UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

***

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

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PUBLIC MEETING

Commission Conference Room
One White Flint
Rockville, Maryland
Tuesday, June 13, 2000

The Commission met in open session, pursuant to notice, at 9:32 a.m., the Honorable RICHARD A. MESERVE, Chairman of the Commission, presiding.

COMMISSIONERS PRESENT:

RICHARD A. MESERVE, Chairman of the Commission
GRETA J. DICUS, Member of the Commission
NILS J. DIAZ, Member of the Commission
EDWARD McGAFFIGAN, JR., Member of the Commission
JEFFREY S. MERRIFIELD, Member of the Commission

STAFF AND PRESENTERS SEATED AT THE COMMISSION TABLE:

PAUL SCHMIDT, Chair of the Conference of Radiation Control Program Directors
EDGAR BAILEY, OAS Chair, California Department of Health Services
KATHY ALLEN, OAS Chair-elect, Illinois Department of Nuclear Safety
ALICE HAMILTON ROGERS, OAS Secretary-elect, Texas Natural Resource Commission

P R O C E E D I N G S

[9:32 a.m.]

CHAIRMAN MESERVE: Our Commission meeting this morning is to have a periodic briefing from the Organization of Agreement States and the Conference of Radiation Control Program Directors.

I'm very pleased to have this briefing, because we are both partners in crime, so to speak, in that we have responsibilities that we share dealing with nuclear materials and I know that we have cooperative interests and activities and the relationship that we have with you is a very important one for the NRC, one that we very much want to maintain.

We are joined this morning by Paul Schmidt, who is the Chair of the Conference of Radiation Control Program Directors; by Edgar Bailey, who is the OAS Chair from the California Department of Health Services; by Kathy Allen, who is the OAS Chair-elect from the Illinois Department of Nuclear Safety; and, by Alice Hamilton Rogers, who is the OAS Secretary-elect, from the Texas Natural Resource Conservation Commission.

I'd like to welcome you all very much.

Let me turn to my colleagues and see if they have an opening statement.

COMMISSIONER DICUS: I really don't have an

opening statement, Mr. Chairman, but I would like to note that I think the Organization of Agreement States is trying to take some steps to be more pro-active and possibly try to formalize, to a certain extent, their executive group, chair-elect, secretary and so forth, and I encourage that. I think that's a good move.

Thank you. That's all I have to say.

CHAIRMAN MESERVE: Thank you very much. Why don't we proceed?

MR. SCHMIDT: Good morning, Chairman Meserve, Commissioners. My name is Paul Schmidt and I am here as the Chairman of the Conference of Radiation Control Program Directors, commonly referred to as CRCPD.

I do thank you for the kind invitation to appear before you this morning to discuss some issues of importance to CRCPD, provide an update on a number of important initiatives

within our organization, and also highlight some noteworthy efforts I think it's important to mention.

My comments reflect input from our Executive Board and some of our, at least count, 55 committees and task forces, that are addressing the wide variety of radiation issues that impact the states.

I'd first like to express CRCPD's appreciation for the support and interaction provided, first, by the Office of State and Tribal Programs, as well as the Office of

Nuclear Materials Safety and Safeguards. At the headquarters level, the efforts of Paul Lohaus, who is the NRC liaison to CRCPD; Fred Combs, Jim Myers, a number of others from State and Tribal Programs, as well as Don Cool and others from NMSS, who I think are instrumental in helping to maintain a very positive working relationship between CRCPD and the Nuclear Regulatory Commission.

I just also want to mention, by way of looking at communications, the addition of RADRAP as the new method of communicating primarily among the states, but some potential for communicating between state and Federal level agencies, as well.

And we're looking forward to better information, better information sharing through use of the internet, as well as a continued positive relationship with your agency. And in addition, I'd also like to mention, in my other role as Director of the Wisconsin Radiation Control Program, I'd like to extend also my personal appreciation for the support provided by the NRC to an official agreement state wannabe, and I've seen firsthand how critical the support from State and Tribal Programs and the NRC Regional Office also is to developing an agreement state, and I hope this level of national, as well as regional support to all the developing agreement states can also continue into the future. It is very, very important.

My next comments focus on the partnership activities of the CRCPD and I do have a slide that specifically looks at that. In order to fulfill the CRCPD mission to, first, promote consistency in addressing and resolving radiation issues, to encourage high standards of quality in radiation protection programs, and to provide leadership in radiation safety and education, we recognize the importance of developing active partnerships with organizations and agencies involved in the many radiation protection issues that impact the states.

Now, as indicated by the slide, we pursue every opportunity to establish active partnerships with other groups through liaisons and other means, and I would just

like to focus on that for a quick minute.

CRCPD's membership consists of state and local radiation control program directors and staff, staff of related Federal and international agencies, representatives from the medical profession, academia and industry, as well as others, totaling approximately 1,000 members at this point.

The members provide the working energy for our 55 committees and task forces that I mentioned. There is an also an Office of Executive Director in Frankfurt, Kentucky, that provides the coordination and administrative support, and there is obviously frequent interaction with the member

radiation control programs through internet, meetings, news briefs and a variety of other mechanisms.

Now, also, CRCPD, through cooperative agreements, works closely with numerous Federal agencies, including Food and Drug Administration, EPA, Department of Energy, FEMA, Department of Transportation and others, in addition to our activities with the Nuclear Regulatory Commission.

We also work closely with many professional organizations, including the Health Physics Society, American College of Radiology, Council of State Governments, National Council on Radiation Protection and Measurements, NCRP, and the International Atomic Energy Agency, also, and some others, as well.

We also participate, whenever possible, in national initiatives that are focused on improving specific aspects of radiation protection, and some specific examples I'd like to mention include, first, our participation in the National Materials Program Working Group, as well as the steering committee, as well, since the stated philosophy of this group, to create a true partnership of the NRC and the states and will ensure protection of public health, safety and the environment is very consistent with our goals and activities, and we're very pleased for the opportunity to participate in this very important effort.

I'd also like to mention our recent participation

in Cavalier Challenge, which is a joint NRC and FBI emergency preparedness tabletop exercise, held last month in Lynchburg, Virginia. And according to the Chairman of our E-6 Committee on Emergency Preparedness and Planning, who was fortunate to attend this event, the exercise provided excellent interaction between the participants, and we commend the NRC on jointly sponsoring this activity and support further opportunities for interaction of Federal and state emergency responders.

Every chance we get is always a good learning experience, I think, for everyone involved.

We believe the -- the point of my mentioning all this is we believe the CRCPD, through it's partnership efforts, provides a unique forum for communication about the radiation issues that can help us move forward in improving radiation protection. It's a resource, in other words, and I think that's a good resource that's out there.

Now, in the area of regulation development, I'd like to make you aware of two initiatives going on within CRCPD at this point. One is that during last year's November Commission briefing, then Chairman Bob Hallisey, of Massachusetts, informed you of a CRCPD initiative to create a committee to examine the state's role in regulation development due to the impact of an increasing number of agreement states.

I'm happy to report that in February of this year, the CRCPD board created this group. It has the distinction of having the longest name of any committee on CRCPD, and it's called the S-5 Ad Hoc Committee on the State's Role in National Radioactive Materials Regulation Development.

We view this committee as complimentary to the NRC National Materials Program Working Group and we look forward to interaction between the two groups. I think that's a natural flow there.

The CRCPD board also recently evaluated the performance and activities of the many committees that are charged with developing portions of the suggested state regulations for the control of radiation, generally known as the SSRs, which is the template radiation control regulations developed to encourage regulatory consistency among the states and we've also implemented some changes designed to improve performance of that effort, and we are very keenly aware of the need to develop SSRs in an expeditious manner, to reflect Federal regulations changes as they occur, and we're very committed to continual improvements in the SSR development process, and we do look at those fairly routinely, as a matter of fact.

It's important to mention that a key component of SSR development is Federal participation and we request that the NRC continue to provide the financial and other support

necessary for NRC resource staff to be involved in this SSR process, and we do think that is a very important interaction to occur.

Last month, the CRCP held its annual national conference on radiation control in Tampa, Florida, and we were very pleased to Commissioner Diaz attend and present

the keynote address to the conference. And two items worth mentioning from this conference are, first, that CRCPD now has a member-approved strategic plan that establishes clear goals and priorities to help guide the future activities of our organization.

I've provided the summary copy for your information. And secondly, as an organization consisting primarily of state regulators, we recognize the need to establish and evaluate performance indicators for regulatory processes, and the recent revision of the NRC reactor oversight process we think it a good example of revisiting performance indicators.

We request that NRC continue its outreach efforts to inform the state regulatory community of this revised reactor oversight process. I think there's still some questions that need to be answered. We also offer our assistance in any future redesign of either nuclear power plant, as well as other regulatory processes. We're very happy to help.

Now, my next comments focus on radiological emergency preparedness and radiation materials issues. First, we want to convey our appreciation for the quality training offered or available through the NRC to developing and existing agreement states, as well as stress the importance of NRC continuing its support of training as more states pursue agreement state status and address staff turnover issues due to retirement and a variety of other issues.

Second, we empathize with the NRC as you deliberate the use of potassium iodide as a protective measure for the general public. This issue is of very intense interest to the states.

If the final recommendation is for stockpiling of potassium iodide for the public, we request that NRC consider funding sources, as well as the development of implementation guidance for the states in your deliberations as you look at this issue.

Also, we continue to support the NRC's efforts to reinvent the generally licensed sources and devices program and address orphan sources, another big issue of concern for the states, and there are many, many other issues that are related to 10 CFR 35 and materials regulation that are very important to CRCPD and the states.

I believe the Organization of Agreement States is

prepared to address those issues in a little more detail and I'll let them address those in their comments.

Then, finally, we would like to extend an invitation to the Commission to attend and participate in our next national conference on radiation control that will be held from April 29 to May 2 next year in Anchorage, Alaska. This conference provides a timely forum for information sharing and discussion of the many radiation issues affecting the states and always benefits from NRC participation.

I'd like to thank you again for the opportunity to speak to you this morning and I'd be happy to address any questions that you have, at your convenience.

CHAIRMAN MESERVE: Thank you very much. Why don't we proceed through the rest of the presentations and then turn to the questions.

