 MR. RAKOVAN: Cindy.

10 MS. CARDWELL: I think what Dr. Johnsrud  
11 brings up is a communication issue. We ran into this  
12 problem with the initial National Materials Program  
13 every single meeting and we met every six weeks. It  
14 was noticed, but we had someone - I believe it was the  
15 lady sitting right next to you this morning - show up  
16 the very first time and not again because it was such  
17 ethereal idea at the time. There wasn't a lot to be  
18 able to comment on.

19 This appears to be some of the same kind  
20 of thing with people who are new to what we've been  
21 working on. But it's a matter of the opportunities  
22 are there. How do we communicate better obviously  
23 than what we're doing that those opportunities are  
24 there? It's a good point.

25 DR. JOHNSRUD: I think this does exemplify

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 the nature of the problem.

2 MR. RAKOVAN: Before we move on to Future  
3 Direction, are there any other Focus questions that  
4 anyone has something that they would like to comment  
5 on, bring up one last time? Wow, we're doing better  
6 than I thought. Okay. Moving on to Future Direction.  
7 Given everything that we've discussed and everything  
8 that we've gone over today, "How should the work of  
9 the Pilot Projects be incorporated into the National  
10 Materials Program? Should there be additional work?  
11 If so, what are the next steps?" Paul.

12 MR. LOHAUS: I'll start here and I think  
13 this point has already been covered, but it's sort of  
14 the question of if you take the results of the pilots  
15 and you take where the program is today and we were to  
16 continue to function along those lines, have we gone  
17 far enough or are there additional things that are  
18 critical to incorporate into the program? I think to  
19 me that's one of the key questions or may be the key  
20 question here.

21 I think what I've heard is there are some  
22 additional things that we need to think about and  
23 factor into the program. That's sort of the key issue  
24 which is given where we are, given what we've done  
25 with the pilots if we were to bring that to an

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701



1 operating framework, is that sufficient? Or what  
2 additional things do we need to make sure are covered  
3 in there?

4 One of the items I want to come back to  
5 which we didn't really touch on - and I think Leonard  
6 Smith and many others touched on this, but I remember  
7 you mentioning this too and it's covered in one of the  
8 potential burdens on licensees and applicants - is the  
9 degree to which it's essential to have national  
10 coherence.

11 I don't want to use the word uniformity  
12 but there's a degree of coherence and consistency  
13 across the nation, if you will, so that the  
14 requirements are known. There is predictability.  
15 There is understanding. If you cross multiple  
16 jurisdictions, there aren't wide variation. But  
17 that's sort of a question I think too that's a  
18 challenge for the program particularly when you look  
19 at 33 states in NRC. I think that may be too many.  
20 I'd like to put that in as part of this as well.

21 MR. RAKOVAN: I'm going to go in the order  
22 that I saw the tents go up starting with Mr. Anderson.

23 MR. ANDERSON: I'll just keep it short.  
24 One thing I think you need to look at is how to more  
25 explicitly integrate the sixth pilot program.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 Security is an integral part of being licensed these  
2 days and regulating licensees. Without that, you're  
3 just ignoring it as part of the progress.

4 MR. RAKOVAN: Cindy.

5 MS. CARDWELL: I would say, Paul, our next  
6 step - I don't think we've gone quite far enough, but  
7 we're still at the baby steps stage. My steps are the  
8 baby steps first. I think we have to integrate the  
9 processes that have all been created and piloted here.  
10 Along with the suggestions, we still have to address  
11 the stakeholder issue. I don't think we've adequately  
12 addressed that at all from all standpoints, from the  
13 organizations, the states as well as NRC.

14 Then after that, I think we look around  
15 and the next step after integrating that is the  
16 acceptance phase. We've all talked about the cultural  
17 baggage thing. Can we accept, can everybody accept,  
18 what some of these products come out of here? If we  
19 integrate them, is there an acceptance of that? Then  
20 after that, we stop and assess. Now where do we go?  
21 So we're still in the baby step stage, but we're a lot  
22 closer. But we're taking those steps down the same  
23 path this time instead of different paths.

