

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BRIEFING ON INTEGRATED MATERIALS
PERFORMANCE EVALUATION PROGRAM

PUBLIC MEETING

Nuclear Regulatory Commission
Building One, Room 1F-16
One White Flint North
11555 Rockville Pike
Rockville, Maryland

Friday, January 31, 1997

The Commission met in open session, pursuant to notice, at 10:04 a.m., the Honorable SHIRLEY A. JACKSON, Chairman of the Commission, presiding.

COMMISSIONERS PRESENT:

- SHIRLEY A. JACKSON, Chairman of the Commission
- KENNETH C. ROGERS, Member of the Commission
- GRETA J. DICUS, Member of the Commission
- NILS J. DIAZ, Member of the Commission
- EDWARD McGAFFIGAN, JR., Member of the Commission

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STAFF AND PRESENTERS SEATED AT THE COMMISSION TABLE:

- JOHN C. HOYLE, Secretary
- KAREN D. CYR, General Counsel
- HUGH THOMPSON, JR., Acting EDO, and Chair,
Management Review Board
- DR. CARL PAPERIELLO, Director, NMSS
- DR. DONALD COOL, Director, Division of Industrial
and Medical Nuclear Safety, NMSS
- RICHARD BANGART, Director, OSP
- KATHLEEN SCHNEIDER, Sr. Program Manager, OSP
- BRUCE MALLETT, Director, Division of Nuclear
Materials Safety, Region II
- ROLAND FLETCHER, Manager, Rad Health Program,
Maryland Department of the Environment
- JAMES McNEES, Director, Rad Materials Inspection,
Alabama State Department of Public Health
- RICHARD RATLIFF, Chief, Bureau of Radiation
Control, Texas Department of Health

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P R O C E E D I N G S

[10:04 a.m.]

CHAIRMAN JACKSON: Good morning, ladies and gentlemen. Today the Staff and representatives from agreement states will brief the Commission on the Integrated Materials Performance Evaluation Program, or IMPEP.

IMPEP was initiated in part in response to comments from Congress and the General Accounting Office several years ago that criticized NRC's program to assure a national uniform level of protection of public health and

safety in the nuclear materials area.

Since 1994 the Staff has initiated, piloted and refined a program to evaluate agreement states and regional materials programs in a common manner.

On June 27th of 1995 the Commission approved the Staff's proposal to implement and expand IMPEP. The Staff has gained considerable experience since then and the purpose of today's briefing is to provide the Commission with a status update.

I understand that this morning we will hear from the two headquarters offices that implement IMPEP -- the regional perspective and the agreement state perspective.

We appreciate the attendance of the agreement state representatives and look forward to hearing your views on IMPEP.

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We also look forward to hearing from the Staff, both from Headquarters and the regions.

Since 1995 agreement states have been represented on the review teams and have provided a liaison to Management Review Board meetings. I am interested in hearing the Staff's experience in coordinating more closely with and being evaluated by agreement state personnel.

In November the Staff documented the status of the IMPEP program in a paper, SECY 96-234, which is publicly available. I understand that copies of the Staff's and the agreement states' viewgraphs are available at the entrances to the meeting.

Unless there are any comments from the Commissioners, Mr. Thompson, please proceed.

MR. THOMPSON: Thank you, Chairman Jackson and Commissioners.

I am pleased to be here this morning. In fact, actually we have four members of the Management Review Board at the table here, so we might be having one of our meetings right here today.

CHAIRMAN JACKSON: Well, we have been through some of that.

MR. THOMPSON: It is a pleasure to be here and brief the Commission on the IMPEP program.

As you know, we briefed the Commission in March of 1995 and with the Commission's approval began the implementation of the Integrated Materials Performance Evaluation, IMPEP --

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CHAIRMAN JACKSON: Has it been since March, 1995?

MR. THOMPSON: I believe, so and it's when the briefing was but time flies when you are having fun.

CHAIRMAN JACKSON: Yes.

MR. THOMPSON: As Chair of the Management Review Board, I believe that this program has proven effective both in terms of evaluating the adequacy and compatibility of material programs both in NRC and in the agreement states during the past year and improving the technical and programmatic exchange of information between NRC and the agreement states.

I think this latter point is a very important point because one of the things that I always found very useful at the end of the meetings, I would ask the participants both who participated in the review of the agreement states what was their observations, lessons learned, and even the NRC Staff's -- we would bring in the Office of Research, NMSS. We really do get a broadening of the program internally within NRC as well as within the

agreement states, and I must admit that it's even delightful to have the Office of General Counsel represented --

[Laughter.]

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CHAIRMAN JACKSON: Delightful?

MR. THOMPSON: Delightful. I mean -- no, but it is one of the few places that I know that we really come together as an agency looking at an important program and I know the Commission has been encouraging us to do that and this is one of the programs that really has, I think, achieved that, and credit should be given to GAO for pushing us in this direction.

I wasn't really happy about it to start off with, but I must commend the Staff for taking that challenge and moving forward and today we have two panels, as you mentioned, the reviewers and the reviewers, and we will hear from both.

CHAIRMAN JACKSON: And some mixture of the two.

MR. THOMPSON: And some mixture of the two -- that's true -- with Roland Fletcher. He's been on both sides of this approach there, but on my left though is Kathleen Schneider, from the Office of State Programs, who was instrumental in doing much of the early work, both in the agreement state programs in the previous program as well as with the new program, and has been a team leader; Don Cool, who is the Director of the Division of Industrial and Medical Nuclear Safety, who will do most of the Staff's presentation; and the two gentlemen on my right, Carl Paperiello and Dick Bangart, who are members of the Board

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and I wouldn't --

MS. CYR: -- you can consult me twice --

[Laughter.]

MR. THOMPSON: But there's no damning at all in this case, but with no other things I would like to turn the briefing over to Carl -- I mean Don.

[Laughter.]

MR. THOMPSON: They look so much alike --

CHAIRMAN JACKSON: It must be the glasses.

MR. THOMPSON: It's my tie that's making my vision go wrong today or something.

DR. COOL: Good morning.

CHAIRMAN JACKSON: Good morning.

DR. COOL: If I can go ahead and have the first slide -- as you indicated we will have two panels here.

[Slide.]

DR. COOL: What we intend to do here in the next few minutes is to walk you quickly through some of the background, a lot of which we have already touched on, some of the indicators in process, because a number of you were not here at the time that we last were up here, which wasn't that close to two years ago -- it doesn't seem like that long --

CHAIRMAN JACKSON: Actually, no one was here in --

[Laughter.]

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CHAIRMAN JACKSON: -- except Commissioner Rogers -- it was a comma and not a period, the point being that you can be robust in how you kind of give your perspectives.

DR. COOL: Right, and some of our results and schedules. If we can go ahead and go to the next slide on the background, as we have already indicated, we established

this program --

[Slide.]

CHAIRMAN JACKSON: Can you speak a little more into the --

DR. COOL: Let me see if I can get this a little bit closer. There we go. I keep forgetting and Chip reminded me all through public meetings years ago that I need to swallow the microphone, so we will attempt to do that, and put it here a little bit closer.

We developed the program in response to some outside inputs to be sure, but also in response to some of the things that we have been observing, so it was in a sense quite timely to try and get some measure of consistency in how we were looking at our own regional programs, how we were looking at the agreement state programs.

It was a move to try and move towards performance, try and look at the particular areas that really needed to be focused upon, try to get some rigor in that particular . 9 program.

We went through a series of steps in '94 and '95 in terms of initial pilots, some initial development of criteria, subjecting those to comments, for which there was a great deal of comment and input, some wonderful discussions at some of the all agreement state meetings and CRCPD meetings about the indicators, what should be in and what should be out.

We had some very vocal viewpoints on that and it directly influenced the way the common indicators are, as you see them today, implemented then.

Go ahead and go to the next slide.

[Slide.]

DR. COOL: Following the Commission's approval in 1995 they issued the Management Directive 5.6 under which we are conducting the program, laid out the common performance criteria which were part of that directive.

Some of the key elements in this process and activities, there is state participation on the teams and on the Management Review Boards; the teams themselves are interdisciplinary teams -- depending on the size of the program it may be two or three individuals for some of the states, usually four or five for the larger states and for the regions drawn from a variety of perspectives -- some inspection backgrounds, some licensing background, some of . 10

the folks who have more details in terms of some of the implementation budgetary resources, some of those sorts of things.

The focus is on the program performance -- where is it going, how is it going well, are they looking at the right sorts of things, are they implementing the directives and requirements that are out there and available.

It's also provided an opportunity to go through a much more rigorous documentation process. That is in the development of a report, a review of the report by the group that was reviewed, both the regions or the states, and coming together and providing that for the Management Review Board that then examines it, has made modifications on occasions to the final outcome and the final review process.

Staff also began the development of a series of noncommon indicators, noncommon indicators being those particular program areas that do not cross the board through all the regions and all of the states. For example, low level waste, where there are several states that are

pursuant low level waste programs and other states are not.

Again, similarly in the sealed source and device area, where some of the states are doing sealed source device reviews as part of their agreement, some of the states have not chosen to take that particular authority so we use those in those areas where that program is actually

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operating with the states.

Drafts were provided, comments received from the states on those particular program areas, and have been implemented on the first round as we went through the FY '96 cycle.

The noncommons, both for the states and for the regions, are a year, probably two years, behind the common indicators in terms of having tested them, working through them, refining them, what my friends in the computer industry talk about as "hardening" -- getting them refined down, getting them locked down in a way that everyone has agreed to over a course of time, so they are not to the same degree of rigor and are not in fact in the management directive yet, although they will be and we will continue that process.

CHAIRMAN JACKSON: Let me ask you this question. Tell me a little more about what you think you have gained from the unique perspectives that the agreement state liaison have had -- I am going to ask them the comparable question -- as part of the Management Review Board and have they been effective advocates for states or programs from their states that are different than ours but which achieve good performance nonetheless?

What do you think we have gained from that?

MR. THOMPSON: Well, certainly from my perspective

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they have been fully active participants, asking questions such that help develop the significance of an issue or of a finding or in certain areas we basically have had reasonably good programs to review.

We have had one program that we will talk about a little bit that was more difficult than others, but in each program they tend to have areas for improvements or areas that need further exploration of the table and having members of the agreement states there.

They have asked excellent questions. They have been bringing their perspective to the table as to what a state may have to achieve in order to correct a deficiency and it gives us some confidence that, you know, if we are asking something that it can be accomplished in the agreement state programs and in programs that are out there.

