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

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Thursday

August 14, 2008

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The Commission convened at 1:30 p.m., the Honorable Dale E. Klein, Chairman
presiding.

- NUCLEAR REGULATORY COMMISSION
- DALE E. KLEIN, CHAIRMAN
- PETER B. LYONS, COMMISSIONER
- KRISTINE L. SVINICKI, COMMISSIONER

1 **Organization of Agreement States (OAS) and Conference of Radiation**

2 **Control Program Directors (CRCPD)**

3 CINDY CARDWELL, OAS Chair, Texas Department of State Health
4 Services

5 BARBARA HAMRICK, OAS Past Past-Chair, California Department
6 of Public Health

7 JULIA SCHMITT, OAS Chair-Elect, Nebraska Department of Health
8 and Human Services

9 JOHN WINSTON, Chair, CRCPD, Pennsylvania Department of
10 Environmental Protection

11 DEBBIE GILLEY, CRCPD Past-Chair, Florida Department of Health

12 ADELA SALAME-ALFIE, Chair-Elect, CRCPD, New York State
13 Department of Health

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CHAIRMAN KLEIN: Well, good afternoon and welcome. It's always a pleasure to meet with the people out in the field that really do a lot of the work on their day to day activities.

And as we've said before the Organization of Agreement States -- and I always have to write this out -- the Conference on Radiation Control Program Directors. The CRCPD is always a hard one to remember.

You all really do a great job, I think, in your states to help protect the citizens for both the safety and security. As I've said before, if it wasn't for all that you do our staff would certainly have to be a lot larger. So, we appreciate all your activities on behalf of your citizens and your states.

Any comments before we start?

COMMISSIONER LYONS: I think you're well aware of my interest and support in the state activities. I certainly echo the Chairman's comments. Actually, both the Chairman and I will be looking forward to the OAS meeting next week in Columbus.

COMMISSIONER SVINICKI: I'd just like to welcome you all here as well. I would note, Mr. Chairman, that I think it may have been my first trip as an NRC Commissioner was to come to the CRCPD meeting where I met with all of the fine individuals who are sitting across from us here.

I thank you all for what you do and for helping me to get an introduction to

1 the issues we're going to talk about today when I went to the conference. Thank
2 you.

3 CHAIRMAN KLEIN: Cindy, do you want to start?

4 MS. CARDWELL: I would be glad to. Thank you for your
5 comments, Chairman Klein and to all the Commissioners for the opportunity to
6 share with you several points on behalf of the states.

7 Both the Organization of Agreement States and the Conference of
8 Radiation Control Program Directors appreciate this opportunity to discuss with
9 you regulatory issues that we believe are important for the safe and secure use of
10 radioactive material in this country.

11 First, I would like to introduce the State Representatives here today in the
12 order in which we'll be speaking. First, I'm Cindy Cardwell with the Texas
13 Department of State Health Services and I'm here as Chair of the Organization of
14 Agreement States for one more week.

15 Next speaking will be Barbara Hamrick with the California Department of
16 Public Health. Barbara is here as the OAS past Past-Chair having graciously
17 agreed to attend for Paul Schmidt, who actually is our Past-Chair, but who sends
18 his regrets that he couldn't be here today to meet with you.

19 Debbie Gilley from the State of Florida, the Florida Department of Health,
20 having just completed her term as CRCPD Chair is now the CRCPD Past-Chair.

21 Julia Schmitt with the Nebraska Department of Health and Human Services
22 is here as the OAS Chair-Elect. In one week she gets all of this.

1 John Winston with the Pennsylvania Department of Environmental
2 Protection is the current Chair of CRCPD.

3 And Adela Salame-Alfie is with the New York State Department of Health
4 and she's the Chair-Elect of CRCPD. Adela doesn't have any prepared comments
5 for you on a specific topic, but she's here and will be glad to answer any questions
6 that you all may have after we finish our remarks.

7 I would like to begin the discussion by talking about the need for integration
8 and prioritization of our regulatory efforts, especially with regard to security
9 initiatives.

10 The NRC and the states are regulatory partners and that partnership
11 continues to grow and strengthen. In July of 2001 the National Materials Program
12 Working Group's report to the Commission listed the attributes of a national
13 materials regulatory program.

14 They included recognizing current successes, recognizing individual legal
15 and jurisdictional issues, sharing of resources and responsibilities and jointly
16 establishing priorities based upon a consensus process.

17 However, it seems now more than ever our regulatory priorities are event
18 driven, often resulting in a multitude of number one priorities.

19 Now, event driven priorities are real priorities and we should recognize that,
20 but the problem with a multitude of number one priorities is that none of us has the
21 luxury of unlimited resources with which to address those priorities.

22 From the state perspective we have been assimilating the additional

1 workloads associated with increased control orders and inspections, fingerprinting
2 orders and licensing guidance, but each of us, both NRC and the states, have
3 limits as to how far we can stretch our resources without a well defined path
4 forward.

5 We believe it's time to analyze the multitude of ongoing efforts aimed at
6 improving and strengthening the security of radioactive materials. For example,
7 there been several recommendations lately for modifications to the general
8 licensing concept coming from different sources.

9 Those recommendations have ranged from suggestions for slight changes
10 to the process we have now to questioning the entire general licensing concept.

11 We believe those efforts should be integrated into a cohesive effort forward.

12 Likewise other similar types of efforts should be integrated where possible.

13 Then through a collaborative process we should recognize our security
14 related -- we should prioritize our security related activities. The prioritization
15 would recognize our individual and collective challenges, provide a balance with
16 regard to actual vulnerabilities versus risk, and should not sacrifice overall safety
17 for security. And you should keep that in mind.

18 This will provide us all with a cooperative plan that the state radiation
19 control programs can use as a basis for presentations to our legislative and
20 executive leadership regarding the need for certain actions to be taken to continue
21 to ensure the security of radioactive materials.