24 MR. RAKOVAN: Ms. Roughan.

25 MS. ROUGHAN: Kate Roughan, AEA

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 Technology. In terms of the question of consistency,  
2 I believe in the original working group one of the  
3 objectives was to have uniformity among all the states  
4 so licensing would be uniform. Again uniformity is  
5 not the right word, but consistent and compatible to  
6 make it easier for all licensees to comply as they  
7 cross state boundaries and also for the manufacturers  
8 and distributors to supply the appropriate license  
9 product to the various states.

10 MR. RAKOVAN: Dr. Johnsrud.

11 DR. JOHNSRUD: Judith Johnsrud. I  
12 continue to see the likelihood that there are  
13 differences in the degree of control between and among  
14 states depending upon their industrial nature and  
15 various contaminants in the biosystem and therefore,  
16 differing states may have greater needs for greater  
17 restrictions than other. At the same time, the idea  
18 of some degree of national uniformity certainly at the  
19 base is very important. But always, there needs to be  
20 a mechanism for those that need to go beyond those  
21 basic requirements to be more protective of their  
22 populations and environments.

23 MR. RAKOVAN: Ms. Federline.

24 MS. FEDERLINE: Yes, I would just like to  
25 urge us as part of our process to have an annual

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 meeting where we sit down with the key stakeholders  
2 and look ahead, look three to five years ahead, and  
3 ask ourselves what's coming down the pike. I think it  
4 would be an important input to the prioritization  
5 process that we define to take a long term look.

6 MR. RAKOVAN: Mr. Fitch.

7 MR. FITCH: When we approach the idea of  
8 the materials security when the Commission authorized  
9 the creation of Material Security Working Group and  
10 their steering committee, it was said at that time  
11 that it would probably be the greatest test of  
12 something similar to the National Materials Program.  
13 In that case, it has probably been a pilot. Virtually  
14 all of our considerations constitute safeguards in the  
15 atomic hearing so they can't be discussed here and  
16 obviously we can't always get public members involved  
17 like industry because of the fact that it does  
18 constitute safeguards.

19 Nevertheless what we did and what will be  
20 done in the future was to see areas where impression  
21 stood out in our minds about whether or not we're  
22 actually hitting the nail on the head. Do we need to  
23 go out to industry? Do we have stakeholder meetings?  
24 That has been the case to date with the larger  
25 manufacturers and distributors where we have

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 stakeholder meetings. It will be so in the future for  
2 whatever decisions are made to try to gain additional  
3 understanding.

4 But you have to understand about Material  
5 Security Working Group is the fact that we're working  
6 under the constraints of terrorism of trying to act as  
7 quickly as possible and a lot of people want to say  
8 "Well gee, it's not real quick." But when you  
9 consider the breadth and the scope of everything  
10 that's involved, it takes some time to do. So you sit  
11 down and you sit in the back of the room and find ways  
12 of working with each other.

13 For the states in the beginning, there  
14 were some issues because we felt like it was more  
15 focused on the NRC position and not so much on the  
16 states. So what we learned to do was we learned to  
17 scream and yell and make lots of noise and kick,  
18 fight, scratch, whatever. There were some changes on  
19 the working group and along the way, it became a very  
20 receptive process where we could actually have  
21 significant input towards something good.

22 I would say that in light of National  
23 Materials Program, this was an unabashed success.  
24 This is fantastic and it continues to be a fantastic  
25 success just simply because of the fact that the NRC

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 recognized that they within themselves cannot be it,  
2 the sole voice within Materials Security. They had to  
3 have other people involved. When you have something  
4 of national importance such as terrorism, you have to  
5 broaden your base of talent as far as you can. The  
6 state and the NRC would have lack the support of the  
7 states. By getting the states involved, that means  
8 that you not only have greater expertise behind you,  
9 but you also had a greater support mechanism to help  
10 you out.

