

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 16, 2015

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The Commission met in the
Commissioners' Conference Room, 1st Floor, One
White Flint North, 11555 Rockville Pike,
Rockville, Maryland, at 9:30 a.m., Stephen G.
Burns, Chairman, presiding.

PRESENT

STEPHEN G. BURNS, Chairman

KRISTINE L. SVINICKI, Commissioner

WILLIAM C. OSTENDORFF, Commissioner

JEFF BARAN, Commissioner

ALSO PRESENT

MIKE WELLING, OAS Chair

MICHAEL SNEE, CRCPD Chair

SHERRIE FLAHERTY, OAS Chair-Elect

WILLIAM IRWIN, CRCPD Chair-Elect

ALAN JACOBSON, OAS Past-Chair

MARGARET M. DOANE, OGC

ANNETTE L. VIETTI-COOK, SECY

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

9:32 a.m.

CHAIRMAN BURNS: I'll call our meeting to order, and we welcome the Organization of Agreement States and the Conference of Radiation Control Program Directors. Today's meeting with OAS and CRCPD is an opportunity for the members to inform the Commission of radioactive materials policy and regulatory issues of interest to the States, as well as to the NRC. And we'll be briefed on a number of topics by several members of OAS and CRCPD. First, Mr. Bill Irwin, the Chair-elect of CRCPD and the Chief of Vermont --- in the Vermont Department of Health's Radiological and Toxicological Sciences Program, and he will discuss reactor decommissioning, RadResponder and RadNet.

Mr. Michael Snee, the CRCPD Chair and Program Administrator in the Bureau of Environmental Health and Radiation Protection for the Ohio Department of Health will discuss training. Mr. Alan Jacobson, OAS past Chair and Health Physicist Supervisor for the Maryland Air and Radiation Management Administration will discuss source security. And Dr. Sherrie Flaherty, OAS Chair-elect and Supervisor for the Minnesota

1 Department of Health's Radioactive Materials Unit
2 will discuss Web-Based Licensing and the License
3 Verification System. And Mr. Mike Welling, OAS
4 Chair and Director of the Virginia Department of
5 Health's Radioactive Materials Program will
6 discuss the Integrated Materials Performance
7 Evaluation Program, often referred to as IMPEP.

8 The presentation will be followed by a
9 Question and Answer session with the Commission.
10 Would any of my fellow Commissioners like to say
11 anything? Then, Dr. Irwin, would you begin your
12 presentation.

13 DR. IRWIN: Well, thank you. Thank you
14 very much for inviting us, and for this opportunity
15 to discuss issues of importance to all of us. The
16 two topics that I've been asked to address are
17 reactor decommissioning and the
18 RadResponder/RadNet efforts that are being
19 undertaken by the States and federal agencies.

20 In the area of decommissioning, just a
21 note that we're in a new era where merchant plants
22 are not, necessarily, responsive to local issues,
23 and where numerous reactors over the next 20 years
24 will decommission. It's an era when regulations are
25 not specifically focused on post-operational
26 concerns; when states may lose the radiological and

1 nuclear emergency capacity that they've developed
2 over decades that are a tremendous asset to this
3 nation; when vital laboratories may lose
4 environmental radiochemical analysis capabilities
5 because reactor environmental sampling is
6 curtailed.

7 There are good situations in this
8 country where we'd like to consider them models.
9 For example, in Maine using sister states in New
10 England, the utilities there provided the state
11 with the environmental surveillance and emergency
12 preparedness needs that were negotiated with the
13 licensee, the states, and the public, and the
14 utilities. And this was very useful for the entire
15 time of the decommissioning from DECON through
16 finally the fairly recent license termination.

17 In Connecticut, Millstone maintains
18 its environmental surveillance and its emergency
19 planning from offsite response organizations
20 because at that facility there are two operating
21 reactors aside the one that is in SAFSTOR. That
22 provides the State with the capacity to continue
23 to be prepared for a wide array of radiological and
24 nuclear emergencies that, unfortunately, in some
25 circumstances will go away.

26 For example, in Vermont. In Vermont,

1 it's not utility-owned. It is owned by a private
2 corporation with a fleet of nuclear plants, and the
3 regulations, in essence, provide for abandonment
4 of emergency planning even before spent fuel is
5 removed from the spent fuel pool to the independent
6 spent fuel storage installation. And environmental
7 surveillance can, essentially, be curtailed to
8 what may be unacceptable levels for the host state
9 and its residents, and its environment decades
10 before the liquid and solid radioactive materials
11 within the torus and the dry layup of systems are
12 taken out of what is, essentially, a huge
13 radioactive storage facility.

14 The solution, I believe, and I think
15 other states agree, and it's a position that the
16 CRCPD has heard and we believe is appropriate, is
17 that we should encourage the reactor licensees, the
18 owners, to support offsite response organizations
19 until spent fuel is removed into dry casks, and
20 encourage full application of the Nuclear Energy
21 Institute's Groundwater Protection Initiative
22 until all radioactive materials are removed from
23 the site so that the license can be terminated, and
24 the site released for unrestricted use.

25 Sadly, without these kinds of
26 encouragements for cooperation with the states,

1 states only have litigation as a resort. And it's
2 a sad waste of resources to use litigation to solve
3 these problems when, possibly, they could be solved
4 otherwise.

5 The results, if we were to have this era
6 of negotiated settlements encouraged by the
7 regulators, the possibility that we maintain a
8 radiological nuclear emergency preparedness that
9 this nation has benefitted from and developed over
10 decades, rather than lose it because over the next
11 20 years and more we'll see dozens of nuclear power
12 plants and several states lose their funding that's
13 primarily afforded by the reactor licensees. And
14 we may lose the nation's critical radiochemical
15 laboratory capacity because, again, the funding
16 for that has been borne by the nuclear industry.
17 It's a very valuable legacy that we would feel
18 disappointed to lose.

19 With regard to our second topic, I'll
20 join RadResponder and RadNet together. This is a
21 very encouraging activity. The tool, RadResponder,
22 is a software based on what the FRMAC used in
23 Fukushima, and has used in a variety of exercises
24 and actual events to collect field data about the
25 radiological conditions in the environment after
26 an incident.