CHAIRMAN JACKSON: Have we taken anything that they may have suggested and migrated it into our own process?

MR. THOMPSON: I'll probably turn that over back to Don or maybe Bruce and others can talk about it.

I can tell you that at each meeting that we have we try to look for good practices and make that available to all the agreement states and to the NRC regions so that where we have a good tracking system, a good method for documenting results, follow-up on enforcement actions, I

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think almost in every case each state has had something that has been highlighted as being good or one of the evaluators will come back and say I really learned a lot here because I liked that way they did "x" at, you know, in North Carolina

and then we want to use that back in improving the program either in one of the regions or in one of the states that were participating in it.

So, I don't know, Carl?

MR. PAPERIELLO: I can't add anything, no.

MR. THOMPSON: Okay.

DR. COOL: Certainly from the Staff's perspective, there has been a great benefit. They have provided some very good viewpoints, some ways that the individual reviewer was doing things that was quite useful both to the other team members doing the review and to the region, and those are the ones that I can speak directly to in terms of the way practices are being done.

Perspectives that we have learned in reviews of the states have provided us several things, ways of doing public interaction and getting feedback on customer service, for example, extremely useful sorts of things that were going on there.

From a more general perspective, I think it's fair to say that virtually everybody who has been part of each one of these reviews has walked away learning something.

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To be very frank, my staff is not particularly happy when I go out to one of the closeouts for the regions because they know I am going to come back with something that I am going to ask them to start doing because I found something that will probably work better, something that will help our own particular program. That has been a great strength.

Just to finish up then --

COMMISSIONER MCGAFFIGAN: Can I ask a question?

DR. COOL: Please, yes.

COMMISSIONER MCGAFFIGAN: The issue of noncommon performance indicators, you said you are running one to two years behind the common performance indicators since the common performance indicators one or two years ago you locked those in.

That means very soon you are going to be able to tell us what the noncommon performance indicators are? I am just trying to be more precise on timing.

DR. COOL: Okay -- a two-part answer to your question. We can tell you what the indicators that we are looking at are now --

COMMISSIONER MCGAFFIGAN: Right.

DR. COOL: -- we'll do that in about a slide.

My expectation is that when we are ready to do a revision of the management directive, and there will be

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several reasons for doing that when the adequacy and compatibility statement is ready, that we will also be in a position to write into that management directive the noncommon indicators, particularly those that go along with the state reviews that have already been subjected to a round of state comments.

COMMISSIONER MCGAFFIGAN: And what would be the role of the Commission in approving the revised management directive?

Would it be submitted to the Commission as the original directive was or what is your -- how does that work?

DR. COOL: The previous directive, and somebody may need to help correct me here, was approved by the EDO and provided to the Commission with the Federal Register notice.

The management procedures normally have the EDO approving the directives. That doesn't mean that we can't provide it to you as you wish.

COMMISSIONER MCGAFFIGAN: I understand the procedure.

MR. THOMPSON: Yes, we typically keep the Commission informed on any issues that they like to be informed on, and it certainly would be provided to give copies to the Commissions once we have reached the point --

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and as we said, this will really be an integral part of an issue that does require the Commission's approval on, the adequacy and compatibility area.

MR. BANGART: I'd like to add, Hugh, that we are further along in terms of experience with criteria for the noncommon indicators for the ones that cover low-level waste and sealed source and device reviews.

Those were drafted earlier in were part of this interim program that has been conducted the last year.

CHAIRMAN JACKSON: For those that you haven't drafted anything yet, what documents were you using?

MR. BANGART: They have all been drafted. They have all been out to the agreement states for comments and were in the --

CHAIRMAN JACKSON: Well, what about the ones for the regions?

DR. COOL: For the regions in the fuel cycle area it was the Fuel Cycle Program Plan, which fuel cycle has in the SDMP area, decommissioning arena. They were using the set of documents that go back to the SDMP program statement.

CHAIRMAN JACKSON: And those are the ones that are then used as the basis for what you are going to be drafting?

MR. BANGART: Yes, that's correct.

DR. COOL: And in the noncommon area what we have

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attempted to do is to parallel for that particular program element the same sorts of things that we do in common for the general program, so look at the specific issues or training or qualifications for that area, such as sealed sources, device reviews in that particular area, so again trying to look at the same sorts of things -- the quality, the timeliness, and the training, but focused on that particular program element.

COMMISSIONER MCGAFFIGAN: To go back to my original question, when do you see the process getting to a conclusion and this revised directive being issued?

DR. COOL: I would expect we would have the revised directive this year once we're in a position to do that.

I would also expect that we would probably be looking on about an annual basis -- as we complete each fiscal year looking and seeing whether there are things that we have learned, things that have come out of the Management Review Board meetings which would dictate to us that we want to go back in and modify, adjust -- all those particular exercises.

COMMISSIONER MCGAFFIGAN: So there will be annual review process?

DR. COOL: I would think that in order to do this job properly, we ought to always be checking to see if we

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are still on track.

CHAIRMAN JACKSON: Well, I think an appropriate way to address the Commissioner's concerns is if you could lay out what your integrated schedule looks like relative to the various pieces coming together.

MR. THOMPSON: Dick, you might be able to address that.

MR. BANGART: Let me just add that the other major revision to the management directive will be the change in the way compatibility is determined so once the Commission hopefully gives final approval to the new adequacy and compatibility policy statement and the implementing procedures --

CHAIRMAN JACKSON: Has that come here yet?

MR. BANGART: It is out for office concurrence as of this morning.

CHAIRMAN JACKSON: Okay. That is what I am trying to say is that's what we need to know is what -- how that is coming and how the schedule is for that, because all these other things hinge on that.

MR. THOMPSON: My sense is within the next couple of months we should be -- is the timeframe we're looking at, and I can send you a little --

CHAIRMAN JACKSON: For the revised adequacy and compatibility policy statement or --

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MR. BANGART: That will be Day Zero and then a couple of months. Once it's approved, then we'll --

CHAIRMAN JACKSON: So if I ask you whether you can get it to the Commission within the next month, is that an issue?

MR. BANGART: It is --

CHAIRMAN JACKSON: This has to do with just the adequacy and compatibility.

MR. BANGART: We are on a schedule now that would get it to you within a month.

CHAIRMAN JACKSON: Okay.

MR. BANGART: We have asked for office concurrence in two weeks and then that will be at EDO's on the 18th.

CHAIRMAN JACKSON: Because then everything else -- and then we need to understand how everything else is linked to that.

Yes, Commissioner Dicus?

COMMISSIONER DICUS: The other question then, as I understand it, is the policy statement of principles and policy for agreement state programs has to be part of this package as well, is that --

MR. BANGART: Yes, they are combined. They are combined into one paper.

COMMISSIONER DICUS: With the adequacy and compatibility?

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MR. BANGART: Yes. Those policy statements and the outstanding implementing procedures are all in the package and it's about like that, unfortunately.

CHAIRMAN JACKSON: And we will review it in three days.

[Laughter.]

CHAIRMAN JACKSON: Commissioner Diaz?

COMMISSIONER DIAZ: Yes. Has the issue of the low risk, low complexity SDMP cites being addressed as who should take responsibility for those and the issue being discussed to see whether agreement states are willing or have we made any recommendations or any discussions have been made, and how to handle them if they are put on the

table?

MR. THOMPSON: The agreement state programs that we reviewed are typically the ones for which they have the oversight for, and then part of our review process we go and select the parts that we review, so the parts that we select for review are typically those that have more risk significance and look at those.

I don't think we are looking at trying to change the regulatory role and responsibility that is currently involved either in agreement states or nonagreement states at this time.

So we are just looking at the agreement state . 21
program and the regional programs as they currently exist.

COMMISSIONER DIAZ: So how size with low risk might fall in our field but actually might eventually want to be in some other field. Have those been addressed in any fashion? Because I think eventually that will become an issue.

MR. THOMPSON: I think that's addressed, but that's not addressed in this type of a program here. I think to the extent that I think we looked at that as some of the issues with the strategic type planning area and I don't know that they quite raised up to the Commission's level of review at this time yet but I think that is the forum in which we are looking at what we would push that.

For example, I think the Commission is addressing things in the nuclear medicine area and there is one where we are looking at what focus we should have in a regulatory perspective which would -- you know, we would give guidance to the program reviews as to what part of the medical area needs attention and what part needs less focus and less attention on that.

COMMISSIONER DIAZ: This is the same type of issue, essentially?

MR. THOMPSON: That's right. But the program we have here today really looks at the program that exists and the regulatory programs that are being carried out currently

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by the states and by the regions.

DR. COOL: Okay, we can go on to the slide on common indicators, just walk through these very quickly.

[Slide.]

DR. COOL: The five common performance indicators that are looked at common to both the regions and the states, the status of the inspection program, is it being executed in a timely fashion, are there overdue inspections that are outside of the window of opportunity? Are we getting to people on the yearly basis for those that are priority ones, are we getting to new licensees within the first six months to make sure they, in fact, are implementing the kinds of programs that are necessary, are the reports getting issued in a timely fashion, are we moving forward quickly in terms of the enforcement actions or other things that come out of that, so there is not a delay between findings that may be found and communicating and taking actions associated with those?

The indicator related to technical staffing and training, in terms of the overall level of staffing, the right kind of staff availabilities, the right kind of mix, the right kinds of qualifications. Are inspectors going through the qualification process? Are license reviewers going through the qualification process? Is there anything

that may pose a concern in terms of abnormal rates of

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attrition or turnover within the programs?

Technical quality of the licensing activities, where representative samples of actions are taken and reviewed, looked at in terms of the findings that are found, whether or not the safety issues have been properly addressed, try to pull a representative sample across the variety of different kinds of licensing actions, new actions, amendments, renewals, terminations and a variety of different kinds of program codes from simple types of licensees to the more complex. Try to find one broad scope of some of those activities, so we address a range of areas there.

Technical quality of the inspections. Part of the program provides for inspection accompaniments where folks from some of the other regions or some of my staff, the folks from the agreement states, will actually accompany the inspectors of the regions or the states, see how they are doing, what they are looking at, examine how they are documenting those, how they are following up, are they conducting inspections looking for the right kinds of issues.

The last one, in terms of response to incidents and allegations, in terms of the level of effort, were appropriate kinds of actions taken to events that were identified as reporting happening in a timely fashion, those

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sorts of activities.

CHAIRMAN JACKSON: Let me ask you a couple of questions on this particular slide. I will start from -- with respect to the last one, the response to incidents and allegations.