22 It can serve as the basis for requests for additional resources and/or

1 reallocation of current resources that we have. Because it would represent a
2 collaborative effort, it would also show the cooperative relationship between NRC
3 and the states and emphasize the collective recognition of the importance of
4 security of radioactive materials in the country and the need to support the efforts
5 in that direction.

6 Going back to the attributes of the National Materials Program, we should
7 recognize our security related successes. These include extensive steps that
8 have been taken in the last several years by both NRC and the states to
9 strengthen the security of high risk sources through implementation of additional
10 physical security measures, fingerprinting and added diligence in the licensing
11 process.

12 By jointly establishing our security related priorities, we should be able to
13 account for our individual, legal and jurisdictional roles and develop a path forward
14 that represents the most effective sharing of responsibilities and resources.

15 And with that, I will pass the microphone on to Barbara Hamrick.

16 MS. HAMRICK: Thank you, Chairman Klein and thank you
17 Commissioner Lyons, Commissioner Svinicki for having us here today to have the
18 opportunity to address you.

19 I'd like to talk about an issue today that permeates really almost every
20 aspect of our regulatory jurisdiction and that's the issue of when a radiological risk
21 becomes an unacceptable risk.

22 In particular, the states have concerns that without a practical risk threshold

1 to guide our actions with respect to additional security controls of radioactive
2 sources, we will be shooting at an ever diminishing target.

3 We think that we need to determine a practical risk threshold for planning
4 purposes that will cabin the otherwise ever expanding universe of radiological
5 security concerns.

6 To illustrate the problem I'd like to share with you a logical fallacy known as
7 the "Argument of the Beard", which arose from the quasi-philosophical question:
8 How many hairs does it take to make a beard?

9 The fallacy arises from the argument that if 10,000 hairs are sufficient, then
10 why not 9,999 because that's so close to 10,000 and then why not 9,998. We
11 seem to be seeing the same logical fallacy applied today in radiological risk.

12 If the Category 2 source is a risk, then why not the very high end of the
13 Category 3 because they're almost Category 2. And if they are, why not the 3.5
14 category since they're very close to Category 3 and on and on until eventually
15 individual atoms of radioactive material are effectively equivalent to a Category 2
16 source.

17 Rather than continue to lower the threshold without regard to the
18 consequences of the postulated threat, the states would like to suggest that we
19 collectively engage in an assessment of the potential consequences of an RDD
20 event, a Radiological Dispersal Device event, and settle on a practical risk
21 threshold for making additional controls mandatory with respect to security.

22 This would not be a mandatory threshold for cleanup. This would not be a

1 national recommendation on what constitutes general acceptable risk, but it would
2 be a threshold below which additional security controls beyond those which are in
3 place today would not be necessary.

4 As we envision it, this practical risk threshold would essentially address the
5 potential increased risk of cancer that might result from an RDD event because
6 that appears to underlie the continued concerns with area denial or psycho-social
7 effects resulting from an RDD.

8 We understand that this may be a contentious undertaking, but it is a
9 necessary step to address future actions. In addition, we think that there must be
10 some consideration to the actual probability of an intentional malicious radiological
11 event.

12 We understand that the National Academies of Sciences in its recent report
13 on radiation source use and replacement recommended that the NRC perform an
14 assessment of the economic and social consequences of an RDD event implying
15 that limiting enhanced controls to Category 1 and Category 2 sources was not
16 adequate to protect against the potential consequences.

17 In that same report, however, the Academies noted that a simple "hazard
18 assessment" that ignores the probability of a successful attack is not the sole
19 basis for risk management because it can lead to inefficient and inappropriate
20 allocations of resources that can actually increase rather than reduce risk.

21 In addition, the Academies' acknowledged that in a 2002 National Research
22 Council Study they found that better public awareness and education about the

1 true risks of an RDD would greatly help in mitigating the psychological impact on
2 the public. We could not agree more with both recommendations or both
3 comments in the report.

4 We understand that the Chairman's Task Force on Radiation Source
5 Protection and Security Subgroup on Radiation Sources is looking at the issue of
6 economic and social consequences and may have a proposal to the task force in
7 the November 2008 time frame.

8 And that the task force's subgroup on public education is also in the
9 process of providing recommendations on actions necessary to mitigate the social
10 and economic risks of an RDD by addressing public information deficiencies in
11 advance of such an event.

12 While the states have had the opportunity to provide input to both these
13 subgroups, logistics have sometimes severely limited those opportunities and it is
14 of some concern that this truncated and sometimes classified process for
15 developing these recommendations may have a significant impact on their
16 effectiveness and their acceptance by the agencies that will ultimately be charged
17 with the implementation.

18 More importantly we are concerned that without a practical risk threshold to
19 serve as an anchor for consequence assessment and as a stepping stone for
20 public outreach actions that the efforts of both these subgroups will be drowned
21 out by the cacophony of uncertainty that our continuing caveats engender.

22 We all know there's nothing in this world that is absolutely safe and even a

1 common book of matches, if not properly controlled in use, can cause enormous
2 economic and psychological damage.

3 As the late Commissioner McGaffigan pointed out, "it is the NRC's and by
4 extension the Agreement States' mandate to provide reasonable assurance of
5 adequate protection, not absolute assurance of perfect protection."

6 Somewhere between the largest Category 1 source and an individual
7 radioactive atom there's a range of risk that can serve as a practical benchmark
8 for the purposes of source control. And we think it's time that we addressed that
9 problem again. Thank you.

10 MS. GILLEY: Good afternoon. On July 1st, 2008, the Barnwell
11 South Carolina waste disposal site closed its doors to "out of compact" waste. For
12 36 states and territories there are now only limited waste disposal options.