1 It was developed in coordination with
2 EPA, FEMA, Department of Energy, Department of
3 Homeland Security, and the States, and it allows
4 for collection of field data and realtime display
5 of where responders are, and what they're finding.
6 It's now moving to a condition we're calling
7 RadResponder-ready where it's known, for example,
8 that Vermont can trust the data from Massachusetts,
9 or New York, or New Hampshire because they are
10 RadResponder-ready. They have met certain quality
11 control requirements.

12 We're now working, too, on linking
13 laboratories across the nation so that their data
14 about the samples they are taking from the
15 environment can be processed through the EPA's
16 Exchange Network where Clean Air Act and Clean
17 Water Act data go, and that information shared with
18 all parties that need to see that. And a policy has
19 been developed by the CRCPD to insure that this data
20 is shared with the partners who contributed,
21 especially when that data is quality data, and that
22 policy is in the latest revision of the Nuclear
23 Radiological Incident Annex.

24 At the beginning of this effort a few
25 years ago after Fukushima, the NRC was a very strong
26 part of the initial meetings. I'm not sure exactly

1 why, but that involvement has curtailed somewhat,
2 and I would appreciate the great benefit of having
3 NRC representation with RadResponder again, not
4 just as a partner, as is often the case with the
5 work that NRC, and the States, and other federal
6 agencies do together, but also because we believe
7 that the licensees can be encouraged to
8 participate; those licensees that are not
9 reporting to the State, but those of the NRC. In
10 particular, the nuclear power plants could be
11 encouraged to use RadResponder in their field team
12 data collection, and in their environmental
13 laboratory data sharing. And it could be
14 incorporated into the Radiological Emergency
15 Planning Program of FEMA.

16 So, I appreciate, again, this
17 opportunity to speak before you to present some of
18 the perspectives of the State of Vermont, myself,
19 and the Conference of Radiation Control Program
20 Directors.

21 CHAIRMAN BURNS: Thank you, Dr. Irwin.
22 And I think we'll go to Mr. Snee.

23 MR. SNEE: Thank you. I would like to
24 briefly discuss training opportunities for
25 Agreement State personnel, but before I start, I
26 think I owe an apology to Commissioner Svinicki and

1 Commissioner Ostendorff because I realize you have
2 heard this message time and time again over the past
3 few years not only from those of us sitting here,
4 but previous board members of both CRCPD and OAS.
5 But there's a reason why we bring it up every
6 opportunity we get to meet with the Commission, and
7 that is how crucial this training is to the success
8 of the Agreement States. Without the NRC training,
9 Agreement State personnel, we'd have a hard time
10 supplying this training. There's nowhere else to
11 get it other than, perhaps, trying to do some
12 in-house training the quality that we get from the
13 NRC classes, Agreement States, it would be
14 cost-prohibitive to do that. And, to be honest,
15 most states don't have that capability.

16 For the past three fiscal years there
17 have been an average of 486 Agreement States people
18 have gone each year to NRC-sponsored classes, which
19 is, you know, the cost fully picked up by the NRC.
20 It's, like I said earlier, crucial to the success
21 of Agreement States so we get our people trained.

22 Much like the NRC, state programs are
23 seeing our people getting older, getting close to
24 retirement age. We're bringing in new people, the
25 next set of leadership for Agreement States that
26 are greatly benefitting from this training. And the

1 message we try to bring up every time we meet with
2 the Commission is how much we appreciate what the
3 NRC does. We fully realize the cost that the NRC
4 bears from this. We support your efforts in fine
5 tuning some of this training. There's an effort out
6 of your Chattanooga Training Center now to get a
7 lot of this on line, which states are supporting
8 to help test these modules. And we'll do whatever
9 we can to help. CRCPD has a working group working
10 on training issues, more on the x-ray side to do
11 the same sort of thing, to get this training out
12 easier, to get more people involved. And we stand
13 ready to help any way we can, but the big message
14 is the states appreciate the NRC's efforts with
15 this, and we ask that to the extent possible that
16 you continue with your support for Agreement State
17 training like you have over the past few years.
18 Thank you.

19 CHAIRMAN BURNS: Okay, thank you. I
20 think next, I think Dr. Flaherty, or Mr. Jacobson.

21 MR. JACOBSON: Thank you. Thank you for
22 the opportunity to speak on behalf of the
23 Organization of Agreement States on the topic of
24 source security.

25 Security and control of radioactive
26 sources is a priority for the Agreement States, and

1 we have a long history of insuring radioactive
2 source protection and security. The OAS believes
3 that it is important to maintain a culture that
4 integrates safety, security, and control in an
5 effort to protect public health, safety, and the
6 environment.

7 The GAO has been examining security
8 gaps at materials facilities for over a decade. We
9 support the concept of oversight, and we appreciate
10 the opportunity to accompany the GAO auditors at
11 state-regulated facilities so we can insure that
12 the findings are accurate, and that concerns are
13 addressed in a timely manner.

14 Since the terrorist attacks on 9/11 put
15 a new emphasis on security, the NRC and the States
16 have effectively worked together to create and
17 implement a regulatory framework that provides a
18 common baseline of security. In this framework,
19 security is achieved in layers with multiple
20 approaches working concurrently.

21 States were engaged early and often in
22 the development of 10 CFR Part 37. State
23 representation on the working groups and the
24 steering committee was substantial. As a result,
25 this level of security provides the necessary
26 assurance for the protection of radioactive

1 material in the current threat environment.

2
3 Currently, the NRC and four states have
4 finalized security regulations or legally binding
5 requirements. Eight other states have submitted
6 proposed regulations to the NRC for comment. In
7 October 2014, the NRC approved the Conference for
8 Radiation Control Program Directors suggested
9 state regulations for security. We remain
10 optimistic with the intent of meeting next year's
11 deadline for the implementation of Part 37 security
12 requirements.

