UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

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

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PUBLIC MEETING

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THURSDAY

APRIL 10, 2014

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ROCKVILLE, MARYLAND

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The Commission met in the Commissioners= Conference Room, Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, at 9:00 a.m., Allison M. Macfarlane, Chairman, presiding.

COMMISSION MEMBERS:

ALLISON M. MACFARLANE, Chairman

KRISTINE L. SVINICKI, Commissioner

GEORGE APOSTOLAKIS, Commissioner

WILLIAM D. MAGWOOD, IV, Commissioner

WILLIAM C. OSTENDORFF, Commissioner

PRESENTERS:

EARL FORDHAM, CRCPD

ALAN JACOBSON, OAS

JOSEPH KLINGER, CRCPD

MICHAEL SNEE, CRCPD

MIKE WELLING, OAS

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

CHAIRMAN MACFARLANE: Welcome. I=d like to welcome everyone here to our annual meeting with the Organization of Agreement States and the Conference of Radiation Control Program Directors.

I want to thank all the Panelists for traveling here this morning, to -- and we provided nice weather for you today. I hope you will notice -- to provide your perspectives. It=s a -- this means a good opportunity to discuss topics that are relevant and important to our mutual efforts to insure the safety and security of radioactive materials in the United States.

With over 86 percent of the nation=s radioactive materials licensees being licensed and inspected by the Agreement States, it=s imperative that we continue to strengthen our partnership as it relates to regulator controls and oversight of radioactive materials in the country.

I=d also like to take this opportunity to commend the Agreement States= leadership and work on various active working groups related to rulemaking, guidance development and policy development. The regulatory process of course benefits from your continued participation.

So we have a full agenda this morning. And many important topics to cover. So I ask that you be mindful of the time and keep to your seven minutes. And let me see if any of my fellow Commissioners has any comments? No? Okay, great.

So I will start off then by introducing Mr. Mike Welling

who is the Chairperson of the Organization of Agreement States. I=ll turn it over to you.

MR. WELLING: Madam Chair, Commissioners, thank you for the opportunity to present on behalf of the Organization of Agreement States. I=d like to discuss with you several topics in the regulatory area -- arena, concerning 10 CFR Part 37, security and 10 CFR Part 35, medical and reports regarding these topics.

10 CFR Part 37 regulations were enacted in 2013 after several years in the rulemaking process. OAS thanks the NRC for inviting us to be involved in development of Part 37 from the beginning, including us in numerous working groups and meetings that occurred during those years.

In particular, OAS was involved in the Part 37 working groups in 2008 which met numerous times over those years, and completed its task in 2012. Many issues and concerns were raised and discussed. And OAS was thankful that most of these were addressed.

We look forward to implementing State equivalent regulations to Part 37 in the next two years. And continuing discussions with the NRC on improving security of Category 1 and 2 quantities of radioactive materials.

Regarding Part 35, deliberations and changes to 10 CFR Part 35, began in 2011. The OAS is represented on the Part 35 working groups, the Advisory Committee on the Medical Use of Isotopes or ACMUI, and the standing committee on Compatibility.

The OAS has provided many comments and

suggestions through these avenues. The OAS remains concerned that the Commission has recommended a designation of Compatibility B for 10 CFR 35.3045, medical event reporting definition.

The OAS wholeheartedly disagrees with this determination. It does not understand how this can be considered a trans-boundary issue deserving Compatibility B designation since a medical event is a single event affecting a patient who=s treatment occurred at a fixed location.

The SEC recommended on March 27, 2013 that the NRC retain the existing Compatibility C designation for the medical event definition. And OAS also made the same comment in our comment letter dated February 28, 2013.

Lastly, I=d like to touch on reports regarding the security of sources. In 2012, the GAO released a report concerning the security of radiological sources at U.S. medical facilities. In this report the GAO information was in places inaccurate and did not include mitigating information in situations where GAO concluded there was poor security.

Currently, the GAO is preparing a report regarding security of industrial sources. And OAS urges the NRC to insure the GAO industrial report contains accurate information and statistical data and relevant information when discussing perceived security risks.

Additionally, last month the Low-Level Waste Forum released a report titled Report of Disuse Sources Working Group. This report faulted the NRC and OAS for several failures including having insufficient regulatory controls and adequate source tracking systems.

The OAS is recommending that NRC provide a response to the NNSA GTRI as this report was funded by them regarding the Low-Level Waste Forum Report.

Lastly, I thank you for this opportunity and I=d like to turn it over to Alan Jacobson, our OAS past chair.

MR. JACOBSON: Good morning. Thank you for the opportunity to present on behalf of the Organization of Agreement States. I=d like to discuss the policy statement on adequacy and compatibility.

The Agreement States were engaged often and early in the development process. The working groups should be commended for their service. At this point, we remain both concerned and optimistic with respect to the Compatibility B requirements and how they are applied in certain instances.

The public meetings on the policy statement went well. I want to take this opportunity to express our appreciation for the session held in August, 2013 at our annual Organization of Agreement States meeting.

The information and spirited discussion provided benefits to the process. From these meetings, we collected a general consensus and agreement among the States.

The Agreement State programs are not necessarily organized and managed like the NRC. Nor can we, since each State operates differently than the federal government. Our operations are directed and influenced by a different set of work processes, business lines and stakeholders.

For over 50 years, protecting radiological health and safety of our workers and members of our public has been the primary goal of the Agreement State programs. And will continue in the future.

We support the NRC=s mission to insure safety and security. We acknowledge that regulation is the correct method for implementing the measures necessary to improve health, safety and security.

The NRC specifically requested comments on alternative versions of wording regarding the types of program elements that will be assigned a Compatibility B designation as well as how limited in number these will be. The consensus among the States is that the original text from the 1997 document should be retained.

In part the text read, the Commission will minimize the number of NRC requirements that the Agreement State will need to adopt an identical manner to maintain compatibility. Our expectation is that these requirements would be limited, assigned when necessary, allowing the Agreement States to implement the NRC requirements and minimize adverse impact on our constituents.

The States agree that health, safety and security, instead of economic factors should be the primary consideration for determining Compatibility B. Conceivably, each Agreement State=s legislature is the proper authority to set these economic limitations.

We feel that the current criteria for determining adequacy should remain intact. The Agreement States have demonstrated for decades that a performance based approach to adequacy, using flexibility to be more stringent, does not compromise

health, safety and security.

The States also support a performance based approach in determining compatibility of an Agreement State program. Agreement State programs should be given the flexibility when addressing the majority of the program elements.

State programs need to have the flexibility to impose regulations on facilities with specific risks. And the ability to govern without imposing an unnecessary regulatory burden.

Our vision of the regulatory future consists of a framework where the Compatibility B concept is understood by all. And Compatibility B requirements are only implemented when actually necessary.

As Agreement States, our goal is to work with the NRC to craft effective regulations that pass the test of time, where revisions and modifications are not often needed. Thereby providing further benefits to our stakeholders, the general public, medical arts, the environment and future generations. Thank you.

Our next speaker is my distinguished colleague from the State of Illinois. The Assistant Director of their Emergency Management Agency, and Chair of the Conference of Radiation Control Program Directors, Joe Klinger.

MR. KLINGER: All right. Thank you Alan. Good morning. It=s a pleasure to be back here.

Last year I discussed the federal coordination in communication, for instances such as Fukushima, the contaminated Kleenex boxes and the pet bowls and all that. And the problems that

we had.

Since last year=s brief, we appreciate the ongoing NRC efforts to several things that have been ongoing that I=ve learned about as far as clarifying roles and responsibilities in the International CBRN Response Protocol, the closely appearing gap for international events and the national response framework, the efforts of the FRPCC subgroup on updating the Nuclear/Radiological Annex, and their commitment to solicit State and local input as they proceed.

And the plan for the NRC Ops Center, with a dedicated person to provide updated information to the RSLOs during events. And the commitment that the information will be provided to all the States, not only in an infected area, but all the States.

These are excellent efforts and I would now like to highlight some of the ongoing efforts of the CRCPD in this regard. So we=ve been busy too.