13 Certain radionuclides and quantities can still be transferred to the
14 Department of Energy or returned to manufacturers if there is a future benefit or
15 use for these sources. However, for other sources especially small long-lived
16 radioisotopes that have been replaced by other technologies there are no
17 alternative other than for the licensee to store on-site.

18 Several issues have surfaced as a result of the lack of disposal options for
19 licensees. I would like to identify four of these for your consideration. We
20 currently have manufacturers who are willing, for a price, to take back sources.

21 Nevertheless, as their inventories increase and uses for these sources
22 diminish manufacturers will eventually meet their maximum storage capacity

1 making them unable to accept additional sources without increasing their
2 possession limits in their licenses.

3 For some, this will trigger the need for implementing additional increased
4 controls and security requirements. These factors could lead to the limitations or
5 discontinuance of the transfer to the manufacturer options for licensees and
6 licensees would be required to store waste and disused sources at their facility.

7 Some licenses by the nature of the business generate and collect waste in
8 the manufacturing and processing of products. For those with high concentrations
9 of certain radioisotopes Agreement States and NRC will require financial
10 assurance to assure that the licensees will be able to clean up their facilities and
11 dispose of radioactive waste.

12 However, without adequate disposal options in place how can Agreement
13 States and NRC adequately address the cost of these activities and assure that
14 the licensees will have sufficient financial resources for decommissioning their
15 facility at license termination?

16 We can estimate the cost of cleanup based on activity, but without
17 adequate disposal options we must look to evaluate the cost and liability of
18 long-term storage.

19 Licensees including waste brokers and waste processors who are not
20 licensed in compact states will need to find a way to provide financial assurance
21 for cleanup, disposal if possible, or long-term storage.

22 The federal regulations and equivalent Agreement State regulations speak

1 to the decommissioning requirements for licensees who no longer want to
2 participate in license activities.

3 Within two years of licenses ceasing activities or if no activities have been
4 performed for 24 months the licensee must submit a plan for beginning the
5 decommissioning process.

6 Without adequate disposal options how will the NRC and Agreement States
7 be able to uniformly enforce these requirements? In some cases we may need to
8 be issuing licenses in perpetuity for the storage of radioactive material even
9 though the technical and historical basis for adopting the regulations has not
10 changed.

11 The last issue is in regard to orphan sources. Recently in an Agreement
12 State two 250 millicurie cesium 137 industrial gauges were recovered. These
13 gauges had the metal source tags and radiation warning labels physically removed
14 by chiseling off the metal rivets on both gauges. These gauges managed to make
15 their way through two ports of call without being detected.

16 I share this information with you to raise your awareness to the measure
17 some licensees may resort to when they no longer need use of these sources.
18 The fact that someone knew enough to remove the radioactive warning label and
19 identification tag concerns me about the lack of disposal options.

20 We need to ask ourselves what are the options for a licensee? What are
21 the options for scrap and waste brokers who fall innocent victims to possessing an
22 unexpected or unwanted source? What will the states do when the material

1 shows up on their doorstep?

2 For 36 states we, too, have no disposal options even if we had the funds for
3 disposal.

4 Commissioners, this is potentially a national safety issue that surpasses
5 many of the other activities that we perform as co-regulators. I don't have a
6 solution to the problem, but believe we should engage in some serious national
7 conversations to find solutions to these issues.

8 I suggest to you that this is not solely an NRC/state problem, but a complex
9 Federal/state issue that treads in Federal jurisdiction and needs to include a
10 partnership approach with the Department of Homeland Security, the
11 Environmental Protection Agency, the Department of Energy and the Department
12 of Defense.

13 I am urging you on behalf of all states, Agreement and non-Agreement
14 States, to champion the call to help look for solutions.

15 Options and alternatives that we believe that are important and should be
16 considered include maybe providing incentives to existing compacts to take
17 out-of-state waste, especially Class B and C waste; approving and citing regional
18 secure temporary storage locations until a national waste disposal site can be
19 approved; supporting the use of Federal assets in locations that can assist with
20 this effort by providing temporary collection and storage areas; and developing
21 prompt and economic disposal options for non-licensees that work with their state
22 radiation control program in discovering and removing unexpected sources from

1 the public's domain in all states and territories.

2 I am sure that in cooperative effort we can find a way to keep those
3 unwanted sources from becoming a serious national safety issue.

4 In closing I wish to thank the Commissioners and the staff for their support
5 with the current orphan source program. We continue to collect and dispose of
6 sources with no use in compact states.

7 We would like to have solutions for those other states to enhance safety
8 and defray the costs and complexities of the orphan source collection and
9 disposal. Thank you.

10 MS. SCHMITT: Thank you for the opportunity to speak to you today
11 on training in support of the Agreement States. First of all, we really appreciate
12 your support of Agreement State attendance at the OAS meeting next week.
13 Without your support it would have been difficult for many states to send a
14 representative this year.

15 I think it is really important for us to get together once a year to hear the
16 same message and learn about the same issues. This year a half day overview
17 for managers is being offered on the National Source Tracking System. Two full
18 days of the agenda are devoted to the various issues related to the security of
19 radioactive material that Agreement States and NRC are collectively facing.

20 Bill Rautzen, Andrew Mauer, Duncan White and Rob Lewis have been
21 particularly helpful in helping me coordinate the agenda for this meeting.

22 I also want to thank you for your support of training of Agreement States'

1 staff. This support becomes all the more important as many existing staff
2 members near retirement and new staff members are hired. In fact, it may be
3 necessary to add additional course offerings of the core courses and the increased
4 controls course to accommodate new staff.

5 Agreement State and NRC inspectors will also need to be trained on the
6 fingerprinting requirements. Inspectors will need to have a familiarity with the
7 results of Federal criminal background checks since typically the inspectors review
8 some of the trustworthiness and reliability documentation to make sure licensees
9 are following the program that they have said they have set up.