13 Under the scope of the National
14 Materials Programs, the Agreement States continue
15 to take action to improve security at our licensed
16 facilities. Our inspectors, our license reviewers,
17 and our licensees are using the National Source
18 Tracking System, and we recently implemented an
19 improved access system. Security at our licensed
20 facilities is further enhanced with NUREG-2155,
21 the implementation guidance for physical
22 protection of Category 1 and Category 2 quantities
23 of radioactive materials. Security at our
24 facilities is further enhanced by NUREG-2166, the
25 physical security best practices for the
26 protection of risk-significant radioactive

1 materials.

2 Regulatory authorities and licensees
3 are now using the License Verification System to
4 insure that materials are shipped and securely
5 received by the intended authorized recipients.

6 Today we look to the future, prepared
7 to implement these essential security requirements
8 without discouraging the beneficial use of
9 licensed radioactive materials. Thank you.

10 CHAIRMAN BURNS: Thank you. Dr.
11 Flaherty.

12 DR. FLAHERTY: Mr. Chairman and
13 Commissioners, thank you for the opportunity today
14 to present to you on behalf of the Organization of
15 Agreement States. I'd like to discuss the topics
16 of the Web-Based Licensing System and the License
17 Verification System, which are otherwise known as
18 WBL and LVS.

19 These are part of the integrated source
20 management portfolio, which also includes the
21 National Source Tracking System, or NSTS. The
22 integrated source management portfolio is designed
23 to have these three information technology systems
24 working together as part of the Nationwide
25 Radioactive Materials Security Program. Starting
26 with the implementation of NSTS, then with WBL, and

1 then lastly with LVS. The web-based licensing
2 system has two functions, one as the repository for
3 radioactive material licenses, and the second as
4 a platform for licensing and inspection tracking.

5 States began submitting license
6 information to the WBL system in May of 2011. They
7 started with the states with the largest number of
8 Category 1 and Category 2 licenses, and because of
9 the large number of licensees, it took until August
10 of 2012 to get all the Category 1 and Category 2
11 licenses captured in WBL.

12 Next came the License Verification
13 System. This system is intended to insure that only
14 licensees authorized for licensed material receive
15 it and within the allowable limits. License
16 verification is accomplished in the LVS by allowing
17 authorities and licensees to use the information
18 that's already stored in WBL and NSTS. WBL confirms
19 the validity of the license while NSTS checks the
20 licensee's current inventory. This information is
21 then relayed back to the user so they can determine
22 if the material may or may not be transferred.

23 OAS has been actively involved in the
24 Web-Based Licensing process since the early
25 working group, and we appreciate the opportunity
26 to offer input and make recommendations as part of

1 this group. We recognize that in order for this
2 security program to be effective, all regulatory
3 agencies must participate; meaning the NRC Regions
4 and the Agreement States must continue to populate
5 WBL with the current licenses.

6 NRC Staff has worked with the States to
7 insure that as licenses are amended, all the
8 necessary license criteria is captured in WBL. And
9 as I mentioned earlier, WBL has two functions, the
10 first as that license repository used in
11 conjunction with LVS, and the second function of
12 WBL as a program tracking system.

13 The NRC uses WBL to manage all of its
14 materials licensing and inspection data, and more;
15 things like incidents, and allegations, and
16 reciprocity. And because these are the same items
17 that are being managed by Agreement State programs,
18 the NRC has made WBL available to the Agreement
19 States.

20 Currently, one Agreement State is using
21 WBL, and two others are in the process of
22 integrating it, one of which is my state. Several
23 others are actively looking at implementing WBL.

24 The OAS fully supports the states'
25 using all of the WBL capabilities, and recommends
26 it to states wanting or needing a complete database

1 and tracking system. We feel the use of WBL by the
2 states builds consistency as part of the National
3 Materials Program. It also adds to the efficiency
4 of the IMPEP process because team leaders will be
5 familiar with the data format, and allows IMPEP
6 team members the capability to review information
7 from any location over the internet.

8 Another benefit is the NRC has
9 continued IT support for the system, and upgrades
10 are made, as necessary, with ongoing changes. And
11 I would be remiss not to mention the feature of zero
12 cost to the states, because to create and maintain
13 a similar program by each state would be extremely
14 expensive and time consuming.

15 While OAS recommends the use of WBL by
16 those states interested, the OAS does not recommend
17 that this be mandatory for the states. We recognize
18 that some states manage multiple programs,
19 including the Agreement State Program, within one
20 comprehensive data system. Many states are
21 satisfied with their current system that's in use,
22 and it meets their tracking requirements. They also
23 have IT support necessary to maintain these
24 systems. It would create difficulty for these
25 states to separate that program from the larger
26 system, and it would also require their staff

1 members to work in multiple systems.

2 OAS requests that NRC continue to
3 support states that wish to integrate WBL as a
4 system to manage their Agreement State Program
5 data, and for the NRC to continue reviewing the
6 status of WBL to make the upgrades in the system;
7 things like adding capabilities to create
8 licenses, and to have some sort of billing feature.
9 We also value being part of the Change Committee
10 that looks at and prioritizes upgrades to the
11 system. And with that, I thank you for your time.

12 CHAIRMAN BURNS: Thank you. Mr.
13 Welling.

14 MR. WELLING: Thank you, Chairman
15 Burns. Thank you, Commissioners, for allowing me
16 time to present on behalf of the Organization of
17 Agreement States.

18 I would like to take a few moments to
19 discuss the Integrated Materials Performance
20 Evaluation Program, or IMPEP. Since 1996, the IMPEP
21 has allowed for an independent review of the
22 Agreement State Radioactive Materials Programs. By
23 allowing our fellow Agreement States peers and NRC
24 partners to the National Materials Program to
25 review our policies, procedures, and licensing and
26 inspection programs it provides a chance to insure

1 that public health and safety is being met by not
2 only the licensees, but by the Agreement State
3 programs, and allows us an opportunity to discuss
4 best practices being performed throughout all the
5 Agreement States and the NRC Regions.

6 Since 1996, 36 of the 37 Agreement
7 States have had a chance to go through at least two
8 IMPEPs. The 37th Agreement State is scheduled for
9 its second IMPEP next week. In Fiscal Year '14, 12
10 Agreement States and NRC Region IV were conducted
11 an IMPEP. Of those 12 Agreement States, 11 were
12 found to be adequate and compatible with the NRC's
13 program, and the 12th was found to be adequate, but
14 needs improvements.