Last year I mentioned the E43 Committee for inter-agency environmental data sharing and communication chaired by Dr. Adela Salame-Alfie out of New York. And I butchered her name last year, and I did it again. Sorry about that Adela.

So she=s the chair, and with members from New Jersey, Washington, Illinois and LA Counties. So you see we=ve got States and counties and everybody. The Federal Partners Service resource individuals to this very important working group.

Now we=re using the FEMA Rad Responder web based system as a platform for data sharing. I don=t know if you=re familiar with that, but we can describe that later.

Currently, Rad Responder has 1,582 responders involving 474 organizations nationwide that are signed up into the system. For example, in Illinois, there is 16 entities including my agency. With Rad Responder, it counts and capable of sharing quality data using readily available technology such as the I-Phone. We can take readings out there, exposed readings, input it on the Iphone.

E43 is currently conducting a pilot project with eight States. They are only inputting radiation exposure readings thus far, but eventually will include laboratory analysis and other environmental data.

E43 is trying to finalize governing policies regarding when is the info shared, how we share, where the policies reside and Adela will provide an update at the annual meeting in May, which Commissioner Ostendorff, you=ve agreed to speak at. So thank you very much. That=s in Atlanta.

E43 is busy as we speak in fact. There=s an INREP conference going on right now in Salt Lake City. And we had a rad responder training exercise on Monday and a breakout session just yesterday on training. So a lot of people are getting involved in this.

The challenges ahead involve the rad responder ready concept, as the setting standards to become a rad responder ready entity. For example, that entity needs to satisfy various training requirements, have equipment, the responder info and training on the system. We want to make sure that data is quality data that can be shared, and things like that.

So they=re busy working on that. And E43 will also

investigate integrating with non-government entities by the end of 2016. And investigate integrating dose assessment tools such as RASCAL and TurboFRMAC.

And finally, E43 will then prepare and present a white paper addressing the entire program at the 2017 CRCPD Annual Conference which happens to be in Scottsdale, Arizona. So please join us if you can in 2017.

Another effort began early this year. CRCPD created the E44 Task Force. And this is to develop a radiological health and safety protocol for orphan sources and radioactive commodities detected upon entry to the USA.

The Chair is Patricia Gardner from New Jersey. We=re very happy to have her as a Chair. And we have members from New York, Pennsylvania, New Hampshire and Tennessee supported by all the federal partners with resource individuals and advisors from industry, including Dr. Roy Parker, who is a consultant for FedEx and Ray Turner from ISRI, who=s -- he=s a legend with the orphan sources program.

Pat has already organized the conference call. And it=s kind of like herding cats with so many people involved. But that=s very important. She=s already had that happen. And she=s already got a webinar scheduled later this month with Customs and Border Protection. A very good place to start the effort.

The working group charges are to review a whole lot of things. All the information, all the NRC, EPA, DOE, CRCPD suggested state rules for control of radioactive materials. Any

guidance documents, all federal partners and IAEA protocols for response to orphan sources and rad commodities. And to review the NRC=s NMED database and recent cases of discovered radioactive commodities.

Then they will determine essential rad controls needed to protect public workers, the public and workers in environment during the immediate response to orphan sources and radioactive commodities discovered in commerce and/or entry to the United States borders. And determine the appropriate domestic and international notifications and time lines for such discoveries.

And finally, what they=re going to do is develop protocols. This will be the out product here for use by the federal government and States when responding to orphan sources and radiological commodities discovered in commerce and/or at entry to U.S. borders.

So it=s a very ambitious initiative, but they are active and working as hard as they can and working with the -- with our partners. Now are we where we want to be at this point? No. But we are progressing. And that=s a very positive thing. And how do we do that? We do that through coordination, communication and collaboration with the whole-community concept. So a lot of good positive things going on.

Now, on a related matter, we appreciate the continued funding by NRC of the National Orphan Source Program, which is administered through the CRCPD. This program was implemented in October, 2001 right after the attacks. And has effectively dispositioned

448 sealed sources from 22 States. This is an ongoing program. So we appreciate it.

And finally, CRCPD SCATR program, the Source Collection and Threat Reduction program, by working in the funding that=s received by DOE=s GTRI NNSA, and working with the DOE offsite recovery program, continues to make considerable progress in facilitating the disposal of unwanted sources.

Since the initial pilot program in Florida in 2008 when we dispositioned over 2500 sources, the program continued in 14 sited States and dispositioned approximately 5400 additional sources until May, 2012 when Texas and Vermont became sited States, NWCS opened up their waste site in Texas.

In 2013, after receiving approval for one year disposal opportunity for Class A Sealed Sources at the Energy Solutions site in Utah, CRCPD SCATR program then launched a new pilot program involving four states, Illinois, Indiana, Ohio and New York, which resulted in over 2400 sources, including 843 Class B and C waste sources.

So this is a really good progression that has happened in this arena. And since the pilot, an additional 4400 sealed sources of which 1341 are Class B and C waste have been dispositioned.

We greatly appreciate DOE=s assistance in dispositioning 10s of thousands of these sources throughout the country. From Class A sources all the way to greater than Class C.

So next on the agenda, to discuss training issues is the current CRCPD Chair-Elect, who will take over from me in Atlanta in

May. He=s also the Director of the Ohio Radiation Control Program. Mike Snee.

MR. SNEE: Thank you. Good morning. I think my colleagues, since I=m the new guy on CRCPD gave me perhaps the easiest topic to discuss because it=s all good news. But it=s something that=s crucial to the ongoing success of the Agreement State programs. And that=s the training of our personnel, our materials inspectors, our license reviewers.

About three or four weeks ago, the NRC sent out to the Agreement States, your draft strategic plan for comment and other people of course. And there were two parts to that that jumped out at me.

The first was identified as a future challenge, which read the continued challenges of the demographics experience and knowledge of the work force. And the second being a key management objective which was maintain qualified staff and close skill gaps in mission-critical objectives.

Every State could have those same things in their plans and probably should have those same things. It=s crucial. It=s crucial for us to have that to insure our success. At this briefing last year, our colleague Cheryl Rogers from Wisconsin, who was representing OAS reported to you of a survey that was done that identified 142 State personnel who needed the two medical courses that you provide.

At least by my rough count on your website, since the briefing last year, there=s been seven medical classes held with over

90 Agreement State personnel invited to those classes. And we thank you for that. And overall, since this briefing last year, close to 600 Agreement State personnel have been invited to NRC sponsored classes.

Now having just pointed out that level of support that you provide us, I=m now going to come across as a little bit greedy. We=re going to ask you to please continue that level of support. It=s critical for our staff to get trained. It=s hard for States to support that level of training as you know. Some of the training, what the NRC provides, it just isn=t provided anywhere else. It=s one of a kind type training.

All five of us sitting here at the table this morning, I think can assure you that this training that you provide is paying dividends and will continue to pay dividends for all the Agreement States and for the country. And again, we thank you for it, but we do ask to please continue to support as much as you can going in the future.

Although we realize that it=s time to really just start discussions on different avenues of providing that training, internet based and perhaps to reduce the cost to all. And we=ll be happy to work with the NRC to come up with ideas on that and find out how best to do that.

Thank you. Next up, our past Chair from CRCPD, from the State of Washington, Earl Fordham.

MR. FORDHAM: Good morning Chairman and Commissioners. I would like to take this opportunity to update you on

the States' response to your Staff Requirement Memo on Part 61, on the changes that you=re going to undertake in the arena of low-level radioactive waste.

Kind of as a backdrop, in my previous life, I think most of you know I spent at least 12 years as a resident inspector at the disposal facility out in Washington. And as Deputy Director, I continue to oversee that part of the State of Washington=s program.

I would like to thank you and your staff for all the work they have done on Part 61. As Commissioner Magwood has said, we need to gather all those marmots in one pile and try to move them forward here. And it is a challenge because of the different directions staff has been given over the years on how to progress here with Part 61.

As you can tell, I have read your voting sheets. And I appreciate the read. As a member of your own staff said, it does make an interesting read.