MR. BAILEY: Good morning, Mr. Chairman and Commissioners. My name is Ed Bailey and I'm extremely pleased to be able to be here with you all again this year. This year, as the Chairman-elect, I had the opportunity to appear before you.

The Organization of Agreement States is quite a bit different from CRCPD. Although the members, for the most part, are the same individuals, the Organization of Agreement States is not a sub-unit of CRCPD or whatever.

We are basically the states with whom you have a signed agreement. We allow the wannabes to come in and attend our meetings and we treat them pretty civilly most of the time when they're there.

I would like to echo the words they were saying about the cooperation and attitudes that we have seen between the professional staffs of the agreement states and NRC. I think those relationships are, from my viewpoint, at a high point in my roughly 30 years of fooling around with this.

We have noted that both Commissioner Dicus and Commissioner Diaz have come to the agreement states meetings and we have greatly appreciated that.

Not only have they come, they've hung around a little bit and listened to some of the carrying on that we do.

I've got some very basic slides and I think I'll go through them pretty quickly, because the first slide has a list of the agreement states, 31 of them. I think most of you are familiar with the states that are agreement states, so I won't go through each one of those individually.

The next is a list of what we understand are the four formal wannabes. There are a lot of others that would like to be, but these are the four wannabes right now and with the recent notice on Oklahoma, I'm very pleased that

the Commission is working very expeditiously to get that agreement in place and we look forward to having Oklahoma sitting at the table as a full member of the Organization of Agreement States.

The Organization of Agreement States, as I said, is different from CRCPD. We have no central office. We receive no money from anybody, except what you graciously give us from time to time to come to meetings and so forth. It's entirely funded by the states, other than very minor amounts, such as the court reporter at the annual meeting.

Right now, we have five officers. Officers are generally elected for one year. I'm present Chairman, Chairman-elect is Kathy Allen here, to my left; past Chairman, Stan Marshall from Nevada; Secretary Richard Ratliff from Texas, those two couldn't be with us; and then the Secretary-elect Alice Hamilton Rogers, also from Texas.

The next slide, I've got some comparisons, because we often, and rightly so, look up to the NRC for guidance, for expertise and so on.

When we start to look at the number of states, though, that NRC is the primary regulator in or the sole regulator, 38 percent or 19 of them are within NRC jurisdiction, whereas 31 are agreement states.
We look at the licenses, the actual number of licenses issues. We've got about 75 percent of the materials

licenses in the United States, and about 73 percent of the nation's population is regulated in states, agreement states.

When the four wannabes come on board, I think that percentage of population will jump up to 82 percent. So we do have a sizeable impact on radiation protection in the United States.

The next few slides are some of our activities and I think we often forget to mention these. As has been mentioned, we, too, have an annual meeting and we have had that every year since 1962, I believe. It has varied from when it was held at AEC headquarters and a bomb couldn't blast us out of there, to where we've now started going around to various states to have the meetings, and NRC always wants us to come back to Washington and we say we can have such a lovely time someplace else and Washington is on the east coast, for those of us who live west.

One of the things that I'm really proud of that has occurred this year is the establishment of RADRAP and RADRAP is, in large measure, due to Kathy Allen's work and this is a mechanism whereby someone in the regulatory

agencies has a question or a concern, a comment, they put it out, it goes to all of the other people who are signed up, I think, what, 200 or so now.

MS. ALLEN: Over 200.

MR. BAILEY: Over 200 people are actually signed up. And we get back responses. Hopefully, we prevent reinventing the wheel a lot. Someone may phone up and say we're going to get our first gamma knife, what the devil do we do. A state like California or a state like Texas or Illinois or another state that has several gamma knives already in operation and hopefully have a more mature regulatory scheme for that device will get back to them and say, hey, here's what we did, we'll send you a license. So it has proved, I think, very beneficial in us helping each other.

Another thing that has happened is we are now having, as we have for a couple of years, monthly conference calls with NRC staff and this year, again, due to the work of these two ladies, we have notes that are actually put out usually the same day, that go out to everybody on RADRAP and, of course, the people at NRC that are on the calls.

This year we initiated an annual planning session. Commissioner Dicus mentioned that we were trying to get a little more active and a little more cohesive throughout the year and that was one of the things we felt we needed was a planning session, saying what are we going to do, actually choosing the site of our annual meeting before the middle of the summer, those kinds of things.

The next slide, the members of OAS participate on

a number of NRC working groups and we look forward to doing that. We think it's important that we work with the NRC staff in the early stages of regs and policies that get adopted by NRC.

I think all of us who have been in government have a feeling that it's awfully hard to change something after it's been written and published and out there. It's much easier to affect change, good changes in the developmental stages.

The other thing that the members of the Organization of Agreement States do is participate as agreement state personnel on the IMPEP review teams, both of NRC regions and agreement states, and also as a liaison to the management review boards following those reviews.

We have a few goals that we haven't quite made yet, and one of them is establishing a virtual office. We don't anticipate getting into big bucks of having it established. We would like to establish essentially a

virtual office, so that if somebody plugs in agreement state on the web, they would go to this place, they would have a constant place that they can always go, and we think this would be particularly important for Congress.

Right now, Congress, for the most part, has to call up the NRC and say who are the agreement states and who do we contact and so forth.

We think this would be a good way to make the fact known that we're out there, that we are co-regulators with the NRC and would offer an opportunity for people to see what we're doing and how we're doing it.

Eventually, because of several reasons, we hope that we will incorporate the Organization of Agreement States. There are a lot of advantages to being incorporated and there are a lot of disadvantages to not being incorporated, such as how do you keep the extra money from meeting to meeting and so forth.

The next slide, this is one that we really hope that we can do and one that we think that perhaps makes us a little different from CRCPD. CRCPD really can't lobby, but if my governor tells me to go talk to somebody in Congress, I can go talk to that person in Congress, and I think that that is a unique advantage that the Organization of Agreement States can have.

We have not been very good, quite frankly, in doing that. We, I think, unanimously voted at last year's meeting to support all fee-based funding and write our Congressmen. When I polled the states, I think I came up with two that actually really managed to get a letter to some members of the committee.

And another goal for us is increasing our support to the NRC and its effort. I've mentioned a couple of times

that we do have an annual meeting. This year's annual meeting is October 2 through 4 in Charleston, South Carolina, and we sincerely hope that one or all of you Commissioners will be able to attend that meeting and you will certainly be invited by OAS and we hope that you will have some words for us at that meeting.

I have a couple of slides that are concerns and I'm just -- I'm not going to dwell on any of these particularly, except to mention them and the other speakers will talk in more depth.

The first one I will talk a little bit more on in some later slides, the harmonization of training, risk management, and regulations and procedures. As Paul mentioned, training, and I put in parentheses its funding,

is of concern to, I think, all of the agreement states.

The National Materials Program we definitely have an interest in. The external regulation of DOE we will have a concern in, and a lot of these programs are interwoven, in our opinion anyway. The regulation of pre-1978 materials, and I purposely said materials there rather than 11(e)(2) like material, because I believe that some of those pre-1978 materials are other than 11(e)(2) materials.

We will also be talking a little bit about 10 CFR Part 35, and our concerns about that. The redo of source material regulations, NORM and NARM regulation, Paul has

alluded to the stockpiling of KI already, the D&D; regulations which are currently on the books and the clearance rule regulations that are in some stage of development now.

I'd like to spend the rest of my time talking about harmonization and Commissioner Dicus, I believe, at last year's HPS meeting, talked about harmonization of regulations and standards. This year's HPS meeting will have a whole session devoted to harmonization and I think I've taken a little step further.

Most people simply think about regulations being harmonious. I think there are other things that need to be in harmony and I've listed three; training, risk management, regulations and procedure.

The first one I'll elaborate a little bit on is training. I think as agreement states and NRC, we need to have some basic educational standards for our staffs. We have, to some extent, had that with new states coming in. We have looked at it during IMPEP reviews and all, but we need to continue stressing that.

We are tending to see, I think, in the states, a decrease in the radiation protection expertise of our licensees' safety people. We're seeing more and more of companies going to a generalist to be the radiation safety officer, an industrial hygienist with maybe very little real

radiation training.

In some cases, we're seeing an environmental health office taking over radiation safety functions. My master's degree is in environmental health engineering, so I can't talk too much about these environmental health people, but in some cases, they didn't take the few extra courses.

The other thing that we really want to continue, and I think it's working well right now, are the joint specialized training courses that NRC has provided over the years and I think having both NRC staff and agreement state staff in the courses at the same time is a very important -

- I don't want to use the word -- yes, I do -- bonding between state regulators and the Federal regulators. I think we come to appreciate each other more.

And then I think we need to have some continuing education and refresher courses. We have people who have been doing, say, licensing for 20 years and it wouldn't hurt, I don't think, to once in a while get those people sort of in a room together and formally go through what are we still doing and what do we need to change and so forth. So refresher courses are important.

Risk management, and here is where I think it all sort of comes together, at the state level, we typically regulate radioactive materials and we're not as particular about where it comes from or how it was made, and so we get

caught in a bind quite often because there is such bifurcation or, if it's a word, trifurcation of regulations and standards in the Federal Government.

The external regulation of DOE we think has got to occur at some point. We continue to see DOE sitting there doing things and not really responsible to anyone. I could point out numerous examples of where we're spending a lot of time working on DOE facilities in California, particularly as they release stuff from those facilities, and this will get into the clearance rule here in a minute.

The regulation of U.S. Army Corps of Engineers' FUSRAP program, if NRC had DOE, then I think they could also then regulate the FUSRAP program. California has been impacted a great deal by it. Other states have also expressed great concerns about the FUSRAP program.

One that most people don't talk about too much are military base closures and cleanups. California had an inordinate number of military bases close and they're being converted to all kinds of uses. As we do looks at the use of radioactive materials on those bases, we find that almost every base has some sort of radioactive waste disposal area and it may be from radium dial from painting, it may be from washing down airplanes that flew through atomic clouds, on and on and on.

But there's really no one checking on that except,

I think, in the states, some states are doing something about it, but there needs to be standards for how those are done.

The regulation of NORM and NARM, I think we've pounded on those for years. We can't tell much difference in the radiation from those than we can from materials that the NRC regulates.

