

UNITED STATES OF AMERICA
U.S. NUCLEAR REGULATORY COMMISSION

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

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TRANSCRIPT OF PROCEEDINGS

Public Meeting

Before the U.S. Nuclear Regulatory Commission:

Allison M. Macfarlane, Chairman

Kristine L. Svinicki, Commissioner

George Apostolakis, Commissioner

William C. Ostendorff, Commissioner

APPEARANCES

OAS & CRCPD Leadership:

Alan Jacobson
Health Physicist Supervisor, Radioactive Materials
Inspection Section, Air and Radiation Management
Administration (Maryland) (OAS Chairperson)

Melanie Rasmusson
Chief, Bureau of Radiological Health, Department of Public
Health (Iowa) (OAS Chairperson-Elect)

Cheryl K. Rogers
Radioactive Materials Program Supervisor, Department of
Health Services (Wisconsin) (OAS Past-Chairperson)

Earl Fordham
P.E., CHP, Deputy Director, Office of Radiation Protection,
Washington Department of Health (Washington) (CRCPD
Chairperson)

Joseph Klinger
Assistant Director, Emergency Management Agency (Illinois)
(CRCPD Chairperson-Elect)

Alice Hamilton Rogers
P.E., Radiation Inspections Branch Manager, Texas State
Department of Health (Texas) (CRCPD Past-Chairperson)

1 PROCEEDINGS

2 CHAIRMAN MACFARLANE: Okay, make sure everybody's set,
3 good. All right. Well, good morning.

4 I'd like to welcome all of you to the Annual Meeting with the
5 Organization of Agreement States and the Conference of Radiation Control
6 Program Directors. This is my first Commission meeting with you, but I
7 understand from my colleagues on the Commission as well as from the staff that
8 this is always a good opportunity for all of us to discuss how we are continuing to
9 work together and discuss some of the many important issues that come before
10 us.

11 The Commission definitely deeply values the partnership with the,
12 with all of you, ensuring the safe and secure use of radioactive materials, and
13 what I'll ask you to do is to keep your remarks to seven minutes each, because I
14 think we have quite a full agenda. We got six of you here, and you'll see the
15 lights going on to give you a reminder of timing. And before I go any further let
16 me see if any of my fellow Commissioners have any remarks? No? Okay. Well,
17 at this point in time, I will turn this over to Mr. Alan Jacobson, who is the
18 Chairperson of the Organization of Agreement States. Mr. Jacobson.

19 ALAN JACOBSON: Thank you, Chairman. It's a good day in
20 Montgomery County, Maryland. Also with us today is Melanie Rasmussen.
21 She's the Chief of the Iowa Bureau of Radiological Health, and Chair-elect of the
22 Organization of Agreement States. And we have Cheryl Rogers. She's the
23 Radioactive Materials Program Supervisor with that state of Wisconsin and the
24 past Chair of the Organization of Agreement States. And we have my colleague
25 from Washington, Earl Fordham, Chair of the Conference of Radiation Control

1 Program Directors.

2 EARL FORDHAM: Thank you Alan. I'd like to introduce my
3 colleagues with the Conference of Radiation Control Program Directors: past
4 Chair Alice Rogers, from the state of Texas, and Joe Klinger, he is our Chair-
5 elect, take over my role at the end of May, tick, tick, tick. And he's from the state
6 of Illinois. And Joe is kicking off the briefing today, so I'll turn it right over to him.

7 JOSEPH KLINGER: All right, thank you, and good morning.
8 Congratulations on your re-nomination by the way, we look forward to working
9 with you in the years to come. Before I start too, I had the pleasure of serving on
10 a panel at your RIC meeting, and wow, that was impressive, 3,000 people. And,
11 the appointment in Simara really got my attention, that was very interesting. So,
12 kudos to everybody in that.

13 I'm going to talk about public communication of health and safety issues.
14 As you all know we depend on partnerships for everything that we do, especially
15 in challenging economic times, especially in nuclear safety and emergency
16 management. This is just critical, so, I mean, on a routine basis I think we do a
17 very good job, an excellent job. And I know that NRC, with their list server, the
18 press releases, the blog, the Twitter, YouTube, RSS, I mean, we use all the
19 social media and I think it's very, very effective and I applaud your efforts in that
20 regard.

21 We've had several events over the past couple years however, with
22 Fukushima. We had the, the contaminated tissue holders and the, the pet bowls.
23 Those issues, although from a health-physics perspective here in this country if
24 not overwhelming and stuff, but we still have to take care of issues back on the
25 domestic side. I think your efforts to assist the Japanese government were just

1 exceptional. I've heard Chuck Casto's presentation several times, and I learn
2 something each time. So, I really applaud that -- those efforts.

3 However, on the domestic front, the federal leadership appeared to
4 be somewhat lacking from a state perspective. And that's something we'd like to
5 work as a partnership, and, and maybe help improve the situation in the future.

6 As I said, admittedly, the threat from these events was minimal.
7 We knew that, and you knew that, but the public, all the public didn't really know
8 that. And so there was -- there was a run on KI and things like that, that I think
9 we can avoid in the future if we get that message out. And so, and I think -- I
10 think part of the problem was it didn't really fit a national response framework
11 event. It wasn't a domestic event. I think we're very, very well-prepared for that.
12 I think we'll do a great job. We plan, train, and exercise constantly, so that's not
13 a concern to us -- it's other events that the public needs some reassurance, and
14 how do we do that?

15 And so, as the states were kind of left to do that on their own, each
16 individual state, another problem was we were actually cut off from some of the
17 federal data necessary to craft our message to reassure the public that
18 everything was fine. So those were a couple of issues that I think we can, we
19 can improve on in the future. And so that's, that's what I suggest today.

20 And so I'd like to make a, just bring a couple of things out. And one
21 is -- CRCPD looked at this issue and said how can we improve the data sharing.
22 And so we, we established a E43 Task Force for inter-agency environmental
23 data sharing and communications headed by Dr. Adela Salame-Alfie from New
24 York. We have NRC, DOE, NNSA, FEMA, EPA, all are resource individuals on
25 this task force. They are assessing all the currently available resources of

1 environmental RAD data, and will make recommendations that enhance data
2 sharing. So that should help. That was one of the components of the problems.

3 We also have the National Alliance for Radiation Readiness, the
4 NARR. And I think you all are familiar with that. But it's something that we're,
5 we're pretty proud of, CRCPD's been instrumental in that. It's primarily the
6 public, health state and local representatives, first responders. And, this serves
7 as a collective, quote, "voice of health in radiological preparedness." They have
8 an excellent website where they try and have a nice toolkit for radiological
9 events, and later on this month I'll be participating in their annual meeting, and
10 there's going to be a table-top exercise on an I&D event. So, that's where, again,
11 we can be better prepared to communicate what's our message to the public.
12 And so I see some value added in that regard.

13 A third is, we just recommend that the federal partners plan, train,
14 and exercise in this regard too. Maybe table-top events like this. What would
15 happen the next time because we're just concerned that something else is going
16 to come up and we're going to be right where we were. And we just want to work
17 with you to try and make sure that that doesn't happen so that we can all be
18 better, and that. So with those, those three recommendations, hopefully the
19 situation would be improved.

20 I also notice that an enhanced use of the social media during these
21 events is critical. We use it all the time in emergency management. If you don't
22 craft your message, and get the accurate information out of the public, someone
23 else will. And so, there's a lot of free software tools like HootSuite, TweetDeck.
24 We monitor all the social media to get accurate information out, and it really
25 helps. And, but again, that's where that partnership has to be really well-defined

1 and work together so that we are all saying the same thing. We just can't have
2 each state crafting your own message where it could be slightly different. And
3 we like to look to the federal partners as some leadership in that, so we all could
4 reassure public in a holistic approach.

5 So that's all I got at this point. We're confident by taking these
6 efforts we can all better inform and reassure the public. Thanks for your attention
7 and consideration on this matter. And the next speaker is Cheryl Rogers, my
8 good friend, from Wisconsin. She's the Radioactive Materials Supervisor, and
9 she's going to talk about something very positive, and that's training.

10 CHERYL ROBINSON: Training availability, yes the OAS past-chair
11 -- so this will be my last briefing with you. Good morning Chairman Macfarlane,
12 and Commissioner Svinicki, Apostolakis, and Ostendorff. We are sorry that
13 Magwood isn't here, Commissioner Magwood isn't here today. So, I think I --
14 yep, there are some slides. So my first one would be on the training.