11 I would hesitate to go much further on  
12 that currently because of the state - in fact, we have  
13 safeguards information - except to say that we  
14 probably have resembled very much the original  
15 National Materials Program working group in the fact  
16 that we've spent countless hours behind closed doors  
17 choking each other and the stress at times gets very  
18 high. But at the same time, you learn to trust each  
19 other. We cut somebody from the NRC and they bleed  
20 just like the people from the states and you get to  
21 learn who people are and you learn to trust them. Out  
22 of that, come significantly productive outcomes.

23 MR. RAKOVAN: I'm not going to ask about  
24 that whole cutting and bleeding thing. Mr. Anderson.

25 MR. ANDERSON: Yeah. Actually you almost

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 made my point. Obviously in the reactor world we've  
2 in safeguards for a number of years. 9/11 was a step  
3 up in the process. My comment is in listening to what  
4 you said it just reinforces it. What you've precisely  
5 done is dealt with all the cultural baggage issues on  
6 an expedited fashion and you've cut through the crap  
7 to put it simple.

8 That means there's probably a lot of  
9 insights and lessons about process and framework that  
10 have nothing to do with safeguards that are  
11 transferrable to use in moving forward with the  
12 National Materials Program. That's my point. I don't  
13 mean that you should take all the substantive data  
14 that is in fact safeguards and put it on the table.  
15 I mean the processes that you had to invent to  
16 effectively integrate a large number of organizations  
17 well beyond just state rad health.

18 You probably have a wealth of process  
19 knowledge there and that's where I see the value.  
20 It's to capture that and transfer that. I think  
21 that's what the Commission is looking for. First of  
22 all, you have an IOU from the Commission to say  
23 something on that, but that where I suspect that  
24 there's value.

25 MR. FITCH: Obviously I'm a co-chair. I

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 have another co-chair that I work with. We do  
2 interacting in the background. You see what the  
3 challenge is and you get a vision. You talk with each  
4 other about what the vision should be and what needs  
5 to be accomplished.

6 Now you're not purposing yourself that  
7 everything going to be exactly how you want it. But  
8 you have a vision of what needs to be accomplished and  
9 you'd be amazed what the talented people who are  
10 behind are able to conceive behind your vision. So  
11 you say this is the golden light in the sky and we  
12 have to reach for the golden light. Then they start  
13 telling you "Well this is how we're going to reach for  
14 that golden light." So you are able to direct your  
15 efforts. That's been a chief success in the efforts  
16 of the working group.

17 MR. RAKOVAN: Dr. Johnsrud, do you have  
18 your tent up?

19 DR. JOHNSRUD: Oh, I beg your pardon.

20 MR. RAKOVAN: That's okay. I just wanted  
21 to make sure. Any other comments? Questions? I'll  
22 put this to the mercy of the group. Okay. Hold on.  
23 MS. Fairobent.

24 MS. FAIROBENT: Well, a process question  
25 of where we're going from this meeting. We have a lot

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701



1 of items on the parking lot.

2 MR. RAKOVAN: That's where I was just  
3 headed now.

4 MS. FAIROBENT: It's already after 3:00  
5 p.m.

6 MR. RAKOVAN: Do people want to go and do  
7 a quick run-through of the issues that we put on the  
8 parking lot before we convene today?

9 MS. FAIROBENT: Yes.

10 MR. LOHAUS: I think we should. Depending  
11 on interests, we can talk about each one. But I think  
12 we should review the list and make sure there's no  
13 areas that may have been raised that we may not have  
14 picked up on the list. I want to make sure we've  
15 captured everything. So I think let's do that, Lance.

16 MR. RAKOVAN: And also please remember  
17 that we are having this whole meeting transcribed so  
18 everything that's been said will be written down. We  
19 will be going through the transcript. I believe we'll  
20 try to get the transcript up on the National Materials  
21 Program site so that if you were here or if you  
22 weren't here, everyone can take a look at what the  
23 discussions were. Lynne, you had a further point.