OSHA regulations are way out of date as far as dose limits. So I would assume that someone working in an NRC state would be subject to one radiation protection standard for the agreement materials and a different one for accelerator materials under the OSHA regulation.

D&D; and clearance rule, we pray that they will be in harmony when they come out. If something can be released for unrestricted use, then we don't need somebody coming back second-guessing whether you can dig that dirt up and move it off-site, and we've got Senators writing us four pages of questions about exactly that problem, where we've free released a sodium burn pit and now they're questioning how we can allow them to move this dirt off-site.

So as you develop those regulations, please work to have them dovetail so that it's clear one way or the other.

And on the regulations and procedures, we would love to have all the same -- have the compatible regulations

apply to all entities, including DOE, the Army Corps, OSHA, and base closures. We would like the same standards or regulations to apply to all radioactive materials, regardless of whether they're NORM, NARM, source material or pre-1978.

Then we would also like ideally to see the same level of protection from one exempt device to another.

We would like to see the same cleanup standards apply to byproduct source and special nuclear materials and as you're aware, that is not necessarily the case now.

And as the D&D; and clearance rules both get on the books, we hope there's some sort of seamless transition from one to the other.

And finally, we hope that as the IMPEP review program is being looked at, that it will be modified to ensure that in some of these areas where we're releasing materials, where we're regulating things, that maybe the Commission doesn't, that the standards are being applied uniformly from state to state.

That pretty much concludes my prepared remarks, and I'd be happy, as Paul indicated, to take any questions or comments.

CHAIRMAN MESERVE: Proceed.

MR. BAILEY: If not, we'll go to Kathy next. I'm sorry, we'll go to Alice next. Excuse me, Alice.

MS. ROGERS: Good morning, Commissioners. Thank you for allowing us to come and speak with you. My name is Alice Rogers and I'm the Secretary-elect for the Organization of Agreement States and I've worked for the

Texas Natural Resource Conservation Commission.

I'm going to talk about a few related issues. Ed has already touched on them and I apologize for the redundancy. Those are going to be 10 Code of Federal Regulations Part 40, naturally occurring radioactive material and the pre-1978 11(e)(2) byproduct materials.

Before I go into specifics about these, however, I'd like to take a minute to explain our broader perspective and before I say that, I want to also remind you that not all of the agreement states agree. So this is not necessarily everyone's opinion, but it does seem to be a general consensus informally gained through various methods.

Each of these are radioactive materials that can cause harm to human health or the environment and as state radiation control program directors, we are mandated by our respective legislatures to protect human health and the environment from the harmful effects of radiation.

Unlike the Atomic Energy Act, most of our states' enabling legislation gives us state authority over any substance that emits radiation spontaneously, no matter what its source.

So in the case of materials such as NORM or pre-1978 11.e.2, we use our state authority to regulate these, since the NRC has no authority.

The good part of this is that we have some ability to protect folks, but the bad part is that there is no nationwide consistency. So the message we'd like you to get from this part of our presentation is that NRC should use its current authority or should seek Congressional approval for such authority to regulate all radioactive substances.

We feel like if it looks like a duck and it quacks like a duck, it should be regulated like a duck.

Next slide, please. Regarding Part 40, as I'm sure you know, the Organization of Agreement States and the State of Colorado have petitioned your agency for rulemaking on this matter and there are many reasons that we should revisit Part 40.

One is that the exempt source material provision at 40.13(a) has recently been interpreted as a disposal exemption level. It was never intended for that. It was based on national security.

Another concern regards allowing what's called alternate feed to be reprocessed at a uranium mill. So regarding this rulemaking, we respectfully request that the Nuclear Regulatory Commission first keep this rule a priority and not let it get bogged down in the bureaucratic

machinery; second, that it base any revisions on risk and sound science; third, that it use the states' input; and, fourth, that it be clear about what it means to be exempt.

For example, to some folks, free release means that this material could be used in a sandbox in a playground, but for others, it means that it has to be disposed of in an industrial landfill.

Regarding naturally occurring radioactive material, I just want to make the point, first, that NORM wastes are very diverse and I know you guys know about NORM waste, but I just made sort of a list of the different kinds of waste we're talking about. And I added granite at the end because in the states that have granite, it often emits enough radiation that when a load of scrap metal gets to a scrap metal facility, if it's in a gondola that used to have granite in it, the rock dust in the bottom of the gondola makes the alarms go off.

So I just want to say nobody ever really thinks about those kinds of things, but it does cause a lot of work and concern on people's part.

COMMISSIONER MERRIFIELD: Being a resident of the Granite State, I'm very sensitive to that particular concern.

MS. ROGERS: Right. Regulation of these materials, which are not under the NRC's jurisdiction,

technically they are under the EPA's jurisdiction, but EPA hasn't established any standards for them. So that leaves the states in the position of trying to regulate NORM in the absence of Federal standards.

Only nine states have enacted NORM regulations to date, but the CRCPD has developed some suggested state regulations.

My next slide is intended just to show sort of the differences in the way states are looking at these. Louisiana allows the disposal of NORM up to 150 pico curies per gram in a non-hazardous oil field waste landfill, that's what NOW stands for, not, as Kathy said to me earlier, not otherwise regulated.

Michigan allows disposal of up to 50 pico curies per gram in a Type 2 municipal solid waste landfill. Minnesota is processing applications for four low concentration NORM waste landfills specifically for those wastes.

New Mexico allows underground injection in a company's own wells. Texas allows permits of Class 2, those are oil field related injection wells, for oil and gas NORM disposal, but we don't have any rules for disposal of NORM that's not from oil and gas production.

With the upcoming promulgation -- next slide,

please. With the upcoming promulgation of EPA's radon and radium in drinking water standards, NORM will become an

issue for public drinking water suppliers. Disposal of the NORM contaminated drinking water treatment waste will become a pressing problem for many of these small supply systems, primarily, the smaller rural supply systems that can rely only on ground water.

Next slide. We think that some Federal agencies should seek Congressional authorization and appropriations to regulate NORM and we think that NRC is a logical choice, since NRC is the expert in radioactive material regulation.

Next slide. Regarding the pre-1978 11.e.2 material which is found at many of the FUSRAP sites, which stands for formerly utilized sites remediation action plan, the agreement states think that NRC should figure out some way to regulate this and actually some of us think that NRC may already have this authorization, and we base that, because it's interesting to compare the NRC's opinion that it can't regulate this material with EPA's opinion that it can regulate hazardous wastes that were generated before 1981, which was the date of enactment of RCRA.

EPA considers that when a cleanup begins, the waste is newly generated when it's dug up, and so handling and disposal of this waste must meet the current standards.

It simply doesn't make since that the pre-1978 materials aren't subject to regulation when the sites are cleaned up and contaminated material is disposed of.

An example of how this is working right now is pre-1978 material is excavated in New York and shipped by rail as unregulated material to Utah, where it is transferred to trucks as unregulated material, and then it goes to uranium mill for reprocessing, where, after it's processed, it regains its identity as 11.e.2 byproduct.

So if, after further examination, NRC still doesn't believe it has authority, then we would urge you all to seek such authority.

I will now turn this over to Kathy Allen, Chairman-elect, from Illinois, to speak about the National Materials Working Group.

Thank you very much.

MS. ALLEN: All on the same page now? Thanks, Alice. As she said, I'm Kathy Allen, from Illinois, and I also want to thank you for the opportunity to come before you.

If I tend to speak too fast, you can tell me to slow down. I have a habit of doing that. I'd like to talk

about a couple of issues, and the first one is the National Materials Program.

As Ed indicated, the number of licensees in agreement states far exceeds the number of licensees in NRC areas, and the Nuclear Regulatory Commission sort of recognized that this trend was reaching a point where most

of the expertise and experience with regulating radioactive materials users actually resides in the states, and this trend actually began back in 1971-72, almost 30 years ago, when the number of agreement state licensees surpassed the number of NRC licensees.

So this has been going on for quite some time and now we're all kind of realizing we've got to figure out a better way of approaching the regulation of radioactive materials.

So there was an establishment of a National Materials Program Working Group. I'm co-chairing that working group, along with Jim Myers from the Office of State and Tribal Programs, and we have had some very, very intense meetings so far.

I'd like to sort of bring you up to speed on some of the things that we've been looking at, because most of these issues are very important to the states. This is a huge, gigantic task and I think the working group finds it very exciting and intimidating all at the same time.

We wanted to figure out the best way to approach this, so rather than coming up with a program where we could approach it from the top down, we decided to establish what is necessary in the radioactive materials program, what is the foundation or the base of this.

So we took a look at IMPEP and the IMPEP criteria

for a radioactive materials program and CRCPD also produced a document called the criteria for an adequate radiation control program.

So we used those basic elements to sort of establish what needs to be covered and then we took a look at are we doing a good job doing that, is there any way we can improve upon this.

So we looked at all those different criteria and we sort of brainstormed about different ways we could be approaching licensing, inspection, writing regulations and things like that. So we came up with a bunch of ideas for all these different subjects and then we took a look at our options that we had brainstormed and we compared the proposals or other options to NRC's strategic plan.

We looked at the strategic goal of nuclear materials safety in the strategic plan and if things did not

match, they were rejected. If there were any ideas that we felt would certainly not contribute to public health and safety, those ideas were knocked out.

So the remaining ideas we evaluated, or suggestions, we evaluated those against the current process.

So for example, we looked at licensing or we looked at writing regulations and came up with a bunch of ideas on how to better write regulations or how to better -- or just ideas on how it could be accomplished.

So we then compared these suggestions or options against what we're doing now and then we weighed with they would be better or worse than what we're doing now and came up with some recommendations for each one of the basic needs of a radiation program.

We ended up evaluating those suggestions against the working group philosophy. We took a look at the options and said does this proposal optimize resources of Federal, state, professional and industrial organizations; does this option account for individual agency needs and abilities; does it promote consensus on regulatory priorities; does it promote consistent exchange of information; does the option harmonize regulatory approaches and does it recognize the need for state and Federal flexibility.

So after we evaluated all those, we ended up with a bunch of recommendations for consideration and then we stepped back and said, well, what did we create here, what do we have here so far, and we found some very interesting attributes that are common among most of the recommendations that we've sort of built up-to-date.