10 One option for accommodating additional courses would be to consider
11 regionalized training. The host state could assist with local arrangements such as
12 classrooms. The cost of travel for the surrounding states would be reduced with a
13 positive budgetary impact.

14 Finally, as you're probably aware Agreement States typically do not have
15 the luxury of hiring graduates of health physics programs. Agreement States often
16 hire staff with basic science backgrounds and train them on the job in health
17 physics.

18 For a number of years the on-the-job training was supplemented greatly by
19 NRC sponsorship of Agreement State attendance at the five week health physics
20 course in Oak Ridge.

21 Several years ago the NRC ceased sponsorship of this course for
22 Agreement State staff. Few states have been able to fund attendance at this

1 course for their new staff.

2 As a result most of the newer Agreement State staff have not had this
3 learning experience in the fundamentals of health physics. As experienced health
4 physicists begin to retire from State Agreement state programs I'm concerned that
5 over time there could be a knowledge gap in basic health physic principles.

6 I encourage you to consider once again sponsoring the five week health
7 physics course for Agreement State staff as you prepare your budget for the
8 future.

9 MR. WINSTON: Good afternoon. I have the privilege of talking
10 about states helping states. It should come as no surprise that this is what
11 CRCPD and OAS are all about.

12 The foundation of our organizations is our willingness and desire to provide
13 consistency and quality guidance and control in radiation across the United States.

14 There have been numerous cases of states offering personnel and
15 resources in times of need for a neighboring state. Texas helped Louisiana after
16 Katrina; Nebraska offered quick amendments of possession limits to
17 accommodate the possibility of licensees in flooded Iowa needing to relocate
18 material. And Florida has offered an extensive training program to anyone from
19 another state at minimal cost.

20 Most recently, the North Dakota program experienced nearly a complete
21 turnover in staff. The new employees did not have the required training to
22 complete the necessary licensing and inspections. The Minnesota program

1 stepped forward. They offered assistance in license review and mentored
2 inspections and training for North Dakota on both sides of the shared state line.

3 In New Hampshire's experience when Texas answered their call for
4 assistance several years ago continues to have impact. The two weeks that the
5 Texas representative worked in New Hampshire reviewing license applications
6 also brought invaluable technical assistance and recommendations for
7 improvement of the overall program.

8 I was told those two weeks were without question a better technical
9 education in RAM licensing than any training course attended on the subject prior
10 to or since. The experience has resulted in an effort in New Hampshire to reach
11 out to other states to tap into their expertise and share one's own.

12 Is there a potential to expand this? Absolutely. Through the IMPEP
13 Program we're often able to recognize impending issues. The CRCPD and OAS
14 Boards are weighing the ability to formalize a program to come to the aid of state
15 programs in need of temporary assistance due to high turnover in staff,
16 environmental disaster, et cetera.

17 For example, we plan to draft a template agreement that two or more
18 programs can quickly authorize to expedite the process. Then we'd like to develop
19 and maintain a list of qualified volunteers able to assist the state program under
20 any scenario.

21 Your assistance and support in this endeavor is most welcome. The NRC's
22 extensive knowledge transfer and professional development programs are

1 something you should be very proud of and providing us with any lessons learned
2 would be very useful.

3 We hope that you continue to explore the possibility of providing a
4 drawdown fund that could be used to offset cost under selected circumstances.
5 The volunteer efforts of state programs coming to the aid of another program in
6 need should be commended.

7 Not only do we want to recognize them, we should use them as a model for
8 enhancing the goals of the OAS, CRCPD and NRC's Agreement States program.
9 Thank you.

10 MS. CARDWELL: That concludes our comments.

11 CHAIRMAN KLEIN: Thank you for those really good presentations.
12 You can tell that it's a dynamic organization and it really is good to see states
13 helping other states. I think that's very beneficial because we're all in this to help
14 make things safer. And certainly on the security side of that probably helps as
15 well.

16 Since Commissioner Svinicki had gone to your program first, probably one
17 of her first trips out of the NRC, she gets to start with the questioning today.
18 Commissioner Svinicki?

19 COMMISSIONER SVINICKI: Thank you, Mr. Chairman and thank
20 you all for those presentations. I began my career in state government, so I have
21 such respect for what all of you do. I actually was debating. I thought perhaps I
22 should not begin by mentioning that because I wanted to touch first on the topic of

1 training and I know there are issues not only in recruitment, but in retention.

2 I thought here I go admitting that I was recruited away to the Federal
3 government a couple years after starting with the State of Wisconsin.

4 Again, I probably will tend to look at the presenter, but anyone please feel
5 free to chime in on these questions. They're very general.

6 I know since reinstating NRC support for training between January and July
7 of this year staff has indicated that NRC funded 280 Agreement State staff to
8 attend NRC courses.

9 My sense is that the need is larger than the slots available and the
10 resources available, but I thought as a first step the question I would ask is are we
11 making good use in terms of our prioritization?

12 I think, as I understand it, NRC staff does have a prioritization process for
13 the availability of training slots where they look across the states. They also look
14 at states that might have special circumstances such as heightened oversight or
15 something like that.

16 Do any of you have suggestions of how we might best allocate slots? Are
17 we doing a pretty good job at that? Do you feel like it's an equitable scheme in
18 terms of making spaces available? Is there any other considerations or factors we
19 should be taking into account?

20 Again, making more spaces available is always the preferred, but as a first
21 shot can we make the best use of what's available now?

22 MS. CARDWELL: I think we understand and appreciate the

1 prioritization. It really needs to be there in order to have a fair system with that. I
2 think that perhaps we could enhance that; "we" meaning the state organizations.