15 Financial support is very important to the Agreement States, and
16 we also appreciate the work that goes into putting these courses on year after
17 year. There are, there are nine courses that are now required. The two new
18 editions are Security, otherwise known as Increased Controls and Root Cause.
19 A new approach is -- a new approach to providing information formally presented
20 in what was known as the five-week course is now available, and we're receiving
21 good reviews. I've had a couple of my staff come back and report positively on
22 that.

23 What my message today on training is the greatest advantage of
24 the availability of the NRC training courses is that it provides a consistent
25 baseline for both information and best practices to the licensed reviewers and

1 inspectors. And that is key to the National Materials Program. It provides a good
2 opportunity for the state staff to network with both NRC and the other state staff.
3 This was when the working relationships between NRC and the Agreement State
4 staff often begin.

5 Long-term positive outcomes are the benefit here, when you
6 consider that these are the same individuals who populate our working groups,
7 steering committees and IMPEP.

8 So we want to thank the Commission and the FSME Staff for both
9 the continued access to the core courses, the specialized courses, and not to be
10 minimized, the financial support is very important.

11 Moving on to the medical training classes. Let's, yes -- training
12 availability. Thanks to Jennifer O'Peila, who is the Colorado Radioactive Material
13 Unit Leader. We were able to identify that over a hundred Agreement State
14 Staff, actually 140 plus, need to attend the two medical courses. The FSME staff
15 is helping the Agreement State staff receive this training with additional course
16 offerings this year and providing additional slots that were traditionally NRC's.

17 And then sequestration impacts; again, thanks to the efforts of the
18 FSME staff, we should be able to continue attending the NRC courses while
19 Congress addresses the budget. We praise the FSME staff for providing the
20 Agreement States with information regarding any sequestration impacts and
21 request that that continue.

22 Okay, now I'm ready for the Integrated Source Management
23 Portfolio, ISMP. And this is a state perspective. So current work is focused on
24 the web-based licensing database. In the Agreement States, Ohio continues to
25 use their stand-alone version, and this is the state that NRC obtained the

1 program from and invested significant resources in to upgrade it to the current
2 configuration. And Ohio does intend to move to the NRC version once all of the
3 components are in place. North Carolina has successfully adopted the use of the
4 NRC Stand-alone version. Colorado had some internal IT issues, and they're
5 now awaiting the web-based licensing version. And Wisconsin is interested in
6 the web-based licensing version. And other states continue to monitor the NRC's
7 progress on implementing the web-based licensing version.

8 NRC has indicated they will not charge the Agreement States for
9 upgrades. This is a very good deal for the Agreement States. In the long-run,
10 this should encourage more states to use the web-based licensing system. Also,
11 NRC is not making use of web-based licensing a matter of compatibility. States
12 may continue to supply their updated versions of Radioactive Material Licenses.
13 And at this time the Agreement States are requested to supply their increased
14 control licensees, so that's the top tier. Looking down the road, NRC proposes to
15 pull three data bases together in order to make the license verification system
16 work. This will address the need for timely information of what a particular
17 licensee is authorized for, and whether any possession limits have been
18 exceeded.

19 The Agreement States continue to have a wide variety of
20 administrative approaches for the tasks of receiving applications, handling
21 license reviews, and issuing license amendments. Some states have moved
22 ahead, and are going paperless. One challenge is accepting electronic
23 signatures. NRC does not currently accept electronic signatures. Ohio has
24 developed a good system where everything can be submitted electronically, but
25 they still require a one-page document for signature. So they're 99 percent of the

1 way there. We continue to monitor NRC progress on the issue of electronic
2 signatures, and other obstacles.

3 So, in closing here, NRC has taken on a large, highly-technical
4 project in the development of the Integrated Source Management Portfolio, and
5 we understand it is a very challenging assignment to develop a national
6 database. Theoretically, it's going to have 40 different regulatory entities tapping
7 into it, plus other people that want to use it. The Agreement States are open to
8 the use of the database, supportive of the process, and continue to monitor the
9 improvements that are being made. So those are my remarks, and I will turn
10 over to Alan Jacobson from the great state of Maryland to talk about GAO Audits.

11 ALAN JACOBSON: Thank you Cheryl. Security and control of
12 radioactive sources is a priority for the Agreement States, and we have a long
13 history of ensuring radioactive source protection and security. The OAS believes
14 that it is important to cultivate a culture that integrates safety, security and control
15 in an effort to protect public health, safety and the environment.

16 The GAO has been examining security gaps at NRC-regulated
17 facilities for over a decade. Sometime the methods they use are unique and the
18 conclusions are difficult to predict. In November 2012, the OAS became aware
19 that the GAO had been tasked to audit the U.S. government's actions to secure
20 radiological sources at non-medical facilities in the United States. We feel that
21 the task is appropriate, and we support the GAO mission to review and provide
22 recommendations regarding radiological security. The Agreement States have a
23 vested interest in that we license and inspect approximately 87 percent of the
24 radioactive materials facilities in the United States.

25 Since the terrorist attacks on 9/11/2001, the NRC and the

1 Agreement States have effectively worked together to create and implement a
2 minimum regulatory framework that provides a common baseline level of
3 security. It is our position that this current baseline level of security provides
4 reasonable assurance for the protection of radioactive material in the current
5 threat environment. We believe that the National Nuclear Security
6 Administration's global threat-reduction initiative provides important and effective
7 enhancements to our current security requirements.

8 America benefits from these additional security enhancements. We
9 further appreciate the NRC's support of NNSA's outreach activities to promote
10 participation in the security upgrade program. The combination of the NRC's
11 performance-based regulations, along with NNSA's security upgrade program,
12 effectively provides the resources to enhance security at facilities with specific
13 risks, and the flexibility to avoid unnecessary prescriptive requirements for
14 others.

15 Agreement States representatives are concerned about this new
16 audit, mainly because the September 2012 GAO Report of Radioactive Material
17 Security at U.S. Hospitals and Medical Facilities contain conclusions that differed
18 substantially from the general consensus of regulatory authorities. The
19 recommendations described in the report appear to be reasonable, and we felt
20 that the NRC's response was sound. The OAS, however, disagrees with the
21 report's conclusions that the NRC's current risk-based security requirements do
22 not go far enough and need to be strengthened because they lack prescribed
23 security measures. We take exception to the accuracy of certain sections of the
24 report, and the conclusion that the security regulations need to be changed
25 based on identification of violations at three of the 26 facilities that were

1 inspected.

2 The consensus, at this point, is that compliance and enforcement
3 are the most effective methods to address security violations. Since we were
4 unsure of the intent, the scope and the spirit of this proposed GAO audit, and the
5 authority they used to inspect state-licensed facilities, we coordinated with our
6 Agreement State officers, and our FSME partners here at headquarters. They
7 listened. They indicated they were eager to work with us, and quickly responded
8 to our inquiries.

9 The GAO reached out to the NRC and the Agreement States for
10 assistance and understanding the scope of their task. We appreciate the
11 opportunity to be involved. On November 6, 2012, members of the OAS
12 Executive Board participated with the NRC in the GAO Entrance Conference
13 regarding this audit. The GAO agreed to announce to the NRC and the
14 appropriate Agreement States the date and location of each security inspection.
15 The NRC has been providing Agreement States with updates of the audit during
16 our monthly calls. With the NRC, we implemented a coordinated approach to
17 accompany the GAO auditors during the inspections. Document findings,
18 address security issues, and insure that accurate information is documented for
19 the report.

20 It is our primary intent to participate in this important audit, with an
21 approach coordinated with our federal partners, to ensure that the published
22 report will contain useful and accurate information so that we can be prepared to
23 take action when there is a change in the current threat environment, thank you.

24 Our next speaker is Melanie Rasmussen, the chair-elect of the
25 Organization of Agreement States, and the topic will be rulemaking.

1 MELANIE RASMUSSEN: Good morning, and thank you. I also
2 have some slides, and like Alan mentioned I will be talking about rulemaking
3 process and not, not specifically about any of the regulations in Part 20 in 61 and
4 35, but more about the process, and how the Organization of Agreement States
5 and the individual Agreement States get involved with that.