In addition to my thoughts here that I will present, I did reach out to the other sited States and to the Organization of Agreement State working group members that are part of the Part 61 group putting together now the draft final rule based on your orders from the Staff Requirements Memo.

I=d like to talk to you today about some areas on that Memo. The first one would be the thousand-year compliance period. The new protective assurance analysis period, the various dose limits that are part of the -- in Part 61, the potential need for a grandfather clause in there as the original part 61 had, the possibility of further sited

state and OAS input, and of course as you=ve heard here, compatibility can never be out of the equation when you talk to an Agreement State.

For the thousand-year compliance period, this period clearly addresses the disposal sites short term, short lived inventory. And it=s also consistent to other federal laws, you know, UMTRA has a thousand-year civility requirement for the disposal of uranium mill tailings.

And we understand the balancing act that you=ve got going on here between the you know, uncertainties introduced over vast time periods. I think one of the Commissioners, you mentioned the you know, farmer in the Nile Valley and then coming in today. Can we even postulate what it=s going to be like 10 thousand years in the future here. What civilization will be like.

And balancing that against the long-lived inventories that are involved here, including any in-growth that would occur from depleted uranium acceptance. And the analysis of the safety case perhaps will mature as a site also matures.

If a site does not care to actually get involved in long-lived activities disposal, or you know, depleted uranium, perhaps the safety case there can actually be limited. And then -- but as it matures or wants you know, situations change, just like what I=m doing to help the International Atomic Energy Agency, we talk about the evolution of the safety case.

Perhaps as the site were to evolve and decide that it wanted to perhaps get into longer-lived accepting, longer-lived radionuclides, including depleted uranium, then the safety case would

perhaps be moved in that direction also. Or the analysis would take place then.

An example here is the State of Washington site. We have no plans initially at taking large quantities of depleted uranium. And we=ve already told our site operator is that if that comes to be a business decision that they=re going to make, then they=re the ones that are on the hook to do the safety case development, including any additional performance assessment that would be needed.

It ends up coming down to how much uncertainty a decision maker is actually willing to accept. And this is hard to regulate. You know, it=s something that you will be engaged with your stakeholders on as far as what their perception is.

In my particular case, with a Hanford Reservation you know, surrounding me, I have a very dedicated set of stakeholders that are very interested in anything that goes on in the reservation there.

Moving on to the protective assurance analysis period, this is a relatively new phenomenon for the sited States. We would definitely like more detail on it. We=re definitely going to be watching the working group as they you know, take your wishes and form it into regulation and in additional guidance in the guidance document.

We believe it could complicate the process for both the regulator and the licensee. You know, it is very much an area where the defense in depth concept comes to play. You know, how do you make this work?

You know when you=re only dealing with short-lived radionuclides, it=s relatively easy. You know, you can probably have a

warm feeling about how your uncertainties will be over say a thousand years, but when you go beyond that, what other kind of defense in depth measures are you going to have to put in place here?

So the sited States will be watching to see how the working group does more forward with this. And flushing out the details of the Commission=s expectations you know, should not be done in a vacuum. And I don=t think that=s your intention. You=ve definitely got some ideas about staff engaging the public and stakeholders down this method here.

I=m going to talk a little bit about dose limits. I fully support the idea of 25 millirem for the annual public limit and using the current ICRP recommendations for determining that dose. The 500 millirem to the inadvertent intruder and in the you know, protective assurance analysis period is consistent to guidance that=s been given to States that are nearing its end of life.

Out in Washington, even though our site is probably going to be open for another you know, about 40 years, our volume levels are so low now that we consider ourselves towards that end. The question for you is, any thought about changing those limits from customary millirem to international microsievert in getting ahead of the Part 20 ball here?

Keep on going here a little bit and -- an idea of potentially needing a grandfather clause. You know, that can either be needed or not, depending on whether you set a firm delineation date as far as effectiveness of the new Part 61. Because there will be changes.

You know, do you envision anything going retro back to a closed site, such as Beatty? Do you envision, you know how are you going to impact the currently operating facilities, you know, such as WCS in Texas, or Barnwell or Clive or Washington? Is there you know, make sure that you know, obviously when the proposed final rule comes out, we=ll be definitely be looking at impacts to our own sites. But perhaps staff can take a look at that when it comes to you. You can have an idea of whether or not that=s going to be impactive or not.

Just from my perspective, we worked hard even though we were grand fathered in under the other, the existing Part 61 to become a fully compliant site. So I would fully expect that operating facilities today would try to work to that goal too. But you know, to put that kind of burden on them right at day one, it would be kind of hard on them.

Further input into the revised Part 61, we definitely appreciate the opportunity given us by making the public comment period 120 days. It does allow us a longer period to amply read the document, review it and discuss the proposed rule in greater detail. Both internally and at you know, conferences that occur across the States. And I=m sure we=ll see several of this at that type of Rad Waste Summit or waste management type conferences.

Also appreciate the addition you know, with Mike Welling=s help, of adding another Agreement State person onto the Part 61 working group. That does give us the opportunity to get first hand information in there from an operating site.

And further engagement of the ACRS is also

appreciated. Because that will give us potentially another avenue as they have reached out to the Agreement States for input as they develop their letters.

The sited States would also like to offer their expertise in any manner. You know, I understand the process tends to become very prescriptive now. But if it=s allowed, you know, the Agreement States and the sited States would definitely want to be involved in it.

And down to our favorite topic here that we usually talk about you know, nearly every day that we come and see you. And that=s compatibility. The Agreement States you know, have continually expressed their desire for flexibility.

A B category for the entire rule seems to be quite a stretch. Though the Agreement States are definitely willing to look at it as proposed in the SRM where certain discrete items are compatibility B. Dose limits typically are an A in fact.

So the idea of something other than a C coming out of an Agreement State person=s mouth is not unheard of. But it=s you know, we do what to have some input into that.

And having a compatibility B you know, where flexibility for our site specific performance assessment is also being asked for. It seems to be quite a stretch though as the waste classes for Class A, B and C you know, will be driven by the site performance metrics.

You know what is the case of D for the various radionuclides? Am I in a dry environment such as Hanford, or am I in a wet environment such as Barnwell? I know the existing Part 61 did use the wet environment to develop the generic 61.55 limits.

I fully expect that if somebody did a site specific performance assessment for Hanford=s facility, it would come out much looking what the Department of Energy did about two miles west of me where at their Environmental Restoration Disposal Facility, they take Class B, unpackaged cesium, and dispose of it in their cells. Whereas under 61.55, I have to stabilize it. You know, it=s not Class B to them because of the site specific performance assessment.

To close, I do appreciate the Commission allowing us time to talk about the low-level radioactive waste again, in a climate that=s somewhat adverse to radioactive waste issues. With limited resources and shoestring budgets, you know, it=s essential that the State partner with the, and leverage whatever resources we can.

States have the rad waste expertise and experience. The NRC has the resources to bring the policy out of what I affectionately call the stone age of the >80s into the environmentally friendly age of this time frame. And it is essential that we continue to build and strengthen the relationship that we have between the States and the NRC.

Thank you very much for your time. And as indicated, this will be my last time before you unless something spectacular happens. And I=m willing to take any of your questions now or later.

CHAIRMAN MACFARLANE: Okay. Thank you. Thank you all very much for staying on time. We are going to start questions off with Commissioner Apostolakis.

COMMISSIONER APOSTOLAKIS: Thank you. Thank you very much for your presentations.

I=m trying to understand the difference between compatibility B and C. And Mr. Jacobson, you mentioned that there would be regulatory burden if we insist on declaring a B compatibility.

I assume you imply that this is unnecessary. An unnecessary regulatory burden. What is that burden exactly?

MR. JACOBSON: Well, a burden can be defined in many ways. Potentially it could be a constraint that prevents the Agreement State program from addressing a State specific need.

As you are aware, determination -- as you=re aware, compatibility has been a contention with industry, the NRC and the Agreement States. And from what I understand, we all have a slightly different perspective on what it should mean.