The common attributes of what we would consider to be a national program would be to develop priorities cooperative; states and NRC sitting down figuring out what needs to be done and where should we direct our resources. Increasing horizontal communication, not one group dictating

to the other, but actually cooperatively working and trying to establish priorities and that means talking to each other.

Creating centers of experience or centers of expertise, recognizing that states have an awful lot of licensees out there and we're dealing with an awful lot of things; maybe recognizing that sometimes states might have more experience in an area and then going to those centers of expertise and asking them for assistance.

We don't want to lose sight of current successes in the program, the relationship that we currently have with NRC and the states. We would like to reduce duplication of

efforts, no need for everybody to independently research a new technology, but start sharing some of our ideas and that's been working out with RADRAP a lot.

When you talk about sharing, you have to talk about sharing responsibilities and sharing resources. This is going to start to be the tricky area. Another option that we would like to continue to use is using alternative resources, such as consensus standards that are already out there, and use those more effectively.

So this sounds all good and happy. We're all going to be working together and cooperating and things and this is going to be great, but this is really going to be a problem, I think, for people in states and the NRC, as well.

We're looking at changing attitudes here. We have to change approaches, maybe changing procedures, getting people to step up and say yes, I've got something to offer and I'm willing to share it and getting NRC to say, you know, maybe they could take the lead on this and let them go.

We're seeing a lot of that happening with things like industrial radiography certification and some of the GL device rules. NRC did not try and go out and re-create the wheel with the GL rule. They came to the states and said so what are you guys doing and gathered information and went forward from there.

I think that kind of effort saves everybody a lot of time and money and effort.

We are thinking of -- the National Materials Program Working Group is suggesting that we create a mini little pilot experiment that we're going to perform at the Organization of Agreement States meeting in Charleston, South Carolina in October. This is a plug.

We want to see if we can actually come to the table together and work on an issue. So there will be a small pilot discussion going on there and we will see how things work.

So sine I'm talking about the National Materials Program, I also get to talk about compatibility of

regulations, because that is a big component of a national program.

Everybody here knows that when rules are established, there are compatibility levels, A, B, C, D, NRC and then health and safety. States tend to review these rules based on the level of compatibility that issued. We have an awful lot of stuff that we review, just like you guys do, and so we get the volumes of mail and documents inside NRC reviewed all the time.

We read all this stuff and try and keep with everybody and all the other Federal agencies and when it comes to looking at rules, we take it and we kind of have to do triage on it. We say what have we got here; oh, gee, compatibility level A, better take a look at it; it's a B, better take a look at it; mostly C's and D's, okay, if we get a chance, we'll take a look at it.

The same thing within the context of a rule, there could be several different levels of compatibility and we tend to focus most our attention on A's and B's, because that's where we have to make changes.

We may have comments on some things that are compatibility level C, and we may decide that it's not really worth the time or effort. We may make a phone call and discuss it with the staffer that's working on it, or we might just say, well, if we get a chance, we'll issue this

letter.

Our letters do have to go through management, just like your letters do, too. So we kind of have to weigh all the things that are going on in your state and determine whether or not we have the time and effort to get out a letter.

The problem that we have is when a compatibility level changes after the rule has been out for comment and the comment period closes and then the rule comes out again with a different compatibility level. You can go down, that's okay, but when the compatibility level changes from a C to a B, that's when we have some problems.

In states, when we write regulations and we have a big enough change in our regulations and we switch some requirement, we are required to republish that rule for comment again.

It has to go out to all the affected parties and I know it really delays our process, but one of the options that we might need to consider here is when compatibility levels become more restrictive on states, it might be worth coming back and asking for another comment period on it.

We recognize that you will continue to get comments during the comment period and you may need to make changes, but as equal partners and people who are required to adopt essentially equivalent regulations, we need the

opportunity to present our point of view on that particular issue.

Some of these changes have had or may cause a big impact on states. Obviously, the GL rule changes were based on comments from the outside.

So the compatibility level for portions of the GL rule went from C to B, which may, in some circumstances, require states to establish a tracking system, which requires FTEs, which requires resources. Now, many states already have such a system in place, so it's not going to affect all the states, but there may be some states out there that actually don't have a system in place and now they'll have to turn around and devote resources to this, when they really weren't anticipating that, when it was a compatibility level C. So it does have an impact on the states.

The other rule that was changed was the medical rule, that the training for physicians was changed from a compatibility level C to a B. Many states did not comment on the training requirements because they were compatibility level C, but when they changed from a C to a B, states took a hard look at it and said, wait a minute, we don't agree with those, we thought that we could be more restrictive to begin with, which is why we didn't comment, and now we're looking at training.

The biggest issue we have is with the I-131. The number of abnormal occurrence reports for I-131 are this high and the training requirement is this high. It's 80 hours. On the other hand, the number of AO reports for diagnostic use is very low, but the training is very high.

So there seems to be some sort of a disconnect there, either the 80 hours is too low or the 700 hours for diagnostic is too high, but in any case, if most of your reports are from I-131, and that's where the dose is and that's where the AOs are coming from, we feel you need to take a look at the 80 hours and see if that's really realistic.

Could increasing training bring down some of those abnormal occurrences or maybe we're just way of base on the other side of things. So for compatibility in general, we need to either -- oh, another problem is that states tend to sometimes actually try and meet the three-year deadline and take the proposed rule and actually start moving it along in their process. So when you change compatibility, it messes up everything and you have to start all over.

So how do we fix this? Maybe we look at the way the compatibility categories are assigned originally. Do we need to better describe the compatibility categories? Do we need to better describe what it means by trans-boundary implications? There are many that believe that the iodine-

131 is not really a trans-boundary issue.

Physicians need to be licensed in every state that

they practice in. It should be no different for using radioactive material.

On the other hand, it certainly makes things a lot more consistent and a lot easier to approve authorized -- visiting authorized users if everybody has the same kind of training.

We recognize that some comments may change compatibility levels, especially when the compatibilities become more restrictive, so in those cases, maybe opening up the rule for another comment period. We recognize that that delays the process, but it gives everybody a fair chance to reassess their priorities and take another look at the rule, that they might have passed over it because of time conflicts.

And we mostly just wanted you to be aware of the implications and the reasons why we get so hot when the compatibility level changes.

And I think that's it.

MR. BAILEY: I think that concludes what we had to say and we'd be happy to address any questions or comments you have.

CHAIRMAN MESERVE: I'd like to thank you all for some very helpful and informative presentations. It's not

too often that we have people across the table from us who suggest that we should expand our jurisdiction. So it's a pleasant change.

Commissioner Dicus has indicated to me that she may have to leave early, so I'm going to turn to her first.

COMMISSIONER DICUS: Thank you, Mr. Chairman. I want to thank all of you for very clear and succinct presentations to us. We appreciate that. And for clipping right on along, too. We're running ahead of schedule, which is good.

I appreciate all of the comments you've made and particularly the kind words that OAS has said to us. If you're not careful, you're going to lose your nickname of disagreement states.

MR. BAILEY: I forgot to mention that.

COMMISSIONER DICUS: Yes. I thought you did, Ed. I thought you would bring that up, for sure. And as the Chairman said, I'm surprised you want us to expand our jurisdiction.

I also encourage you to -- this concept that you have that you want to try to get more active with Congress, we certainly appreciate the support and we've used the help. So I appreciate your trying to go forward with that.

In this expansion of perhaps our jurisdiction, how

do you feel if we were to expand to radiation producing

machines? Do you have any thoughts on that?

MR. BAILEY: There was a politician who said one time, some of my friends are for that and some of my friends are against it, and I'm with my friends.

I think, to me, that's a much bigger battle than just changing a few words in the Atomic Energy Act to say radioactive material. There is another agency that has Federal performance standards and has mammography quality standards and so forth and are actively working in that area and fairly uniformly and consistently across the nation.

On the other hand, I don't know of any other Federal agency that is uniform and consistent across the nation in dealing with the radioactive materials you don't regulate. And I guess I can say that EPA is terribly split up, has different standards for different things and the standards put out by Washington are not necessarily adhered to by the regions and on and on and on, and their usual excuse is they have many different laws.

I hope NRC will try to make their regulations consistent under basically one umbrella of laws. So you won't have the excuse you've got these different laws.

COMMISSIONER DICUS: I know the discussion of radiation producing machines surfaced in the possible oversight of the DOE facilities.

Let me just go with one other question, and this

is to CRCPD, that you're wanting to expand the development of CRCPD guidance documents, I think is one of the goals, one of the issues that's been brought up.

We are trying to, at the Federal level, under a public law, to use voluntary consensus standards to the extent possible in lieu of spending staff effort to develop our own guidance documents.

I guess my question to you, is this concept of developing more guidance documents or guidance documents that you think are needed, are you also considering the use of consensus standards where there is already guidance there, being able to adopt that?

MR. SCHMIDT: There has been some discussion of that particular topic. One of the things in our strategic plan that we developed was to take a look at how we do our processes, how we do our business, the use of standards, things like that.

Since that plan was just passed, that's still in the developmental phase. So we've got the basic goals and objectives set down and now our job is to expand that further, and I think that would be a good issue to add that

as we look at this in more detail.

COMMISSIONER DICUS: Okay. I would certainly encourage that possibility, but where we are, we are all on the issue of doing more with less. So to the extent that

you can use consensus guidance and standards, that would be useful.

Thank you, Mr. Chairman.

CHAIRMAN MESERVE: Thank you, Commissioner. Commissioner Diaz.

COMMISSIONER DIAZ: Yes, Mr. Chairman. I also would like to express my appreciation for you being here and to share your thoughts. I think that there are two issues in here. One is to expand the regulations and also to make us stick to our compatibility levels.

But since I've been in the Commission, I like to know that the Commission is aware of making an effort to establish better communications and relations and this works both ways. We appreciate you occasionally agree with us and so I would like to take it from there.

Let's see, a couple of things. The reactor oversight program was mentioned by both and when I had the pleasure of going to CRCPD, I suggested that it might be more to the reactor oversight program that can be gained by even a one week review, and I really made a suggestion, which I think is a valuable one, to have someone from NRR come and sit with CRCPD and review it.

I think the same thing should apply to agreement states. The issue is one that it's very close to us right now and it's ongoing and there are many angles to it and I

keep insisting that we made this system to be more stringent and to be better than the old system.