6 So first, I'd like to mention the cumulative effects of regulation in
7 SECY-11-0032. As recognized in the past by the Agreement States and the
8 Nuclear Regulatory Commission, that external stakeholders should be involved in
9 the rulemaking process in the regulations. And I am going to call SECY-11-0032
10 kind of the milestone document that formalized the process and the concept of
11 involving external stakeholders. And it's been beneficial for all of us concerned in
12 the health and safety of the public and the security of radioactive material. The
13 document sets expectations that they seek input, and that they prioritize, and that
14 there's draft guidance out there. And most importantly, it requests from the
15 Agreement States the challenges and the effects of aggregate regulations that
16 we face.

17 You're probably familiar with this paper and the cumulative effects
18 of regulation. And I'd just like to point out that so far we see it as an
19 improvement, and we see it as paving a path forward for us to cooperate with
20 one another.

21 And for the next slide, this is kind of a list of working groups that the
22 OAS and NRC staff work together on. I'm not going to go through each of them,
23 except to point out that many of the working groups have more than one
24 Agreement State staff working on them, and we appreciate the opportunity to
25 work with the NRC staff in all of them.

1 Several years ago, the OAS developed a director of rulemaking
2 position on our board. And originally, Lee Cox from North Carolina led us for
3 two -- two complete cycles, and then Stephen James from Ohio. They've been
4 really imperative in working with the FSME staff to ensure that the Agreement
5 States are well-represented on those working groups. And just like the FISME
6 staff does with their staff that they put on the rulemaking groups, our director of
7 rulemaking currently Stephen James from Ohio, he tries to match expertise with
8 what the working group is, what the rulemaking is dealing with.

9 NUREG-1556, at the bottom of that slide. It's not necessarily
10 writing rules, but providing licensing guidance. And I would like to mention that
11 approximately 16 various working groups are working just on NUREG-1556.

12 And finally, implementation of the external involvement. The
13 Agreement States want to get involved very early on and mostly because with all
14 of us out there, there are laws that vary greatly in how we handle things and how
15 we regulate, just because of our, our governors, and our political appointees.

16 Some of our states incorporate rules by reference when the NRC
17 rules go into effect. And that causes challenges for them. They have -- which is
18 why the draft guidance is so important way early, is because when they adopt by
19 reference they have to be ready to go as soon as it hits the ground with
20 implementing the licensing actions that take place.

21 I want to thank you for your time and attention, and I want to pass it
22 on to Alice Rogers from Texas, not to be confused with Cheryl.

23 ALICE ROGERS: Thank you very much. I'm going to be talking
24 about adequacy compatibility today. Maintaining a regulatory structure that is
25 adequate to protect public health and safety, and that is compatible with that of

1 the Nuclear Regulatory Commission is the heart and soul of the Agreement
2 States radioactive materials program. A couple of years ago, you all asked your
3 staff to review and suggest updates and revisions to the policy statement on
4 adequacy and compatibility. I've had the pleasure of serving along with David
5 Walter of Alabama, as an Agreement State Representative on the working group
6 that's working on that task. So we developed a revised draft for your
7 consideration. You each voted and instructed certain changes. The revised draft
8 that incorporates your instructed changes is undergoing concurrence with your
9 staff at present. So along with your votes you also suggested some changes to
10 the system that is used to review each Agreement State's performance with
11 respect to adequacy and compatibility. And the working group is now turning to
12 those tasks.

13 From an Agreement State perspective, we reckon that the current
14 process for reviewing an Agreement State's performance is working pretty well.
15 It's been effective in identifying states that are working okay, and it's effective in
16 identifying states that need attention. Sorry.

17 At any given time, approximately 20 percent of the states need
18 attention. Speaking from the perspective of the state that was once placed on
19 heightened oversight, the current process is very helpful in getting recognition for
20 a good program, or resources when the program isn't so good. No governor
21 wants to be told that his radioactive materials program needs some help.

22 While we recognize the fact that there's always room for
23 improvement, we're a little stumped about what is broken with the current review
24 process. While managing other regulatory programs in my career, I often wished
25 that some of them had something similar to the IMPEP process to gauge

1 effectiveness. It's important to recognize that states, like all organizations,
2 experience cycles and growth and increased funding, although those aren't very
3 often, in decline and decreased funding. We're currently going through a time of
4 retirements in my staff, and we're bringing in a lot of new staff. Which is, by the
5 way, probably a good time to thank you again for your continued training of our
6 staff.

7 I'd like to turn now to another issue for compatibility, that of
8 nationwide consistency in rules. We understand industry and the medical
9 community's desire for consistency in rules across the nation. However, states
10 our sovereign entities and has some specific needs. For instance, states, not the
11 federal government, license medical professionals including doctors, medical
12 radiological technologists, and medial physicists. Therefore the states have a
13 unique need to incorporate those state requirements into our rules. And
14 sometime it also happens that states recognize a need for regulation in an area
15 the NRC hasn't yet. For instance, Texas wrote rules for industry of radiography
16 before the NRC did.

17 In summary, we think that the current IMPEP process for reviewing
18 Agreement States works pretty well. And are interested in understanding your
19 thoughts on how it should be improved. And, we ask for flexibility in rule
20 adoption so that we can meet the identified needs that are unique to our states.
21 Thank you very much, I'll turn it over to Earl.

22 EARL FORDHAM: Good morning Chairman, Commissioners.
23 Thank you very much for this opportunity to talk to you about, you know,
24 radioactive waste in this country, the issues around it. The disposal options
25 currently available get kind of technical here, and the branch technical position

1 on concentration averaging and rule-making underway in Part 61, and finally,
2 Type B shipping tasks. And earlier in my career I had the opportunity to be the
3 Resident Inspector at the Hanford Disposal Facility for 12 years, so gained a lot
4 of experience in the RAD waste issues there.

5 Start out with a little, you know, history on RAD waste, for those
6 that may not go back as far as they want to in this issue. Back in the late 1970s,
7 there were several issues and incidences at the sited states, that being Nevada,
8 South Carolina and Washington. It caused the governors of those states to close
9 access to those sites and the end result from this action that the governors took
10 was the 1980 Low-Level Radioactive Waste Policy and 85 Policy Amendments
11 Act. Among the two more important issues that the states view, with those acts
12 was the authorization and basically the -- trying to get the states to form
13 compacts. And also the authority provided to those compacts to exclude the
14 waste from, you know, their compacts that were established. Washington and
15 South Carolina today are still operating and use this exclusive authority of the law
16 to exclude waste from outside their state compacts.

17 So just how successful have these laws been? And I think we all
18 know that answer to it. In early 1990s, the, you know, Policy Amendment Acts
19 allowed sited states to assess surcharges. This surcharge activity was an
20 economic means to hopefully solve the political crisis that had happened, you
21 know, back 15 years earlier. And, you know, we know that that didn't work too
22 well. The surcharges, even as high as \$120 a cubic foot, you know, which some
23 of the money was sent back to the compacts that were trying to site the facilities
24 in their states, and still, we didn't get any new facilities. Yes, the states did form
25 compacts. Yes, there was some action taken on selecting a site and even doing

1 some characterization, one that actually got furthest along was California's Ward
2 Valley, but it was politically sidelined by the federal government. And the only
3 site that we know of today that has come on-line is Texas' WCS facility near
4 Andrews. But are they truly following the compact idea too? And here they've
5 already put policy and rules in place to allow the importation of waste,
6 successfully undercutting the compact idea that Congress put in place back in
7 1985. So, I got to admit though, eight or nine compacts, which is what we had
8 going in the early 1990s, wouldn't be economically viable either. So, there's
9 some give and take here. The compacts should be large enough so that it would
10 be viable and have enough waste there to support it.

11 Thus the end result of this economic, you know, paradigm, was that
12 neither economics could solve it or, you know, the political solution was left, you
13 know, unsolved, instead of encouraging sites to site a facility, like was done by
14 the federal government working with New Mexico to establish WHIP, we tried to
15 penalize the states and compacts into forming the compacts.

16 In the same manner, what's going to happen in Texas after a few
17 years? When they've recovered their start-up costs, are they going to follow the
18 way of South Carolina and Washington and close their borders to out-of compact
19 waste? Saying hey, you know, not in my backyard, you know? Only time will tell
20 here.

21 It is my belief that any changes to the Policy and Amendments Act
22 is currently a political non-starter. Some type of crisis will need to light the fuse
23 of action. And that fuse may be already lit though, with activities over the last
24 several years at Yucca Mountain, you know, the country will have to figure out
25 what it's going to do with its radioactive waste. And especially the high level

1 spent fuel.