Obviously we have and are devoting considerable attention to this whole area of allegation management. Are the agreement states' allegation programs similar to ours and have agreement states made parallel improvements along the lines that we have been moving or trying to move?

MR. THOMPSON: My sense is that each agreement state that we have looked has a program that does respond to allegations. They do not have programs as structured as ours where they have allegation review boards. As I can remember, obviously they don't have the power reactor community to -- which has a large number of people involved in them.

They typically have a much, much smaller number of allegations. They do not have, in general, an investigative office to follow up, though they do have other capabilities at the states to follow up on issues, whether it's like the state bureau of investigations or other investigative support functions. But we do look to see if there was timely feedback. They do, you know, try to track and sometimes their programs, we identify areas for improvements

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and identify areas that they could, you know, have proper feedback and control.

So I think our program is probably much more structured and robust than probably any agreement state program would be but we do look to, say, the fundamental aspects of them, that they are identified, tracked and feedback is given as part of our review process.

MS. SCHNEIDER: You covered everything I was going to jump in and say. But, like you said, we have made some comments in the areas to enhance it and I think it is an

area where we are strengthening the states by this team approach, bringing our expertise out to them.

CHAIRMAN JACKSON: Let me ask you this question.

I notice that you had a common performance indicator on status of the materials inspection program and one on technical quality of licensing. But you don't have one and didn't adopt one, I guess, at the initiation of IMPEP on the status of the licensing program, although backlogs are still something that are still being grappled with and were specifically mentioned in discussion of staffing, specifically mentioned with respect to Nebraska.

So the question is, is a common indicator on the status of licensing or licensing backlogs something that needs to be looked at?

DR. COOL: A couple of comments on that.

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When the original performance indicators were being discussed, that was a specific topic of discussion and, in fact, was probably one of the areas where there was more discussion and comments with the states than perhaps any of the others. The view taken by the staff in its recommendation to the Commission back now several years ago was that there was not nearly the nexus between the status of the program and whether or not there were some backlogs as there was in the inspection area and in response to the comments from the states, who did not believe it should be present, it was not included in the set of five indicators at that time.

In terms of the regional reviews, that is one of the things that was specifically looked at under my common -- noncommon indicator in terms of operating plan performance because that's one of the things that are specifically addressed between NMSS and the regions as part of our operating plan. So we do that for the regions but we have not done that for the states in view of the comments and development.

The discussions associated with Nebraska and some of the areas which were discussed which didn't have a home, if you will, or didn't seem to have quite a particular home brought the issue to light, certainly perhaps warrant some additional discussion but there was a rather strong,

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consistent sentiment at that time not to include these --

CHAIRMAN JACKSON: I am not asking you so much from the historical perspective but on a go-forward basis in terms of the fact that it did come up in terms of the review of an agreement state program where there was a question about potential placement on probation. And all I am really asking, is it something in light of your experience you think needs to be revisited. That's number one. And, number two, is it in any sense incorporated into other common performance indicators?

MR. THOMPSON: I'll respond and then I'll let Dick respond.

One of the things that's great about the IMPEP program is that you are free to follow where the path leads you. For instance, in looking at staffing and qualifications, when they started looking at that area where they had key missing staff members we looked at what the results of that was and in fact the team originally made a recommendation with respect to that particular criterion was that it was an unsatisfactory criterion. We had some debates and we can discuss those a little bit later.

We certainly can re-look at that issue but right now I don't think by not having it as a criterion prohibits us from looking at areas where lack of staffing may have contributed to the issue. And so I felt the board had full

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knowledge of what the status of that program was at that time and, in fact, before we actually made our preliminary conclusions had a status of where it was at the date that the board met.

CHAIRMAN JACKSON: Let me rephrase the question. Are licensing backlogs in general an issue?

MR. THOMPSON: In fact, I think Nebraska, if my memory's correct, was the first state that we found where it was truly a real issue. We had had some other states in previous reviews that it had been an issue but that's my memory. Dick, I don't know if you can --

MR. BANGART: Kathy, I would generally agree with that statement.

MS. SCHNEIDER: Yes. Most of the time you are not going to find the backlog in licensing. But you will find it if you have vacancies in staff, I'll speak historically, they're going to let the licensing go first and redirect the resources to the inspections.

CHAIRMAN JACKSON: So it shows up when you look at the staffing issues?

MS. SCHNEIDER: Correct.

CHAIRMAN JACKSON: All right.

MR. BANGART: I would like to follow up. The point that Hugh made about being able to look wherever you need to look and especially to identify root causes, the

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Nebraska MRB did reveal that there is no "management effectiveness" kind of category anywhere there. That is a broad brush kind of issue.

We need that and we've talked within our office about either Management Directive 5.6 or in our own internal office guidance, we need to deal with management effectiveness. Don said that there is an argument to be made, at least, that there is a weak nexus between health and safety and backlogs but it can be part of management effectiveness. What we plan to do is deal with any broad brush issues like that in a summary section of the report where, in Nebraska, we had symptoms of management weakness spread throughout the report and in multiple places we covered the same thing.

So we will focus that now in a summary section that will give a broad brush treatment as to the overall management effectiveness of the program.

CHAIRMAN JACKSON: I want to ask you one last general question but I will make one little comment. We did have an earlier Commission meeting where we talked about issues having to do with general licenses versus specific licenses.

MR. BANGART: Yes, yes.

CHAIRMAN JACKSON: Keeping up with certain kinds of sources and a need to assure ourselves that we had an

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ability. And that does propagate to the licensing regime and therefore, to the extent that we believe that our ability to understand where things are with respect to that class of materials licensees has a health and safety implication, then one can't exactly throw out and say that licensing backlogs, without having parsed what that backlog means, has no health and safety significance.

MR. BANGART: I agree.

CHAIRMAN JACKSON: My last comment is, apparently -- a question -- the teams and the Management Review Board decisions are based largely on the qualitative evaluation of performance. Are there any quantifiable indicators or is the nature of what you're reviewing such that that has no particular place?

DR. COOL: The final writeups of the report are, in fact, qualitative dealing with the performance indicators themselves. There is a great deal of quantitative data underneath that originally examined, in terms of inspection frequencies, inspection findings, numbers of events. We go in and look at the nuclear materials event database, see what is available there, use that, in essence, to help guide us in going and selecting events to follow up inspections that we might want to check back on, licenses that we may want to examine.

So while the final report comes out in a

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qualitative area, the staff utilizes a number of quantitative data points underneath it in guiding its review and in looking at some of those particular issues.

CHAIRMAN JACKSON: Does having the qualitative nature ever cause you to be challenged in your results?

DR. COOL: It has not to date.

CHAIRMAN JACKSON: She shook her head.

MS. SCHNEIDER: No. I was -- I would say during -- during the pilot we did have some discussion with some of the states, both Utah and Illinois, as we were further refining it, and that's why I shook my head one way.

CHAIRMAN JACKSON: All right. Thank you.

[Slide.]

DR. COOL: The next slide dealt with the noncommon performance indicators and I think, perhaps, as a result of discussions, we have already touched on most of those. We look at the operating plan and the utilization and the resources and the regional activities, fuel cycle activities and will be working now, as the last bullet notes, in terms of reviewing the SDMP program which is unique to the regions.

In the states, the areas of regulation, legal authority, sealed source and devices, low-level waste and uranium recovery, some of those come from the older criteria which the Commission asked us to continue with. A couple of

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those, sealed source and low-level have, in fact, been drafted, commented upon and tested in some of the reviews because some of the states reviewed this year had those programs.

The uranium recovery one has been drafted, commented but not yet subjected to a test in the field with a review because none of the states which were reviewed in FY '96 had a uranium recovery program, so it is a little bit farther behind.

As I already indicated, that will need to be brought up to speed as we actually have a test of the system see what works. One of the things that we will need to go back and look at is whether there is some overlap between those things in the noncomment and things which are in the comment. Whether or not you in fact deal with, say, training for all the program area or whether you talk about the training in SSDs separately from the training associated with routine licensing to try and minimize the number of

cross-connections, overlaps that come out there.

In terms of the implementation --

CHAIRMAN JACKSON: When you talk about refinement of noncommon indicators, what kind of refinements do you think are needed or what do you mean by that?

MS. SCHNEIDER: Some of the comments we got on the low-level waste and the sealed source and devices is we

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weren't clear as to exactly what type of statistics we would want them to maintain on their program. A little bit more clear guidance on training. Again, so that's the type of refinements we're talking about.

CHAIRMAN JACKSON: Thank you.

DR. COOL: Implementation results, which is the next slide.

[Slide.]

DR. COOL: We laid out a schedule for the reviews of all of the states in the regions. That review was laid out, assuming a two- to four-year cycle based upon the previous reviews for the states, the previous review conducted under the old cycle. All of them are laid out under a schedule which has every one reviewed under the IMPEP criteria by the end of FY '99. We do between nine and 12 reviews per year, two regions each year, and then seven, nine, 10 states depending on the cycle. There are 12 reviews scheduled in FY '97, three of which have already had their teams on site and for which the documents are in various stages of review, comment by the particular state to move forward.

We reviewed nine programs in '96. Those were laid out there; I don't need to go particularly further with that. Seven of those nine have completed the process.

Nebraska has completed the management review board and that

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report and minutes will be in the EDO's office next week. The report for Maryland is with Maryland for review and comment back prior to a draft final being prepared for the management review board and --

CHAIRMAN JACKSON: Before you go --

DR. COOL: Roland is probably going to address that.

CHAIRMAN JACKSON: Now, I know that there is a delay of at least two-and-a-half months and sometimes longer between the on-site review and the management review board meeting and the question is, is the finding of adequacy and compatibility applicable to the date of the on-site review or of the date of the management review board meeting or the whole period in between? Because I am going to ask you this specifically relative to Nebraska in terms of what you take into account and how much -- what goes on in the interim plays into the ultimate decision and therefore how timely in some sense is the final decision and what's the linkage.

MR. THOMPSON: The management review board uses all the information that is currently available to it at the date it meets to make that decision. Therefore, if the issue were no staffing and they had now hired up and staffing, we would make our finding as of the day that they reflected. If they had staffing of 10 people and they all left, we would find that the problem would be a staffing

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problem, although it may have been fine two months before.

So that is one of the reasons we actually have the state participate and being present to respond to questions and to issues at the meeting so that we have a current

status that when we make our judgment, it is the judgment as of the facts that are before us that day.