24 MS. FAIROBENT: That's goes to my next  
25 question because some transcripts go up within 48

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 hours of the meeting occurring from NRC and others are  
2 four to six months. What sort of time frame would the  
3 availability of the transcript from this meeting as  
4 well the slides that were handed out and Stan's slides  
5 from OAS being available on the website that could be  
6 shared with our members?

7 MR. RAKOVAN: The presentations, we can  
8 get those up probably tomorrow. The transcription I  
9 believe we asked for within a week. Hopefully we'll  
10 have that up by the end of next week. So we're  
11 looking by the end of next week to have everything up.

12 MR. LOHAUS: Yeah. This is Paul Lohaus.  
13 We have a contractor that we use to help us post our  
14 information on the web and we have electronic copies  
15 of everything. We could provide it to the contractor  
16 and it's very quick. So I think within a week, not  
17 more than two weeks, the information should be  
18 available there.

19 MS. FAIROBENT: My real concern was  
20 because of the discrepancy in the length of time it  
21 takes to make some transcripts from NRC meetings  
22 available publicly is really from the Commissioners'  
23 meetings being up within 24 to 48 hours to some other  
24 meetings not going up for six months to nine months.  
25 I was hoping we weren't in the latter range for this

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 meeting.

2 MR. LOHAUS: Right. We're not.

3 MR. RAKOVAN: Lynne, if you don't see it  
4 up within the next week, call me. Mr. Smith.

5 MR. SMITH: Are you looking for further  
6 input after this meeting from the participants?

7 MR. RAKOVAN: Always.

8 MR. LOHAUS: Yes. As you reflect if you  
9 have additional thoughts and comments, please pass  
10 them on. You can send them directly to me in writing  
11 or you can send them by email if you'd like. What I  
12 think we should do is before we leave, we'll write  
13 down on the flip charts here my email address and  
14 Lance's and Shawn's. If you want to send it to any or  
15 all of us, we welcome the feedback. I was just going  
16 to ask, Stan, whether OAS or CRCPD would want to  
17 receive a copy as well. We can share that after we  
18 receive it, but if you want to receive a copy  
19 directly, you can put your emails up there as well.

20 MR. FITCH: Yes.

21 MR. LOHAUS: Yes.

22 MR. RAKOVAN: Okay. Then if I understood  
23 the general consensus is that we'd like to go through  
24 the parking lot just to make sure of the issues if  
25 there is no more discussion on them.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 MS. FEDERLINE: I have one question.

2 MR. RAKOVAN: Margaret.

3 MS. FEDERLINE: One of the things we  
4 learned in our interactions with the states is that  
5 trust is built if the stakeholders get feedback on  
6 what you do with their comments. How is this group  
7 going to give feedback on what we're doing with the  
8 comments?

9 MR. LOHAUS: The comments and feedback  
10 would be taken by each of the working group pilot  
11 chairs and the working groups themselves and they will  
12 factor that in those that are specific to the working  
13 groups. Those that are more generic relative to the  
14 National Materials Program as a part of our preparing  
15 the - I use the term - evaluation report for the  
16 pilots which will be going to the Commission in the  
17 November time frame, they will be identified in that  
18 paper.

19 I guess I'm trying to think in terms of  
20 whether there's another mechanism we consider. But I  
21 think that's probably the place that they would  
22 addressed is in the Staff's report where we would  
23 evaluate the pilots. We would include input and  
24 feedback from the stakeholders meeting. Some of the  
25 items we'll be able to address as a part of that.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 Some of the others we're may need to identify those as  
2 areas for further consideration or further work. But  
3 I think we'll need to work through that and sort those  
4 out as we go through this. But let me ask Shawn and  
5 maybe Kevin Hsueh who's had overall project manager  
6 responsibility and Lance whether there's anything  
7 additional that you all see.