2 Disposal options that are currently available in today's world.

3 Currently, all states have access to dispose of Class B and C waste, in fact, all
4 classes of waste, but at some price. The surcharges that Texas charges right
5 now, is making it rather tough for anything but a nuclear power plant.

6 Utah's facility, run by Energy Solutions, does provide Class A
7 disposal for states outside of the Rocky Mountain in Northwest compact and the
8 Atlantic compact.

9 And as I go back to talking a bit here, the nuclear power plants are
10 able to dispose of the waste. And they are the generators of a great majority of
11 the Class B and C waste in the country. And they're doing it simply because they
12 can pay the surcharges that Texas is now charging for out of compact access.
13 But that doesn't mean that the small generators, non-power plants can actually
14 do so.

15 In fact, my discussions with the brokers, who typically handle the
16 smaller generators, are saying is that unless the facility is trying to terminate its
17 license, you know, willing to pay whatever it takes to get rid of those final
18 sources, the small folks are not doing it. They're still storing it on site.

19 Just some numbers for you to think about. WCS in their first year
20 of operation disposed of 13,900 cubic feet of out of compact waste, totaling
21 127,000 curies of activity. Clearly indicates the nuclear power plants are their
22 primary source of revenue there. In compact waste, 3100 cubic feet, totaling 620
23 Curies. Other disposal options, Utah's license amendment allowing Energy
24 Solutions to actually dispose of Class A sources for a one year time period, is a
25 good start. The CRCPD is actually engaged in organizing this activity, and there

1 is about 3,200 sources in a Class A. And this is over just the size of the source.

2 Thermal treatment, as allowed under the Clean Air Act, you know,
3 they have a limit there, NESHAPS limit of 10 millirem. We have, for very low
4 level contaminated material, you have the ability to send it to some municipal
5 landfills in Tennessee. And then there's also the idea that we could send it to
6 RCRA Subtitle C landfills. Oh, boy I better hurry.

7 I just want to say thank you to the NRC for helping us out in the
8 BTP and the Part 61, the sited states were involved in this ever since probably
9 two years, maybe even longer than that, on calls as we were working through the
10 proposed language.

11 I'd like to finish up my time here with a Type B shipping casks.
12 These are casks that are necessary to basically move quantities of radioactive
13 materials that exceed the A1, A2 values. This was found in the NRC and DOT
14 regulations. Over the last several years, dating back into the 1990s, the cask
15 certificates have been slowly expiring. And although more casks were assumed
16 to be existing, according to the 2010 Radiations Source Protection Security Task
17 Force Report, these new approvals haven't materialized.

18 The Task Force also indicates that there's about 240 sources
19 totaling 93,000 curies that are out there needing to be moved or some other
20 short-term option. Current collection rate done by NNSA primarily is only 12 to
21 15 sources a year.

22 Respectfully, a risk-informed short-term solution already does exist.
23 Until a sufficient quantity of casks is in the market, we recommend that we simply
24 extend the casks that have been allowed to expire. The only performance issue
25 involved here would be, you know, basically paper work. It is a very small minute

1 risk that we would be taking, but we also have to balance that against the risk of
2 these high activity sources being out in the public domain. Some of these
3 sources, you know, are at licensee's facilities that don't have a lot of oversight
4 now.

5 I appreciate the Commission's time to allow me to talk on
6 radioactive waste issues in a climate so politically cold. With limited resources
7 and shoestring budgets, it is essential that the states partner with the NRC and
8 that we do things in lockstep. The states have the experience in RAD waste,
9 low-level RAD waste, and the NRC has the ability to bring in, from the 1980s, into
10 a risk-informed performance-based arena of today. Thank you very much for
11 your time, and I will take your questions.

12 CHAIRMAN MACFARLANE: Great, thank you guys very much. I'll
13 start off with the questions. I want to start off with Mr. Klinger.

14 JOSEPH KLINGER: [affirmative].

15 CHAIRMAN MACFARLANE: I appreciated your comments and I
16 think you hit an important topic, which is how to communicate effectively with the
17 public on a lot of these issues. And so, I've been thinking a little bit about how to
18 make some changes that would be helpful. So, I'd like to ask a couple questions.
19 First of all, do all states agree on the kind of communication that's needed? Do
20 you agree on what the original problem is?

21 JOSEPH KLINGER: Yes, I think so. I think it was just the
22 reassurance of the, the nature of the problem that we face back there. I know,
23 Washington, state of Washington, Earl had to deal with it initially, because it
24 started on the west coast and stuff. So, they were busy crafting a message, and
25 they were looking to the federal partners for guidance, and it seemed like the

1 feds were pointing fingers at each other because it didn't fit neatly into anybody's
2 area and stuff. So I think the message was finally developed by all the states.
3 And that was, sure there is some slight quantities of radioactive material. It
4 doesn't constitute any public health concern and just that reassurance. And so,
5 state by state did that. But I think what we're hoping for is something from the
6 federal government to say, you know, this is the message from the federal
7 government because this covers the entire country. That the same message,
8 you know, these are very, very low levels of radioactive material; there's no
9 reason for concern and we're monitoring this closely with our state partners.

10 That would be great. But we really didn't get that. And NARR
11 served a purpose to the, I think the CDC. They set up these, almost daily phone
12 for awhile and that helped because we're sharing information. So who's doing
13 what? What do you know about this? Because the information was sketchy and
14 stuff, but the environmental monitoring data was critical for us, especially you
15 guys first. And it generated a lot of news media interest. And I know a lot of
16 technical people, there's no big deal. It's nothing. And we knew that. But we
17 have to communicate that to the public and reassure them that we know what
18 we're doing and everything is safe and sound. And they can have trust in their
19 government, because there's all kinds of bad information floating around.

20 That's why we monitor the social media all the time. And my
21 nuclear safety program is embedded with the Emergency Management in Illinois,
22 so we deal with tornadoes and floods and everything else. And so we're used to
23 monitoring that social media and getting that information, crafting that message,
24 because if you don't somebody else will. And then you're in reactive mode. And
25 that's what we found ourselves in this; was reactive rather than proactive.

1 So I think we can all learn from this and be better in the future. But
2 finding a federal lead, I think, is the hardest thing. Whose area is this? And
3 whoever it is, you guys take the lead and we'll all follow you. Because we do it at
4 the state level all the time. We have all the different agencies.

5 CHAIRMAN MACFARLANE: Well, for environmental monitoring I
6 imagine it's partly EPA.

7 JOSEPH KLINGER: EPA. And even they were pointing fingers
8 elsewhere and stuff. So it just wasn't clear and I think just communication cross
9 the entire federal spectrum would help. And having a clear, single-voice
10 message would help. And we do it on individual states, but, gosh it sure would
11 be nice to see it on federal level.

12 CHAIRMAN MACFARLANE: Right, well I know that you in Illinois
13 have a radiation monitoring program yourselves. So you must have some
14 communication plan based on a --

15 JOSEPH KLINGER: -- definitely --

16 CHAIRMAN MACFARLANE: -- an accident that might be a model
17 for everybody else.

18 JOSEPH KLINGER: And it was really, kind of a missed opportunity
19 too. Because we had a power plant exercise addressed right when that was
20 happening. And the news media was everywhere. And they said, oh you just
21 planned this because of Fukushima? No, it's been in the works for years. But
22 we took advantage of it in that we communicated what we're doing and how
23 prepared we are for nuclear power plant exercises. And we monitor all those.
24 So there was a great opportunity because there was so much interest. We just
25 needed to have that uniform message out there earlier, I think.

1 CHAIRMAN MACFARLANE: Right, okay. Great, thanks. Mr.
2 Fordham -- so I'm of course very interested in the waste issue. And I, you know,
3 share frustration about low-level waste and the lack of a solution. But this has
4 been going on for decades.

5 EARL FORDHAM: Right.

6 CHAIRMAN MACFARLANE: People have been, somehow,
7 managing.

8 EARL FORDHAM: To a degree.

9 CHAIRMAN MACFARLANE: They've been managing. So, I guess
10 what I'm looking at is more suggestions for a solution. And I don't know NRC
11 could do -- and let's leave the shipping casks aside -- but if you have specific
12 suggestions, I'd be interested to hear them.