And I understand that compatibility B may be the most misunderstood of some of these compatibility requirements. I see compatibility determination, my perspective is that it encourages national level consistence, while acknowledging the flexibility needed by a State to address these State specific issues.

COMMISSIONER APOSTOLAKIS: Can you give me an example of what is a State specific issue?

MR. JACOBSON: Certain facilities have certain risks that are unique to their location. This is just one example. A certain risk related to their types of materials, the hazards and their location.

COMMISSIONER APOSTOLAKIS: I=m a little surprised. So if we issue a rule and we demand compatibility level B, you will not be allowed to consider those specific features of a particular site? We will constrain you and say don=t do it?

MR. JACOBSON: I think the point we=re trying to make is the States -- the States want to retain the flexibility to impose a more stringent regulation to address a State specific need.

COMMISSIONER APOSTOLAKIS: And what would be a performance based approach? You mentioned performance based approach to assess compatibility. What performances are --

MR. JACOBSON: Okay. Well I think the performance based approach towards the regulatory process is clearly defined by the NRC. We buy into it. It=s looking at a risk informed approach. And the performance and the goal of implementing a program to protect health, safety and the environment.

COMMISSIONER APOSTOLAKIS: So there would be risk based goals. And then you know, if you meet the goal, that=s good performance? Is that what you mean? I mean that=s what we do in reactors. So I=m trying to understand what that would be.

MR. JACOBSON: That would be one way of looking at it, yes.

COMMISSIONER APOSTOLAKIS: And there=s another way?

MR. WELLING: Commissioner, if I may. Let me --

COMMISSIONER APOSTOLAKIS: Sure, sure.

MR. WELLING: expand upon Mr. Jacobson. One in particular item that OAS has asked about in the past, is general licensed devices. So currently it=s compatibility B. So we cannot be more strict then what the NRC puts in place in Part 31.

We specifically asked in a petition to change that to

Category C. Because some States in our own decision-making, would like to specifically license those devices. We just -- some States disagree with a burden of a general license program.

They would rather see a specific license tracked in that program, then go through the general license tacking system, which allows manufacture/distributors to sell these devices, put them out there, quarterly report to us. And by that point, it may be gone. That source may have left that facility. It may have been bankrupt, decommissioned, whatever.

So that time tracking system is not in place. Versus the specific license tracking system allows us to know exactly where they are on the day we approve that license. And inspect them periodically to ensure that.

So that=s where Agreement States really want the flexibility in certain issues such as general license device issue.

COMMISSIONER APOSTOLAKIS: Thank you. Thank you. I was reading the annual report that the staff prepared on State compliance, or program compatibility with NRC requirements. And I saw that a few States that are not, whose programs are not compatible with the NRC=s have been so for more than one in depth site.

I=m wondering why it takes -- takes years to make them compatible or -- is it a matter of resources?

MR. WELLING: It=s a matter of several issues. Resources is one main constraint. But I=ve heard from several States who, in recent years, the legislative services of that State have put

undue burden you know, upon regulations.

They=ve actually made it mandatory where you have to prove to the State government that a regulation is necessary. You know, they=re either trying to be very business friendly, or they just want to ensure that there aren=t too many regulations in place.

So States in particular that have brought this to my attention have said it=s mandatory for them to go through a four to five year process to get a regulation put in place. So there is unfortunately those processes that exist.

COMMISSIONER APOSTOLAKIS: I see.

MR. WELLING: Unlike the NRC who, once they put it in place, it=s effective based on what the implementation date is of the rule. Some States do adopt by reference, which does allow that to put in place in a quicker format. But not all States can do that either.

So there -- you know, there=s 50 States. 37 Agreement States. There=s 37 different ways of doing regulations. So once size does not fit all in this process. So that=s why we look for flexibility as much as possible. Because we have to meet our mandates and our requirements for our legislative process.

COMMISSIONER APOSTOLAKIS: Thank you. Regarding Part 61 Mr. Fordham. I take it from your presentation that you don=t object to the overall structure that the SRM described, the compliance period and then the protection period?

MR. FORDHAM: Correct.

COMMISSIONER APOSTOLAKIS: Okay.

MR. FORDHAM: And it was a little different then what

we had kind of thought might come out with the new period in the middle there. We thought it was going to be you know, kind of a two-tiered program. To have this extra one in there you know, is kind of okay, what=s this going to entail.

And so you know we=re looking forward to the guidance that will be coming out and how staff incorporate this into regulation. I kind of see it as a perhaps an enhanced intruder scenario review, where we=re looking to make sure that the dose threshold of 500 millirem, you know as it gets approached, will have positive actions to make sure that it=s not exceeded.

COMMISSIONER APOSTOLAKIS: You mentioned something that I don=t quite understand. You said that there will be an evolution of the safety case. What does that mean?

MR. FORDHAM: In my work that I=m doing overseas, we routinely talk about evolution of a safety case starting out from the siting of a facility. And concept through construction to operation. And operation can be several stages there. Finally into decommissioning and dismantlement.

The idea here is if you=re not going to take the insignificant quantities of depleted uranium, then your safety case shouldn=t have to look at DU as a driver for your performance of the site. If it is, then this is where you would have the site operator is supposed to be responsible for the development of the safety case that includes a safety assessment and some sort of a performance assessment along with that.

So that=s what the evolution idea is. I wouldn=t put

the burden on every facility to do the DU calculation if they have no plans on doing it upon the effective date of the Part 61.

COMMISSIONER APOSTOLAKIS: Of course. Yes. But if we license a facility based on certain inputs. And then they decided five, ten years later to change those inputs, maybe --

MR. FORDHAM: Evolve.

COMMISSIONER APOSTOLAKIS: -- then there will be a new safety case, right?

MR. FORDHAM: Correct.

COMMISSIONER APOSTOLAKIS: And they will have to be licensed for that?

MR. FORDHAM: Right.

COMMISSIONER APOSTOLAKIS: Okay. Okay. Thank you very much Madam Chairman.

CHAIRMAN MACFARLANE: Commissioner Magwood.

COMMISSIONER MAGWOOD: Thank you Chairman. And welcome to all of you. Many of you have been here before. And it=s a pleasure to see you again. Always a pleasure to see Mr. Klinger, it feels like an old friend.

MR. KLINGER: Same here.

COMMISSIONER MAGWOOD: Seems like we get together and see you a lot. And Mr. Fordham has been here many times as well. And has always been very illuminating in his comments. And I look forward to chatting with you later this morning.

Just a couple of general comments. As I -- over the

last several years, as I=ve gone to various sites across the country, I=ve tried to make it a point to visit with State representatives when I can. And I=ve always found it to be a very rewarding experience.

And it=s easy to focus on the work that we do, particularly after things like Fukushima, which have you know, reactor related, you know, issues that the States aren=t as involved in, and have international implications.

So we spend a lot of time thinking about those things. But it doesn=t detract from the vital importance that we place on our partnership with the State programs. Because the State programs -- it was interesting, I was actually speaking with a group yesterday, and I made the observation during that presentation that NRC=s job is made much more manageable by the fact that we have the benefit of being able to pass on responsibilities to the States.

When you think about what the States have to do on a daily basis, if NRC had to do all that work, it would be unmanageable in my view. I think the staff would have to be vastly larger and would be a much more complicated matter.

And there would be lots of local issues that we=d have to understand. And the fact that States take this on, I think makes NRC=s task much more manageable, much easier. And I think that it=s not something that gets recognized enough on a national level how much work the States do.

And I think that some of the conversation that we=ve had on the Commission and that I=ve had with the staff about the policy statements, has really been how do we increase the visibility and

recognition of work of the State programs. And that=s something I think is an ongoing conversation that we=ve had. Certainly had it with Brian and his staff.

And it=s a complicated matter. But it=s one that I think is very important. Because I think it=s important that recognition be made.

And also, it=s gratifying to see that people actually do read our votes. You know, because I think all Commissioners, and I think I speak for all of us, we put a great deal of care in what we write in our votes. And it=s our expression of how we feel about these very important issues.

