

# **Official Transcript of Proceedings**

## **NUCLEAR REGULATORY COMMISSION**

**Title:** Public Meeting to Discuss the Draft Regulatory Basis Associated with Updating 10 CFR Part 26 Related to Security Force Fatigue at Category I Sites and to Update Security Regulations Within 10 CFR Part 73

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1 UNITED STATES OF AMERICA

2 NUCLEAR REGULATORY COMMISSION

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4 Public Meeting to Discuss the Draft Regulatory  
5 Basis Associated with Updating 10 CFR Part 26  
6 Related to Security Force Fatigue at Category  
7 I Sites and to Update Security Regulations  
8 Within 10 CFR Part 73

9 + + + + +

10 PUBLIC MEETING

11 + + + + +

12 WEDNESDAY

13 SEPTEMBER 24, 2014

14 + + + + +

15 The Public Meeting convened in 3WFN1C3, Three  
16 White Flint North, 11601 Landsdown Street, Rockville,  
17 Maryland, at 1:00 p.m., George Smith, facilitator,  
18 presiding.

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1 NRC STAFF PRESENT:  
2 JOHN ADAMS  
3 MARISSA BAILEY  
4 N. BAKER  
5 CRAIG ERLAMLER  
6 TONY GODY  
7 IVAN HALL  
8 LARRY HARRIS  
9 PAUL HARRIS  
10 TIM HARRIS  
11 MERRI HORN  
12 ROBERT JOHNSON  
13 CHRISTINA LUI  
14 J. MUNSON  
15 JOE RIVERS  
16 ALEX SAPOUNTZIS  
17 GEORGE SMITH  
18 OTIS SMITH  
19 WILL SMITH  
20 ALBERT TARDIFF  
21 THOMAS YOUNG  
22  
23  
24  
25

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1       ALSO PRESENT:

2       OLEG BUKHARIN, NSIR

3       JOHN CARTER, B&W

4       GARY CLARK, MOX

5       AJ CLORE, NEI

6       DAN CRONIN, University of Florida\*

7       DEVON ENGLEMAN, SHINE Medical\*

8       DEALIS GWYN, MOX

9       AL HAGER, Certrec\*

10      ED LYMAN, Union of Concerned Scientists\*

11      MICHAEL MOSLEY, Secure Transportation Services\*

12      SCOTT MURRAY, Global Nuclear Fuels

13      DON PARKER, AREVA

14      NANCY PARR, Westinghouse

15      ANDY RANDOR, B&W

16      JOHN RUND, NEI\*

17      JANET SCHLUETER, NEI

18      A. SOBISCH, NFS

19      DAVE SPANGLER, B&W

20      JAY SPIVA, B&W

21      MIKE SUWAY, B&W

22      G.S. WALDRON, DOE/NRFLO

23      SANDRA WILLIAMS, B&W

24

25      \* present by teleconference

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

8:01 a.m.

MR. SAPOUNTZIS: I would like welcome everybody to our meeting today on the 10 CFR Part 73 and Part 26 Draft Reg Basis. We appreciate you all coming to this meeting. At today's meeting, we're going to give you some more insight into the reg basis and we hope to get some comments from you. At the same time, we may be asking you all for your expertise on questions how we can improve this reg basis. That's the purpose of today's meeting.

Without further ado, I would like to turn it over to Chris Lui who's our Director in the Office of Nuclear Security Incident Response, Division of Security Policies for some opening remarks.

MS. LUI: Thank you and welcome. As Alex said, I'm Chris Lui. I'm the Director of the Division of Security Policies in the Office of Nuclear Security Incident Response. And it's really great to see people joining us today in person and electronically.

For those who are here in the room, you have the added bonus of beautiful weather in the Washington, D.C. area at this time of the year. I know it's a little chilly, but it's much better than July/August time frame.

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1           We have purchased the Draft Regulatory  
2 Basis document back in the June time frame. And at the  
3 end of the Recycle Information Exchange meeting back  
4 in June, we had have a meeting to talk about the  
5 regulatory basis.

6           I understand during that time frame, the  
7 community did not have a whole lot of opportunity to  
8 actually review it. And since then we have had gotten  
9 requests to have further public engagement and also  
10 having a period of public comment period.