3 Sometimes we are first on the line, if you will, when we start to look at a
4 state that may -- just through the grapevine we hear that they're having --
5 potentially losing two to three to four staff members at a time that has relative
6 significance on the program depending on how large you staff is.

7 When we see those kinds of things happening that NRC might not see
8 except during an annual meeting or a periodic meeting or an IMPEP review we
9 could make that known and they could feed that into the prioritization process.

10 So, we might able to provide some more timely information if we looked at it
11 from that perspective. Again, Julia mentioned the possibility of looking into things
12 like regionalized training, which if we can realize some savings there and add
13 additional courses then we just provide more and more slots.

14 But, yes, staff turnover is an issue.

15 COMMISSIONER SVINICKI: Is the regional training -- is that
16 anything we're doing now and we should expand upon it?

17 MS. CARDWELL: Yes. We have the opportunity if a state -- a state
18 can request a course and offer to host it in their state, in which case we typically
19 provide local arrangements, provide the classroom setting. If we need a medical
20 setting as a classroom or a laboratory type procedure with the course, we can
21 make that happen with some of our licensees and provide those kinds of things.

22 If we looked at doing it in a more formal way across the state that might be--

1 we would be able to plan better in the future, if you will. We can look at
2 regionalized training and realize that in each FY or each fiscal year we could plan
3 to send so many people at the state level to those classes.

4 COMMISSIONER SVINICKI: Okay. Did anyone else want to
5 comment on that? Can you give me a sense - the five week Oak Ridge course, I
6 think you mentioned that there's a significant expense there that's very difficult for
7 states if any state just wanted to send one individual person there. This is again to
8 contrast with when NRC was a sponsor of that program.

9 What is the cost of that five week course just if you wanted to send an
10 individual? Do any of you know?

11 MS. SCHMITT: Last time I looked it was about \$10,000 for the
12 curriculum plus your travel and expenses. However, with NRC negotiating a
13 contract I'm sure that would be beneficial to reduce some costs.

14 COMMISSIONER SVINICKI: Participant costs might be lower?
15 Okay. Thank you.

16 MS. CARDWELL: I might also add there is another course similar to
17 that that's been put together at -- it's presented in Texas by Baylor University.

18 A part of that they reduced the five weeks to four weeks on-site and they
19 have some long distance learning, if you will, for that first week to get everybody
20 up to speed, ready to go into the laboratory and classroom settings, which is
21 obviously a cost savings as well.

22 So, there's some other options and ways we can modify that cost.

1 COMMISSIONER SVINICKI: Okay. Thank you for that. Barbara, I
2 wanted to thank you for your presentation. I felt that was very thoughtful and
3 heartfelt. I think we struggle on this issue of post-9/11. I think the notion of the
4 challenges of communicating with the public about risk, I think, existed pre-9/11,
5 but some of that, I think, has come home to roost a little bit more.

6 It's just a very difficult topic to communicate on. I thought your beard
7 analogy was very visual. So, I appreciate your use of that.

8 I'm not sure I have any answers for you beyond commenting on the
9 elegance of your presentation. I do know that my sense is when I think about the
10 tremendous efforts that have occurred. Again, I heard a lot about this at the
11 CRCPD meeting in terms of the increased controls.

12 Cindy, you used a term that I wrote down: "recognize our successes".
13 What I was struck by is, I think, the tremendous collective efforts that occurred for
14 all of the Agreement States to work with their licensees and that is a success, I
15 think, that perhaps is unrecognized or at least we don't talk about enough.

16 Maybe, again, having worked in state government I realize that it's many of
17 the same bureaucratic steps that have to be gone through and I really commend
18 you. There's been a tremendous amount of success that we don't hear about
19 enough and I certainly didn't hear about until I became an NRC Commissioner.

20 I know another element now is that we have other partners in this process.
21 It's not just NRC and Agreement States. There's DHS, there's the Department of
22 Energy, NNSA and I know it's been difficult. Some of the issues of so many of the

1 task forces and working groups, I was struck by that as I began to hear about
2 these issues.

3 And the Commission in its last meeting on material security asked the NRC
4 staff to give us a comprehensive list of all of these different groups and the
5 taskings they have. I think we've suggested or the staff intends to suggest maybe
6 some combinations.

7 Is there anything -- have you been solicited for any suggestions along those
8 lines since you participate in so many of those? Is NRC staff soliciting any
9 suggestions from you? Or would you have any that you'd like to make right now of
10 how we could perhaps economize on our efforts in some of the coordination of
11 working groups?

12 MS. CARDWELL: I think we're actively working with FSME on doing
13 just that. There is an issue with some of the security rulemaking right now where
14 originally there were three different components have now been combined into
15 one. So, we're starting that process of looking at the different efforts that are
16 going forward and how we might maximize the efforts that we're putting into those.

17 COMMISSIONER SVINICKI: Great. I know at NRC we've got
18 probably more initiatives than we can put people against and for the state that
19 concern is just magnified, I know, for all of you. So, certainly if you've got thoughts
20 on economy of effort we always appreciate and would benefit from that.

21 Just a comment on the Barnwell closure, the impacts to certain states.

22 Certainly, I would just emphasize and my colleagues I suspect feel similarly that

1 we're very much interested in hearing from all of you on the impacts. You're very
2 close to that issue and so I hope we'll continue a close coordination on that as the
3 impacts of that become felt across the nation more and more.

4 That's a comment and not so much of a question. I know on states helping
5 states it's always encouraging to hear that that's going on. I know also that the
6 NRC regions -- I want to acknowledge their efforts. I think that they assist in a lot
7 of on-the-job training opportunities in the area of inspections and license reviews.

8 And so, I encourage that collaboration between Agreement States, staff and
9 NRC regional staff. I think those are very positive efforts as well.