13 EARL FORDHAM: I can come up with, you know, a few there that
14 we encourage because Ward Valley was sidelined by the federal government.

15 CHAIRMAN MACFARLANE: [affirmative]

16 EARL FORDHAM: You know, and that was a --

17 CHAIRMAN MACFARLANE: -- well it was very political. Within the
18 state of California too, so...

19 EARL FORDHAM: As I recall, the Department of Health in
20 California was going to issue the license. But then the land transfer, actually, did
21 not occur. So that's why it stopped in its tracks. So I can't give you a good idea,
22 because I just say as each compact was supposed to move forward with a sited
23 facility and then actually bring it through characterization into operation. And
24 that's, you know, an issue that's still. You know, the law is there still. So, I
25 mean, you would need to go back and take a look at it again.

1 Now whether you just abolish the actual, you know, Amendments
2 Act --

3 CHAIRMAN MACFARLANE: [affirmative]

4 EARL FORDHAM: And then you would be fighting a couple of
5 other states. Primarily South Carolina, Washington, that do use the exclusive
6 authority provided under the Amendments Act, that allows them to say, "whoa,"
7 on that.

8 CHAIRMAN MACFARLANE: So what do states that don't, you
9 know, have a functioning compact, do? And you said that some of these, you
10 know, owners of this material -- they're not wealthy. So what do they do?

11 EARL FORDHAM: Right. Their storing onsite.

12 CHAIRMAN MACFARLANE: So it's all just piling up?

13 EARL FORDHAM: Right. Well, I mean there's several sources out
14 there that are awaiting shipment. And the NNSA, we had one in Washington, it
15 moved after 10 months. You know, you basically have to schedule these, you
16 know, Type B shipping casks out that far. Or you pay a humongous fee. One of
17 the quotes I got from a broker was, yeah you can get your casks in about two or
18 three months for two hundred thousand dollars. You know, for somebody who is
19 looking to go out of business, that's probably not in their bank account anymore.

20 JOSEPH KLINGER: There's something I'd like to add too.

21 Sources in long-term storage is a bad thing. Nothing, you know -- I would say
22 three things can happen and two of them are bad. We've got a situation with
23 Brachytherapy Sources. We had no disposal option, so there was no financial
24 incentive for them to get rid of them, so they stored them. And so they had them
25 stored in a safe at a hospital. And, the guy was paper shipping the inspections

1 and surveys. And so when the inspectors show up they say, oh where's your
2 sources? Oh, they're in the safe. He says, oh really let's go take a look at them.
3 Not only was the safe gone, the building was gone; it had been torn down. So 14
4 Brachytherapy Sources disappeared.

5 CHAIRMAN MACFARLANE: Where were they?

6 JOSEPH KLINGER: We think they went to the great state of
7 Indiana.

8 [laughter]

9 But it created quite a stir and controversy. And it's just, bad things
10 happen. So that's one of the programs we're very happy working with our federal
11 partners with. Seriously, the Scatter Program, is to provide that financial
12 incentive to get these sources out of storage. So...bad things happen.

13 [talking simultaneously]

14 Now there's many other examples --

15 CHAIRMAN MACFARLANE: -- that story --

16 [laughter]

17 We'll follow up that with staff [laughs].

18 Mike?

19 So one final question, as you guys look out and for anybody who
20 feels like jumping in on this one -- as you look at on the horizon, there are a
21 variety of emerging technologies out there. Are there any in the medical field or
22 elsewhere that present you particular concerns? In any areas?

23 JOSEPH KLINGER: Besides high level waste?

24 CHERYL ROGERS: I'll jump in a little bit here. So I would just say
25 what I've seen, just as an observation, what I've seen happening in the medical

1 community -- and I've been involved since about '82 -- is that they have evolved
2 quite a lot about how they treat. You know, it used to be, kind of, well just simply
3 speaking, they used to, you know, shoot for a large area and now they're toning it
4 down to very small areas and they're using their ability to image to better define
5 what they're shooting at.

6 And we maybe are a little bit far behind as far as what we call a
7 written directive or a prescription, is kind of out of date with what technology is
8 actually doing now. It's so much more precise. That the doctors sit down and
9 they look at, you know, the image and dodge the tissues or organs they don't
10 want to hit. And it's very precise. So they keep evolving and I'm not sure we
11 necessarily keep up. So, I'll just say that.

12 CHAIRMAN MACFARLANE: Okay. Interesting, anybody else?
13 No? Okay. Thank you, I'm going to turn it over to Commissioner Svinicki.

14 COMMISSIONER SVINICKI: Well good morning everyone and I
15 want to add my welcome to the Chairman's welcome. We're gathered here this
16 morning as a community of regulators to talk about our shared objectives and
17 goals. I wanted to begin with some commentary. I'll have a few questions. But
18 Cheryl, you said this may be your last appearance here, maybe you'll attend. But
19 sitting here as a presenter, I wanted to thank you. We've sat across the table
20 now, like this, for a few years.

21 But I want to thank you for your leadership on a lot of these issues
22 and your leadership in OAS. And I don't make this commentary because it's a
23 Wisconsin connection, but I began my career in state government; not with your
24 organization but with the Public Utility Commission, as staff in Wisconsin. And I
25 know that for state employees and agencies, it's really a juggling act and it takes

1 a lot of commitment on your part.

2 So I share this with the rest of the panel here. To take
3 organizational leadership, you have to do this while juggling all your other
4 responsibilities. State agencies don't have as many resources as other
5 organizations. So I think it's a real commitment. And I extend this to all of you,
6 that you, in addition to the important work that you do for your organizations,
7 that you're here with OAS and CRCPD. Thank you for your commitment. It
8 really goes above and beyond, so thank you for that.

9 I also wanted to make a commentary on a few other items in
10 response to the presentations that you gave. On the Type B packages, you
11 know, we've met like this for a few years in a row now. I think that the
12 Commission has expressed that we want to have some common sense, perhaps
13 continued use of Type B packages. The question becomes, how many years are
14 we going to sit and talk about further extending the use. Because I think we all
15 acknowledge, as a practical matter, the longer the old ones are permitted to be
16 used, it does kind of create this circumstance where, perhaps, the newer ones
17 are taking and not coming into the marketplace as quickly.

18 But Earl, all that being said, I agree with you and Joe as well; that
19 having things sit in storage are not optimal if things are waiting as much as a
20 year just to be shipped somewhere, where there could be, perhaps, more safely
21 and securely stored in a co-located manner, then we do need to balance those
22 two things. But again, as someone who sat here for a few years, keeps talking
23 about extending the use. And I just mentioned that I know you acknowledge that
24 as well. But that's another factor here, so we need to strike a balance in a
25 number of different ways.

1 I did want to mention on cumulative impacts, I appreciate that that
2 was a topic that you all decided to present to us today. This Commission, on our
3 side of the table, we've been focused on this. In our regulated community, we're
4 hearing a lot about it. And I think in the language that we directed the staff to
5 work with -- Agreement States and states -- explicitly on cumulative impact was a
6 unanimous acknowledgement on our side of the table, of the fact that this is
7 something if we're dealing with it, you must be dealing with it as regulators as
8 well.

9 I sometimes think, though, of Agreement States as, kind of, double-
10 impacted on cumulative impact. Because we have an impact on you as NRC
11 and then your licensees and those you regulate are impacted by the changes
12 that are promulgated forward. I know often you're having to modify and update if
13 you have incorporation by reference of NRC regulations or guidance. And I think
14 that the feedback you're giving us about the importance of how we then handle
15 cumulative impact then casts a shadow into your activities.

16 I think that's important for us to understand. Particularly, some of
17 the uniqueness where you either in some cases have to change state laws or do
18 other things. Those are not processes for you that turn on a dime. And if your
19 legislatures are anything like, you know, the national Congress, things don't tend
20 to be legislated as quickly as maybe they were in the past. And I was looking at
21 some of the statistics on the number of outstanding law or regulation changes for
22 the various Agreement States. And I know you're keenly interested in not
23 becoming backlogged on that matter, but you're also not entirely in control of the
24 process. So it's something for all of us to keep an eye on. But again, I
25 appreciate your acknowledgment of cumulative impacts from your side of the

1 table.

2 Training availability -- I appreciate, you know, that you're
3 expressing some gratitude and things like that there. But I know that everyone is
4 resource constrained. I did have a question about further use of computer based
5 training modules and things. I know even inside NRC we're trying to do a lot of
6 online training. Is that something that all of you are adopting, probably of
7 necessity in trying to make better use of? Also, maybe remote access to various
8 types of training?