So the fact that you read them and you think about them is gratifying. So we appreciate that. And I think I=ll take the opportunity, because I don=t think my vote clearly said this. And since Brian is here I=ll say very explicitly, that I do think that his staff are smarter than Yetis.

I just want to make sure that that=s clear. If it wasn=t clear before, I wanted to say it on the record today. Particularly Larry. I think Larry=s much smarter than a Yeti. So you can pass that to him for me.

Picking up on Commissioner Apostolakis= question Earl, I just want to -- there was something you said in your -- and I appreciate many of your comments on Part 61. Something you said I didn=t understand. And I want to give you a chance to elaborate.

You were talking about compatibility and how it effects wet sites versus dry sites. Can you elaborate on that. I wasn=t= sure

what the connection was.

MR. FORDHAM: Well there one of the voting sheets, I=m not sure if there was more than one or not, that talked about making it a compatibility B for the entire rule. And that was the -- kind of the catch there that I wanted to make sure that if we=re going to go down the road of doing a site specific performance assessment, that would mean that you can=t do that.

You know, you would have to have flexibility there because the sites aren=t identical.

COMMISSIONER MAGWOOD: Right.

MR. FORDHAM: You know?

COMMISSIONER MAGWOOD: Okay. Now I understand it. And I think your answer -- and just to make sure, your dialog with Commissioner Apostolakis, you don=t -- you were talking about how these safety basis would evolve. There=s nothing in the rule that keeps that from happening, correct?

MR. FORDHAM: Correct.

COMMISSIONER MAGWOOD: Okay. All right. Just wanted to make sure there=s an understanding on that. Mr. Snee you were talking about training, and the Commission=s spent a lot of time talking about this since I=ve been here. And I think we=ve -- we have a pretty health program now. And I appreciate your comments on that.

I wanted to just give you a chance to elaborate any further. If there=s any structural issues that you think we should be concerned about with training. I know that you know, there=s been

discussions about you know, the types of opportunities that are made available. The length of some of the courses. Are there any structural issues you want to highlight for us since we=re talking about this subject?

MR. SNEE: I think the biggest thing we need to look at is to get away at least for a number of the classes, to have people go to a specific site and incur that cost. I think you know, your licensing and a couple of the other classes can easily be converted to web based type webinar even type classes that could be reduced in length and certainly vastly decrease the cost to hold those classes.

Some of them, like the Industrial Radiography class, the hands on training that people get there, can=t be duplicated by something like that. But I think those opportunities exist. It=s just you know, putting the resources to develop them and put them in place would be the big one.

COMMISSIONER MAGWOOD: All right. I agree with that. Anybody else want to comment on that point? Because you all --

MR. WELLING: Well I would like to also agree with what Mike said and stuff. But I=d like to see also if there is a possibility of even moving some courses around. Chattanooga is a great facility and stuff like that. But there are other medical facilities. Like Houston is a great place to go too. But other cities in regional areas can also hold training courses, and also have major medical facilities for hands on, which is invaluable during that class time.

So on top of having set places, it would be nice to see if

possibly moving those around to different regions, which would allow maybe more Agreement States or other staff to attend. Less travel time, less cost.

COMMISSIONER MAGWOOD: Okay. I appreciate those comments. I know, I see Brian over there taking notes. And by the way, I should note that most of the issues you=ve raised are in the FSME -- within the realm of the FSME staff. And that=s why Brian=s sitting so close to you.

And I -- and while these are all very complex issues. And they=re issues that have a great deal of diversity, so I=ve always appreciated you know the FSME staff=s work on these subjects.

They=re very complex, and unlike some of the other work that we deal with, they don=t always lend themselves to specific, you know, technical analysis. There=s a lot of judgment and a lot of policy thinking that has to go into these issues. So I appreciate that the FSME staff spends such great care dealing with these issues.

One of you mentioned briefly, the Disused Sources Working Group report. I don=t remember, but perhaps it was you. Can you -- you know, I looked at that report, and I can see why you might have some concern about it.

Have the States commented specifically on that report. And can you give us some thought as to you know, sort of what interpretation you would put on the subject. But what are some of the areas that you would change if you could at this point? Let me put it that way.

MR. WELLING: Well actually we do, he doesn=t

represent OAS, but Rusty Lundberg from the State of Utah was part of that working group. And luckily he reached out to me and he actually asked the working group if I could meet with them.

So I met with them before the report was finalized. And we had a frank discussion on the report and where they were heading. A couple of things that stick out is they wanted to use the words finance assurance. They claim there=s not enough financial surety out there for licensees to use to get rid of disused sources.

We tried to express to them the finance assurance verbiage is not meant for that. We showed them the definition of financial assurance, showed them the regulations. What it was supposed to entail and what it meant to be.

We got into a discussion with them of there are other avenues. And it=s up to the business, the licensee itself, to make sure that they=re all self supporting and sustaining. And they can adequately dispose of the sources as a business need. It=s not up to us as regulators to insure that. We=re to insure the safety and security of that and provide means to them.

They also wanted us as the regulators to help the licensees dispose of it, which we disagreed with. We had conversations that there are companies out there licensed to brokerage and dispose of these sources. So there are plenty of avenues out there for the licensees to do that.

We also disagreed with them and we showed them what the NRC had said regarding NSTS in Category 3. The working group believes that Category 3 should be an NSTS. And we basically

told them we=re in agreement with what the NRC said and the staff and time that it would take to put those sources in and control that in NSTS.

So this group is from the low level waste forum. So they=re looking at it from a low-level waste impact. They=re not looking at it from a regulatory impact or a user=s impact. They=re just looking at it from one side of it.

So we=re trying to express from the regulatory side what all entails to ensure that. And we tried to point to them, which I don=t think it came out in the report, that even though there disused, they=re still under the security requirements. They still have to be secured in place, especially the Category 1 and 2 sources. Just because they=re disused doesn=t mean they fall out of it.

So I don=t think they understood that concept and the reports didn=t delineate that. It makes it seem like those disused sources are just sitting out there with no security in places.

COMMISSIONER MAGWOOD: Okay. A few issues with that report apparently. All right, well I appreciate that. Thank you for passing it on to us. And thank all of you for appearing today. And again, thank you for all the work that you and your staffs do. Thank you Chairman.

CHAIRMAN MACFARLANE: Okay. Commissioner Ostendorff.

COMMISSIONER OSTENDORFF: Thank you Chairman. Good morning and thank you all for being here. We always benefit from hearing your perspectives at this table. And we appreciate very much your service.

I want to start out maybe just making a comment. But it kind of piggybacks on comments made by Commissioner Magwood and Commissioner Apostolakis.

First I would go to Commission Magwood. I completely agree with his comment on the significant responsibilities that the Agreement States have. And how we as a regulatory body benefit tremendously from what the Agreement States are doing. What CRCPD does. And if we did not have those organizations in place, we would be in a very, very different spot, which would not be nearly as good as the spot we=re in today.

At the same time, I agree with Commissioner Apostolakis= comments on some concerns where the States do not come into compliance over a number of years. And I know it=s -- we appreciate the challenges, Commissioner Svinicki and I worked on Capitol Hill for a number of years. We have experience with legislation. We understand that State legislative bodies have different priorities and so forth.

But it doesn=t do the Agreement State program any good if your member States aren=t coming into compliance. And so I, you know there=s an analogy here. It=s not a very good one, but it=s the only one I have to offer is that the Institute for Nuclear Power Operations, Nuclear Energy Institute provide pressure on their members, on the nuclear power plant side of the house to kind of get with the program so to speak.

And I know that it sounds a little bit cliche for me to say that, but I think the OAS will benefit by providing some you know, where

you can, some nudges to address the concerns Commissioner Apostolakis has. Because it brings everybody down if other member States aren=t participating at the right level. And I realize it=s not your counterparts, it=s the State legislative bodies in many cases. But to the extent you can help reinforce it, I think we=ll all benefit.

I want to turn to a comment on Mike Welling, with a couple of comments that have come this morning. Let me first turn to the security discussion. You and Commissioner Magwood had a little exchange. I want to add to that exchange if I can.