8 MS. SMITH: I didn't have any anything  
9 additional. I just was going to say what Paul said  
10 that it would be incorporated in the final report and  
11 the issues that we have addressed today, seeing as  
12 though we have the five pilot projects and they are  
13 working specifically to address certain issues and  
14 develop specific work products, go to the overall  
15 National Materials Program development. Given that  
16 there's a working group looking specifically looking  
17 at the overall issues, some of the issues we'll try to  
18 address. But we'll at least account them in the final  
19 report to the Commission in November.

20 MR. RAKOVAN: Kevin, did you have anything  
21 you wanted to add?

22 MR. HSUEH: No.

23 MR. RAKOVAN: Easy enough. Okay. Should  
24 we go through the parking lot real quick? Hopefully  
25 my notation here will allow us to remember what we

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 were talking about. Lessons learned from the various  
2 security dealings, how would those effect or be  
3 incorporated to the National Materials Program? Does  
4 anyone have any discussion on that?

5 MR. FITCH: A comment has been provided in  
6 the past. Early on, we provided comments, insights,  
7 into process and provided that last fall. I would  
8 imagine that additional comments would be provided in  
9 the future.

10 MR. RAKOVAN: Okay. Early development of  
11 legislation and flow into the regulatory process. How  
12 is the National Materials Program going to handle  
13 that?

14 MR. WANGLER: Does NMP really involve  
15 legislation development? Is that a part that National  
16 Materials Program? I don't think it is, is it?

17 MS. FAIROBENT: Let me clarify. That's my  
18 point. My point is though we can have something come  
19 up on the Hill and be hidden in a bill. I'm not sure  
20 how many of you all spend a major portion of your life  
21 reading Congressional legislation and drafted bills,  
22 but it's a major part of my business.

23 For example, in the Energy Policy Act  
24 that's pending, there is a couple of provisions that  
25 had we not been watching them would not have come to

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 the forefront for our members. One is the  
2 availability of isotopes and potential export of HEU  
3 to ensure availability of isotopes. It's very  
4 important in nuclear medicine in their radio-  
5 pharmaceutical industry. There's also some language  
6 in earlier versions of the Energy Policy Bill that  
7 deals with materials safety/security issues that based  
8 on the way the wording is if that is what is passed  
9 could mandate extensive FBI background clearances for  
10 anybody in a medical or hospital institution that uses  
11 radioisotopes from the RSO office down to the  
12 department of radiology.

13 I don't believe that necessarily that was  
14 the intent of the person on the Congressional staff  
15 that wrote that legislation. But the impact of then  
16 how that is interpreted into the regulatory world can  
17 be very different. My only concern is as we're  
18 looking at a National Materials Program I do think  
19 that we need to be sensitive to stuff that appears in  
20 legislation, be it Federal or state, that ultimately  
21 ends up being direct guidance to the regulatory  
22 authority to then develop the regulation and the  
23 guidance to implement and live under it. That's why  
24 I brought it up. I did not hear that it was  
25 considered a thought into the process.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 MR. LOHAUS: I'm going to maybe restate  
2 this in a little bit different way and see if this  
3 captures it, Lynne. We started to do this with the  
4 states at their request. I think this is very  
5 important.

6 As we become aware of legislative  
7 proposals, we share those so that they're known.  
8 Folks have an opportunity to reflect on them. If they  
9 want to provide feedback through whatever mechanism,  
10 they're in a position to do that. But if we were to  
11 ensure that there was a flow of information on  
12 legislative proposals into the community, if you will,  
13 for knowledge base and thinking. Maybe we need to  
14 identify that more clearly.