CHAIRMAN JACKSON: All of this is documented in the record that that's the basis for the decision one way or the other?

MR. THOMPSON: That's correct. That is, and that's the --

CHAIRMAN JACKSON: Is there a reason why the management review board meetings are so distant from when the on-site reviews actually occur?

MR. THOMPSON: Well, the process that was put in place essentially allowed for the states to have an opportunity to respond and I think that's invaluable.

CHAIRMAN JACKSON: Okay, and to remediate?

MR. THOMPSON: If they are very smart, they will remediate. It wasn't intended to be --

CHAIRMAN JACKSON: To be a remediation?

MR. THOMPSON: To be a remediation. Quite frankly, I would like to have no state have to have a remediation period.

Some states are able to aggressively respond. We

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have had some states that would drag the response period out and that was an uncomfortable situation where it says, you know, well, we've had our review; how come we can't get the states to come in to hold the meeting.

Most of the state we are dealing with right now are responsive in a timely fashion and on only a few occasions do I think we end up with an -- with an unusually long time before the --

CHAIRMAN JACKSON: Do you negotiate when the management review board meeting is relative to the end of the on-site review?

MR. THOMPSON: I usually rely on my staff to set that up. Kathleen?

MS. SCHNEIDER: What we've been trying to do is we do have a goal of trying to get the draft report out in 30 days. Then if we give the state two weeks to respond, then we try and have it within two weeks after that.

I do have -- you know, ideal conditions, we should be able to do everything in 90 days to the final report and maybe Mr. Bangart would like to address this a little bit too. But we have not been able to get -- we have found that we have needed to do some refinements in that process because we haven't been able to make it on time all the time. Dick?

MR. BANGART: We do track each of the reviews and

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how we're progressing in terms of issuing the draft report and the final report holding the MRB and unfortunately the delays that are longer than we would like are occurring more frequently than we would like.

CHAIRMAN JACKSON: Right.

MR. BANGART: So we have under evaluation right now initiatives that we can put in place that we think will make the process move more quickly and that starts at the front end from making sure all the team members have a laptop PC with them so they can work in the evenings. Another practical consideration like having a meeting room at the hotel so it is easy for the team to get together and discuss. Having the team leaders making sure that each of their team members have time available so that they can devote the necessary time for prep, conduct the review and

document the followup. And the extreme, I think, alternative on the other end is have the team stay together until all the pieces are submitted to the team leader for incorporating into the report.

So as we consider those, those will be documented at least for the agreement state reviews in our internal guidance. So we expect that the timeliness is going to improve.

CHAIRMAN JACKSON: Karen?

MS. CYR: If I could just make a comment as an MRB

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member, I view this process in the sense as sort of an incentive process. I mean, I think there is an enormous amount of communication that goes on between the team reviewers as they are doing the review and as the findings are being prepared and they provide that to the state. So that, yes, I think there is an opportunity for states to remediate and come -- but I think that's valuable. I mean, I think there is communication going on all the time and they come to the board to provide the current status of their program and if there have been deficiencies identified in most case, every case we've had, they've taken steps to try to do that. But I think that's a value of the process. I mean, I don't --

CHAIRMAN JACKSON: We are not going to get into a debate about what the value of the process is. The real problem has to do with one of timeliness. Timeliness of what the particular snapshot is, you know, we're getting information, what does it mean as well as timeliness of response by those who are being evaluated to whatever the findings are at that time. If you have something that is a negotiated kind of ending date, then you can negotiate and the question becomes not that you don't want people to remediate but people also have to be motivated to know that there is going to be some ultimate decision and that, in itself, can be a motivation to do what has to be done

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consistent with whatever constraints they are operating under in the given situation or state or whatever the case may be.

So I don't think we're here debating or arguing the issue of whether it's a good thing. The real issue has to do with the timeliness with which things get closed out and what the meaning of the given snapshot is at a particular point in time as far as any information the Commission might get about what you're saying about a given program. And that's all, you know, I think we are discussing this morning.

MR. THOMPSON: We certainly are sensitive -- one of the real efforts was to try to move in a timely fashion with timely feedback to the states, timely feedback to the regions and I know, in particular, they appreciate a timely feedback from the results and likewise we like to have a timely resolution of the process and I will continue to work with Dick to make sure that those things that we can do to improve the timeliness of the process are focused on.

CHAIRMAN JACKSON: Thank you.

COMMISSIONER McGAFFIGAN: Can I ask before we leave this slide or can we get slide 7 back up or do you want to go ahead?

COMMISSIONER DICUS: Are you changing subjects?

COMMISSIONER McGAFFIGAN: I'm going to change

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subjects.

COMMISSIONER DICUS: Okay.

I am okay with what you're doing but I have a question with regard to what, in a situation, this would be either for agreement state or a regional office. You go in and in the review a really serious acute health and safety issue exists where a program, be it one of ours or an agreement state has a serious problem and it is an acute health and safety issue. Do we wait 90 days or 120 days to do something? I think that gets at the heart of what we need to do.

MR. THOMPSON: We obviously don't wait on one of those. In particular, what we will do, in the past we have actually provided technical assistance to an agreement state program where we would do their inspections, we would do their licensing. The same way if we have a problem with the regions, we have often had support from another region to support a particular region, so if there is an immediate problem, we will respond to it as soon as we are aware of it.

CHAIRMAN JACKSON: That is built into the process? Okay. That's enough.

MR. THOMPSON: I'm not sure -- I'm not sure --

CHAIRMAN JACKSON: Don't keep talking; we agree. We're fine. We have the answer.

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MR. THOMPSON: It's built into my process.

COMMISSIONER MCGAFFIGAN: On the chart that we were on, the last bullet was regions found to be satisfactory and therefore adequate to protect public health and safety.

As I understand it, there are three grades you can get. You can get satisfactory, satisfactory with improvement and unsatisfactory. Were the regions found satisfactory across the board or satisfactory with recommendations for improvement?

DR. COOL: They were found satisfactory on all the indicators for all the regions thus far.

COMMISSIONER MCGAFFIGAN: If you are in a situation where it was satisfactory with recommendations for improvement, are you still adequate to public health and safety? Is it only when you get into the unsatisfactory category that issues get raised as to whether you are adequate for public health and safety? I am just trying to understand what the grades mean.

MR. THOMPSON: Essentially, we would have to have -- I think for a not adequate to protect public health and safety on our own program, a programmatic breakdown whereas we were, you know, not looking at an area and that would have to be fairly substantial.

There are lots of things you will find

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satisfactory with recommendations for improvement. Though the program is fine, it may not be operating as quickly or it may not be operating as quickly or it may not be -- the staffing level may not be as high as you would like it because our -- it is slightly different with the regions. We are kind of in touch with the regions on a real time process and if there is a real issue, Carl or I will be working with the regional administrator to address a health and safety problem immediately.

COMMISSIONER MCGAFFIGAN: What does it mean for the states, then? What do these grades mean for the state program? I know we are going to get to Nebraska in a minute

but if a state program were -- obviously if it is satisfactory across the board it is in great shape but how many satisfactoriness with need for improvement or unsatisfactoriness do we need in order to trigger a probation or some action?

MR. THOMPSON: Well, we haven't specifically crossed that bridge with this program. There were two programs in an earlier state or earlier time that probably met that area. One was Idaho in which we took the program back and the other one was Iowa which, really, we ended up doing all the inspections and the licensing reviews for that program. Those would be the types of situations where we would expect to be sufficiently proactive in the activities .

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in order to ensure that a safe program exists.

I don't think you will find this program coming in with something that is inadequate to protect public health and safety. We will be in touch with the Commission well before that ever occurs.

COMMISSIONER MCGAFFIGAN: Okay.

MR. BANGART: If it were to happen, though, if an agreement state had an overall rating of unsatisfactory, that would equate to not adequately protecting public health and safety.

COMMISSIONER MCGAFFIGAN: It's sort of like -- I'm trying to analogize to the reactor area. Our lowest category in the SALP scores is, as I recall, adequate or something like that and then the testimony we've had in previous Commission meetings is, if it ain't adequate, it's shut down.

MR. THOMPSON: That's right. We would take action.

Now, you know, there is a formal process to go through and there may be some -- there may be some day -- I keep seeing the agreement state programs in an improving trend. Nebraska was a test for us and we can discuss that a little bit later on, I think. That was one of the reasons we wanted to have this meeting after we had kind of taken a hard one to see where we would end up on it.

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But, in essence, right now, you really don't give a program to the state unless you have some confidence that it is adequate to protect the public health and safety to start off with and then you stay in contact with them so that there is a reasonable expectation that you are not going to find one unsatisfactory. It really, you know, the two that we had in the past with respect to Iowa and Idaho, we had lots of dialogues in particular with the Commission early on with those or supported the state with our own inspection efforts.

MS. SCHNEIDER: If I could offer one thing, we do have a process. We have both in the law -- Karen, correct me if I'm wrong -- that if there is a problem, we can do an emergency suspension. If the public health and safety has been compromised.

MR. THOMPSON: And even for a specific facility.

MS. SCHNEIDER: Right.

MR. THOMPSON: I think there was a state --

MS. SCHNEIDER: Yes, there was, back in '78, '79.

MR. THOMPSON: That triggered that change in the law so we could come in and if the state were not taking sufficient action and we had a public health and safety concern, that we could come in and take over the response for that particular incident.

MS. SCHNEIDER: Right, and we have a procedure to

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do that, too, in place.

CHAIRMAN JACKSON: Okay.

[Slide.]

DR. COOL: All right, the next slide which you have, which is slide eight, talks about frequencies and reviews. We do the regions on a two-year cycle, pick up two each year back and forth, irrespective of the fact that they have had all satisfactory performance, we use this as our opportunity to examine all the areas within the NMSS program.

For the states, the team recommends to the MRB an interval based upon the findings. The MRB can adjust that based upon things which they may observe as a result of that process. Normally two to four. In the case of Nebraska, which we will deal with in a moment, it is going to be less than that. There have been several that have been in the two to three range and several where the recommendation has been for a four-year review.

A number of comments as we have gone through this process and interacted with the states in the Management Review Board meetings was that while the formal length of review going out three, four years in recognition of good performance was an appropriate thing, that there was a concern expressed about a lack of contact that might result if you don't show back up for three or four years.