9 [talking simultaneously]

10 No. Okay, I'm getting a mixed bag of answers here. I guess
11 probably the adoption of it is different agency by agency and state by state.

12 On the topic of national source tracking system or specifically, I
13 think the presentation was more focused on web-based licensing. I know that
14 there have been issues there in terms of software systems and I thought the
15 update that you provided was very helpful. It went a little bit state by state in the
16 adoption of some of the different tools and systems.

17 In the past we've talked, though, about the availability of licensees
18 to provide information by fax and then the data entry is done by others. Could
19 any of you speak to what you observe in the regulated community about adoption
20 of, you know, online transmitting of data? Or do you see that this dependency on
21 faxing information and doing the data entry, do you see that continuing more into
22 the future?

23 MELANIE RASMUSSEN: I think that our licensees in the state of
24 Iowa will embrace the online and not fall back to the fax.

25 COMMISSIONER SVINICKI: Okay.

1 MELANIE RASMUSSON: If I answered your question correctly --

2 COMMISSIONER SVINICKI: -- yes, yes I'm looking to --

3 MELANIE RASMUSSON: -- I believe that's the case.

4 COMMISSIONER SVINICKI: Because of course there's the
5 potential for data entry errors and various things -- the more people that have to
6 put their hands on the data.

7 MELANIE RASMUSSON: Right.

8 COMMISSIONER SVINICKI: I think we have, in the development
9 of the system, attempted to have some of the authentication and credentialing to
10 be simplified. I know at first it was a very cumbersome process. But I don't know
11 if any of the rest of you would like to comment just on how you see more of the
12 online tools -- the adoption of those and the use by licensees.

13 EARL FORDHAM: In Washington we are embracing that also. In
14 the REP community, we're actually looking at going into the RAD responder
15 world, which is all the way from data entry into a complete database in our report.
16 So it's one person entry. You would obviously need some sort of oversight to
17 make sure that a seven doesn't become a one or something like that. But, you
18 know, by all means. I go along with you that the more time's it's touched by a
19 human, the higher the probability of an error.

20 JOSEPH KLINGER: We're actually pursuing the RAD responder,
21 but we had to get iPhones -- did not work very well with Blackberry and stuff.
22 So...it's a neat tool, you just have to have the right phone.

23 COMMISSIONER SVINICKI: Okay, well I know that we'll continue
24 to face the challenges of compatibility, different types of compatibility in this case.

25 [laughter]

1 IT, But --

2 [laughter]

3 -- bringing all of these systems together. But I do feel like in the
4 years that I've met with you and talked about these issues is that we are seeing
5 progress. We just need to be realistic about the time it takes to have adoption of
6 some of these tools as fully as we might like them to be adopted.

7 And I wanted to comment that I appreciated the discussion about
8 communication. And Chairman Macfarlane engaged with you a little bit on that. I
9 appreciate your acknowledging that the event in Japan didn't fit neatly into
10 everyone's communication protocols because of the fact that it was not a
11 domestic event. And I think in a domestic event we will have access to
12 information. But I don't want to end like that, because that can sound like, kind
13 of, an excuse. Because I think that I've had a since that, oh, well certainly if it
14 were a domestic event it would proceed so much more smoothly.

15 But in the interest of being very candid and having an open
16 exchange here, I'll say that, you know, I need look no further than just an event --
17 a very tragic event that occurred at Arkansas Nuclear 1 just days ago. And I was
18 at the plant just weeks ago. So, again, all of our sympathies go out to the
19 employees and their families that were injured. And then in one very tragic case,
20 there was a fatality associated with this. But when I tell myself that we have, for
21 an event like this, such standard communications and we should have a well-
22 formed path to pursue. I was very surprised to read that at least one official in
23 the state of Arkansas provided to a concerned citizen -- well, you know they hear
24 nuclear so they're not sure what this event was; advised citizens to read, you
25 know, emergency protocol information they had about protective measures like

1 sheltering in place or evacuation. And while that's well informed, this was an
2 industrial. It was a horsing and rigging accident. And while well informed, that
3 advice was completely misinformed and misguided and I think created a sense of
4 concern. The citizenry, if they were confused over that, they were rightly
5 confused because that had no relevance to the event that happened.

6 So I appreciate that in the spirit of all of us being able to do better, I
7 think that we shouldn't get complacent or comfortable. That, oh, if it was an
8 event that we some recognition can occur. We would all handle it better because
9 I think we can all be studying these communications. And our highest obligation
10 is to alarm the citizenry appropriately and not inappropriately. So I appreciate
11 your beginning there and I will end with that.

12 Thank you.

13 CHAIRMAN MACFARLANE: Thanks, Commissioner Svinicki.
14 Commissioner Apostolakis

15 COMMISSIONER APOSTOLAKIS: Thank you, Madam Chairman.
16 Speaking of communications, Fukushima was, of course, an event in a foreign
17 country. And I'm wondering, the one before was in Chernobyl. Does anybody
18 remember or did we have similar problems of communication? And have we
19 taken action to fix them? And then when Fukushima hit, we found out they were
20 not good enough.

21 JOSEPH KLINGER: That's a really good comment and I think
22 that's why we keep bringing this up. Because I don't think, really, anything
23 changed over the years. It was the same, you know, that was back in
24 '86 --

25 COMMISSIONER APOSTOLAKIS: '86, yeah

1 MELANIE RASMUSSEN: But it's complicated by social media now
2 and the immediate communications that happen over the Internet and online.
3 And so I think that complicated, for us and the states, dealing with the public.
4 Because they weren't waiting to hear from us, they were hearing it and then
5 reaching out to us.

6 ALICE HAMILTON ROGERS: And our more tenured colleagues
7 tell us that during Chernobyl and also during the Nevada Test site times, that the
8 federal government would give us plume modeling and or estimates of what
9 kinds of levels that we could see over our states so that we were better prepared
10 to respond to these questions.

11 COMMISSIONER APOSTOLAKIS: Well my understanding is that
12 one of the reasons for the lack of communication and early confusion was, first,
13 well two, we ourselves here, the federal government didn't really know what was
14 happening in Japan. And communication with the Japanese authorities was not
15 perfect. And the second, of course, is that it's a foreign country. There's
16 sensitivities as to what we can say and can't say. And some of the documents
17 that had information and that were issued by the federal government were OUOs
18 -- official use only. So two questions: one is -- has there been any action to do
19 something about those OUOs and maybe be shared with you? I don't know.

20 ALICE HAMILTON ROGERS: Well not that we know of. But we
21 definitely have a need to know. We're definitely officials and most of us have
22 security clearances. So the fact that information was not shared with us is a little
23 baffling.

24 COMMISSIONER APOSTOLAKIS: Okay, and then, Mr. Klinger
25 you mentioned the need for a tabletop exercise.

1 JOSEPH KLINGER: Yeah.

2 COMMISSIONER APOSTOLAKIS: I would like to understand how
3 these issues would be handled in that exercise. I mean there's extreme
4 uncertainty, it's a foreign country.

5 JOSEPH KLINGER: And I was thinking more of a, you know,
6 we've had those other ones, too. The pet bowls are pretty innocuous but yet,
7 that's where the real confusion is. Who's the lead on that? Is it Customs and
8 Border protection? Is it, you know DHS? Who is the lead? So maybe a tabletop
9 on a wide variety of possibilities and see how -- it just would generate good, I
10 think healthy discussions amongst the federal partners to say, okay, in that one
11 we would take the lead and we would expect you to help us in that -- just trying to
12 figure out who the lead is on some of these unusual things.

13 The pet bowls and the contaminated tissue boxes is like, well, it's
14 no big deal. But it is a big deal to the states because, you know, every state had
15 to handle it differently. And so if the federal parties could work it out and then
16 come out with something to the media on a national level, and then say, the
17 states affected are these states and they're working to issue and contact them if
18 you have additional, specific questions.

19 So I guess trying to determine who's the lead and have a variety of
20 scenarios to just generate some thought on how we can do a better job in the
21 future.

22 EARL FORDHAM: Commission, if I can add a little bit to that. It
23 seems that any potential lead federal agency tend to changes with time here, too.
24 Back in the early '90s, there was contaminated steel fencing rod that made it in
25 from India and it was discovered out at Hanford. And the NRC ran with that one.