15 MR. RAKOVAN: I'm going to try to keep it  
16 at the table to finish. Mr. Smith.

17 MR. SMITH: You might be aware that  
18 there's quite a bit of legislative action coming  
19 forward in the past years promulgating new regulations  
20 on decommissioning and waste disposal and so forth  
21 which are in direct conflict with NRC based, agreement  
22 state regulation. It seems to me that this program  
23 should be at least aware of that kind of process  
24 happening and there should be also some mechanism for  
25 NRC being involved in getting that corrected I would

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701



1 think.

2 MR. RAKOVAN: Okay.

3 MR. LOHAUS: I'm going to interject here.  
4 I need to step out. I'll tell you why. There's an  
5 individual that's retired from NRC and I asked to  
6 speak on their behalf. So if I could, I would like to  
7 take ten minutes and I'll ask Shawn to fill in for me.  
8 But I'll be right back if you'll bear with me. Thank  
9 you.

10 MR. RAKOVAN: Thanks, Paul. Okay. Moving  
11 along the lot, so to speak, we talked about getting  
12 the priority list from the National Materials Program  
13 Pilot 1. I think we can pass that along to the chair  
14 of Pilot 1 and either get that up on the website.

15 MS. SMITH: I don't think that as a  
16 working group we'll have an issue with getting it out  
17 to the stakeholders. As a mechanism, we'll use the  
18 National Materials Program website. The address was  
19 listed in the front register. We'll get that up  
20 within the next two weeks also.

21 MR. RAKOVAN: Okay. Thank you, Shawn.  
22 Stakeholder input into the regulatory agenda. Unless  
23 there is something else that anybody wants to discuss  
24 on this, that seemed to be one of the main points of  
25 the meeting that we talked about. I think that

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 actually crops up a couple more times. Budget issues.  
2 That's something that we really didn't touch on. Did  
3 anyone have a specific point that they wanted to make  
4 in terms of budget issues in the National Materials  
5 Program? Okay.

6 Impact of petitions for rulemaking. I'm  
7 just going to throw these out here and if anybody has  
8 anything else that they want to make a point on, get  
9 my attention somehow. Steering committee membership  
10 for various steering committees in the National  
11 Materials Program.

12 MS. SMITH: The person that made that,  
13 what's the key? Clarify.

14 MS. FAIROBENT: That was me. Lynne  
15 Fairobent. Yeah. I just simply brought up the point  
16 that in what was being proposed for the steering  
17 committee membership it appeared to be for NRC  
18 managers and two state reps.

19 MS. SMITH: Okay.

20 MS. FAIROBENT: My only question was on  
21 the quality of that based on the fact that there had  
22 been a previous comment made that what is - I forget  
23 what you called it.

24 MS. SMITH: Priorities Committee.

25 MS. FAIROBENT: Pardon?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 MS. SMITH: The Priorities Committee.

2 MS. FAIROBENT: Right. Would be  
3 reconstituted to be more equitably shared between both  
4 organizations. That was all.

5 MS. CARDWELL: And we, the states, kind of  
6 talked amongst ourselves. There is a solution to that  
7 that would kill two birds with one stone. It's to  
8 increase on the steering committee the state  
9 membership, but the steering committee is a decision  
10 maker group.

11 MS. SMITH: Yes.

12 MS. CARDWELL: And if you were to get for  
13 instance in OAS the chair and the chair-elect, you  
14 also establish a continuity there. And if you were to  
15 get on CRCPD site either the same thing or the chair  
16 and our executive director which gives you a  
17 continuity on going then.

18 MS. FAIROBENT: Cindy, exactly that's what  
19 had come to my mind when I heard it because again,  
20 it's the continuity. You don't want someone brand new  
21 coming into the process each year.

22 MR. RAKOVAN: Stan.

23 MR. FITCH: I was told to say this.

24 MR. RAKOVAN: I won't ask by who.

25 MR. FITCH: Mostly because I was brain

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 dead about that time. For the OAS if we only have our  
2 chair on there, then that person has one year to  
3 effect change or to be involved or to come up to speed  
4 and that's really not enough. If they have an  
5 additional person besides the chair like the chair-  
6 elect or even one of our other board members, but I  
7 would prefer chair-elect, that would certainly be  
8 preferable. It would work better.