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Thus, the proposal that the Staff plans to move forward with is to do in a annual get-together the regional liaison officer, staff person within OSP, meeting with the state representative, reviewing where the program is going, follow-ups to any of the things that may have been discussed, changes and trends, new authorities that may have been looked at, other issues that may be coming along, issues which might warrant going back and looking at whether the next scheduling is still appropriate or otherwise, and/or influencing the composition of the team that might be considered when you get to that point.

For example, if someone relinquished sealed source device authority then someone of my folks that are part of the sealed source group wouldn't be part of that team, so that we can make ongoing adjustments to that program.

COMMISSIONER DICUS: I have a couple of questions and comments regarding the annual one-day meetings.

In one of the documents, I think here in the policy issue statement, and you have talked about who would participate in that annual visit with the state, and if it's an agreement state it would tend to be the state agreements officer.

The issue I want to surface, because I think it's one that is a little bit troublesome with the states, and I think we need to consider it on our FTE situation with the

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agency, is that the director of a state agreement program is generally a Civil Service position but there is also a position in the state called the state liaison officer, which is a position as we all know appointed by the Governor of the state.

Now in many of the agreement states the director of the state program and the state liaison person out of the Governor's office are one and the same people. In many states they are different in agreement states or non-

agreement states alike.

The state agreements officer of course has generally always dealt strictly with the agreement state and then the regional liaison person has dealt with the Governor-appointed liaison person within the state.

Again, sometimes it's the same, sometimes they are not, but they focus on different issues. They may focus on the same issues sometimes but sometimes not.

The point I want to bring up on these annual meetings that are going to occur is that in Region I we have six agreement states now, including Massachusetts in that number, and they have -- we have a regional liaison officer and a regional agreements officer, I believe -- so we have two FTEs.

Is that correct, I think?

DR. COOL: I'll turn to Dick for that.

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COMMISSIONER DICUS: Okay. In Region II we have eight agreement states, and I think the same staffing.

In Region III there are two agreement states and there's one FTE doing half and half in the two.

In Region IV there are 14 agreement states, and we have one agreement state officer but I think two liaison officers if we include the staff, and the state agreements officer is at the field office in California.

So the question or the point I am trying to get around to is ensuring that there is some sort of equity across the regions if we are going to do these annual reviews given the state we have got a Region IV with 14 agreement states in it as opposed to a region that only has, say, two agreement states, and how you see this coming out.

I think what is happening is that the roles between the -- the regional agreement state officer and the regional liaison officer are simply being meshed and the distinction between the two are going away and I would like a little feedback on, from anyone, what you see, any problems with this, including the fact that these can be different people at the state level, they can be the same people at the state level, and they may be dealing with entirely different issues.

I would like some feedback.

MR. THOMPSON: I'll respond first and then I'll

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let Dick.

We looked at, early-on, areas where we thought we could achieve effectiveness and efficiency in the NRC programs in light of decreasing resources that were available.

My discussions with regional administrators in all the regions were that this was an area they believed that they would be able to have, over time be able to combine those responsibilities into a single point of contact with a backup within the materials programs in the regions and be able to effectively carry that, those programs out with support from the NRC Office of State Programs and from Headquarters.

That process is one that's evolutionary and it's evolving fairly slowly but that was the approach, and we were sensitive to this issue, to make sure -- because sometimes there were different skill levels involved in the individuals and the questions that were being asked.

Some of them required a fairly technical response with the agreement states where the state liaison was a bit more --

COMMISSIONER DICUS: On policy.

MR. THOMPSON: -- on policy area, but Dick, do you want to provide any additional thoughts on that?

MR. BANGART: Just a small comment.

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The long-term goal is to have a state programs representation in the regional office, as you suggested by the meshing comment, and so we hope to have people with backgrounds and skills that will allow them to deal both with policy-related issues, reactor-related issues, which often are discussed with the state liaison officer as well as agreement state materials program issues, so the goal in the Region IV situation is that there would be three FTE but that FTE, those three persons, would be able to deal with any and all issues where we interact with states in Region IV and we think that that would be a sufficient amount of resource to carry out that function.

In the interim period now, there is additional support coming from our office to fill that loss of the one RSAO position.

CHAIRMAN JACKSON: I think we have to move along here -- even though I am at fault, basically.

[Slide.]

DR. COOL: Okay. The next slide, slide 9, was in fact -- we now come to the point -- we have talked about it two or three times -- where we'll get to Nebraska, just as a very quick synopsis of the process, and then Mr. Thompson will talk about the MRB.

The team was out in July, late July timeframe. At that time there were several indicators that were found

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satisfactory. There were several indicators which had recommendations. There was one indicator at that time where the team's finding at that point was an unsatisfactory finding. There was a relatively long period of time where the state was responding back and in fact responded back in several piece, more than one piece of correspondence.

The Management Review Board met on January 22nd and was represented both by the Governor-appointed director of the program as well as the individual who was actually running the program.

A couple of the issues associated with regulations and with staffing which, getting to the point you were making a little while ago, the snapshot during the week the team was there -- some significant weaknesses, some regulations which were not in place, and some significant staffing issues.

During that intervening period we were caught up to date. Staff was hired and hired up. The regulations were brought up to date and brought into line, such that by the time we got to the Management Review Board meeting in the regulations are they were all up to date, completely caught up.

CHAIRMAN JACKSON: So you are saying that the Management Review Board's decision was based on substantive performance in the interim and not planning relative to

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that?

MR. THOMPSON: That is correct. In fact, we explicitly, even in the staffing level, assured ourselves and asked questions did the new staff they have, were they qualified.

One of the areas that we looked at was the quality

of their licensing review and the quality of inspections.

They had not, even with their lower staff, had a failure in doing quality health and safety reviews and quality inspections.

So by the time they had their rules and regulations up to date and in place and had their staffing, I think there was one person left who was being hired, but essentially they were at full staffing, they clearly -- and also had addressed the management issue, which Dick had pointed out, that our performance indicators don't capture very well, but it was one where we were comfortable, as comfortable is maybe not quite the right word, but it was our judgment that in fact the program was not satisfactory with room, still recommendations for improvements as identified, but they had completed the inspections that were the ones that were overdue -- you know, the inspections that had been done that hired consultants in there to complete some of their inspection reports, so I was confident at the time that I made my support for a finding of satisfactory it

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was based on the significant improvements as well as the promises.

They put a plan in but they had made significant accomplishments between the time that the team had done their review and the time the Review Board met.

CHAIRMAN JACKSON: What was the unsatisfactory?

MR. THOMPSON: There were two originally. One was technical staffing and training and the second one was the legislative and regulations.

The legislative and regulations one was fairly clear -- you know, either you have the regulations in place or you don't -- it's one of those. You can actually implement programs by orders or something that we have given credit for if you only have one licensee, do you have to, you know, go through a whole process to have an acceptable program.

The staffing and training one was much more systemic in the program that had led to a number of licensing delays that they had and a number of the programs of almost a year, for which they did not have a manager of the program in place, that they had people acting, and as a result of that their program wasn't being managed and it was drifting along, even though the people who actually went out and did the inspections and did the licensing reviews when they did them they did them well.

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Their ability to reorganize, to get their program focused, and which they did, within the state and their commitment by the Governor, I believe it was Governor Nelson, and to his desire to have present at the Board meeting was the director of the Department of Regulations and she was able to relate not only her personal commitment at the cabinet level but the Governor's commitment to this program, that it was going to continue to have --

CHAIRMAN JACKSON: What was it they were committing to that related to the problems you had identified?

MR. THOMPSON: Ensuring that that program got adequate management attention, that it didn't drift.

They actually have taken that program out of, I think, part of the Health Services area and put it in a Division of Regulation and Licensing, which is what the responsibilities of this program were directed at.

So that was their mission now was the regulation

and licensing and with that focus and with the cabinet-level support to keep it focused in that way as well as the improvements that they had made and the fact that they did not have a defective or significant problems in the technical quality of the work was the basis that at least I was using to judge and you have got three other members here if you wish --

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CHAIRMAN JACKSON: So you are saying that relative to the two unsatisfactory categories they had actually made measurable progress? They had addressed the technical staffing issue. They had trained the people?

MR. THOMPSON: That's correct.

CHAIRMAN JACKSON: And that they had adopted the relevant regulations?

MR. THOMPSON: That's correct.

CHAIRMAN JACKSON: And then over-arching this was the commitment by this high level state official that the program would no longer be treated as an orphan?

MR. THOMPSON: Correct.

CHAIRMAN JACKSON: So the promise wasn't having to do with the specific unsatisfactory category, it had to do with giving it continued attention --

MR. THOMPSON: Continued attention.

CHAIRMAN JACKSON: -- but the unsatisfactory issued had been --

MR. THOMPSON: -- had been fixed.

CHAIRMAN JACKSON: Okay.

COMMISSIONER McGAFFIGAN: Did they jump all the way from unsatisfactory to totally satisfactory or did they jump to satisfactory with improvement?

MR. THOMPSON: It's really satisfactory with improvements.

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COMMISSIONER McGAFFIGAN: Out of the seven categories, as I understand it, two were unsatisfactory, four satisfactory with need for improvement, one satisfactory without, and it looks like four grades in that six-month period, four grades moved up at least. Am I correct -- the team comparing to the MRB.

MS. SCHNEIDER: Compared, there was a change in the regulations from unsatisfactory to satisfactory.

COMMISSIONER McGAFFIGAN: Totally satisfactory?

MS. SCHNEIDER: Right. The only other change was the other unsatisfactory was then changed to satisfactory with recommendations.

All the other findings for the indicators stayed the same and then the overall team finding was satisfactory with recommendations.

COMMISSIONER McGAFFIGAN: That stayed the same --

MS. SCHNEIDER: I mean adequate with recommendations for improvement.

COMMISSIONER McGAFFIGAN: Do we have -- the November memo to the Commission said that there were -- in the five common performance indicators, four were satisfactory with recommendations for improvement, one was unsatisfactory. In the noncommon there was one unsatisfactory and one satisfactory.

MS. SCHNEIDER: By now it is five satisfactory

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with recommendations in the common and in the two noncommon they're satisfactory.

COMMISSIONER McGAFFIGAN: So that's slightly

different from the slide but --

MS. SCHNEIDER: Excuse me, I'm sorry. It's my mistake. I am trying to do it here.

Licensing quality, so it is four out of the five.

COMMISSIONER MCGAFFIGAN: With recommendations.

MS. SCHNEIDER: With recommendations.

COMMISSIONER MCGAFFIGAN: Four out of the five --

MS. SCHNEIDER: Common indicators.