15 Based on SECY-12-0112, a comprehensive
16 review was performed of the IMPEP procedures, and
17 a working group consisting of three NRC Staff and
18 two Agreement States Staff was assembled. During
19 last year's Agreement States annual meeting in
20 Chicago, their findings were presented to the
21 Agreement States and the NRC. Comments were also
22 asked and were due September of last year. Ten
23 papers were submitted based on those findings and
24 recommendations of the working groups. Nine of the
25 ten commentors stated that they felt the --- there
26 was an inconsistency in the IMPEP itself.

1 Now, this could be due to definition of
2 what the IMPEP team leaders feel is the IMPEP
3 process, what they feel findings and
4 recommendations are, and how the actual reporting
5 process is conducted.

6 The IMPEP process is a great program.
7 The Agreement States and OAS Board believe fully
8 in the IMPEP, and we look forward to working with
9 the NRC Staff and management to enhance the IMPEP
10 process. We encourage other programs to look at the
11 IMPEP as a way of working with states and federal
12 partners enhancing those programs.

13 Thank you, and I look forward to any
14 questions.

15 CHAIRMAN BURNS: Well, thank you all for
16 your presentations. We'll begin this morning with
17 questioning from Commissioner Baran.

18 COMMISSIONER BARAN: Thanks. Thanks to
19 all of you for being here. Good to see you again,
20 Dr. Irwin.

21 I wanted to follow-up on your comments
22 on decommissioning. So, obviously, Vermont Yankee
23 shut down, and your state clearly wants to --- or
24 is interested in playing a role in decommissioning.
25 And can you tell us more about what role you
26 envision the State of Vermont playing in the

1 decommissioning process?

2 DR. IRWIN: The history of Vermont
3 Yankee and the State of Vermont is a rich one. It's
4 actually, for the most part, been very productive.
5 For example, in the early days of startup, it was
6 identified jointly by the state scientists and the
7 licensees' staff that radiation levels at the
8 nearby elementary school were higher than optimal.
9 They were within regulatory levels, but an effort
10 was made to reduce those levels. Over the years,
11 a number of activities were conducted jointly by
12 the state and the licensee to evaluate the impacts
13 on the environment from a variety of normal
14 operations, and some incidents that occurred. And
15 over all of those years, the State of Vermont has
16 published annually an Environmental Surveillance
17 Report to provide an independent verification of
18 the Radiological Environmental Monitoring Program
19 that is required of the licensee by the NRC
20 regulations.

21 Concurrently, a robust emergency
22 preparedness program was developed. And as is
23 appropriate for any institution that creates
24 resources and develops assets for an important
25 function, those can be leveraged for a wide variety
26 of purposes. For example, our State HAZMAT Team

1 uses the skills that were developed during the
2 years of radiological and environmental
3 preparedness planning to be capable of not only
4 responding to Vermont Yankee incidents and all of
5 the exercises that are required for maintaining
6 preparedness, but also for improvised nuclear
7 device, radiological dispersal device,
8 transportation accidents whether they're hostile
9 action-based, or truly accidents. And we believe
10 that, one, there is a need to monitor the
11 radiological environment, as we have up until
12 December 29 when the plant shut down until all of
13 the liquids and the solid radioactive materials
14 have left there so that we can provide still that
15 independent verification that the environment is
16 protected, as it has been. It's as important to
17 count no levels above background as it is to count
18 levels that exceed some regulatory limit.

19 And, also, to maintain the capability
20 to respond to not only radiological incidents that
21 might occur, but industrial and transportation
22 incidents that might occur that have a radiological
23 component to them. And the phases of
24 decommissioning where this is most important are,
25 of course, the early stages where they're now
26 trying to put the plant into wet layup for SAFSTOR,

1 and later when they move into the spent fuel
2 campaign to move all of the fuel from the spent fuel
3 pool to the independent spent fuel storage
4 installation. And then after that, relaxation of
5 emergency preparedness to some degree and,
6 incidentally, the funding associated with that
7 until the DECON phase of dismantling and
8 decontamination occurs where the opportunities for
9 industrial accidents that could have a
10 radiological release as a small component of that
11 might occur. And, again, not only with the amount
12 of work, but the funding would likely need to be
13 increased.

14 So, those are the thoughts that we have
15 relative to our objectives for both radiological
16 emergency planning and environmental surveillance
17 during decommissioning.

18 COMMISSIONER BARAN: So, at the end of
19 last year, late December, the Commission directed
20 the Staff, as I'm sure you know, to initiate a
21 rulemaking to take a fresh look at a range of
22 decommissioning issues, including the appropriate
23 role for state and local governments in the
24 process. And Vermont and other states will have the
25 opportunity down the road to comment on a proposal,
26 but sitting here today, what suggestions do you

1 have for us and for the NRC about how the reactor
2 decommissioning process can be improved?

3 DR. IRWIN: Yes. As you heard in my
4 opening remarks, I used the word "encourage," and
5 the reason for that is that the licensees are taking
6 what I would probably take as a licensee, only the
7 required steps. And, unfortunately, when all that
8 is allowed are exemptions from the operating
9 standards, it does not, necessarily, genuinely
10 meet the objectives of good radiological health
11 protection to ignore some of the opportunities like
12 those that I suggest here. So, we're not going to
13 benefit from that rulemaking; those states that are
14 currently dealing with plants that are in
15 decommissioning phases. So, I would, as again I
16 said, try to encourage the licensees.

17 Now, that's not an easy thing to do, but
18 we believe that we have been able in Vermont to work
19 with your licensee very effectively over decades
20 to accomplish public health and environmental
21 protection goals because we have respect for each
22 other's positions. And if that kind of
23 encouragement, which is, I think, embodied very
24 effectively in the NEI's Groundwater Initiative
25 Protection --- Groundwater Protection Initiative,
26 really where stakeholder engagement is a critical

1 component. That sort of encouragement maybe even
2 through another NEI initiative could be a very
3 effective way to accomplish that for those who are
4 in between the stage where we are now and the final
5 rulemaking.