I think that needs to be understood, that there's really not a relaxation. So I would encourage you to consider doing the same, if you're going to do it.

I got always interested in training and I notice that you had a problem with the training and the basic standards and so forth. Of course, we participate with you on this issue.

Do you have a specific recommendation on the area of training, Mr. Schmidt and Mr. Bailey, something that can come up and say we know you worry, but is there something specific that you propose in the matter?

MR. BAILEY: As Alice said, we haven't taken votes on this, so I'm expressing what I have observed as an opinion, which may not necessarily be my own.

But the decrease in NRC funding, training, travel,

per diem, and tuition has impacted a lot of agreement states negatively. I'm sort of on the opposite of that, just because of circumstances. When you said you were going to quit funding training, I was able to go to our legislature and say mean old Federal Government has done it to us again and they gave me money in my budget to send people for training and as a result, I've been able to get more people in training courses.

But other states have not been as fortunate as we have. So it is still a very pressing issue among us and most of the states getting training.

We are an aging organization, too, and we have a lot of people retiring. In my own program, I will have three people under me who will have retired in the period of a year. And I didn't run them off. I mean, I'm not that hard to work for.

So it's just that they've been around for 30 years or more and I think that's occurring in a lot of state programs. There's going to be a lot of need for additional training.

And as I'm sure the Commission is aware, there are fewer and fewer health physics college programs, there are fewer nuclear engineering programs, and we are concerned about where we're going to get people of the same caliber that we were able to get a few years ago.

COMMISSIONER DIAZ: Like Commissioner Dicus said, I think 31 letters to the Congress, especially co-signed by the governor, will have a tremendous impact on what the general budget and the fee rule will be in the next few years.

One question regarding the issue of compatibility. I know this is an issue that comes in many different ways, and the issue of the Part 35. I think you know that we

didn't do this lightly and that we had many, many meetings. The Commission was visited by every possible organization and only 80 hour rule is just really based on those that use a single isotope, have not had any misadministrations.

I mean, it is the multiple uses, that people who have many, many, many types of isotopes, that have failed to follow a procedure and those are the ones that essentially we believe require the larger number of hours. But a single user, with a single isotope is quite more capable of doing the right thing with fewer number of hours.

Do you have any comments on that, Ms. Allen?

MS. ALLEN: Sorry. A lot of different things going through my head right now. One of the problems is that not -- you're right, the number of users that are

specifically only to iodine are much lower than users of all different kinds of uses, but I believe the way that the proposed rule states, it's not -- it's just any liquid therapy. It's not necessarily -- you're not assuming that those people also use other things.

The problem is the potential for damage is so great with iodine and there's still a tremendous number of abnormal occurrence reports with iodine, and it may not be from endocrinologists.

COMMISSIONER DIAZ: No, they're not. They are all from large medical centers. That's what I have been told by

the staff. Does anybody correct me on that now? And I'm sure that Commissioner McGaffigan is about ready to jump into that, so I'm sure he's going to go right back at it.

We are very concerned with compatibility and it's always an issue and we realize that you're doing our job out there and, in fact, we encourage you to get larger and bigger, do it better, we'll have less to do and compatibility will be less of an issue.

I think I've used my time.

CHAIRMAN MESERVE: Thank you. Commissioner McGaffigan.

COMMISSIONER McGAFFIGAN: I hope that we can have some extra time, so we had this scheduled for longer, for a couple rounds, because I have several lines of questioning to go through, if that's possible, and we only get these folks once a year.

Just to echo what Commissioner Diaz said, the endocrinologists made a compelling case to us that they were not the source of the abnormal occurrence events and that we would be impacting the practice of medicine if we were to go from 80 hours to 700 hours, whatever, for them.

On the more general issue of changing compatibility, I can only warn you, I suspect, in your own states, commissions occasionally surprise staff. But when we put out a rule for comment with a proposed compatibility

category, that doesn't mean it's going to be the final compatibility category.

So if you feel desperately that something we propose as C should stay C, you better dust off the pen and get that down and tell us why.

In the case of the iodine-131, we had a discussion last year which included the head of the CRCPD, the Committee 6, I believe, and so we fully knew what at least the chair of that committee felt and yet we went ahead and came to a different conclusion.

So it wasn't that we didn't know what the state position was in that particular instance.

The other thing, just to stay on medical for a moment, I hope the folks who work on medical regulations also saw, or at least the CRCPD, what is it, SR6 committee, noted our SRM, because there were other areas, other than iodine training, where we had some problems with what the states were proposing and we believe we've gone through a pretty darn good process justifying the rule that we will propound later this year.

There were several cases other than training where the -- disposal of waste, released patients, things like that, that we thought you were on the wrong track. So I think our SRM urged you to use a transparent process and any adoption of SR6 broadly, because there will be other areas

where going to a total different standard from Part 35 is going to be -- is going to just lead to a mishmash around the country.

Do you have any comments?

MR. SCHMIDT: That's why I mentioned about NRC involvement in our suggested regulations development. I think that's an area where that would be especially critical, so I think as long as that involvement is occurring, I think we'll have all perspectives on the table.

COMMISSIONER McGAFFIGAN: The other area I want to explore, and it really comes from Mr. Bailey's slides, and Ms. Rogers, this area of different types of radioactive material being dealt with differently.

There's just a myriad of issues there. If you take Part 40, where you mention, and I don't know whether you were the person we dealt with or we dealt with your agency, when some FUSRAP material from the Metcoa site, that EPA was trying to finalize, went to WCS. We thought that was a rational thing to do and there were similar materials that had gone from a different site, but it had been labeled exempt NORM, that was the same stuff, essentially.

One was FUSRAP, one was exempt NORM, and they both ended up at WCS in a RCRA Subtitle C site. We worked that out, but it was a case where you had rules on exempt NORM, or at least the state of Texas did, and you had rules on

something that looked like pre-1978 11.e.2 material, and we -- as I say, we worked it out, but it's the same material and the critical issue in many of these places around the country -- we talked about this last year, Mr. Bailey was here.

Many of the RCRA Subtitle C sites use 2,000 pico curies per gram, which comes from a Department of

Transportation regulation, as the definition of exempt NORM, which is a lot higher. Your viewgraphs were about landfills and what people are putting in landfills and 150 pico curies per gram in one state, 50 in another.

But a lot of states use 2,000 pico curies per gram as the definition of what can go into a RCRA Subtitle C site.

So how do we rationalize all this? Some of this stuff is -- and then we've got -- you have a long list of materials, Ms. Allen, that are NORM, and you left out coal ash, which I think, especially given the note that you also mentioned I think the uranium and thorium and radium and coal ash is going to get more attention once the EPA radon, the groundwater standards change.

Again, rationalizing all this is almost impossible, because there's different doses implied. The bottom line of my question is there's different doses implied in all of these things.

You can go, in a worst case instance, calculate hundreds of millirem per year in some NORM exposures. In our 500 parts per million exception for source material, you can calculate, in some circumstances, doses far higher than 100 millirems. Yet, if we go and lower that, we will have, I suspect, vast members of the mining industry in this country writing us saying what the heck are you doing, you're suddenly defining source material to be the stuff that I'm digging out of the ground for a totally different purpose.

So do you have -- we're struggling with this stuff, honestly, because we -- and in my vote on the Part 40 thing, I called this a Swiss cheese approach to regulating.

I'm not sure whether we should plug one hole in a piece of Swiss cheese if all the other holes are still there. So one question.

CHAIRMAN MESERVE: Federal Congressional action in this area. Let me follow on. With the thought that there should be a comprehensive Federal re-do that gives us jurisdiction over all materials.

MR. BAILEY: Basically, we don't have that, and so we continue to try to make rules. What I think most agreement states would like to see is a law similar to what most agreement states have, which simply defines radioactive material, and then in the law itself, in many cases, it will

exempt certain levels of radioactive material. For instance --

COMMISSIONER McGAFFIGAN: How different are those

exemptions around the country? Is that two-thirds of 2,000 pico curies per gram in DOT? How do you define it state by state?

MR. BAILEY: For the most part, I think they're pretty compatible, because they primarily came out of the licensing part of the suggested regs.

So those standards are fairly consistent. What has not been consistent is how those regulations have been applied to the naturally occurring stuff. For instance, if we read the licensing standards, a little bitty bit of radium gets you into a license situation.

So people have had to fudge around that and then they fudged on the five pico curies per gram, which, again, is one of those things that won't give you your less than 100 millirem, if you model it correctly, or you can model it so that it will give you more.

I think the -- we face this problem, too. Every day somebody comes up with something new. My latest one was the community that's upset because in building a dam, they sunk some wells for water to keep the blowing dust down. It turned out that the groundwater had more than 50 pico curies per liter of uranium in it.

So all of a sudden, these people are worried about, hey, what standard applies, what are you allowed to dump on the ground. This is above drinking water. We don't really have standards there and so we're always -- I have a letter here that I really wanted -- would love to get your name on it, it's got EPA's and ours and DOE's, but you all are the regulator.

But they're talking about when you release something, free release something, or you say it can go to a RCRA site, do you compare it to local background or do you compare it to national background or what's the standard for saying it can go to a RCRA site.

I think most of the agencies have sort of flown by the seat of their pants to some extent. We have pretty much consistently looked it that disposal will not result in greater than one millirem a year. Then we think, hey, that's pretty good.

COMMISSIONER McGAFFIGAN: To whom, to somebody else?

MR. BAILEY: To the maximally exposed individual.

COMMISSIONER McGAFFIGAN: To the worker at the site.

MR. BAILEY: To the worker or any groundwater modeling or modeling.

COMMISSIONER McGAFFIGAN: If there is an oil field

in California, does it require a license from the state of California --

MR. BAILEY: No.

COMMISSIONER McGAFFIGAN: -- for the NORM it produces?

MR. BAILEY: No, it does not.

COMMISSIONER McGAFFIGAN: But that material, if they were -- if it was Atomic Energy Act material, they would require a license.

MR. BAILEY: Yes.

COMMISSIONER McGAFFIGAN: And so when they dispose of the material at Button Willow, it is below the 2,000 pico curie per gram limit that is in the Button Willow RCRA Subtitle C license, they can -- that remains outside of radioactive material space from the moment it's created in the slag to the moment it's disposed of.

MR. BAILEY: That is historically true.