10 Those were just a couple of concluding comments. Thank you,
11 Mr. Chairman.

12 CHAIRMAN KLEIN: Thank you. I think we're all concerned about
13 the low-level waste issue. Your fear, I'm sure for your perspective, is that all these
14 little sites start storing it on their locations and/or just send it to landfills. And then
15 we'll have to spend a lot of time and effort to retrieve that to find out where it is.

16 So, I hope that we can as a nation make a little bit better progress on the
17 low-level waste. That, I think, will be a challenge for all of us.

18 One thing I think would be good. On your health physics training and the
19 Oak Ridge Program, that's one in which I think we all recognize health physics and
20 health physics training is really important and it would be good for you to come up
21 with a program and a specific plan that we might be able to get in our budget
22 process to help do that because I think it would help all of us to make sure that we

1 meet that training need. So, if you could come up with a plan.

2 And I do like the concept of distance learning. I've also noticed that
3 sometimes national laboratories charge a little bit more than universities and so
4 there may be some options that aren't quite as expensive, but yet get good quality
5 training out there that could really help.

6 Of course, I know when Commissioner Lyons was at Los Alamos their
7 overhead rate was very low. I should point out on your beard analogy it looks like
8 I'm the odd person out on the beards. It seems like John and Commissioner
9 Lyons certainly have worked with that beard analogy more than I have.

10 COMMISSIONER LYONS: I'm not volunteering my beard.

11 CHAIRMAN KLEIN: I think security has been a challenge for all of
12 us. As Commissioner Svinicki said post-9/11 there are areas that we certainly
13 need to watch. There's priorities that we need to look at. There is this paranoia
14 for radiation that we have to be aware of. I think, Barbara, your comments on risk
15 on that is well put.

16 One of the things that the staff is looking at is trying to coordinate all of our
17 security aspects into a rulemaking activity. I just wondered if you would comment
18 on your thoughts of that activity and how we could make sure we communicate.

19 MS. HAMRICK: I think the states have been in favor for quite a while
20 of having the security issues in rulemaking, the fingerprinting and increased
21 controls partly because we're missing the public input on all of this.

22 By issuing the orders and we understood we needed to do that and I think

1 the Agreement States did a great job working with the NRC. The NRC was very
2 helpful to put that increased controls program together and the fingerprinting, but I
3 think it is time now that we entered the rulemaking stage and provided the
4 licensees and other members of the public an opportunity to feed into and to feed
5 back how it's working and what they think could be better. I think that will be a
6 great opportunity for that. So, I'm looking forward to that effort.

7 CHAIRMAN KLEIN: Great.

8 COMMISSIONER LYONS: Dale, if I could interject. Weren't you
9 asking also about the state's view on combining some of those?

10 CHAIRMAN KLEIN: Right.

11 COMMISSIONER LYONS: You commented sort of on it individually,
12 but not on combining.

13 CHAIRMAN KLEIN: Both combining a lot of the activities under the
14 whole rulemaking process.

15 MS. HAMRICK: I'm sorry. I guess I didn't catch that subtlety. I think
16 combining them makes perfect sense. I think they all need to be seen under one
17 umbrella and that's the best way to go at it because otherwise we end up with
18 piecemeal efforts that might overlap or conflict. So, we're much better off doing
19 that as a joint effort.

20 CHAIRMAN KLEIN: Okay, good. In terms of the states helping the
21 states, I think that's really a good idea. Do you have any specific proposals were
22 we could help and make that better?

1 MS. CARDWELL: One of the things that we're going to do next
2 week -- during the OAS meeting we have the very same kind of talk. In fact, I'm
3 going to plagiarize John's talk for that meeting, but we're going to throw it open for
4 suggestions to the states who are there as to concrete plans we can move forward
5 on and how to formalize some of the pieces and parts of being a regulatory
6 program and how we can have some holdings and things in the ready, if you will.

7 Some documents, some materials in the ready for all those occasions when
8 you run into those tough situations where you might need a little help and how we
9 might make that happen.

10 Obviously, we feel that the two organizations can facilitate that kind of
11 communication back and forth, but I think that NRC is an integral partner in that in
12 trying to facilitate making that happen.

13 So, we're going to collect ideas. John mentioned several ways it's already
14 been done, but I think it's our opportunity next week to collect those ideas and try
15 to formalize a path forward again on that as well.

16 CHAIRMAN KLEIN: Great. In terms of looking at the NRC working
17 with the states, what would be your top three things that we could do to enhance
18 cooperation and make things better? We'll start with Debbie first.

19 MS. GILLEY: I've become the lady of waste, so I do think we need
20 to address this before it addresses us. So, I would like to see us at least start
21 exploring opportunities that would be available for licensees out there.

22 CHAIRMAN KLEIN: Anything else that we can facilitate working with

1 the states better?

2 MS. CARDWELL: Well, I know I always hate to bring this up:
3 funding. Some of the examples that John mentioned are becoming more and
4 more difficult to do these days because we have restrictions with the states
5 collectively; many, many of us have restrictions on what I would call out of state
6 travel.

7 Sometimes the money is there, but we have a cap that's imposed on us
8 about how often we can go out of state. A lot of it has to do with perception and
9 the fact that we work for the state and we need to stay within those boundaries
10 and do that.

11 CHAIRMAN KLEIN: For those that travel a lot it sure is a lot of fun
12 traveling on crowded airplanes that are always on time.

13 MS. CARDWELL: Recognizing that that's becoming more and more
14 of an issue. Julia pointed out the fact that we think that many states couldn't make
15 it to the meeting next week without the help of that funding on just the travel end
16 the things is a real issue and I think it's going to bleed over in our abilities to help
17 each other out when it would involve people going across state lines to help with
18 training, with mentoring in the process of licensing, inspecting or if one of the
19 states starts to run into problems.