6 COMMISSIONER BARAN: All right. Thank
7 you for your thoughts on that. Do any others have
8 comments on decommissioning they want to share?
9 Okay. Mr. Jacobson, I wanted to turn to Part 37 for
10 a minute.

11 Can you just give us your assessment of
12 how you think generally the Agreement States are
13 doing with implementation of the Part 37
14 requirements? I know you mentioned that you were
15 optimistic about states meeting the March 2016
16 deadline, but I'm curious how you think things are
17 going? Are there any obstacles you're facing in
18 meeting that deadline?

19 MR. JACOBSON: Well, first, the
20 framework of the Part 37 requirements is
21 substantially in place right now using regulatory
22 tools, such as license conditions and security
23 orders. And then the Commission published a very
24 nice paper showing the differences between the
25 current --- between the increased controls,
26 license conditions, and the security orders, and

1 the extra steps that Part 37 is going to require.
2 So, it's very clear, the extra requirements that
3 the states are going to need to implement on Part
4 37.

5 The performance of the states
6 implementing these regulations, it's being
7 tracked. The NRC is posting this on your Materials
8 Security website. As I said, in October of 2014,
9 the suggested state regulations were approved by
10 the Commission, and we think that is going to really
11 help out some of the states who have not yet
12 submitted regulations, get their regulations
13 approved in a timely manner.

14 And, finally, the OAS stands by, and
15 we're ready to assist any state that may need help
16 in meeting this deadline, upon request.

17 COMMISSIONER BARAN: Okay, thank you.
18 So, Part 37 has a requirement, obviously, for
19 license verification, and I wanted to follow-up on
20 the discussion on the web-based licensing, and how
21 that relates to the license verification. Are the
22 states who --- which I take is most states that
23 aren't using web-based licensing, does that pose
24 problems on the license verification side of
25 things?

26 DR. FLAHERTY: No, your Staff did a

1 really good job of working with the states, and
2 working through the differences in how states
3 license versus how the NRC might license. And
4 there's a set criteria of data that they want for
5 WBL, as well as an image of the license. And your
6 Staff worked very well with the states to make sure
7 that all of that data was captured. And once we get
8 through that process, now every time a license gets
9 amended it gets sent over to the NRC, and if the
10 state is not currently in WBL, then the NRC will
11 put it into WBL.

12 COMMISSIONER BARAN: Great. Thank you
13 all. Thanks.

14 CHAIRMAN BURNS: Thanks. I have a few
15 questions, but just at the beginning, I want to
16 thank you all for your participation in this
17 activity. I think the Agreement State Program, as
18 I recall, goes back to the early 1960s, has been
19 an important one because, again, it's sort of this
20 shared responsibility that we all have with respect
21 to assuring the safe use of radioactive material
22 across the country in various applications. And I
23 appreciate the comments in terms of the partnership
24 we're trying to create with the states, because
25 that's extraordinarily important. And I think
26 sometimes --- I know, we've just been going through

1 our appropriations and our budget hearings, and one
2 of the things, and I think it may have been --- a
3 couple of you, actually, mentioned the importance
4 of sort of, if you will, the centralized support
5 that we can provide to the Agreement States,
6 whether it's through training, through some of the
7 other --- through the web-based licensing, and
8 some other initiatives, and I think that's
9 important for us to keep in mind certainly as we
10 budget or make our request to the Congress in terms
11 of the funding for the Agency, and try to keep that
12 in the forefront, you know, particularly in the
13 area with the use of materials that are predominant
14 --- I think we have 37 Agreement States now, and
15 we have another one, or at least in part coming up
16 in the State of Wyoming. So, again, I thank you all
17 for your participation and the support for the
18 program, and what you do to enhance this very
19 important aspect of radiation safety, and the safe
20 use of radioactive material in the United States.

21 Along those lines, as I mentioned, the
22 State of Wyoming has indicated at least in part for
23 the activities related to uranium mining that
24 interest in becoming an Agreement State. Does the
25 OAS provide sort of outreach or support to a state
26 that wants to become an Agreement State? Obviously,

1 I think you can take them aside and provide sage
2 advice. Mr. Welling?

3 MR. WELLING: If there is interest,
4 actually, Wyoming did reach out to me for a couple
5 of different reasons. One, as the OAS Chair, as far
6 as uranium, so I did have a couple of conversations
7 with the Wyoming program. So, the OAS does put on
8 its website that if there is interest from other
9 states, such as Indiana, Michigan, Vermont,
10 whoever else, that we are willing and available to
11 help out to discuss the process. SA-700 is a great
12 --- it's already laid out in a procedure of how to
13 become an Agreement State, but we do stress to them
14 that not only with that procedure, that with our
15 knowledge and experience of Agreement States, that
16 we're willing to help them out in their process of,
17 you know, filing the application, the agreement
18 letter, whatever it takes. So, we are willing to
19 stand by and help them out whenever necessary.

20 CHAIRMAN BURNS: Good, great. Thanks
21 for that.

22 You made some comments, I'll stay with
23 you for a moment. You made some comments regarding
24 sort of the assessment going on with respect to the
25 IMPEP Program. What --- are there any sort of maybe
26 high level or general observations you'd make,

1 areas where you think we all have succeeded, or
2 where we really need to focus coming --- in the
3 coming years in terms of improving or enhancing the
4 program?

5 MR. WELLING: IMPEP is a success story
6 in itself. I mean, where you see a federal agency
7 working with state partners, you know, in reviewing
8 programs independently and providing an
9 assessment, that in itself is a great tool, and a
10 success story. Yes, there have been bumps along the
11 road, and it's one of those programs which we've
12 been asked to help, and we gratefully appreciate
13 that concept of allowing us to provide feedback and
14 looking at the future of the IMPEP.

15 The biggest, like I said in my
16 statements, the biggest thing we think of is the
17 inconsistency. When you have that many different
18 people and personnel in a program, we each have a
19 different belief and feeling, so trying to get a
20 consensus is tough, and the human elements in a team
21 brings that to bear. So, one of the biggest things
22 we're asking for is look at the consistency. How
23 can we make that program and process more
24 consistent across all 17 Agreement States and the
25 three Regions when they're reviewed?