1 Here we were saying, is it Customs or Border Patrol? Or is EPA that runs with
2 it? Well, back then it was the NRC that coordinated the nation, looking at going
3 to fencing yards.

4 I'm not sure how, because obviously it didn't involve a licensee.
5 But they were the ones we notified the operations center and they notified the
6 other states to take a look at the fencing distributors in their state, looking for a
7 particular type of tension rod that ended up being contaminated in Washington.
8 They did find it in Louisiana and California, too.

9 COMMISSIONER APOSTOLAKIS: So, I understand then, the
10 main purpose of this exercise would be to see how a coordination can occur
11 among the agencies. But it doesn't deal with the issue of uncertainty.

12 Speaking of uncertainty, I mean you -- ladies and gentleman -- deal
13 with the public. Well we do too, but how does it go over when you say, I don't
14 know. What's happening in Fukushima? We don't know.

15 EARL FORDHAM: I say I don't know, I'll get back to you.

16 COMMISSIONER APOSTOLAKIS: So, I don't know period; I'll get
17 back to you.

18 EARL FORDHAM: No, you don't say that part. I'll still get back to
19 you.

20 JOSEPH KLINGER: You can say it, but that's why I always work
21 my public affairs people. They'll say, "We're monitoring the situation very closely,
22 we've got people on the ground, we're doing everything we can, as soon as we
23 get credible information we'll share that with you," and stuff. But that's all you
24 can say.

25 COMMISSIONER APOSTOLAKIS: So, you can't say you don't

1 know.

2 JOSEPH KLINGER: You can say it, maybe in a little different way.

3 And still, say it. But say it in a way that's as genuine and more palatable to the

4 public, I think.

5 COMMISSIONER APOSTOLAKIS: Because when I was a

6 graduate student at Cal Tech, a very famous physicist said that, "It's infinitely

7 better to say, I don't know, than to try to give a half assed answer."

8 [laughter]

9 That doesn't apply here. Okay, thank you Madam Chairman.

10 CHAIRMAN MACFARLANE: Commissioner Ostendorff.

11 COMMISSIONER OSTENDORFF: That's hard to follow.

12 [laughter]

13 Just for the record, Commissioner Apostolakis was trying to

14 supplement Commissioner Svinicki's inventory of nuclear jokes in the waiting

15 room before this meeting.

16 [laughter]

17 We won't divulge those --

18 COMMISSIONER SVINICKI: -- He didn't make the cut, sorry...

19 COMMISSIONER OSTENDORFF: I want to add my thanks to that

20 of my colleagues for being here today. I think it's really important that we have

21 our ongoing opportunity to hear and exchange views and hear what are areas of

22 concern.

23 I want to go back to the topic that all my colleagues have

24 addressed. It's the communications issue that, Joe, you started out with. And

25 it's my understanding and I'm going to ask Mike Webber or Mark Dapas to

1 correct me if I have this wrong, you can go to podium if you think you need to.
2 But it's my understanding that a little over a year ago the NRC led by NSIR
3 provided lessons learned back into the United States government interagency
4 process and lessons learned from Fukushima. Those issues are still being
5 worked as to who is the lead agency in the U.S. government for an international
6 event. It has not been sorted out -- it's my understanding, yet. But I know that at
7 the right time, that our staff will share it will OAS, CRCPD, the outcomes of those
8 discussions.

9 And Mark, do you want to add anything to that?

10 MARK DAPAS: Yeah, thank you Commissioner. One of the
11 responses to the lessons learned is the National Security Staff has asked the
12 Department of Energy to work with various interagencies: Department of
13 Homeland Security; Health and Human Services, EPA and the NRC to identify
14 best practices for coordination and communication. And then another thing that's
15 come out of the lessons learned is an initiative to develop a Presidential policy
16 directive to talk about coordination if there were an international event. And
17 we're involved in that.

18 And that was recognition that there wasn't any type of incident
19 response annex to deal with an international event. So that PPD would fill in the
20 gap and that would contain communication protocols and standards. And the
21 plan is to then share that with the states, as I understand it, and get their
22 perspective by working through the interagency process, the PPD process.

23 COMMISSIONER OSTENDORFF: The document I saw before this
24 meeting was sensitive OUO draft document, so it's not finalized yet. But I know
25 that Mark and Mike and others will get back with y'all at the right time on this.

1 But I think, though, it's not happening very quickly it is happening.

2 JOSEPH KLINGER: That's great news.

3 COMMISSIONER OSTENDORFF: I wanted to follow-up on, Joe,
4 your comment about your work with the National Alliance for Radiation
5 Readiness, NARR. Is there any significant revelation you've had in that
6 relationship that has shed light on a better way of communicating or talking about
7 things that you had not previously thought about? Or that might inform to NRC
8 as to how we talk to our constituencies?

9 JOSEPH KLINGER: So far, it seems like the best thing is it's kind
10 of a one stop shop. Everybody gets together and they put resources out on their
11 websites and there's toolkits and things like that. That seems to be the best thing
12 now -- there's an annual meeting coming up later on this month with a table top,
13 that should be very telling to see how much value added there is with the NARR,
14 and stuff. I'm optimistic about it but it's still kind of a new group and so I think it's
15 got a lot of potential to help out and maybe using NARR will help facilitate the
16 effort that you just mentioned here, once you decide who the coordinator is in the
17 event, maybe working with the NARR to get that information out as another place
18 to put information out there to share with all the people because local public
19 health agencies and first responders, they're getting more accustomed to the
20 NARR site so they can go there, it would just be another resource out there to
21 help get that uniform message out on a federal level.

22 COMMISSIONER OSTENDORFF: Okay, let me follow up and stay
23 on the same topic but shift to Earl now.

24 JOSEPH KLINGER: Okay.

25 COMMISSIONER OSTENDORFF: Southeastern Washington with

1 the Hanford site and obviously you have a lot of experience there and
2 Commissioner Svinicki and I made a trip out there a number of years ago when
3 we were working on these issues from the Armed Services Committee
4 perspective, waste treatment plant, leaking tanks, Columbia River, lots of issues
5 that are now issues we deal with at the NRC and do you see any practices
6 occurring with how those issues were discussed at Hanford that might better
7 inform how we at the NRC deal with our public messaging?

8 EARL FORDHAM: I think you've got a pretty good, you know,
9 protocols here engaging the stakeholders. Were there some of us that were very
10 suspicious on the timing of these announcements about the leaking tanks? But
11 generally Hanford has an advisory board, a FACA board --

12 COMMISSIONER OSTENDORFF: [affirmative]

13 EARL FORDHAM: -- so that is actually entailed and entwined in
14 the operations there with the chair meeting routinely with the managers of DOE
15 offices there and so there is a lot of emails, tweets, Facebook, endeavors that
16 they are trying to reach out to folks. We still run into the issue though with some
17 of our more serious stakeholders that they need time to, you know, get the
18 message out to their constituents, so there's a requirement in our
19 communications plans out there that 30 days, you know, at least 30 days' notice,
20 so perhaps that I don't ever see -- a few times that I've noticed that some things
21 come out of the NRC with only a week or two but that's generally not the rules.

22 COMMISSIONER OSTENDORFF: Okay, thank you. Melanie, I
23 have a comment on your presentation that I just wanted to add my comments to
24 those of Commissioner Svinicki -- I think that when you are talking about the
25 cumulative effects of regulation that also the subsequent slides that dealt with

1 rulemaking steering committee and the working groups, I think that those efforts
2 are absolutely essential for us as a regulator to understand what it requires on
3 the execution end to make things happen, so I just want to applaud but also
4 encourage continued feedback to our staff as to what is it actually taking to
5 implement -- certainly in times of budgetary constraints, various rules and
6 regulations et cetera so that we understand and have full situational awareness,
7 so thank you for raising that point.

8 MELANIE RASMUSSEN: Thank you.

9 COMMISSIONER OSTENDORFF: Alice, since we have our Texas
10 connection in our backgrounds, I wanted to ask you a question here on your
11 comments, you made a comment that I was thinking about, I didn't necessarily
12 understand what you were referring to, I believe it was an IMPEP and I think you
13 made a comment about being stumped about what is broken, could you amplify
14 that just a bit?