COMMISSIONER McGAFFIGAN: Is that true in most of the states?

MR. BAILEY: I think that it is true in most of the states. The Button Willow site actually predates the RCRA and all that because it was initially set up to receive all waste. The 2,000 pico curies per gram, we're not sure if it really came out of DOT or if it was a number that applicants latched onto. It is not consistently used in

California for all sites.

It is on a few permits. We are now working with the Department of Toxic Substance Control to look at what would be a more appropriate number, so that truly stuff that is low can go to a site like that and stuff that's higher won't go.

COMMISSIONER McGAFFIGAN: Right. It strikes me that it would be wonderful if there were a national standard where you could say this is what can go to landfills and have a number or maybe radionuclide specific numbers and here is what can go to RCRA Subtitle C sites and with a number and here is what has to go to a low level waste site, and presumably everything above what we decided the first two, and here is what has to go to a high level waste site, things that are not low level waste.

It would be wonderful if we could divide the world, and I'm not sure that those are the right terms even. We might just call it radioactive material of type X, type one can go to one hazardous landfill, type two goes to RCRA or Subtitle C, type three goes to low level waste sites, type four goes to high level waste sites, and we go through a national rulemaking and get that straightened away.

MR. BAILEY: I would vote for that several times. That would answer about 90 percent of these four pages of questions, if we had such a standard that said here is how

we divide it up.

COMMISSIONER McGAFFIGAN: Because I am impressed, from Ms. Allen's slide that states in trying to figure out what can go to hazardous landfills or making different decisions, we see that. We see Maine making one decision with regard to what Maine Yankee can do and we see Michigan making a different decision with regard to what Consumer Energy and Big Rock Point can do, and God knows what California will do.

So it's quite perplexing. I'll leave it at that.

CHAIRMAN MESERVE: Commissioner Merrifield.

COMMISSIONER MERRIFIELD: Thank you, Mr. Chairman. I think I share the thoughts of my fellow Commissioners about this being a good opportunity for us to dialogue on these issues. It's a good opportunity and I appreciate you coming today.

The first comment I want to make would be to Mr. Schmidt and that's regarding Cavalier Challenge. I had an opportunity to participate in that exercise and I would want to reflect the other side of it and appreciate the strong participation of states in that tabletop exercise. It was very instructive for me. I know a lot of the other participants felt very good about the work that the state of Virginia did and the other participants, so I appreciate your comments in that regard.

Obviously, it's very pleasing to hear from Mr. Bailey and others the recognition that we have a level of expertise in this agency and it should be given the authority to do more in terms of having consistent national regulation of radiological materials.

I know this agency has tried in some efforts and, in fact, we have sought legislation as it relates to Superfund sites, as it relates to cleanups in general, to have greater authority and have uniform authority in that regard. Unfortunately, Congress has not chosen at this point to give us that level of authority, but perhaps with greater involvement on the part of the states in encouraging that, we can get some additional help in that regard.

I'd make a similar comment about external regulation of DOE. I personally believe that the NRC could play a role, if Congress chose, in regulating those facilities and it would be a productive one and not additionally burdensome, but, again, that is indeed yet another area which Congress currently has chosen not to.

I wanted to -- I did want to touch briefly, I know, Ms. Rogers, you spoke a little bit about the issue of pre-1978 freezewrap material. This is an area which has taken some attention of this Commission over the course of the last year.

From my own personal position, having reviewed the

legislative materials and the different briefs that have been provided to us by the various parties on that matter, from my own conclusion, I believe it's a clear legislative record, Congress was aware of what it was doing at that point, and chose not to give this agency the authority over those materials.

Now, having had some experience with -- you mentioned EPA and how they had somehow -- how they had been able to carve out and put some teeth in an area that Congress hadn't specified. Having dealt with your counterparts at the states who deal more frequently with the EPA than you do, I would argue that perhaps following EPA's lead of carving out authority where perhaps it doesn't exist isn't necessarily the right way to go.

From my own part, I feel clear that if Congress has a desire for us to regulate in an area, that we do it. If Congress doesn't specifically outline that or indeed in this case, it has the clear recognition it shouldn't do it, we shouldn't enter into that area.

That's an authority Congress wished to give us. As I know the Chairman has said previously, that's one that we will take on and do well, but from my personal standpoint, I think the record is clear that we don't have the authority nor do I think we should overreach for it.

Mr. Bailey, I was interested in engaging you a

little bit. You talked about your efforts regarding a virtual office for OAS. One of the things that we are attempting to do right now is do additional work relative to our web site and try to be more interactive, try to have better connections with agreement state offices.

I was wondering if you had had an opportunity to work on that and review any of our web efforts at this point and do you have some ideas perhaps where we can enhance the ability through our web site to allow users to have access to your state programs, as well.

MR. BAILEY: One thing that -- and I'll have to -- first, I'll say yes. I've used the web site and the e-mail system is a great step forward in communications over regular mail and so forth.

But I will have to profess ignorance. I don't

know if you have linked to the state program.

MS. ALLEN: Not yet.

MR. BAILEY: But that would be one way that it could be done. And for people who want to go to work in another state, for instance, some of your licensees or agreement state licensees who are not quite sure whether Delaware is an agreement state or whether it's NRC jurisdiction, it would be nice probably to have those kind of links, where it would go to your region or it would go to the state as appropriate.

I think that would help.

COMMISSIONER MERRIFIELD: Let me just interrupt for a second. When we had a recent stakeholder meeting regarding the materials program, as suggested by Commissioner Dicus, one of the things that was brought up was the notion that we should provide some links so that materials users who have -- who are in a number of states would be able to link from our site into the agreement states, so that they would be able to make comparisons over how they would be regulated on a material by material basis.

It strikes me right now that perhaps we ought to perhaps go one step further and make it very clear that, for example, in our Office of State Program portion of the web site, maybe we should have some links with your states so that people can go through our web site and directly hook into whether it's California, Illinois or Texas or Wisconsin or otherwise. That may be a good way for us to hook up and that may be something we need to further coordinate through you all.

MR. BAILEY: Not all states have highly developed web sites. I'm embarrassed to say we don't have much of one right now, but we're working on it. Other states do have highly developed web sites that provide a lot of good information and are very user-friendly.

COMMISSIONER MERRIFIELD: I'm shocked that the

state of California would not have a good web site.

MR. BAILEY: Don't ever try to research regulations in California on the web.

COMMISSIONER MERRIFIELD: Okay. I'll take that one. One other question I want to direct towards Ms. Allen. We have grappled a lot, as you have, with where we're going to go with the national materials program, the fact that there are more agreement states and fewer material licensees that we have.

It strikes me, however, that when you look at the language in the Atomic Energy Act, which calls for the creation of the agreement state program, there was the

feeling there in Congress that there should be a baseline national program, but there should be an opportunity to flow through to the states through that.

We have -- and I'm very proud in saying this -- we have a very talented group of people here and not to take away from the tremendous talents that are available in the states, as well. But in one place, we have more expertise on materials uses than any other agency in the world in the NRC.

So it would be a shame as we go down the road, whether we're left with no materials licensees or maybe a handful of states, to lose that expertise. So how do we -- looking with that kind of view in mind, how do we -- what

are some of your views about how we evolve, assuming there are going to be more agreement states, but still retain the tremendous level of expertise and knowledge that we have here at the agency, but yet take advantage of what the states have, as well?

MS. ALLEN: That is a real challenge for you. With Oklahoma going agreement, how many well logging licensees would you have in the remaining states? Probably not very many, maybe one or two left, if any. I mean once Oklahoma signs their agreement.

So how do you -- the question is then how do you maintain the level of expertise dealing with that particular aspect of licensing, well logging, regulation, licensing, inspection of those types of facilities. Without having any jurisdiction, you don't go out and do the inspections, you don't do the licensing.

So that part of your knowledge base will end up atrophying. So either you maintain that level of expertise by participating with those states that actually do have those licensees and cooperatively writing those regulations. For example, Texas may say we really have this issue that we need to deal with and you step in and assist with that or participate in it to maintain that level of expertise.

We talked about -- within the working group, we talked about may some sort of sharing of resources for

inspections or licensing, just because our state boundary ends at the Mississippi River doesn't mean that maybe, if Ed had a sealed source device that needed to be evaluated and we had experience doing one of those, that he couldn't have us, have the Illinois program, for example, do that review, where they would still maintain the jurisdiction, but we had the expertise in that particular device area.

The problem is trying to grasp a way to create a

partnership and a working relationship so that those resources can actually be shared and it can't be we're telling you what to do or you telling us what to do. It has to be somehow all 32 states and also regions of NRC all kind of sitting down saying who has what, who can help with what.

The problem is as you lose more and more licensees, your role gets smaller and smaller in that framework almost, because you don't have those types of licensees anymore, so it's hard to keep up that level of expertise.

We're looking for answers ourselves on the working group, how to maintain that.

COMMISSIONER MERRIFIELD: You picked up Oklahoma as an excellent example. The counter-example is obviously with the medical uses, where we have significant involvement. So it goes both ways. One of the ideas that has been out there is perhaps we ought to think about

collocating some of our staff at state offices.

That was an idea that was provided to me a while back. Maybe rather than being solely here in D.C., maybe we ought to think about putting some people out in the field with your folks to gain some of that expertise, as well.

MS. ALLEN: There is one more suggestion. Should NRC have jurisdiction over DOE or regulatory authority over DOE? That opens a whole world of experience to you and you can maintain your level of expertise that you've already got.

MR. BAILEY: I would second that. I think the last time I was here, I was very much for the states regulating DOE and we could do it and we could do the accelerator portion, which I'm sorry Commissioner Dicus left.

But from a personal standpoint, I would be willing, from my position or my state's position to be we don't want to regulate DOE if NRC will do it, because it would allow that big base of uses or radioactive material.

Hopefully they will continue to be somewhere on the cutting edge of doing things and it would -- it opens up a whole big area for your regulation. It would take a lot of people to do it and we could all benefit from it.

We were talking about possibly regulating Lawrence Livermore. Lawrence Livermore approached us about it and I

said, well, you know, the first thing we'd have to do is we would have to have a lot of training to regulate Lawrence Livermore, because you all do things we don't see everyday.

But that we saw as a big benefit that we could have people there who are getting training.