26 CHAIRMAN BURNS: Okay, thank you.

1 I'm going to turn to the Source Security
2 for a couple of minutes. Commissioner Baran touched
3 on that.

4 Again, Mr. Jacobson, you said you're
5 optimistic. Make sure I understand, do you think
6 --- are there --- what would you say are the
7 biggest stumbling blocks that might be there in
8 terms of the success path into 2016, if any?

9 MR. JACOBSON: The challenge with
10 regulations tends to be at the state level at their
11 --- with the state legislature and their own
12 state's process in adopting regulation.

13 CHAIRMAN BURNS: Yes, so depending on
14 the process, regulation --- because I know some
15 states it requires the legislative --- you know,
16 the legislature to approve, as opposed to just the
17 Agency.

18 Again, one of the things, and you're
19 probably well aware, we're under a requirement from
20 our recent appropriations language to provide an
21 assessment, I think in 2017, two years from now,
22 so we certainly look for the support of the
23 Agreement States as we proceed with that. So,
24 thanks.

25 I want to talk a little bit about the
26 training aspects. Some of our training has gone to,

1 as I understand, to a web-based, or parts of it,
2 not everything, gone to web-based training. Do you
3 see any benefits or disadvantages of that, or
4 comments on how that might be working?

5 MR. SNEE: Well, I think there are some
6 huge benefits to it--- and, actually, in Ohio we
7 got an email just last week from your Chattanooga
8 Training Center asking for volunteers to test some
9 of the modules. Having it web-based, one, of course
10 it reduces the cost, but it also opens it up to --- I
11 mean, I could have my whole staff sit in on those
12 training sessions and do it, instead of having two
13 or three people travel to Chattanooga, or wherever.
14 Not all classes can be supported like that, such
15 as industrial radiography. The hands-on part of
16 that is a crucial part of that training, but much
17 of the training can be done on line like that. And
18 I think the NRC is off to a good start. We've seen
19 some of what their thinking is and how they're going
20 to do it, and it'll be a huge benefit for everybody.

21 CHAIRMAN BURNS: Well, good. Well, keep
22 us informed on that. I think that's --- as I say,
23 it's --- you know, using those techniques, as you
24 say, if you can get --- sometimes for the right
25 content, the right, you know, application, if
26 you're able to expand it, get it across, that's

1 great.

2 MR. SNEE: Right. It will open it up to
3 many more people being able to ---

4 CHAIRMAN BURNS: Good. Well, we'll keep
5 an eye on that, and appreciate input from the
6 community on that, too.

7 Dr. Irwin, I want to ask you, you
8 mentioned RadNet, and what appears maybe a less of
9 an NRC presence or the Staff presence. What
10 --- help me along here, because I have to confess,
11 I'm not extraordinarily familiar with it. What type
12 of participation or contribution from Staff would
13 you say might be --- maybe an idea, you know,
14 describe an ideal or practical, or even impractical
15 terms which would help from your perspective?

16 DR. IRWIN: So, we've had two national
17 RadResponder exercises, the first was just
18 broad-based, everyone that is a registered
19 RadResponder user was asked to log on and to start
20 collecting actual radiological data wherever they
21 were. And I believe 40 states plus participated,
22 several hundred users participated, and tens of
23 thousands of data points were collected. And it
24 gave us the ability not only to provide realtime
25 what the radiation levels, observations of the
26 situation, even photographs of where people were

1 taking the field measurements and share that with
2 everyone. And that was something lacking during
3 Fukushima. And we believe that that was one of the
4 most important first steps, was the ability to on
5 time realtime provide the nation with information.

6 A second one had a scenario built into
7 it. Actually, a Conference of the New England
8 Radiological Health Committee, they had an
9 improvised nuclear device scenario, and the
10 nation, again, logged on and showed through actual
11 measurements, observations, photographs the
12 beginning of collection of locations where
13 environmental media were sampled, what the
14 conditions were.

15 Unfortunately, a gap in all of those
16 parties participating are the many NRC licensees,
17 primarily the reactors. And I think that if they
18 were involved it would give us a greater level of
19 participation and fill in a lot of really important
20 data, because among all of the people across this
21 nation with skills in this area, those that work
22 in the nuclear power plants are among the highest.
23 And especially so with laboratory data. So, as we
24 move further into that, I would like to see
25 encouragement in the FEMA exercise program for REP
26 that RadResponder first be encouraged to be

1 integrated into it. And then maybe over the course
2 of time it becomes a tool as convenient, and as for
3 granted taken as our survey meters.

4 CHAIRMAN BURNS: Okay. Well, thanks for
5 that.

6 I think I'll proceed to Commissioner
7 Svinicki.

8 COMMISSIONER SVINICKI: Well, thank you
9 for your presentations, and for the acknowledgment
10 that for some of us, we've been at this dialogue
11 for a number of years now.

12 One of the things that the NRC Staff is
13 very helpful to make sure that we have annually for
14 this meeting is this map which shows us the
15 Agreement States and the NRC States, so I think some
16 of my questions are rooted in this map. This map
17 is getting very blue. I could have hash tagged
18 Wyoming that has indicated and notified of its
19 intention to pursue Agreement State status.

20 There are other orange states here that
21 have over the past number of years at times
22 indicated some interest. Other than Wyoming, we
23 don't have a Statement of Intent from any of the
24 others, but this map is getting very blue in terms
25 of Agreement States.

26 I appreciate that we've worked very

1 well on the training aspects. As a matter of fact,
2 in 2008, I joined the Commission majority that
3 re-energized that process of supporting Agreement
4 State training, which had languished for some
5 years. I don't know why that was, but it had
6 champions in 2008, so we re-injected that into our
7 budget process.

8 But I'm going to suggest to you that OAS
9 needs to be --- again, this is just a suggestion,
10 but I think as you meet annually, it would be
11 beneficial for you to be reflecting on how much of
12 the country is Agreement State, and it's going in
13 that direction.