15 ALICE HAMILTON ROGERS: I can, in your Staff Requirements
16 Memo, SECY-12-0112, you all said that as a separate matter the staff should
17 engage Agreement States to develop a recommendation to look at a
18 performance based approach that would not rely on a requirement to adopt
19 within three years from the effective date; and I was trying to look at the IMPEP
20 processes in a bigger picture then to get down into the weeds because there are
21 a lot of weeds that we can get into here. Just to say that the IMPEP process
22 right now seems to really be working, at least from our perspective and like I said
23 before being from a state that was in heightened oversight, having you all declare
24 that got a lot of attention to our program and a lot of resources to our program
25 that we would not have probably received otherwise.

1 COMMISSIONER OSTENDORFF: Okay.

2 ALICE HAMILTON ROGERS: So does that answer your question?

3 COMMISSIONER OSTENDORFF: Yes, that was helpful. Thank
4 you. Now let me stay with you Alice on the topic of compatibility --

5 ALICE HAMILTON ROGERS: [affirmative]

6 Commissioner Ostendorff: And I understand that from time to time
7 that the definition or application of transboundary effects becomes problematic,
8 can you provide from your perspective perhaps one -- or anybody else can add in
9 here, a key example where the transboundary issue is of concern to CRCPD or
10 OAS?

11 ALICE HAMILTON ROGERS: I'm going to look at my colleague --

12 COMMISSIONER OSTENDORFF: Anybody who wants to --

13 ANNETTE VIETTI-COOK: See if anybody has got a quick answer
14 to that?

15 CHERYL ROGERS: Well I can try the transboundary issue --

16 COMMISSIONER OSTENDORFF: We hear that the definition of
17 transboundary has been, you know, an area of concern or an area that requires a
18 lot of precision or at least some flexibility maybe, I don't know.

19 CHERYL ROGERS: That's kind of the flip side of flexibility and
20 what we kind of feel like is that maybe it wasn't well defined, there's like one
21 sentence about considering transboundary issues and transboundary issues will
22 get you to a B and we would prefer for the most part to have the C requirement
23 which still says that we're going to have the same requirements as you all but we
24 could be more restrictive. So we encourage you to when you are asked to look
25 at compatibility, if somebody says transboundary issue that you probe it a little

1 deeper because I think from our perspective that gets bandied about quite a bit
2 as a way to -- can we just make it uniform across the states? What's the big
3 deal? Why can't we just make it all the same? We'll invoke transboundary
4 issues, the last big discussion on that was probably the general license rule.

5 COMMISSIONER OSTENDORFF: Okay, does anybody else want
6 to add something to add that?

7 MELANIE RASMUSSEN: Good job.

8 COMMISSIONER OSTENDORFF: Okay, thank you Cheryl. Thank
9 you all for being here and thank you Chairman.

10 CHAIRMAN MCFARLANE: Okay, let me just check and see if my
11 colleagues have further questions?

12 COMMISSIONER APOSTOLAKIS: Yes, I do.

13 CHAIRMAN MCFARLANE: Commissioner Apostolakis.

14 COMMISSIONER APOSTOLAKIS: The words risk informed
15 performance based regulation was mentioned or was mentioned several times. I
16 do understand what they mean in the reactor arena, I would like some
17 clarification as to what they mean to you?

18 EARL FORDHAM: Risk informed to me, means that you've at least
19 taken a look at what are the risks involved in whatever the endeavor is that you
20 are looking at. And in a performance based world, you want to make sure that
21 you are not setting somebody up to fail by being so prescriptive in your
22 requirements that the job doesn't get done or gets done wrong. So you want to
23 be and you know folded into this is safety culture too, so you want to have a
24 performance based approach that is safe and risk informed by looking at where
25 can I go wrong and what are the probabilities of that happening? What are the

1 results of that?

2 COMMISSIONER APOSTOLAKIS: I mean this is fine at the high
3 level but when we talk about say medical applications of radioactive materials,
4 would these terms still be relevant? Are we doing --

5 EARL FORDHAM: I will refer to my colleagues here because I
6 have not done medical inspections.

7 MELANIE RASMUSSEN: I think that they are still relevant but on a
8 smaller level because a lot of the medical isotopes that we use are short half-
9 lives and you know they are going to decay faster and so the risk if you can
10 isolate the risk is less and there are many different ways to do that but I do think
11 there's still -- it still is -- what's the word? it still matters and we can still use it.

12 COMMISSIONER APOSTOLAKIS: Would there be less oversight?

13 MELANIE RASMUSSEN: No, not less oversight just maybe
14 tweaking it a little bit to customized, the risk with the medical isotopes, the risk is
15 there, that it's a smaller -- not necessarily smaller risk on a scale, it's just quicker,
16 it's going to be gone sooner.

17 CHERYL ROGERS: Let me dive in here, so to me risk informed
18 means -- in the medical world, means maybe we can make -- we actually in
19 Wisconsin, we keep all our medicals at a priority three but I believe for diagnostic
20 in NRC space it's a five, a priority five, meaning that every five years you go in
21 and inspect. So I think the understanding is that we're not going to worry as
22 much as Melanie was saying about the diagnostic applications because that is
23 the short lived isotopes, when you get into therapy then you're using cesium well
24 not cesium anymore but iridium or cobalt or something like that, now you have
25 not only a risk to the patient, a risk to the workers and now we have a security

1 risk, so there are more risks as you move up the ladder into the therapy
2 applications.

3 COMMISSIONER APOSTOLAKIS: But all these considerations
4 are taking into account in a qualitative sort of way subjective heightened
5 judgment.

6 CHERYL ROGERS: I think that --

7 MELANIE RASMUSSEN: No, I don't think it's subjective.

8 CHERYL ROGERS: I think its qualitative in the sense that for
9 example the high dose remote after loaders in NRC space have a two year
10 inspection frequency and in Wisconsin we try to do them annually and so I think
11 that's qualitative, we have adjusted how we do our inspections, so if a program
12 has both HDR and a standard medical program that we'll go out every year for
13 the HDR and then every third we'll do the medical component unless they're
14 having problems. So the performance based aspect to me comes in when you
15 encounter a licensee that's in trouble and then you change to address that.

16 COMMISSIONER APOSTOLAKIS: Mr. Fordham, you mentioned
17 the compact, how does risk informed performance base come into that?

18 EARL FORDHAM: The compact structure has failed -- has failed, I
19 mean I don't think that we can bring the risk informed nature of it unless you bring
20 in economic risk and actual performance risk of the particular site, the fact that
21 we've only got four operating sites in a single compact is more of an economic
22 driver, you know, so the economic risk is there and they tend to be cited in areas
23 that are challenging so the performance basis of it and I think the NRC in some
24 of its earlier documentations has indicated that dry climate, you know a desert
25 environment would be more -- is better than you know a wet climate obviously

1 because it would, you know, the water drives the radionuclides to groundwater
2 and causes the exposure of the public. To be risk informed there and it's, you
3 know, very challenging because so far it's been driven by economics.

4 COMMISSIONER APOSTOLAKIS: I'm not quite sure that I follow
5 that but thank you.

6 CHAIRMAN MACFARLANE: Commissioner Svinicki.

7 COMMISSIONER SVINICKI: I just have one quick comment, now
8 that Alice very helpfully read the language regarding the IMPEP and
9 reacquainted me with what that was, I will just say that the words mean what they
10 mean but there is mention there of the three year requirement for action and I
11 think to interpret the Commission's direction to the staff to be a wholesale
12 reevaluation of IMPEP, I think is reading more into that language than is there
13 and I think that it mentions the three year requirement, I think that it arises from
14 that issue specifically, so I just wanted to get my individual view of what that
15 language -- what the genesis of it was.

16 ALICE HAMILTON ROGERS: So your primary focus is on the
17 rulemaking?

18 COMMISSIONER SVINICKI: That's what's specifically cited in
19 there, thank you.

20 ALICE HAMILTON ROGERS: Thank you.

21 CHAIRMAN MACFARLANE: Okay, all right, thank you. Thank you
22 all very much for your presentations and for your very helpful discussion this
23 morning. I certainly got a lot out of it myself, I think it's very important to us as a
24 Commission to continue to work with you all as partners, to make sure that
25 nuclear materials in the U.S. remain safe and secure. So I think that these

- 1 meetings are very important and I look forward to the one next year. So thank
- 2 you very much and the meeting is now adjourned.
- 3 [Whereupon, the proceedings were concluded]