20 So, that in and of itself you don't realize sometimes how crucial that can be
21 to facilitating these efforts going forward. So, that would be a way that I would
22 point out first off.

1 CHAIRMAN KLEIN: Barbara?

2 MS. HAMRICK: I just had a quick comment. This isn't actually about
3 the NRC/State relationship, but rather about our relationship with you and our
4 other Federal partners.

5 I'd just like to point out that I really appreciate the information that we
6 receive to and from your staff regarding other agency efforts because we do not
7 have the lines of communication as strongly established with some of those other
8 agencies and we're very reliant on the NRC to bring us the information of what's
9 coming up next.

10 COMMISSIONER SVINICKI: Mr. Chairman, could I just ask? I know
11 you've invited to the OAS meeting DHS and DOE representatives. Have they
12 committed to attend? And beyond giving presentations do have opportunities at
13 your meeting to work with them kind of in maybe some working groups or breakout
14 sessions on some of the issues?

15 MS. SCHMITT: We haven't scheduled any breakout sessions with
16 them, but I think that meeting with them and discussing the different issue.

17 A lot of issues that we have had, like on the security assist visits and stuff,
18 have been brought up particularly with DOE. So, I don't know that we would have
19 anything terribly new to say to them other than that they need to coordinate with
20 Agreement States when they're coming into Agreement State licensees.

21 COMMISSIONER SVINICKI: If I could just follow up on the security
22 assist visits. Do you get advance notice notification and an invitation to

1 participate? Or if you're not are you working -- okay, I'm getting a "no".

2 MS. CARDWELL: No, we have not. We have brought that up and
3 we are working that issue.

4 Just to elaborate a little bit more on what Julia said. She's correct; we
5 haven't planned any breakout sessions specifically to deal with them, but the fact
6 that they're there to give the presentation means they're in the room to be able to
7 have discussions with. So, we see that as progress.

8 COMMISSIONER SVINICKI: Okay. Thank you. I'm sorry,
9 Mr. Chairman.

10 CHAIRMAN KLEIN: I think it might be good to comment, as my
11 understanding is that sometimes it's even worse than not notifying the states when
12 they talk to some of the licensees. They even indicate that they shouldn't
13 communicate with the regulatory side.

14 So, I think there's some communication that really needs to occur at the
15 meeting as we say open and frank discussions. As a licensee, that's not good for
16 someone to come into your state, I think, and propose recommendations without
17 communicating with the regulatory structure. I hope that you will have those open
18 and frank discussions when they're there.

19 MS. CARDWELL: We plan to do so.

20 CHAIRMAN KLEIN: Well, I know that seeing Charlie and Rob
21 behind you, we are looking at our 2010 budget as we speak. While funds are
22 limited, we do want to run the programs and we want to run them right.

1 So, I think this is a good time if you have suggestions that we could do,
2 which you mentioned funding certainly helps, but we would like to know
3 specifically what are the things that we can do so we can get those into the
4 budget.

5 I'm sure they have pencils and papers ready whenever you come up with
6 specific suggestions so we can get that into the process. Commissioner Lyons?

7 COMMISSIONER LYONS: I'd start by thanking all of you for being
8 here. I think the presentations that you made and the comments you've already
9 heard from my colleagues just all serve to indicate the importance of the
10 partnership that I think we have ongoing and is important to preserve and really
11 does contribute, I think, to making a truly national materials program.

12 To me, that's very, very important and I'm just very pleased to see how the
13 effort, the partnership continues to grow.

14 Many, many places I could start, but let me start with concurring with you,
15 Cindy, on recognizing successes. There really have been some very spectacular
16 successes and the states working with our staff have really stepped up to the plate
17 with some extraordinarily challenging requests. My compliments.

18 The fingerprinting has gone far better than I could ever have dreamed and
19 that's a tremendous tribute to the state's contribution.

20 I also resonate with your concern, Cindy, about too many number one
21 priorities. I think the main suggestion would be to continue to work with Charlie
22 and Rob and George and their team and try to work with and through them so they

1 can work with us on trying to better manage priorities. I think we all worry about
2 that.

3 As Kristine mentioned, there is that ongoing review of do we need all the
4 task groups and I seem to recall Paul was leading that, although I'm not positive.
5 I'm not sure who is.

6 MS. HAMRICK: Is it Lee Cox from North Carolina?

7 COMMISSIONER LYONS: Okay. I'm remembering wrong. But in
8 any case, at least that's a very important effort and to the extent that we can find
9 ways to reduce that number of task groups and better integrate them I think that
10 would be very, very positive.

11 Barbara, your comment on better understanding RDD risks, that's
12 something that the Commission certainly talked about. We've recognized that as
13 an agency we need to contribute to that discussion.

14 The Chairman's task group is an important part of that and certainly the
15 States should play a role in helping towards that definition.

16 You referred to your beard analogy, which still scares me -- remember
17 that -- well, I guess we're out of the comment period on NSTS and Category 3 and
18 3.5, but we're in a period now of evaluating those comments.

19 I haven't personally seen those comments, but I gather that there are from
20 what Charlie has told me very well considered comments on a variety of different
21 perspectives. It remains to come back to the Commission for a final rulemaking
22 decision.

1 So, I wouldn't presume what the outcome of that is going to be. I very
2 much want to understand those comments and I think your suggestion of finding
3 ways -- you used the word "practical threshold" and to me that all ties together with
4 your whole concept of trying to better evaluate the risks of RDDs.

5 If we could also find ways of better educating the public on what the risks
6 truly are and I think more importantly aren't, maybe those could even be some
7 discussions next week in Columbus.

8 For the Lady of Waste, I think you've already heard that each of the
9 Commissioners certainly shares the concern on what do we do in a post-Barnwell
10 era. And I'm certainly one of those.