14 Our budget is under a lot of scrutiny.
15 This year for the first time in so long that we had
16 to ask the NRC historian when this last happened,
17 but we've appeared before both the House and the
18 Senate Appropriations Committees on our budget.
19 That's unprecedented in modern history, so I use
20 that so that you understand the level of how closely
21 our budget requests are being examined right now.

22 So, I think at some point, if the nation
23 is predominantly Agreement States, the NRC's very
24 dominant role in training, I think will be
25 questioned. I'm sorry, I'm just being honest with
26 you about that. So, I know that our TTC contractors

1 are available. California has availed itself of
2 that to, basically, kind of come in under the
3 efficiency of our contracting that we have in place
4 with the TTC.

5 I want to commend everyone, the
6 Agreement States and the NRC Staff for the amount
7 of innovation they're brought to providing
8 training opportunities. I'm just a little worried
9 about the future as NRC has fewer and fewer
10 licensees.

11 This was a theme yesterday at an
12 Authorizing Oversight hearing that we had, which
13 talked about the level of --- if nuclear is
14 contracting in the U.S., you know, NRC's budget,
15 how does that relate to that? It was more a dialogue
16 on the power reactor side, but I think the --- this
17 is only more pronounced when we look at the material
18 licensee side. So, it's something to be thinking
19 about for the future. I don't think it affects FY
20 '16 in any kind of dramatic way, but I'm going to
21 suggest as you get together that you be looking at
22 a future which might have a different role for NRC
23 as we --- I don't want to call us a bit player in
24 the materials licensees area, but if we don't
25 --- if we have fewer and fewer materials licensees,
26 I think at some point you reach an inflection of

1 balance point where things tip, so I think it's just
2 --- that's just my personal view. It's nothing that
3 the Commission is supporting or preparing for.

4 The other question I have is that I know
5 that we carry around this notion that it takes four
6 to five years to become an Agreement State. If I
7 had to make an assumption about why that is, I would
8 say it has to do with state legislative cycles which
9 often are not --- state legislatures are often not
10 in session for the majority of the year like
11 national legislatures are. But what are the key
12 points? If any of you can reflect on the history
13 of your experience of becoming an Agreement State,
14 what's the long pole in the tent there? Is it
15 working with the state legislature to establish an
16 entity, and then legislate the authorities to that
17 entity within the state? Is that, basically, the
18 long pole in the tent?

19 Four to five years seems like a long
20 time. I would think that if a state were truly
21 committed to it, I don't think that the NRC's
22 validation and review steps are the majority of
23 that time.

24 MR. WELLING: I'll speak on that as the
25 36th Agreement State. It only took Virginia three
26 years. We were a little unique in some things I

1 could do as far as regulation stuff, but the process
2 in itself from the state side is what is the leading
3 cause of time.

4 For us to go through and get the
5 governor to buy off, the state legislature to buy
6 off to put the statutes in place ---

7 COMMISSIONER SVINICKI: But by the time
8 we get the Notice of Intent, I mean, we have that,
9 basically, I think from most states. That's how
10 --- so, for when we say four to five years from that
11 point, that seems excessive to me.

12 MR. WELLING: That's just an average. I
13 mean, it's --- there had been very few instances
14 of taking four to five years from the time the
15 letter is submitted. If, in fact, everything is in
16 place and accurate when the letter is submitted,
17 you know, as far as the regulation statutes, the
18 program, the policies, procedures, it should and
19 has only taken two to three years from the start
20 of the letter to the time the agreement is signed.
21 So, I mean, there have been instances ---

22 COMMISSIONER SVINICKI: Okay. So, that
23 --- maybe if we use that four or five years, that's
24 an outer bound, maybe, in recent experience.

25 MR. WELLING: In recent ---

26 COMMISSIONER SVINICKI: Because I think

1 --- I'm with you. I think the period of state
2 exploration, building the consensus in the
3 legislature and with the governor, it seems to me
4 that takes some years. But I was thinking that we
5 use this term of four or five years from that point
6 of making --- the state has made the decision to
7 pursue it, so I'm encouraged to hear that that has
8 not --- I think I was here for Virginia, but I think
9 it was the tail end of the process, so I didn't
10 realize how long that had taken.

11 And then the other thing, you know, we
12 talk about the reason --- I don't mean to sound hard
13 on state legislatures. And, like I said, they're
14 in session in most instances for shorter periods
15 of time than the U.S. Congress. But we do have, in
16 terms of the status of Agreement State regulations,
17 we've got some states that have basic
18 non-conformities going back --- in one case we're
19 creeping up on 20 years. We've got a number of them
20 for states, I won't name any names, it's nobody at
21 the table here, but we've got some that are well
22 in excess of 10 years.

23 You know, what --- you know, as NRC, as
24 we look at doing IMPEP review and we keep these
25 metrics on where states, the progress they're
26 making in conforming and getting state regulations

1 in place. How do you think we should react to
2 something if it's, you know, been 10 years, or more
3 than 10 years. Is there a view that, you know, the
4 state has hit some problem so fundamental, like
5 should we doubt that it's going to get there ever?

6 MR. WELLING: No, I would say never
7 doubt. In certain cases I've talked to states that
8 have that problem. It's based on the legislatures
9 themselves. They have put in place a minimum
10 requirement of four to five years for a regulation
11 or a law to get into place. Some states feel
12 regulations are burdensome on their licensees or
13 businesses, so it's --- unfortunately, it's up to
14 each state to decide their own legislative process,
15 which can cause differences between Agreement
16 States and the NRC, and where the regulations are
17 at.

18 Now, there are other instances besides
19 regulations, there are license conditions, there
20 are orders, there are other ways performance-based
21 to meet those metrics. So, one of the things we're
22 talking about, especially doing the IMPEP is
23 looking at an overall concept of how the state has
24 met those requirements. Is it by regs, is it by
25 statute, is it by license conditions or orders? So,
26 as long as those are obtained to put in place, and

1 the health and safety of the public is met, then
2 those metrics should be acceptable.

3 COMMISSIONER SVINICKI: And I
4 appreciate your mentioning that. That is very
5 significant, because that gets to consequence and
6 outcomes. The rest of it is process, which I would
7 agree with you, at the end of the day when we're
8 assessing the ability to assure safety outcomes,
9 that's what matters.