The NRC has disagreed strongly with many aspects of the GAO report on security. I commend Mark Satorius, I think Mark is here. He has previously written a very strong, articulate letter on behalf of the agency to the GAO on that topic. I encourage OAS to do the same. And I think it=s important that GAO hears these perspectives.

Often times GAO does not necessarily interview the right people. Or all the people that are effected by the impact of their reports. And so I encourage you as a collective body and CRCPD is in there as well, then so be it. But I think it=s important to hear that strong feedback.

Many of the reports that have come out have been slant -- I don=t want to say slanted, that=s probably too strong a term. But have looked at it from the and I think -- you know the perspective of idealistic nonproliferation objectives that maybe are more representative of circumstances in other countries. Well not every country has a Department of Homeland Security with a Customs and

Border Patrol with pretty significant monitoring. I use that as just one example.

And so I think some of the motivations that philosophically led to some of the source security issues were driven by circumstances that are not necessarily applicable in the United States. And so I encourage you at the State level, in particular to provide that feedback as you=re in a position to have gravitas on your comments on that.

Mike, I think you also -- I=m going to stay with you for a minute, this is not really a question, but I just wanted to -- I=m going to make a statement and then ask you if you understand what I=m telling you here. Because it=s a -- I know it=s the Part 35, I=m shifting to a different topic. Part 35 compatibility B.

I know there were concerns, and you raised those about -- and I think you used the word OAS strongly disagrees, this is a trans-boundary issue. Is that -- did I get?

MR. WELLING: Correct, yes sir.

COMMISSIONER OSTENDORFF: Okay. I wrote that down when you said that. This is a controversial topic. I would tell you that what I understand from our staff is that the staff has communicated to OAS that the primary driver in the Commission decision in this was to insure uniformity of medical event reporting.

Did that -- was that communicated to the --

MR. WELLING: Yes sir. And just so you=re -- it=s perspective context that -- I was actually involved on the SEC at that time. And we were actually able to participate in the ACMUI call when

they discussed this. And what we tried to raise to them, and Duncan White also brought this up as my co-Chair from the SEC is, as a minimum, we have to meet that medical event reporting criteria.

So the States would report the standard set by the NRC. But some States wanted to enact the next level. If they decided to go both activity and dose space, you know, they could, and report both of that. So they would meet the minimum reporting level but then exceed that based on their decision of what they perceive as public health safety.

So I don=t -- we as OAS don=t believe that ACMUI understood that. They thought -- my perspective is they just thought we were going to do our own thing. We can=t. As a minimum with compatibility C we have to meet the minimum requirement. So all those events we reported, and then States that went above and beyond would report it to the NRC.

COMMISSIONER OSTENDORFF: Okay. I appreciate that clarification. I will just comment that four of us here were here four years ago when we had significant issues at this table dealing with the Veteran=s Administration, prostrate brachytherapy instance outside of Philadelphia at the VA Center.

And we spent quite a bit of time a few years ago talking about these issues and I=m speaking as an individual Commissioner, other colleagues may have different perspectives. But I think what resonated with me was the significant concern that we have to have as a Commission with public confidence in what=s being reported to the agency.

And I personally see significant value in uniformity of reporting because of the strong probability that if there=s not uniformity of reporting, there would be skewed perspectives about what=s really happening here. And that because of the impact on people choosing perhaps life saving medical treatment involving radioisotopes or not based on concerns in public opinion, I think we recognize this is a very grave issue that has to be wrestled with.

So I respect the differences. I=m not asking you to accept at face value my explanation here. But I think that I wanted to highlight that this has received quit a bit of attention from the Commission and I appreciate your raising it this morning.

Earl I want to turn to you real quick. You=ve already discussed with Commissioner Apostolakis and Commissioner Magwood the Part 61. I would just comment that I think that was one of the hardest votes that I=ve taken in four years. Very complex set of issues and I=m not going to express any substantiative comments on it.

All I would do is encourage all of you in your organizations to take avail of the public comment period to provide your comments and recommendations as we get into that session. Because I think we really need to hear your views.

But this is just extraordinarily complex in trying to -- and you=ve highlighted the fact that there are very different circumstances on a site specific basis. And I don=t disagree with that.

Let me ask Joe a question here. Just kind of you know you=ve been in this community for a long period of time. You=ve provided a lot of testimony at different Commission meetings.

As to where we stand here in April, 2014, how is the NRC doing communicating with your organization and colleagues?

MR. KLINGER: Oh, on a day to day basis, I think there=s interaction. I think the Agreement State officer, in our region is Jim Lynch. He=s amazing. He=s like a -- he=s on our team.

So he keeps us informed. We keep him informed. Whenever we have a question we know we can run it by Jim, he=s going to get us the answers right away. I can=t speak for other regions. But I suspect it=s the same way in the other regions.

It=s just -- it=s come a long way. We used to be -- we mentioned that earlier. The relationship with the NRC and Agreement States many years ago was not always good. It was more like a parent/child relationship.

But now, especially the fact that we have 86, 87 percent of the licensees, it=s a shared partnership. And I think communication goes both ways. And to me it=s a model of relationship that any federal agency should have with other State programs.

So we=ve come a long way and we appreciate it. And I think our relationships are really good.

COMMISSIONER OSTENDORFF: Well that=s good to hear, but I also am confident that if it was not the case, you=d be telling us, is that correct?

MR. KLINGER: Absolutely. Because we used to. That=s why we=ve got a good relationship now. Because we weren=t shy about it. And some of the people on -- in our organizations were

rather vociferous.

But it paid off huge dividends now because of our relationship here.

COMMISSIONER OSTENDORFF: Thank you all. Thank you Chairman.

CHAIRMAN MACFARLANE: Great. Well thank you all for your presentations. And for the discussion so far.

I=m going to start off by asking whoever wants to respond, about some recent -- or actually not so recent, but in the past year, radiography overexposure incidents.

Just heard -- and I bring it up because I just was informed about one this morning in your State. Where somebody got a dose to the hand of 3000 to 5000 rems. And a whole body dose of 15 rems. And a month earlier, in March, March 13th in Texas, there was a fairly high hand dose. And Texas again in December. A whole body does of .5 rem. And Louisiana in July, a whole body dose of 7.1 rem.

So I=m -- what my question to you is, do we need to have some communication to the States on this. Just as a reminder to be aware of this, to you know, should we be proactive about this instead of waiting for more incidents to occur? Or I=m just curious as to your views.

MR. SNEE: I believe actually the communication to the State would be fine. But communication to the licensees would be better.

CHAIRMAN MACFARLANE: Well exactly.

MR. SNEE: To make sure that --

CHAIRMAN MACFARLANE: That=s what I=m saying. I=m wondering whether the States should be communicating to the licensees because these are -- all of these incidents that I listed are in Agreement States.

MR. SNEE: All right. In Ohio, and I=m sure in many other States, we=ve seen in the past two years, just a very large spike in radiography. Not incidents, but just the practice and how many companies are coming in under reciprocity.

CHAIRMAN MACFARLANE: Right.

MR. SNEE: And it=s all due to oil and gas exploration, fracking. It=s all over Ohio and a number of other States. So we have a lot of radiographers, many of them under reciprocity who we don=t deal with on a day to day basis necessarily.

You know, we get out and inspect them when we can, but. So we don=t have that relationship with many of these companies. And that=s an issue also. When companies are coming up from Texas and Oklahoma that you don=t know. And you don=t know how their structures are. That doesn=t help either.

But I think part of it is just the vast increase in radiography that=s going on in the past couple of years.

CHAIRMAN MACFARLANE: Right.

MR. SNEE: It certainly doesn=t. And they=re being rushed, there=s no doubt.

CHAIRMAN MACFARLANE: And so what=s the solution?

MR. SNEE: I think that communication to the

licensees have to understand about these incidents. I=m not sure that all of them read the NRC reports and even know that these incidents have occurred. And that they need to make sure that their employees know about it.