We're doing an internship program right now where we send out our newly hired people to go to broad licensees and work at those broad licensees, because we just want them to sort of get their nose bloodied and maybe pick up another rem on their film badge, which they probably won't do working for us, and those kinds of things that we've got to really do if we're going to continue to maintain the level of expertise.

COMMISSIONER MERRIFIELD: I appreciate it. Mr. Chairman, I, like Commissioner McGaffigan, I've got some other issues I would like to come back to. I would say, as a final comment on this round, I know we, with you, are struggling with where are we going to go with our materials program.

We've got qualified, great people. We know we have a role. What is that going to look like in the future, even if all states decided to become agreement states? I think there is going to be a nucleus of a program there and we view it that we all need to figure out what that is going to look like.

Mr. Chairman.

CHAIRMAN MESERVE: Thank you. I would like to follow up on a couple of points that you've raised, as well. You indicated that there is a problem that you're seeing on the harmonization of the D&D; rule with whatever efforts we decide to undertake with regard to the clearance rule. As I'm sure you know, our D&D; rule would allow up to 25 millirem limit for an average member of the critical group for unrestricted release, whereas the ANSI standard and some of the international efforts with regard to clearance rule are talking about a one millirem dose limit for release.

I'm curious as to when you say you want to have them harmonized, do you think that those should be the same number; if so, is there some other way they should be harmonized? What exactly are you asking us to do?

MR. BAILEY: I wish I knew exactly what I was asking you. What I'm seeing are situations where a facility is cleared, in this particular case that I'm thinking of right now, by agreement before the 25 millirem was adopted. We went to 15 millirem for this facility and we released the facility.

As soon a the facility then wants to take that material off-site, which is perceived by some people then as being too high a dose to go off site, and quite frankly, it's getting wound into the clearance rule which is touted

as a recycling rule.

Now, if there was some way that the recycling element could be given one dose level and, as was suggested, this -- some lower dose level, I mean, some higher dose level than the one mentioned, to go for alternate methods of disposal.

We have historically used these alternate methods of disposal to get rid of a lot of low activity waste that may contain other hazardous materials and we're at the point now that there are groups out there that if there is anything measurable above background coming out of a nuclear facility, they don't want it to go anywhere, including to go to a RCRA site.

So if you can, in doing clearance rule, make clear what's for recycling and what you do with the stuff in between the 25 millirem that you can leave on site and what you can do with structural material, concrete is being recycled to beat the band. It's one of the things that the waste disposal sites can get credit on reducing the amount of waste, because you can recycle concrete pretty easily.

Dirt, as Alice mentioned, releasing dirt at 25 millirem may not be acceptable if that dirt is going to be recycled for school yard sandboxes.

So that's what I was trying to get at, is that make it clear that, okay, this is released for unrestricted

use and I think all of us have always felt that once you did that, the owner or user could virtually do anything they wanted to with that property or that equipment, and we're seeing that changing now.

CHAIRMAN MESERVE: That's helpful. How frequently are you seeing the situation, however, where somebody has terminated a license for unrestricted release and then they are subsequently coming in deciding, for one reason or another, they want to move material for disposal? I don't quite understand the context in which someone would want to do that.

MR. BAILEY: I'll give you a very specific example, and I think it will serve as something that could occur. There are two areas where it occurs. This particular one that we're involved in right now is a sodium burn pit where they took the sodium out of the sodium cooled reactor and burned it.

That wasn't the only thing that was burned there. It was early '50s, late '40s. So that the dirt there is contaminated with other hazardous materials.

We feel that the they have removed the radioactive contaminated material, they still have dirt contaminated with hazardous materials, and, yes, you can measure some radioactivity in that dirt.

The other place that it occurs is where you have

structural steel, where you release a building that meets the 25 millirem dose modeling and then somebody wants to go in and recycle that steel.

It may be this year, it may be immediately or it may be year from now or five years from now, same thing with concrete and wood debris.

We've run into it with portable buildings, where they were surveyed out, they were hauled off site, given to schools and this sort of thing, and DOE just paid $120,000 to a school district to reimburse them for the costs that they supposedly were out by accepting these free buildings.

And these stories go on and on, where it would really be nice if I could walk into a meeting or you could walk into a meeting and say this is the level that's set for release and once, for this type of release and this is the level set for another.

Then people can argue about it, well, is that dose appropriate, but at least you've got something in regulations, that a licensee and we as regulators can say yes, we're meeting the regulation.

CHAIRMAN MESERVE: That creates, as I'm sure you appreciate, a regulatory problem in that the whole point of your releasing the site is to terminate the license, so you've lost your legal grip on that licensee and what he does subsequently and then to then go in and say for moving

material, that now we're going to impose an additional constraint on you.

That creates some problems for both of us.

MR. BAILEY: And it's even worse when it's DOE's material on state licensed land that they just took out of their jurisdiction and put it on land that was covered under a state license and somebody measures it a few years later and it's there, and it's still DOE's material.

CHAIRMAN MESERVE: Ms. Allen, I appreciated your presentation. I would be curious as to when you anticipate this working group is going to complete its work and whether there will be a product for us, for all of you, as well.

MS. ALLEN: I think the SRM says that we have to have our product to you a year from now.

CHAIRMAN MESERVE: Are you on schedule?

MS. ALLEN: We are working as hard as we can to keep on schedule. We are anticipating to have something out for public comment sometime around November-December timeframe and then wrapping that up early 2001, so that the suggestions can go to the Commission and meet your deadline.

I think we're pretty much on track. We have a lot of good ideas. Now we're trying to actually figure out the structure of this and the pros and cons and different suggestions for structuring a national program and who should play what role.

CHAIRMAN MESERVE: Are you seeing differences among the states on what approach to take? Is this something that there is agreement among the disagreement states on or is it too early to say?

MS. ALLEN: I think it's too early to say. We had a poster session at the CRCPD meeting where we tried to get people involved in the process. It was very difficult to get concrete comments from people because we didn't have any concrete stuff out there for them to look at.

At this point or up until now, it's been kind of nebulous. There's supposed to be a national program. Well, how does that affect me directly? We're to the point now where we're starting to identify what kind of changes would need to be made in procedures and thought processes and just attitudes in general so that we want to start talking to states and getting some more feedback from them, now that we have something a little bit more concrete.

Actually, our first step is to meet with the steering committee tomorrow and let them know sort of what's been going on and hopefully they will be able to give us some recommendations or suggestions on how best to approach NRC and states and trying to start this buy-in process or this understanding of where we're trying to go.

It's all motherhood and apple pie so far, you know, we should work together, we should cooperatively

develop things, but now we're to the point where we're actually coming up with how this is supposed to be done and now you're affecting resources and now the questions are start being asked.

CHAIRMAN MESERVE: I have a follow-on question on your comments that you made about compatibility. When you were talking about the problems you confront with the range of nuclear materials and the different authorities, there was expressed the view that there is great benefit of there being uniformity and that NRC having jurisdiction over that materials and setting some common standards that would link all these similar materials or those similar radiological hazards with each other would be a helpful advance, and I certainly think that's a logical point that's absolutely clear that that would be a very significant advance and, no doubt, a great procedural aid to all of us.

It seems to me that it would encourage us to be

more stringent in our compatibility requirements than we have been in the past and I'm not sure that's the point you wanted to make, but I would ask.

MS. ALLEN: I'm looking over my slides. I don't see that on there.

CHAIRMAN MESERVE: That's a logical follow-on.

MS. ALLEN: We want to create more -- you're right. You want things to be fairly uniform. I used to be

a licensee, so I understand how difficult it is to keep up with slightly different versions of the same regulation from state to state to state. It's very difficult shipping materials and making sure that we've met all the obligations of the different states.

ON the other hand, now being from the state side, there are some issues within states where we cannot adopt exactly word for word the language that NRC provides. There are other conflicting regulations within the state. There are other programs within the state.

If you're looking at ways of ensuring patient safety and for medical use of material, many states have adopted a procedure where they or a process where they regulate the technologists, make sure they are up to date with the training and experience, because those are the individuals actually administering the doses in most cases.

So we may say, well, we think that we're addressing safety this way, you may not have the authority or the ability to affect the same types of ways of addressing the safety issues. So we're going to naturally be different on some of those areas.

SI think the best way to try and get us to try and be more uniform or harmonized is making everybody equal partners at the table when the regulations are actually developed, when they're discussed at the beginning.

We're seeing a lot of it -- I mean, the Part 35 rulemaking process was great. It was a very good start. No longer are the states waiting for an advanced draft of a proposed rule, where we have 30 days to get our comments in before it goes out for public comment.

You're bringing people in at the early process, at the early stages, and actually sitting down and hashing things out. With 31 or 32 agreement states and four regions, we're never all going to agree on everything, but this process of discussion and opening up the rulemaking process helps a lot.

Flow things down, but I think it ends up -- and it's also more expensive because of the public outreach

portion of it, but I think it actually makes for a better rule in the end and part of the training is getting people to understand you're not going to win them all, but we have to figure out where to pick our fights.

CHAIRMAN MESERVE: I think we have time for a few more questions. Commissioner Diaz.

COMMISSIONER DIAZ: Yes. Thank you, Mr. Chairman. I think we have seen the interest of the Commission in trying to see how we can work with you in resolving a few of these outstanding issues that keep surfacing all the time.

Mr. Bailey, going to the slides that you labeled regulations and procedures, I was quite taken by them and

especially with the use of the word same.

MR. BAILEY: I've already been chastised for that.

COMMISSIONER DIAZ: At the risk of incurring the ire of the staff, there is another way that you can get this Commission to reply to issues and that is that a letter to the Commission from the Organization of Agreement States that clearly states what the problems that you see in regulations and procedures are, and even when you have consensus on suggested solutions, it would actually generate a response which the Chairman would sign and we all would take a look at it.

But it's another way in which the issue will be refocused and I know there is correspondence, you have statements on these issues, there are many things. But to capture them maybe in a brief document that articulates what you mean by these problems would definitely be of benefit and I would encourage you to do so.

CHAIRMAN MESERVE: Commissioner McGaffigan.

COMMISSIONER McGAFFIGAN: Let me just go through a couple things. Mr. Bailey, and if this is burdensome, don't do it, but the definition of radioactive material state by state, either you are CRCPD, could you sort of send out an e-mail and get an answer as to what the differences are in the definitions state by state?