10 But I --- you know, the Agreement State
11 program arises from the Atomic Energy Act. At the
12 end of the day, NRC is accountable for validating
13 that the states are able to carry forward with the
14 authorities that we essentially relinquish under
15 the agreement. So, at some point, I think NRC can
16 be --- one could question and ask us to account for
17 the fact that -- you know, our tolerance of
18 something can't be infinite, so that's why I ask
19 about is there some point at which we should have
20 a fundamental concern about the ability of the
21 state to kind of come into the compatibility? But
22 you've indicated that there's more than one way to
23 assess that. One is saying yes, you've been trying
24 to state laws or regulation at the state level. The
25 other is that the regulatory authority is itself
26 compelling the actions through other measures that

1 are available to the state regulator.

2 So, I just --- I know, you know, we do
3 track it. If there's some more sophisticated way
4 for us to be looking at that, that gives us greater
5 granularity to what's happening on the ground, I
6 think that's valuable. I appreciate the Agreement
7 States having that dialogue with the NRC Staff.

8 I guess I'll let it lie there, and next
9 year we'll sit and we'll look at the same chart
10 where we'll have probably some of these same
11 outstanding compatibility issues, but I appreciate
12 that we'll keep engaged in the dialogue about it.
13 Thank you.

14 MR. SNEE: One, if I may, one thing that
15 may help, and I know it's been discussed, is some
16 regulations that the NRC implements. Not all them
17 need to be implemented in three years. Some of them
18 are rather minor with no safety consequence. They
19 could be put off where perhaps states can have them
20 in five, six years to reduce some of that burden
21 on the states that have a hard time implementing
22 regulations. That may help. With something like
23 Part 37; yes, that should be implemented as quickly
24 as possible, but some of the other ones can be put
25 off a little bit.

26 COMMISSIONER SVINICKI: Well, again,

1 I'm always supportive of looking at what makes
2 sense in terms of those time frames for
3 implementation. So, again, I think we benefit by
4 getting that state input, so thank you for that.
5 Thank you, Mr. Chairman.

6 CHAIRMAN BURNS: Thank you,
7 Commissioner. Commissioner Ostendorff.

8 COMMISSIONER OSTENDORFF: Thank you,
9 Chairman. Thank you all for your appearance today,
10 and for your presentations. I found it very
11 helpful, and we're all so appreciative of what you
12 do in your organization in your day jobs. So,
13 thanks.

14 I'm going to just make a comment on Dr.
15 Irwin's comments. I appreciated the --- your
16 statement on Vermont Yankee, and concerns on the
17 emergency preparedness stature. And I --- and this
18 is a public meeting. There are people here that will
19 know more about this than others, there are some
20 that won't have any awareness. But I feel compelled
21 to respond, not necessarily to you directly, but
22 to those listening that the NRC has found that the
23 --- has granted security and emergency
24 preparedness exemptions for Vermont Yankee, and we
25 believe that those are protective of public health
26 and safety. And since you were alluding to it, you

1 had a different belief. And I'm not trying to debate
2 this with you, or argue with you, but I think it's
3 important for at least a Commissioner to make the
4 statement that we as the Commission have voted to
5 grant exemptions that we believe fully are
6 protective of public health and safety in the
7 context of Vermont Yankee. So, I am not opposed to
8 discussing this, but I wanted to make sure since
9 you made a statement that was contrary to the
10 Commission, I think it's important to in the public
11 meeting setting make that statement.

12 Mr. Snee, for your comments on
13 training, thanks for making those. I don't think
14 you can --- you know, I think repetitiveness is not
15 a bad thing for key messages. But I also share
16 Commissioner Svinicki's comments that we're in a
17 very different budget environment than we are
18 --- were even two years ago. So, I think that her
19 counsel about looking at this perhaps through a
20 different lens at some point going forward, I agree
21 completely with that sentiment.

22 Mr. Jacobson, on your commentary on
23 source security, I thank you for making the point
24 that the states have been involved early and often
25 on the Part 37 development. We've spent a lot of
26 time as the Commission discussing this, especially

1 Commissioner Svinicki and I for the last X number
2 of years going back on this topic. And I will just
3 comment that I appreciate what you and the state
4 organizations are doing in this area. It's been my
5 --- I'm just making my own personal observation.
6 It's my comment that many of the critics of Part
7 37 perhaps do not have a fulsome level of knowledge
8 of what the risks are, and what the protocols are,
9 and the different steps that are part of Part 37.

10 I'm not directly criticizing one
11 organization or another, but I appreciate what
12 you're doing and your colleagues to insure that
13 people understand what's the nature of the
14 materials we're talking about, and what the risks
15 are, because I think in many --- my experience has
16 been, even an official at Department of Energy,
17 that a lot of people will conflate and exaggerate
18 the risk profile for some of these materials. I'm
19 not asking you to agree or disagree. I'm just making
20 that statement, but thanks for bringing that topic
21 up.

22 Dr. Flaherty, I appreciate your
23 mentioning your belief that the NRC should not take
24 steps to require web-based licensing to be
25 mandatory. I think you give a good explanation. I
26 would just respond, I think it's important for

1 those states that are using it, for them not to shy
2 away from articulating the benefits, to the extent
3 they found benefits, so that they can share their
4 experiences with other states that have not pursued
5 that. But I think you gave a good reason for why
6 it should not be mandatory, and I appreciate your
7 raising that in this meeting.

8 Thank you all for what you do. Thank
9 you, Chairman.

10 CHAIRMAN BURNS: Thank you. Any other
11 from our Commissioners?

12 Well, again, I want to thank the
13 representatives of the Organization of Agreement
14 States and the Conference of Radiation Control
15 Program Directors for briefing us today, and
16 sharing their insights. As I've said, I think our
17 relationship with the states is an important one
18 in this area to continue our mission of serving
19 public health and safety, which you all do. And we
20 support you, and appreciate the support for us in
21 carrying out that mission.

22 And with that, we're adjourned.

23 (Whereupon, the above-entitled matter
24 went off the record at 10:31 a.m.)