11 In general, I like your suggestion of trying to facilitate a partnership to look
12 at alternatives, with one exception. I'd be curious and comments maybe from both
13 our Lady of Waste and other states. To be perfectly blunt, I have worried that if we
14 are too proactive at this point in time we may undercut licensing efforts that are
15 ongoing in the commercial sector.

16 And I have remained hopeful that those licensing efforts can provide some
17 national options. Now, maybe that is a faint hope that has no chance of coming to
18 pass, but I have wondered if this is the right time to begin the kind of national
19 exploration that you're suggesting or if it would be better to wait a while and let
20 some of these -- just say it; the Texas licensing discussions play out.

21 I would be curious -- maybe this isn't something that should be commented
22 on that you aren't comfortable commenting here, but I'd be interested in any

1 comments that any of you can make.

2 MS. GILLEY: I don't have a comment at this time. We can wait and
3 see how long before Texas has a licensed facility, maybe, if that's not forever and
4 if they will take out compact waste.

5 MS. HAMRICK: I have -- I'm sorry; please go ahead.

6 CHAIRMAN KLEIN: I was just going to comment. I think one of the
7 challenges that might occur is -- and again, I've been removed from my former life
8 of the Texas Radiation Advisory Board, but even if Texas gets licensed there's
9 currently restrictions on the percentage of material they can take from
10 non-compact sources. So, even if Texas is licensed that will only take a certain
11 percentage and I'm sure California has some challenges, too.

12 MS. HAMRICK: Well, actually, what I was going to say is that it's not
13 at a critical point. We looked at this in response to an audit by our state auditors
14 on the issue of waste and we looked at the numbers in DOE's MIMS system on
15 how much B and C waste California exports and our final evaluation was really
16 that our licensees should be fine.

17 This is, of course, excluding the power plants because they're not our
18 licensees, but for our materials licensees, the volume of B and C waste was really
19 not very large. We think it's very manageable.

20 On the other hand, I think if we wait too long to do something we don't want
21 to get to the point where we're just reacting in a crisis.

22 COMMISSIONER LYONS: That's where I'm very torn. At the same

1 time I think probably thanks to all of your efforts the amount of B and C waste has
2 continued to trend down. Licensees are getting far more sensitized to the need to
3 minimize creation of B and C waste and that's true at the power plants I think as
4 well as the materials licensees.

5 MS. GILLEY: May I make one comment? There are some changes
6 in technology, alternate technology out there that makes some of the sources
7 especially in medical applications obsolete now.

8 So, if those technologies are embraced and they go with the x-ray machine
9 producing, we may see more sources that are disused sources being stored in
10 locations. That's just a technological thing that happens to be happening right now
11 in the medical field anyway.

12 COMMISSIONER LYONS: That does tie in with another comment I
13 wanted to make. I think there is a task group that is working with the NRC on that
14 exact subject; replacements, alternative resources, all of which I think is very
15 important. It certainly needs to be done.

16 The National Academy Report highlighted that, but that same academy
17 report highlighted the need to be careful as any moves are made to those
18 alternative sources.

19 I would hope that certainly the states and the medical community weigh in
20 very, very carefully before we make any dramatic changes in the availability of
21 some of those sources particularly for medical applications.

22 In other words, are the x-ray sources as efficient? Do they have the same

1 efficacy? I don't know, but at least we need to tread carefully.

2 The other thing I wanted to comment on, and Dale already spoke to this
3 and Kristine did too, but the importance of training. I'm certainly very appreciative
4 of the role the staff has played in working with all of you in increasing the training
5 opportunities.

6 The five week course came up both in your comments, Julia and Dale, you
7 did that, too. I, too, have wondered if we can look towards some opportunities,
8 perhaps for more distance learning. I know there's laboratory aspects of that
9 course, but I can't help wondering if you take Dale up on his challenge to make
10 some proposals in that area as to how we could help. We can help and you can
11 help.

12 I can't help wondering if some combination of distance learning modules
13 and I don't know the legality. Maybe it's possible for us to help in developing some
14 of those coupled with perhaps laboratory facilities at local universities.

15 And maybe it still has to be supplemented by actually getting everybody
16 together in one central lab. I don't know, but I would guess that it should be
17 possible with some creative thinking to reduce the amount of travel time far below
18 five weeks. I don't know how low. Maybe it's one week; I just don't know.

19 I would think it would be a dramatic change and I would hope that as you
20 take Dale's challenge to come up with some suggestions in that area that you do
21 look not only at distance learning, which is certainly something I wanted to
22 emphasize, but also what you can do with let's say local lab options, which to me

1 probably means local universities.

2 And maybe through all of that we can come up with cost-effective options
3 that will make that available. The shortage for health physicists is something that
4 we're acutely aware of. It's a national challenge. It's definitely not getting any
5 better.

6 There may be more being produced, but I think the needs are going up
7 faster than the production. It's a major concern and one that I hope we can work
8 together to try to address.

9 And states helping states. If we can help in some way on that that's very
10 important. Certainly, the states have some of the best knowledge that other states
11 need. Thank you, sir.

12 CHAIRMAN KLEIN: Any more questions? On behalf of my fellow
13 Commissioners I'd like to thank you for coming here today and also for all you do
14 in your states and helping with the other states as well.

15 We obviously have changing regulatory landscape occasionally and so I
16 think it's very important that we maintain good lines of communication. And I know
17 that Rob and Charlie are certainly -- their phones are available and the travel
18 funds are available for them to come out to the states occasionally.

19 And so, we look forward to continuing our good relationship and I think
20 you'll probably see two Commissioners next week.

21 MS. CARDWELL: We very much appreciate that. Thank you.

22 CHAIRMAN KLEIN: Thank you very much. The meeting is

1 adjourned.

2 (Whereupon, meeting was adjourned.)