We had another incident just a couple of weeks ago with a radiographer, he didn=t get overexposed, but he knew he didn=t have dosimetry or his meter and he went and did the job anyhow. It=s those kind of incidents have apparently started to increase. And it=s always been a concern with that industry.

CHAIRMAN MACFARLANE: Right. Well it seems that we need to -- you -- I think you rightly probably identified the reason for the increase with the fracking. And the vast increase in that. And you know, in some places it=s a gold rush right. People are just out to make money. They don=t really care about the safety piece of it. But it=s our job to make sure that they do.

MR. SNEE: Right.

CHAIRMAN MACFARLANE: So I=ll just emphasize to you guys that this is important. That we stay on top of this. So. Anybody?

MR. WELLING: I agree with you Madam Chair that the what would best would serve everybody would be joint communication between the NRC and the Agreement States. We could work on some letters, FSME letters, RC letters. What it may be and stuff and obviously we=ll take the task of making sure our licensees are made aware of this.

And I will personally make sure we can see about

getting this addressed during our annual meeting in August. And possibly reaching out to the industrial radiography industry. To invite them. Because they do have their own organizations. They do have their own meetings, which they just recently had one in Vegas.

So I think we also need outreach to the organizations as they do their own publications monthly also, to put that out there. Obviously you can=t make them read it. You can=t make them follow the rules. But we do need to insure they understand what the rules are, what the ramifications are for these incidents.

CHAIRMAN MACFARLANE: Right. Right. Okay.

MR. KLINGER: There=s something else like that. In the past, going back a decade or two, we had a rash of these incidents. And they were -- we really scratched our head trying to figure out what can we do to prevent this? And it turned out it was really the radiography, they were pencil whipping the exams and all this.

And so we put the burden on the radiographers themselves to have the basic knowledge necessary to perform radiography safely. Because they=re using large sources and I think that helped a lot. We came up with the CRCPD has a nationwide test program. And so they have to take a test.

So at some point they=ve had to demonstrate that they have that knowledge. So -- and I think that helped a lot. And we saw the incidents go down. And because before then too, the radiographers would go to different companies, you know, so I fired him. Well he went down the road and got hired by somebody else.

Maybe that=s happening again, I don=t know. So

maybe we have to take another look at that. Because it did really help. But I think it=s probably the pressures of industry. These people trying to make a lot of money.

CHAIRMAN MACFARLANE: Yes.

MR. KLINGER: They=re putting in the long hours and so safety is compromised.

CHAIRMAN MACFARLANE: Right. Right.

MR. KLINGER: So, I don=t know. Put some restrictions on that. If it continues, maybe some additional restrictions on the number of hours. They do it for truck drivers, why not do it for radiographers, you know.

CHAIRMAN MACFARLANE: Right. That=s an interesting idea.

MR. FORDHAM: That and maybe in low level waste back in the >90s, I wrote two or three informational notices that we sent out to all of our permit holders. And kind of had here=s lessons learned over the last year. You get a couple of pictures of what they you know, actually show on that.

CHAIRMAN MACFARLANE: Right.

MR. FORDHAM: And I think you=ll get their attention. They may not read it, but this is what happens if you get overexposed, and you --

CHAIRMAN MACFARLANE: Well the latest incident will probably really get --

MR. FORDHAM: Well 3000 rad to the hand, that will do a good number.

CHAIRMAN MACFARLANE: Yes.

MR. FORDHAM: If they keep the fingers they=ll be lucky.

CHAIRMAN MACFARLANE: Or the hand even, yes, who knows. Okay.

So moving on. Earl. Thank you for all your hard work. Sorry to see you go. But you know, who knows what will happen, right. I=ll say that I am in wholehearted strong agreement with you about the SI units. I think we should join the rest of the world finally.

As a scientist, I feel it=s very important that we do that. I think we are in -- you know, everything is becoming more globalized now. We actually have to make sure that we=re all using the same units so that we don=t have mistakes.

I don=t know why I really have a hard time converting from rems to sieverts, but -- and it=s just you know, zeros. But anyway, I think we all need to internalize that and move on.

MR. FORDHAM: I think Fukushima really brought that to the forefront.

CHAIRMAN MACFARLANE: Exactly. Yes, exactly. Just a quick question on Part 61. In your view, you know it was largely my understanding is the motivation to revisit Part 61 was largely the potential influx of large quantities of DU to these waste facilities. And so do you feel that where we are with Part 61 adequately addresses the DU issue?

MR. FORDHAM: From what I have been able to

gather by reaching out to my fellow sited States, they still have some concern that the thousand-year compliance period may be too short.

CHAIRMAN MACFARLANE: Right. Because we=re talking about really long half-life.

MR. FORDHAM: That=s what I=m saying. And this is you know, in some respects the long half-life issue is also there with the uranium milling tails.

CHAIRMAN MACFARLANE: That=s right.

MR. FORDHAM: You know, so it=s a matter of how you address it and where it=s going to. And the uncertainties involved. I didn=t actually use it, but I think at least three of you quoted the ACRS letter to you, where talking about introducing significant uncertainties into the performance analysis doesn=t make our you know, decisions anymore certain.

CHAIRMAN MACFARLANE: That=s right.

MR. FORDHAM: It is a game that is going to you know, a balancing act here. It is how much uncertainty are you willing to accept. And you know, with the in-growth from you know, significant quantities of DU being out in the neighborhood of 50,000 to 100,000 years. And it=s quite a bit of uncertainty as to how the site=s going to perform.

CHAIRMAN MACFARLANE: Um-hum.

MR. FORDHAM: The defense in-depth concept definitely comes into play then. You definitely need to have something other than you know, to protect the waste from a failing site.

CHAIRMAN MACFARLANE: Um-hum.

MR. FORDHAM: And so there=s got to be some trade offs there and I think it=s you know, adequately brought out in the voting records is that it=s perhaps a topic that is you know, well address in the reactor world of defense in-depth. It needs to transition over into radwaste now.

CHAIRMAN MACFARLANE: Absolutely. Absolutely. Well, we can have a lot longer discussion on that, but.

Joe I wanted to ask you about your E43 working group. So there=s -- I wondered if they were going to consider anything to do with radiation monitoring near power plants?

MR. KLINGER: Oh, yes. In fact Earl is a member of the committee. You can probably answer better then me Earl. Go ahead.

MR. FORDHAM: Currently that is one of the aspects that=s being used. New Jersey monitors -- has real time monitoring around it too.

CHAIRMAN MACFARLANE: Do they put it on the web?

MR. FORDHAM: They do. It is -- you have to be accepted. This is very much -- it=s not wide open. But you have to contact the person in charge of it. Pat Mulligan is in charge for that. And you know it basically will allow then that data to go to you. It=s not just out on the web. It=s you know, controlled in that respect.

CHAIRMAN MACFARLANE: You know, I bring this up because my time at the NRC, going around the country, whenever I visit a nuclear power plant, I always visit with the local and state

government folks and some of the public interest groups in the area. And consistently, people bring up to me this idea of radiation monitoring around power plants.

And it=s a result of Fukushima and the accident there. You know, folks in California brought this up. Folks in Georgia brought this up. Folks in Illinois. But you know, and they brought up the example of Illinois, that you guys do, the State mandates that. You know, folks in New England.

So this is clearly an issue. It=s getting -- it=s getting a lot more attention now. I know, I was talking with people from the NRDC the other day and there=s a group, public interest group in Japan, that has now developed these little portable radiation monitors that they=re going to be spreading around.

Now there may be issues with calibration and standardization, et cetera, but it seems that you know, I would be interested to see what you guys come up with.

MR. FORDHAM: It is one of the policy issues that we=re you know, wrangling with. Because who controls the data, you know. Once it gets out there you know, and let=s say somebody you know, I post Washington data out there and Mike has access to it, somebody in Ohio, you know, does a Freedom of Information Act request in Ohio for the data, can he release it?

CHAIRMAN MACFARLANE: Well, my question is why wouldn=t you just make it available to the public? What=s the problem?

MR. FORDHAM: That=s this -- that=s some of the

policy issues that -- there are some States, just like I say, that are very protective, and others that are more open. I=m along your lines, is that you know, you=re going to get FOIAed for it, you might as well make it open.