MR. BAILEY: Yes. I don't think that it will be

difficult, because I think, for the most part, they all use the same one.

COMMISSIONER DIAZ: And include it in the letter.

COMMISSIONER McGAFFIGAN: The letter you mentioned from EPA, they had an EPA signature, lots of signatures on it, you were looking for ours. Do you want to get us a copy of that for the record?

MR. BAILEY: It's actually from one of the U.S. Senators. He is concerned about how we release things and how we differentiate between recycling and on and on and on

and on. I would be more than happy to give it to you.

COMMISSIONER McGAFFIGAN: It's a letter to you and EPA from a Senator rather than one --

MR. BAILEY: Right.

COMMISSIONER McGAFFIGAN: It happened to be not an addressee. Why don't you keep that one? If we're outside the radar screen.

MR. BAILEY: One of the things about helping NRC --

COMMISSIONER McGAFFIGAN: I was kind of interested in the answer.

MR. BAILEY: We were going to help you with visibility here, that you were left off.

COMMISSIONER McGAFFIGAN: Okay. Get serious. The issue of you going through the sodium pit that you face, it

strikes me that that sodium pit is unlikely to be much hotter than some, say, coal ash piles that you have in your state or oil and gas facilities that you have in your state, and yet you don't get the same questions on those.

The recycle of concrete. Coal ash is encouraged by EPA regulation to be used in Federal buildings and it's rational, you know, compared to the granite, and I'm not trying to run down the granite industry, compared to the granite, it is relatively cool. It's high quality, highly radioactive.

It's relatively cool. We have calculated that the people who work in the Library of Congress get 100 millirems a year because they live in a granite -- they work in a granite-filled building. Why the difference? Why do they bug you about the sodium pit and they don't bug you about the coal ash? I assume you have some coal-fired plants in California. They don't bug you about the coal ash.

MR. BAILEY: I don't think we have any coal-fired.

COMMISSIONER McGAFFIGAN: Well, we have them in Illinois.

MR. BAILEY: We try to produce our energy, the dirty energy outside the state and bring it in, and ship our waste out, and I guess that's what really offended us about the waste coming from New York.

The reason is, in my opinion, that things nuclear and things associated with the bomb spell out a very vocal opposition. California was blessed or whatever with having a large number of DOE labs and corporations that historically have been involved in the nuclear energy, General Atomics,. Rocketdyne, and GE Vallecitos, on and on

and on.

There is, I think, a very strong opposition to those industries and to DOE.

COMMISSIONER McGAFFIGAN: Let me mention one last thing. It's a coming attraction where you all I think are going to need to be involved. We have a paper that will soon be public about the ST-1, our effort to work with the Department of Transportation to develop transportation regulations compatible with the IEAE ST-1 standard that came out in '95. And it has a bunch of issues that we have to grapple with, including a revised definition of radioactive material, which, if DOT adopts, will have profound impact for oil and gas sector, the coal sector, and not directly, although even directly.

I mean, we've had a staffer testify to us that coal meets the definition or coal before it's burned, before it's concentrated and the carbon is burned off, coal could meet this definition of radioactive material in the IAEA radionuclide specific standards, radionuclide specific

definition.

Yet there is a provision for the coal that says you can go to up to ten times the standard in bulk quantity, but it means that people are actually going to have to go and measure am I -- where am I relative to the standard, if it's adopted.

Now, we sent a letter in 1996, Jim Taylor, the former EDO, expressing strong opposition on the part of the U.S. and I understand states did play in the run-up to the ST-1 standard, at least some state agencies played, as DOT had meetings, but it's a fairly profound rulemaking that we're about to undertake and it's going to take a few years and DOT is doing a parallel rulemaking.

But I think the one -- there's lots of things that may be of interest to you, but the definition of radioactive material that comes out of the ST-1 standard which will be yet a new definition, to confuse and confound folks, is one that you may want to pay close attention to.

MR. BAILEY: Thank you.

CHAIRMAN MESERVE: Commissioner Merrifield.

COMMISSIONER MERRIFIELD: Just a couple of comments. One, Ms. Allen, Alaska isn't an agreement state yet, so we still have plenty of oil and gas work we're doing up there. So I think those skills will soon be honed.

But on a more serious note, as you all are going

through your efforts, I worked up on Capitol Hill for some years and spent a lot of time trying to devolve EPA programs, not a successful as I or my boss would hope that

effort would have been, but there is -- I think we collectively, the NRC and the agreement states, could sit around a room and come up with some idea about what future national materials program would look like. But I think we all collectively need to recognize that Congress has a very strong interest in that and that what we think around the table might be the best idea, you might not necessarily have the buy-in from the folks who oversee us in Congress.

So as you move forward with that, I know there's a lot of -- I know the states have been very aggressive in terrific programs in a variety of areas, Congress has not always bought in on the level of authority that the states would like to have.

I know relative to the Superfund program I used to work on, we envision a program in which the states could be authorized to run those programs. EPA and a number of their supporters in Congress felt it should be a delegated program and you all know the difference between the two is significant.

There is an underlying interest, continuing strong feeling within many in Congress as to the difference in the need for strong Federal programs. So I think we all need to

be mindful of that.

Mr. Bailey, you made a mention of an issue of retirements of your personnel and replacement. I think this is an area -- there's actually two areas I think where we have a continuing mutual interest in working together, that being one of them.

I think collectively we have a problem with future staff, having individuals coming out of our nation's schools to replace the quality workforce that we have now. And I think to the extent that we can continue to work together on that and working with the schools and others and maybe perhaps trying to identify some solutions is an area I think it would be productive for all of us to talk about.

The other one I would posit for you all to consider, and as well as CRCPD, is the issue of communication and education. We at this agency, and I've commented on this previously, have a longstanding -- well, we're sort of a Maytag repairman sometimes in terms of the way in which we portray materials.

Because of our split from the Department of Energy as a result of the 1975 act, typically we, in order -- we avoid anything that even smacks of being promotional and I think sometimes we have erred too much on the side of caution in that regard.

I think there is, as you all mentioned, I think

there is a lot of misunderstanding among many members of the American public as to what these radioactive materials are, how they're utilized, why they're important in our lives and why we should understand them.

I think we as an agency, the same as you all, collectively have a duty to be educational and I think that's something we all ought to think about; are there things, whether it's through our web sites or through other publications or activities, are there ways in which we can collectively provide accurate information to students or general members of the public to let them know what these materials are all about and what they really mean, because I think we all collectively have not done as good a job on that as we should and I think some of that public misinformation out there is because we have failed to do the duty that I think we have to provide greater communication and education, truthful information to the American public.

But I'd leave -- I don't know if you have any comments on that, but those are two areas I thought we could collectively work on in the future.

MR. BAILEY: I would certainly agree with that and when we go to public meetings, I think many of us who grew up sort of in a scientific engineering type background are a little taken with sort of the cavalier statements that are made that we know are not true, and there are really no --

there doesn't seem to be a way to counteract some of those statements.

I, too, wish there was some way we could get across to the public that - and I don't know and I think there are a lot of people out there that are trying to do that.

In that respect, I think it was too bad that AEC was split up, because there was a lot of money that went out to educational programs.

A lot of us, the first introduction were pamphlets that we got from Oak Ridge that talked about radioisotopes in agriculture, and I actually finally got to see it in California, but there were a lot of those pamphlets, and none of us do that anymore.

MS. ALLEN: There are some states that actually do take a very active role in trying to educate the public and the efforts of the Health Physics Society in trying to train teachers, science teachers in radiation protection or health physics in general. There are people out there or groups out there trying to get this done and maybe it's just increasing our awareness of their existence and supporting their efforts might be of benefit.

The Health Physics Society has been trying to make great strides in doing that.

COMMISSIONER MERRIFIELD: I think perhaps

coordinating and sharing that information. I think it's important that we not stray beyond the line of not being promotional, but that doesn't mean we can't explain what a nuclear power plant is and how it works. That doesn't mean we can't explain what source materials are and what they do, how they're used in the construction industry, the oil industry or otherwise.

That's factual information that would be useful to the public and it would demystify and perhaps clarify some of the misperceptions out there of what these materials are and what they mean.

MS. ALLEN: We'll be happy to share some of the pamphlets that the Illinois Department of Nuclear Safety has produced as far as public information on what radiation is.

MR. BAILEY: I think you sort of hit on something. We tend to make this more complicated than it is. It's not your fault, it's not anyone's fault, except some Congressmen who were around a long time ago.

But why we ever had to come out with source, special nuclear byproduct material and all of those things, it just confuses people. Why the waste characterization is like it is, it's a perfect thing for someone to latch onto. Low level waste is everything that isn't this.

COMMISSIONER McGAFFIGAN: It wasn't the Congressman or Senator. It was the staff.

CHAIRMAN MESERVE: I just have one area I'd like to follow up on and it's with some trepidation that I mention it. It's that, Mr. Schmidt, you had indicated in your comments, you empathize with the NRC as we deliberate the use of KI. I guess I would understand and appreciate that whatever activities are undertaken, that you would believe that the NRC should provide funding contributions to.

I guess the question I have is whether -- and this, I think, may reflect history that I don't know, because I wasn't on the Commission. Have the states taken a position on whether they favor regional or local stockpiles? If you don't know, that's fine.

MR. SCHMIDT: The states have varying positions. I know looking at our position of our E-6 committee, just to refer to one point of view, that really takes a position that really argues against KI stockpiling at all. That's really the position, this group feels that KI stockpiling is

not the most prudent approach for protection of the public, that the more prudent approach is evacuation, possibly sheltering, but not necessarily KI stockpiling.

So there is that view to deal with, but as to actually states that might consider this in a more positive manner, I don't know the answer to that specific one.

CHAIRMAN MESERVE: I understand. I think we've

reached the end of our appointed time. I would like to thank you very much for your participation. This is extraordinarily helpful and we very much appreciated your time you spent with us and it was informative for us.

MR. BAILEY: We appreciate your time and I think this I can do on behalf of all four states without polling them, that any time you're in our state, we'd be happy to have you come by and see us.

CHAIRMAN MESERVE: Thank you very much. We're adjourned.

[Whereupon, at 11:36 a.m., the meeting was concluded.]