COMMISSIONER MCGAFFIGAN: Right and they all stayed the same and the two unsatisfactories did jump all the way to satisfactory?

MS. SCHNEIDER: No. One of the -- the training and staffing is a common indicator and that went from --

COMMISSIONER MCGAFFIGAN: Unsatisfactory --

MS. SCHNEIDER: -- unsatisfactory to satisfactory with recommendations.

COMMISSIONER MCGAFFIGAN: Right, and then the four that were satisfactory with recommendations, did one of those improve?

MS. SCHNEIDER: No, they stayed the same.

MR. BANGART: Let me -- I guess the original licensing quality was always fully satisfactory.

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MS. SCHNEIDER: Correct.

MR. BANGART: From the outset -- so of the remaining four common the only one that changed, as she indicated, was for training and staffing from unsat to sat with recommendations.

COMMISSIONER MCGAFFIGAN: So the November memo then is the place that's wrong? It said --

MS. SCHNEIDER: Right.

COMMISSIONER MCGAFFIGAN: Okay.

CHAIRMAN JACKSON: Maybe you need to correct that for the record.

MS. SCHNEIDER: Okay.

COMMISSIONER MCGAFFIGAN: The reason -- it is obvious in terms of the recommendation to go back in just a few months and look at them again that while they are not on probation they are not exactly in totally good graces either.

We are going to be from Missouri in terms of the promises that were made to you, is that correct?

MR. THOMPSON: That's correct. Typically we have a two to four year timeframe and our objective was to say programs that really look solid and sound we may review only once every four years, others that are, you know, fairly steady, three years, once -- and this one, since they did have and had had this experience in the history --

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COMMISSIONER MCGAFFIGAN: There is a history here too.

MR. THOMPSON: There is a history here and we were not unaware of the history and that is why the Board recommended going back in a period of a year to 18 months to do a follow-up review process.

COMMISSIONER MCGAFFIGAN: And that is a year to 18 months from last July, as opposed to from --

MS. SCHNEIDER: Correct.

MR. THOMPSON: Correct.

CHAIRMAN JACKSON: But by not putting Nebraska on probation, I mean given what you said and given the history, have we in any sense changed the threshold in terms of how we are then able to deal with other states?

MR. THOMPSON: I don't believe there was any

intent to change the threshold. I can't say that there -- obviously what other states may look at, it says, gee, we can, if we can get our program all fixed by the time we meet with the MRB they are prepared and will look at a team's report and change a recommendation.

I would also say that the team at this particular meeting withheld their final recommendation to the Board until after they had the presentation from the state and the team did recommend that they make a modification and not place the program on probation.

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CHAIRMAN JACKSON: Going back to Commissioner McGaffigan's comments, in terms of being from Missouri, how much are we relying on promissory notes versus actual progress?

MR. BANGART: As I tried to indicate earlier, my decision was based on the accomplishments that they had made with the program that they had modified. I was confident that program was satisfactory and with recommendations inadequate to protect public health and safety.

If they had not been able to staff, if they had not had the leadership, if they had not been able to put regulations in place, there would be no question they would be on probation in my mind.

MR. THOMPSON: The other piece that is missing here in the discussion is that there is ongoing communication between both the Regional State Agreements Officer and staff in my office with all the agreement states throughout the year. We knew that they had lost staff because the Regional State Agreements Officer told us that six months ago. He has since retired. What we didn't know, they hadn't restaffed the ones they had lost and we didn't know the extent to which there was lack of day-to-day management being exercised.

But we do have that to rely on as well and if we

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learn of something occurring that is different from what we believe to understand will happen, then we can refocus on whether we need to go back out sooner or not, even before the one year, 18 months.

CHAIRMAN JACKSON: Okay.

MR. THOMPSON: We wanted to have Nebraska behind us so that we could -- it was a test of the bd and the system. We could have come and briefed the Commission before Nebraska and it wouldn't have been as tested and you may not --

CHAIRMAN JACKSON: And we won't have been as testy.

[Laughter.]

MR. THOMPSON: I'll put that back in my -- Don?

DR. COOL: Moving through the last couple of things that we were going to cover, slide 10 dealing with the ongoing implementation.

[Slide.]

DR. COOL: We have issued a good practice report for the previous year. Our expectation is we will issue one of those each year once the reviews that were conducted in the physical year are completed.

CHAIRMAN JACKSON: Stop.

Kudos to you for that one.

DR. COOL: Thank you.

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We found it very useful. It was asked for; we agreed.

What we want to look at is some of the things that people have talked about of particular areas of lessons learned, the sort of other side of the coin. You know, pitfalls to watch out for. We have discussed ways to do that. Whether we can include some of those within the report, do a separate report. In the interim and anyway, these are public documents. The regional reviews are provided to all the regions. The OSP reviews are on the home page and available so that everyone can see all of the detail that you get in there.

We have already talked about the management directive so in the interest of trying to help us move along, unless there are questions, jump to the resources.

When we originally came to the Commission, we provided you with an estimate that was about a half and FTE's worth of effort to conduct a review. That has actually panned out very well. There are variations, of course, but on the average that has actually panned out very well. About an FTE's worth of that effort coming from the folks from the states who have participated on the teams, the other portion of it being staff within NMSS, state programs and the regions and going through that process. We have budgeted that for future years and are continuing to .

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move forward with that.

In terms of the annual meetings that we have talked about, and Dick could certainly address this further, state programs believes that they can accommodate that within the budget and the effort they devoted to the liaison officers and the activities.

Moving then on to our conclusion, back to what we said in the beginning, this has proven to be a very effective process for us. Good learning experiences from all concerned. The reviewees, the reviewers, those of us who come out as managers to take a look at the program finding good ideas, things that are going on has allowed us to look on a consistent basis.

Has been used as a mechanism by those reviewed -- here I will speak for the regions and not necessarily for the states -- to look at themselves in a consistent fashion. That is one of the things that we have not tried to pick up here using a similar process, to look at ourselves in the same manner and get some measure of consistency and improve our performance. We are already on track and have already been out to three reviews, have 12 reviews planned for FY '97 and to move forward with the program.

MR. THOMPSON: That completes our presentations. If you wanted to go to the panel and we will stand by?

CHAIRMAN JACKSON: We will see. Commissioner .

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Rogers, do you have a question?

COMMISSIONER ROGERS: I don't have a question; I just had one comment. That is that on your slide four when you were describing how you got started on this, that you assembled the impact teams and conducted training and I don't think we have time to talk about it but it seems quite apparent the training seemed to work very well and certainly this program has gone very well and I just suggest that however you did it, take note of and see where we might be able to use it in the future.

DR. COOL: We brought everyone in, sat them down for a full day, walked through the process, the criteria,

the underlying philosophy, metrics, culture, whatever sorts of things you would like to do. We have had the state people participate with that this year. We did 38, nine of them from the state. And interestingly enough, we also had a couple of folks from FDA come over and observe and participate in that process. My understanding is that FDA is considering a similar kind of process and approach in looking at some of their activities, some of the mammography reviews that they are conducting with the states. It's been very useful. Those also get everybody around the big table in the auditorium with a lot of exchange.

CHAIRMAN JACKSON: I think we need to move along. Commissioner Dicus?

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COMMISSIONER DICUS: No questions.

CHAIRMAN JACKSON: Commissioner Diaz?

COMMISSIONER DIAZ: Yes.

I just want to make a comment that, you know, the impact seems to be such an effective mechanism that I think we should -- I mean, it is a win-win situation for the NRC and the regions and so forth, that we should encourage you and the regions to communicate, you know, as widely as possible the results and we need all the good press we can get and therefore sometimes even the good practices report, I think that is certainly something that should be widely distributed and used.

CHAIRMAN JACKSON: Commissioner McGaffigan?

COMMISSIONER MCGAFFIGAN: Thank you, no questions.

CHAIRMAN JACKSON: Thank you very much.

Are we hearing specifically from the regions?

MR. THOMPSON: Bruce Mallet will be here representing the regional review as well as the --

CHAIRMAN JACKSON: The agreement states. Very good.

We should try to move along, even though it is totally our fault. Commissioner Dicus is going to have to leave in about 15 minutes or so, so we want to try to cover as much as we can before then.

MR. MALLET: Well, good morning, Chairman and the

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other Commissioners. It is a pleasure to be here today.

I am Bruce Mallet; I am from Region II. I am the Director of the Division of Nuclear Materials Safety. My comments today are based upon assessments that we did in Region -- all the regions in 1995, 1996. I did receive input from my counterparts in the other regions. Some have accused me of getting co-bagholders. I received input to give you a complete picture.

[Slide.]

MR. MALLET: If you turn to the first slide, I broke the comments up into three areas. Strengths, areas that we thought were improvement and challenges to the program. I won't in the interest of time go through all the strengths but I would highlight a few of them to point out answers to questions you had earlier.

If you look at the first one on level of expertise, I believe Chairman you asked what we gained from the process. As far as the individuals participating in both the agreement states and regions, we gained what I believe are three things. Expertise and experience from all different levels. It really was helpful to have that broad wealth of knowledge.

I believe you also gained what I call a fresh

look, insights. An example, an individual from the state of Georgia was on our team. We thought that we had everything

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well done but this individual pointed out that we were not documenting our basis for decisions very well. A whole new area that we hadn't thought to look at. We wouldn't have had that insight without that.

On timely issuance, I recognize you talk about timeliness of the review board so let me clarify this comment. We thought it was a strength on the issuance of the reports in draft form. They call came out to the regions within about four to six weeks after the review. It was very timely to get that turnaround. In past reviews we have had, it's been several months to a year before you get the draft report back.

On the Management Review Board, I would highlight there we felt the strength was decisions are made at the review board to make corrections. In the past, when you didn't have that appear process or that discussion, you didn't get the senior managers involved in correcting it right away if it was a problem.

On the sharing of good practices, I would add something in addition to what we discussed that's going on. I don't know if you're aware of it. When you're not on the list of good practices as a region, you are looking for new areas to improve so you can be put on the list.

[Laughter.]

MR. MALLETT: So it's an insight I don't believe we

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figured on or planned on but you are gaining that out of the process.

I would also say on causes of the programs being evaluated themselves, you have caused the regions, and I believe the agreement states would probably support that, to do our own self-assessments and that's what we're after in the process. I think all the regions now are looking ahead before the team finds the problem.

In areas for improvement, we talked about sharing of good practices. It is also important to share the corrective actions from the various regions and how they have solved the problem. Right now, we are doing a good job of getting the reports out and sharing amongst the regions. I am not so sure we are sharing with the agreement states what are the findings and we propose that would be an area for improvement as well as how they fixed the problem would be an important item to have.