9 MR. RAKOVAN: Okay. Can you move on to  
10 the next one? The next one, radio-photography  
11 program. Who is in the lead and should this be added  
12 to Pilot Project 2 in their scope? Mr. Myers.

13 MR. MYERS: And a point of clarification,  
14 we really would like to see some written guidance on  
15 that, not just talk about that. We want to see how  
16 that would work so that we know what to do.

17 MR. RAKOVAN: Okay. Should there be a  
18 non-common performance indicator in the Integrated  
19 Materials Performance Evaluation Program? For  
20 Radiography Certification Programs? Cindy.

21 MS. CARDWELL: I think speaking on behalf  
22 of some of the certifying entities, we've been asking  
23 for that for years.

24 MR. RAKOVAN: So that would be a yes?  
25 Common prioritization of instant event analysis and

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 communication I believe that's supposed to be. I  
2 can't read my own writing. Role or expectation of  
3 states in terms of clearinghouse which I believe was  
4 discussed as part of Pilot Project 3. Communication.  
5 Public accessed information. I think we've discussed  
6 that. Stakeholder involvement in working groups. I  
7 think we touched on that a few times as well. Public  
8 input. This was Paul's last point that he brought up  
9 on consistency of regulation across the nation.  
10 Anyone have any other input that they would like to  
11 put in any of that? Speak now. Kevin Hsueh.

12 MR. HSUEH: This is Kevin Hsueh. I'm from  
13 Office of State and Tribal Programs. I just want to  
14 mention that after this stakeholders meeting we are  
15 going to make a presentation, a poster presentation,  
16 as Paul mentioned. One is in-house Society annual  
17 meeting and the other one is in the CRCPD annual  
18 meeting. One is in May and the other one is in July.  
19 At those meetings we will have post the presentation  
20 and then we will receive feedback from you all if you  
21 attend.

22 MR. RAKOVAN: Thank you, Kevin. If there  
23 aren't any other comments, I'm going to turn things  
24 over to Paul for a quick closeout.

25 MR. LOHAUS: First, I wanted to thank each

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 of you for taking time to join us today and  
2 participate with the expertise and the views, the  
3 comments, the input, that you've given us today. It's  
4 very valuable. I think we've had some very good  
5 discussion, a lot of good ideas and a lot of things  
6 for us to think about and to fold into the future  
7 work. I very much appreciate this. I want to thank  
8 each of you that came and participated. I want to  
9 thank the working group chairs for their help in  
10 developing presentations and also the NRC and state  
11 staff that helped make this a success.

12 I want to just again comment on what would  
13 we do with the feedback that we've received because  
14 this is a common comment that we hear from the states  
15 and others that we hold meetings or we publish  
16 materials for comment and it's not always clear what  
17 we do with the comments, how those comments are  
18 considered, how they are folded into further work and  
19 I want to think some more about this.

20 Sometimes what we do is we prepare what I  
21 call an analysis of comments which basically takes  
22 each comments and then provides a statement in terms  
23 of how that comment has been dispositioned. I'm not  
24 certain that dialogue, the discussion, the feedback  
25 today, may lend itself for that. That's where in my

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 thinking I see this as areas we'll address as part of  
2 the assessment as a part of the stakeholder feedback  
3 that we've on the process and pursue the items that  
4 maybe these are items that are going to need some  
5 further work and some further thinking and some  
6 further help from all of us in terms of how we address  
7 those and make sure they are reflected in the program.  
8 Again I want to thank each of you very much. Have a  
9 good and safe travel back home. Thank you.

10 MR. RAKOVAN: Thank you, Paul. With that,  
11 I believe we're convened. Thank you. Off the record.

12 (Whereupon, the above-entitled matter was  
13 concluded at 3:30 p.m.)  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25