CHAIRMAN MACFARLANE: I mean we did have dosimetry monitoring years back. And the answer was zeros all the time. So what=s the danger in releasing it to the public?

MR. FORDHAM: And the EPA has their RadNet monitors online, so you know.

CHAIRMAN MACFARLANE: Right.

MR. FORDHAM: And you know, that hasn=t caused any heartburn. And even though the needle does this a lot.

CHAIRMAN MACFARLANE: The Koreans have set up a program in Korea, and you can get an app for your iPhone to see live radiation monitoring around their plants. You know, it=s a --

MR. FORDHAM: I=m not sure all of our you know, nuclear power plant fleet has the ability to transmit that data you know, offsite. It may be just a you know, an onsite restriction there. Might need some technological enhancements to them.

CHAIRMAN MACFARLANE: Well, great. Thank you. Thank you. Commissioner Svinicki.

COMMISSIONER SVINICKI: Thank you all for being here today. And for the - as has been mentioned by my colleagues, the tremendous diversity of contribution your organizations make to these issues that we share concerns and interests in. So I do appreciate that.

And Earl I will -- it=s been a real, real pleasure working with you in your time during your leadership. I know you=ll continue to keep a hand in issues. So we=re not really bidding farewell to you.

I=m wondering if you=re going to take your extra time that you=ll have now as you relinquish these responsibilities to read even more of our votes or do other things? I shall look forward with curiosity to see what creative endeavors you undertake in the new found time that you will have there.

I -- it=s interesting as we sit here, we=ve talked quit a bit about compatibility, which I -- we didn=t -- we didn=t resolve for all time today. I know I was kind of smirking about it because I in my spare time, have recently been undertaking some study of the -- and some historic readings of the development and history of the United States Constitution and the framers. And it=s really, really interesting if you=re interested in American History. Interesting period.

And it=s curious to me to sit here today and really to see that these issues are as old as the Republic. Because we sit here, the federal and the state, talking about issues of the federal=s unique role in looking at commerce broadly as the framers defined it.

But looking at these trans-boundary issues as we call them today. And our unique role in being vigilant over that. And the States, the push and pull of what the States would prefer to be self determining on.

So I do want to say that some of my colleagues have asked you about the issue of bringing about appropriate State level legislation and changes in law that become necessary as we change

some of our federal regulations. Commissioner Ostendorff mentioned that we both worked for lawmakers in Congress, but I also worked in State government.

So I also sat here thinking a little bit about how as a Commissioner I go around the country, and I=m routinely asked will the U.S. Congress act on the high-level waste program? In what form will it take? And so I know what it is to be repeatedly asked about what lawmakers will do.

So I have some sympathy for all of you with your State legislatures. You=re no more in control of the time frames and the outcomes there then the people sitting on my side of the table are when it comes to the U.S. Congress.

So that in no way is to indicate any disagreement that I would have with my colleagues. I do agree that your ability to influence though, within your States, to bring about those law changes, that is a significant legal underpinning of the entire Agreement State program. It is as it exists under the Atomic Energy Act. So it does -- it=s something that I think we have to have a sensitivity to.

I think through our IMPEP evaluations, as I read them as they come in over the course of the year, I do look at how you know, we treat kind of what has a true significance for your programs. And I think that we do try to demonstrate an understanding there, although we do track what it is that might remain open in an Agreement State program in terms of the actual compatibility. I think that we -- I think that we try to strike the right balance there in terms of that being an issue.

One -- speaking of the IMPEP evaluations, one thing that the NRC staff has underway, both some self directed activities that they had already initiated, and of course with the encouragement and direction of the Commission. They are looking at some of the underlying approaches to the IMPEP. And again, we always are looking at ways that we can improve our processes.

I wondered, it wasn=t something specifically that any of you were presenting on today, but are any of you engaged with the NRC staff in looking at a review of the structure of the IMPEP, and would you share any feedback on that today? Again, it wasn=t a topic, but I think it would be valuable.

MR. WELLING: Well I=ll let you know that staff did reach out to me as the Chair of OAS, and addressed that. And so yes, there is a review of the IMPEP process, which is starting. And have laid it out for us that we will be involved. We will be asked for comments. Issues and concerns will be raised during -- you know, regarding the IMPEP process.

In the past we have always opined that we believe IMPEP is great. It=s not broke. It is a great process. Well, we=re basically IMPEPing our licensees when we inspect them. So we should expect the same thing from the NRC upon us.

So I believe in IMPEP. We would obviously like to see it enhanced. And I would like to insure that all 37 Agreement States buy into the IMPEP process and follow it. And use it to review their own program to make sure we=re in compliance compatibility and we have the best program we can have.

So the process has just begun, but we are involved.

COMMISSIONER SVINICKI: Thank you. Well I think it=s an important undertaking on our part. But it will be significantly enhanced to have the kind of expertise that you and your members bring to it. So I=m encouraged that we=ve begun that dialog.

Another topic that I wanted to raise is there=s been some discussion about training. And I=m in alignment with the back and forth that we=ve had on that.

I am aware though that I believe it was Pennsylvania, undertook something that I thought was innovative. In that NRC=s Region I experts worked to try to provide the training materials and modules. And then I think actually provided some hands on time in what I might term a little bit of train the trainers, or some sort of a process that would allow us to take something, training that we had been providing and provide with the right stewardship and opportunity for State to develop that.

I don=t know if any of you are familiar with that. Or would you feel that if you are, what happened there, is that something that could be applied to other types of -- other topics and other training modules?

MR. WELLING: It could be. The problem is States like Pennsylvania and Florida are in a better place than other States. For example, Virginia, I=m locked into how many staff I can have.

We have enough staff to do our job. But there=s no means for me to expand to include a training program to do my own

training in-house.

So unfortunately I don=t think all 37 states would have that caveat availability to set up their own in-house training. And also in perspective, I don=t know if we would even be allowed to go to other States.

Just to say they do the training at another State in-house versus if we say it=s required by the NRC and NRC providing the training, and we=re attending it at the NRC=s facilities. States buy off and that State management, State leaders agree to that.

So there is a perspective from the State to State level that I=m not sure that would work. But it=s something we can look into and discuss at the OAS level.

COMMISSIONER SVINICKI: Thank you. I think that=s an important reminder of one size doesn=t fit all. So I know that you=re going to have dialog to look more broadly at training.

I just point to it as it seems -- it seemed innovative and it helped in that circumstance. So is it at least perhaps one thing to consider and look at.

But again, I thank you all for being here. Thank you Chairman.

CHAIRMAN MACFARLANE: Other comments?

COMMISSIONER APOSTOLAKIS: Yes, thank you. Mr. Jacobson, you mentioned earlier that you would prefer to see a performance based approach to assessing compatibility. And you said that maybe we can have levels of risk defined and then use those to see whether States comply and so on.

Is that correct? You said something about risk objectives.

MR. JACOBSON: Well, I think the adequacy and compatibility of the Agreement State=s program is addressed through the IMPEP process. And we buy into the IMPEP teams taking a performance based approach --

COMMISSIONER APOSTOLAKIS: Right.

MR. JACOBSON: Where they evaluate our programs.

COMMISSIONER APOSTOLAKIS: But in the absence of quantitative health objectives, how can we have a performance based approach? I mean don=t we need some goals that would be promulgated with the Commission perhaps, which then will be used to do this kind of thing?

I mean we have those for reactors. We don=t seem to have anything for materials.

MR. JACOBSON: Well perhaps we could work in these -- on these goals -- on these risk informed goals into some of the revisions with -- that we=re going to be looking into with the IMPEP process.

COMMISSIONER APOSTOLAKIS: Okay, thank you.

CHAIRMAN MACFARLANE: Anybody else? Nope? Okay, great. Well, we thank you very much. This is always very informative and a good discussion. And we really appreciate the partnership we have with you. And hope that it continues to last and improve.

So with this I will declare the meeting over.

(Whereupon, the above-entitled proceeding was concluded at 10:26 a.m.)