As far as we talked about reviews in agreement states, the second bullet there, we believe that we would support an ongoing review between the three to four years of the IMPEP reviews as issues come up and the states having a mechanism to go out and take a look to see if they are consistent.

The third bullet for areas for improvement has caused a lot of discussion. Let me clarify that bullet. It

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says, Maintain the level of rigor in the creation and use of the noncommon indicators. It is not the indicator; it is the criteria that supports that indicator or the measure. To support the same level of rigor that we had in the development of the common indicator criteria or measurements. And we discussed that earlier. Unless there is a question, I won't go into that in any more detail.

I will mention one other comment. During the 1994 and 1995 reviews, the criteria had gone out to the regions

for comments but it was being developed during the review process. It is hoped during the next set of reviews the criteria will be set and you won't have a development during the process. That will help establish that criteria.

I would move now to challenges. It is very important in the program. I think Commissioner Rogers mentioned earlier about the training. I will go to the second one first, that we maintain a cadre of experienced team members. As you develop, this program goes on. We've seen it before in the agency. We tend to slide back and not train as well and not keep the staff --

CHAIRMAN JACKSON: I thought you said the training is conducted every year and the team members participate in several reviews a year.

MR. MALLET: It is. And our comment is not an area for improvement; it is an area of challenge to maintain

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in the program that we continue doing that and we don't back down from that.

CHAIRMAN JACKSON: Okay.

MR. MALLET: And keep the same level of experience and expertise.

If I can flip to the first one, as in any program where you do assessments, we believe you ought to continue to evaluate the adequacy of those indicators.

CHAIRMAN JACKSON: Are you referring to both the noncommon --

MR. MALLET: Both the noncommon and common. And we need to not assume that we've solved the problem; we need to keep looking at them each year to make sure they're correct to get us the adequate assessment of the program, what we're looking for.

CHAIRMAN JACKSON: Not only just what's in them but if there are others that might be needed?

MR. MALLET: That's correct, make sure they are adequately assessing that performance.

That concludes my comments, unless there are any remarks or comments from you?

No?

MR. RATLIFF: Chairman Jackson and Commissioners, I think in the interests of time, you know, I am Richard Ratliff, past Chairman of the Organization of Agreement

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States with the Texas Program, Roland Fletcher who is the chairman elect who is going to talk about two aspects, actually be in on the management review board as a state member and a state having been reviewed and then James McNees on the far right from Alabama who will talk about being on an IMPEP team.

I had some prepared remarks and I think just to cut it short I'm going to give them to the state program staff and let them give them to you rather than taking the time here but just some real good observations I've seen, I think it was back in 1993 when we first heard the acronym IMPEP and we were all trying to figure out what it was. We were in Tucson or Phoenix, Arizona.

There was a lot of change since that time period. Initially, some of the noncommon indicators were things like the number of incidents that the state has and the states made a good point that it is not the number it is how you handle a response to them. I think NRC did a good job.

We worked well in paring this down to things that we all agreed the bottom line is protection of public health

and safety. The IMPEP program I think has worked well. Many of the states were real apprehensive when it first started. They normally would have two people come to the review. When they saw this team, I think they rally felt, what are we going to do.

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But I think they soon learned that they were looking more at performance and looking at sharing information. That is really what had happened when we first started out as agreement states. When we had our program reviews, they were more share information because the authority had been relinquished to the states and it was mainly just to check and see and share information on how to do things better and I think this really helps. You have to make sure that we are doing our jobs but that sharing of information is really one of the most important areas.

CHAIRMAN JACKSON: It helps you.

MR. RATLIFF: As we have had people who have been on the teams from the states, the comments that I get is it helps them from several directions because they have really been able to work with other NRC folks and let them realize that the state people really are qualified, that they deal with not only radioactive materials but NORM and NARM and X-ray and so many areas that they really do have expertise usually in licensing and inspection and incident response, so they have a wide variety of expertise. So this has helped, I think, to let the state people come to the table with equal credentials and I think it has really worked well.

But we have learned, from other states, from NRC regions. I think that is one of the things we found that is

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good. When we go to different programs you are always going to find something that they're doing better and that really helps you in your program, even though you are committing this FTE from the states, I think this has been a good endeavor.

We have a few concerns but they are not major. You know, timeliness was always the question. When we were regulatory agencies, when we expect timely responses from our licensees that have problems, they have to know that they have problems. The close-outs are good and almost all of the draft IMPEP reports come quickly. But there has been a tendency, like was mentioned earlier, that they are getting a little longer and you really need to have that quick turnaround so that the states, if they are given two weeks, like we heard earlier, that would be difficult. And you have to plan around what's happening.

We do nuclear power plant emergency response exercises, we do the large X-ray programs. And so I think that two-week time period has to really be based on what other activities does the state have going on. But I think timeliness really is important and if there is an issue that really impacts health and safety, I concur with the previous panel. It has to be something that's addressed right away and really -- and it very seldom happens but when it does, it has to be taken care of.

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The noncommon performance indicators, I think, are going to be an evolving issue and I hope we can have the same communication we have had on the others as we try to work through what is required. The decommissioning issue came up and it's getting more and more resolved because most of the states have real detailed programs in their license reviews

and they terminate to look and make sure the sites are clean. I think we have always done that and so it is not as big of an issue but we need to make sure that, as we get into waste, uranium, sealed source and devices that we have equal coverage.

CHAIRMAN JACKSON: Do you think that decommissioning should be folded into the common indicators for licensing and inspection?

MR. RATLIFF: Yes, I do, because that is a common indicator that the states look at and we have -- I think, historically, the states, because we are closer to the situation and even more accountable to our governing bodies, we have looked and we have closed out facilities and we have made sure that they were clean. Some states have developed rules that even give guidelines so the licensees know going in how clean is clean. So I think that that should be common and it will help in the long term.

Several of the states made the comment to me, and in pretext I think we would agree, that if you have low-

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level waste and/or uranium and/or sealed source and device, it is better to come all at once, though, within a month period and do all the review because one thing I think that always gets lost and it came out a little earlier is that the agreement was signed by the governor of the state and, for years, I have pushed the idea that there should be a close-out with the governor's office. If not, at least with the liaison that the governor appoints so that there should never be a point where a governor would all of a sudden get notified that your state is not doing well. I think they should know when we are doing good and then when we are having problems so that could be factored in.

CHAIRMAN JACKSON: So are you saying that the low-level waste and uranium programs are or are not being conducted, reviews being conducted at the same time or a different time?

MR. RATLIFF: I think we are at a point where it is just starting. I know California had its review and the waste was not as detailed. In Texas, our review is scheduled for June and all of the programs will be done in June, which is good. I think that is the way to go because that way, when you come out with your final draft report, it is a draft report on the compatibility of the state of Texas, not the Department of Health or the Department of Natural Resources. So you really, I think, need to make

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sure that coordination is done.

So far it has worked well but we want to just emphasize that. And then, before I turn it over to the other guys here, I really think acknowledging that the states really are helping, that we do sacrifice a lot of other things to put people on the review teams and the MRB and that we really do need the training and without those resources you might see a problem with us being able to continue.

Any other questions, or we can let the other folks talk and we can do questions at the end.

CHAIRMAN JACKSON: Commissioner Diaz?

COMMISSIONER DIAZ: Why don't we do it at the end.

CHAIRMAN JACKSON: Okay.

MR. FLETCHER: Chairman Jackson, Commissioners, I am Roland Fletcher. I am the Radiological Health Program Director for the state of Maryland. I feel very fortunate

to have had the opportunity to participate in an IMPEP review for the state of Maryland and also participate on two MRBs. I like to think that it's because of, you know, my qualifications, et cetera, et cetera. But it occurs to me that every now and then my physical location might have something to do with it.

[Laughter.]

CHAIRMAN JACKSON: Well, you see, that's a

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qualification.

MR. FLETCHER: I would like to touch upon a few of the aspects of our review. First of all, I would like to echo what everyone has said and that is that the team approach is extremely beneficial. It gives the opportunity that your program is really being looked at in toto, not just concentrations but you get a full program review perspective and you have various levels of review and I believe it is more thorough and more complete. So the team approach, I think, is the way to go and it has worked out well.

I also feel that the IMPEP creates less of the licensee inspection approach. No matter how you do a program evaluation, if you are coming from one level to another level, there is going to be something of an IG type, you know, get ready, clean up, dust off everything and watch out for the white gloves. But the team approach that is being implemented, I believe, takes some of that away and the evaluation of the programs, not only how you are implementing how you are implementing the programs according to established rules and regulations but new ideas that you have presented, new approaches that you have undertaken --

CHAIRMAN JACKSON: Do you think it strengthens the willingness to self-assess?

MR. FLETCHER: I believe so. I really do. I

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believe that individual states will -- I think someone mentioned that they love to be in this good practices, you know, publications and many states are doing innovative things that sometimes don't come out in the standard report and I think the team approach gives that opportunity.

CHAIRMAN JACKSON: Before you go on, I am going to give Commissioner Dicus the chance to see if there are any particular questions or comments she wants to raise.

COMMISSIONER DICUS: No. I want to apologize first to both sides of the table and certainly to the staff. I think this is the first time I have had to leave a briefing early and it would be this one.

I do very much apologize to each of you but I have a killer schedule this week and I have to be someplace else at noon. I'm not going to make that now.

But thank you all. I really appreciate what the staff has done and appreciate what the agreement states have done in implementing this and I think it is being extremely effective and very helpful.

Thank you.

MR. FLETCHER: And I also because of the approach feel that it is less of a let's find something wrong approach. I have been through program reviews where it appeared -- maybe of course, you know, we're somewhat paranoid sometimes -- but it appeared as though the goal was

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to find something wrong.

This was not the impression that I got through this approach. There was more discussion. There was more

interaction and, as I said, more analysis of positive things.

The agreement state team participant is an excellent addition, and it does two things. Every program director and program staff have pride in their program. There is a little extra boost of knowing that another agreement state is looking at your program that goes even beyond following everything that's there.

You want to make sure that the things that you have done in your program, the agreement state participant looks at it and says ah, yes, that's good, I like that, or we are doing similar things.

There is a certain level of comraderie there that hasn't existed before and I think, you know, that is very beneficial.

CHAIRMAN JACKSON: But then if we go to put you on probation you are going to be more angry then?

MR. FLETCHER: Well --

[Laughter.]

MR. FLETCHER: I want to talk about it. I was on the MRB for Nebraska and I want to talk about that.

[Laughter.]

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MR. FLETCHER: I think the exit briefing therefore becomes more credible because I believe my staff really felt as though we had worked together through that program evaluation, and it was a more positive response from them than any of the previous ones that we had been through so once again I think this is a very positive approach and we should continue it.

As far as the MRB is concerned, I participated in two, Georgia and Nebraska, and I wanted to say that I felt that my participation, particularly on the Nebraska MRB, I had an appreciation of what that state had to go through to get from the exit briefing to the MRB, I mean perhaps more so than anyone else sitting on the MRB because there are demands on the state that are beyond the demands that are NRC-specific and what has had to have happened is that a great deal of emphasis, a great deal of priority and a great deal of resources had to be brought to bear in spite of, unfortunately, falling behind perhaps in some other areas, because that is almost inevitably what has to happen, in order re-address the things that were brought out in this program.

I am happy to see that they were able to do that and I am also happy that in the MRB process we can take into account the efforts that that state takes to address the things brought up in the exit briefing and give them, you

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know, give them recognition that they are heading in the right direction.

The NRC -- the IMPEP-NRC Staff, we interface with each other pretty regularly, but the Governor, the Secretary of your Department doesn't have that interface, and unless there is some continuing encouragement when they devote the resources to taking care of a problem, there's got to be that continuing encouragement so that that program director can continue to move in the direction that you need, so I think being able to reassess what has happened between the exit briefing and the MRB is very beneficial to the very levels of program performance that you are looking for.

CHAIRMAN JACKSON: Okay, that's it? Mr. McNees.

MR. McNEES: Yes, ma'am. Chairman Jackson,

Commissioners, I am Jim McNees with the state of Alabama where I am in charge of Radioactive Materials Compliance.

Having been outspoken in my beliefs for the past 20 years I was a little surprised when I was selected to be a part of this --

[Laughter.]

MR. McNEES: I am thankful for the opportunity and it really turned out to be a wonderful experience. I am thankful to the NRC for paying for the travel. I am also thankful to the state for giving me three plus weeks of work time to devote to it and if anybody was going to be on a

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team it will take at least three weeks of your time and a critical time is when you first return home from the review that you can avoid the pressing business long enough to get your portions of the report finished.

I participated in one review and I believe that the function of the team leader is really a key to the success of the state person as well all the other team members, having an organized and specific task for you to do and evening discussions that we had reviewing what the team had accomplished and what we were going to accomplish the next day.

Also a key to the success was the IMPEP book of standards or the criteria. They are a significant step forward. The set up expectations of the regulatory agency. It's a set of expectations where any regulatory agency could use it for a self-review to see how they are standing at any time.

As a member of the team, I received more than I contributed. I learned a lot from looking at how the state of Kentucky did things and ways that they did things that we could take back and improve for ourselves.

I also learned from the other team members in the discussions we had of how various problems were solved, how various corrective actions were taken, and from their input, so it was a very positive experience to be the member of the

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team.

The IMPEP program itself eliminates a past animosity that the states had because in many of the states you would hear comments of they should take care of all their own inspections or their own inspections before they come criticize us. They should take care of their backlog before they criticize us.

One of the most positive things of IMPEP is that it sweeps everybody's door-step with the same broom, and I think that is a very positive thing.

In looking to the future, two concerns we need to think about. One is timeliness. The effectiveness of the program is enhanced by having the report, draft report, back in timely fashion, the report out in timely fashion, the answers back in timely fashion.

Also, the success of the program has a lot to do with the purpose of the team. In addition to evaluating the regulatory indices, the purpose of the team I was on was to help that body or that regulatory entity do a better job. That was the underlying philosophy of everybody that was on the team. We are here to help them to do a better job and we need to make sure that that stays the purpose in all future teams and all future reviews.

CHAIRMAN JACKSON: Okay, thank you. Anything else?

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[No response.]

CHAIRMAN JACKSON: Let me ask you this question, those of you from agreement states.

Have agreement states personnel, either the liaison or -- on the MRB or the team members discuss their experiences with other agreement states, in a broader based way, not one on one, such as the OAS meetings or CRCPD meetings, and then that leads to the second question -- do states that are not participating on the teams or on the MRB know that NRC -- know that NRC -- is evaluating its own regions in all agreement states in the same manner, using as much as possible the same common indicators?

MR. RATLIFF: Yes. In fact, at our agreement states meeting last September we not only had presentations by Kathy Schneider, NRC, but the states themselves, to give their experiences, what they had found, and from the people who were on the review teams.

I think some states would love to put someone out there but if you are a state like North Dakota with three or four people, that one person for three weeks really is a large part of their resources, and they would love to get the experience.

The whole idea of what is going on and how it is helping I think has been transmitted to the states. All the states agree.

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Some states are actually anxious for their IMPEP review, you can believe it and in fact what Jim said is real true. What we did in Texas was took the IMPEP tools and dedicated four staff for two weeks to do our own internal IMPEP review to see how we would do before you all came to look at us, and I think that is important.

The states really should evaluate themselves whether they do a full-blown evaluation or not.

One thing I forgot to mention earlier, Madam Chairman, was that different reviewers for each IMPEP review is going to help. You know, it was nice to have the same face come back every time from the region but I think this is going to benefit us long-term in having different people from different NRC programs and different states. It's really going to improve so you don't get into the thing where they always miss this area. That's a real benefit.

CHAIRMAN JACKSON: Okay. Thank you.

MR. FLETCHER: One point that I wanted to elaborate on is that various states would love to be able to participate in having a representative on the team, but as Richard pointed out, states are constrained as far as their numbers, their resources, and right now I have discussed with my state and with various other states we encountered in meetings the desire to learn, to see what variations there are from state to state -- not severe, perhaps, but

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different approaches to, you know, to sometimes troubling problems that don't elevate themselves to an IMPEP review report may still be something that an individual on another staff has come up with a procedure to handle, so for the most part people would like to have that opportunity.

CHAIRMAN JACKSON: Commissioner McGaffigan, do you have any comment along that line?

[No response.]

CHAIRMAN JACKSON: Commissioner Rogers.

COMMISSIONER ROGERS: Well, we have spent a lot of time here today and I don't want to prolong it, but I do

want to say that I see the changes that have taken place in the last few years through the development of this program. It's really dramatic.

We didn't hear words like we're hearing here today from agreement states and others. I think that everyone that's been involved with the development of this program really needs to be complimented because I think it is really a superb achievement.

CHAIRMAN JACKSON: Commissioner Diaz?

COMMISSIONER DIAZ: I couldn't agree more with Commissioner Rogers. I really think this like I said before is a win-win situation. I think it is obvious why. Regulators with common goals are formed into teams which share common views, common goals and they try to do a better job.

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Really there's substantial benefits to the approach. I am almost sorry we cannot do this with reactors.

[Laughter.]

COMMISSIONER DIAZ: I do believe there's always -- there's this question of funding and I'd like to say that maybe we should apply some creative thinking and maybe even honest creative accounting to try to solve that issue when it is necessary, but again I commend you.

CHAIRMAN JACKSON: Be careful talking about them, Commissioner.

[Laughter.]

CHAIRMAN JACKSON: Commissioner McGaffigan?

[No response.]

CHAIRMAN JACKSON: Let me ask you one kind of overarching question and this is really directed probably more to the Staff but to anyone, and this is on behalf of Commissioner Dicus, but I think it's an excellent overarching question.

That is, based upon the IMPEP results to date, if we had a GAO audit and report, would that report find the issues previously raised to have been resolved?

MR. MALLETT: I thought you wanted me to answer it.

MR. THOMPSON: I would like for you to answer it.

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but, no, I believe they would.

Obviously they were focusing on having a consistency between the agreement states, a consistency between the performance. They might like more quantitative numbers. I mean they will always be pushing us to improve, but I think the things that we have heard here today about the communication that goes on, it's almost an intangible benefit and whether the GAO would have even recognized that that would be a significant part of this product in our response when they made those recommendations, I don't think that was part of it, so I would hope they would think that their expectations have been surpassed.

CHAIRMAN JACKSON: It's a serious question in terms of, you know, I mean since that was a big spur one does not like to come under the GAO spotlight, but your judgment is that from your understanding and experience that the issues would have been felt to have been resolved?

MR. THOMPSON: That's my judgment.

MR. MALLETT: I would add something to that. What the GAO report said was a couple things. Hugh mentioned one of them -- consistency.

But driving towards the common goal -- in the past we were reviewing the agreement states with different

criteria and different goals than we were reviewing the regions and I believe the GAO now would come out and say,

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yes, you are on the same criteria. You are talking about the same common goals now. I think that is a big plus.

CHAIRMAN JACKSON: Very good. Well, thank you.

The Commission would like to thank the Staff and the representatives from the agreement states for a very thorough briefing. We particularly appreciate the participation of the agreement states as well as the folks from our regions to get those perspectives as we strive to have a national and a uniform level of protection for the public, for workers as well as the environment in the nuclear materials programs, as evidenced today and as the various Commissioners have attested to.

I am not going to re-preach. Obviously IMPEP has matured significantly since its inception in 1994 and that is a fairly short period of time and it's good to see NRC's material staff and the agreement states staff working together more closely in evaluating materials programs, because both Federal and State regulatory bodies stand to benefit from this interaction.

IMPEP provides a structured, systematic approach -- you know, there are always things that can be improved -- but it does provide that for evaluating the regions and agreement states an approach that was obviously lacking a few years ago, and so real progress has been demonstrated and you know that consistency is very important

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in terms of regulatory effectiveness.

But the year and a half of experience also has shown us that there are areas for improvement.

The Staff is aware, and you have spoken to the fact that the noncommon indicators need to be refined, and both the regional and agreement states' representative have also addressed this concern.

The Management Review Board's decision-making process -- I think it's useful to self-assess -- in my view -- and you have actually assured us this is the case but it is the kind of thing that should be continually self assessed -- that the Review Board's findings should be based on, you know, being from Missouri, that they should focus closely on performance as opposed to plans or promises for future improvement.

I think we should leave open and see what the Commission wants to say on this issue of the relative timeframe between the onsite review conclusion and the Management Review Board's decisions, and so again the Commission thanks you and thanks all of you for your very diligent efforts and progress in an area that is important, and so unless there are any further comments we stand adjourned.

[Whereupon, at 11:57 a.m., the briefing was adjourned.]