11           We're really happy that we are able to honor  
12 those requests that the public comment period has been  
13 extended out now to October 17th which is about three  
14 and a half weeks from today. And we are also able to  
15 arrange this public engagement today. And  
16 also we had a separate public engagement with the  
17 Training, Research and Test Reactor community last  
18 week. I understand that particular engagement was  
19 extremely productive.

20           As Alex had indicated that we're really  
21 looking forward to the discussion today. The staff  
22 will be listening while we go into the regulatory basis  
23 and answer your questions and get your feedback. Your  
24 engagement really will help us to map what would be the  
25 appropriate next step in the rulemaking process and,

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1 if necessary, how to really adjust our regulatory  
2 requirements within the framework to right size the  
3 protection of special nuclear material, transportation  
4 and other matters associated with this particular  
5 rulemaking.

6 I would really like to encourage everybody  
7 for active participation. We have lined up all the  
8 technical staff who supports the meeting and answer  
9 your questions.

10 And don't forget that the public comment  
11 period is not extended to October 17th. I understand  
12 that we have already received a couple sets of written  
13 comments. We would like to encourage everybody to give  
14 their comments in written form in by that particular  
15 date.

16 Looking forward to a very productive  
17 engagement today. I myself have a couple of conflicts.  
18 So I'll be coming in and out the whole day. Hopefully,  
19 we'll all be able to have further discussion during the  
20 day, too. Thank you.

21 MR. SAPOUNTZIS: I'm going to go ahead and  
22 turn it over to George Smith for some opening remarks.

23 MR. SMITH: Good morning. I'm George  
24 Smith. I'll be facilitating the meeting today. As the  
25 facilitator, my job is to help you to meet your



1 objective and that's for you to provide comments to the  
2 technical staff. Part of that you may engage in some  
3 conversation with the staff and some point we may have  
4 to move forward in order to allow those on the line and  
5 allow others in the room to be able to engage in feedback  
6 and in conversation also.

7 So this is a Category 2 meeting. And  
8 basically in Category 2 meetings, we actually encourage  
9 those from the public to provide comments and to speak  
10 during the meeting and to have that dialogue with the  
11 staff.

12 Now in saying that no classified,  
13 priority, safeguards information or protected  
14 information will be exposed at the meeting. So try not  
15 to engage in specifics when you're talking about a  
16 specific site. Then you won't get into classified or  
17 safeguards information. Just be aware of that. If we  
18 believe that you may be going down that road, someone  
19 on the technical staff or myself may actually sort of  
20 stop you at that time and say, "Hey, we may have to have  
21 a sidebar conversation with that information."

22 Now the meeting is being transcribed.  
23 John is in the back. So he's trying to capture the  
24 information on the meeting. So we ask that you speak  
25 clearly. Also state your name and if you're affiliated

1 with any organization when you provide a comment.

2 Now we understand that you may have to take  
3 an important phone call. If that's the case, please  
4 step outside of the meeting and then take the call. Or  
5 if you have to make a call. And also we ask that you  
6 limit the sidebar conversations in order for Alex to  
7 be able to catch the information and for those on the  
8 line to be able to hear the comments.

9 Also we ask at this time if you could put  
10 your phones on courtesy mode. That's silence or vibrate  
11 at this time.

12 There are some meeting rules that as a  
13 facilitator we always try to get out. And one is to  
14 have only one person speak at a time. So if one person  
15 is speaking, please try not to cut him off and please  
16 let the person get their information out.

17 Also again if there's banter, you know,  
18 going back and forth, I may say "I think we have reached  
19 an impasse" or "Maybe that should be a side bar  
20 conversation." That may not allow everyone to be in an  
21 actively participating meeting if we continue down that  
22 road. Just to be aware of that. And we ask that  
23 everyone respects others that are speaking and allow  
24 them to get their comments out.

25 Now the phone line is being supervised by

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1 Arlene the Operator. So again if you can clearly state  
2 your name, affiliation if any and the comment, question  
3 and concern.

4 Also I would say, too, sometimes you have  
5 comments, you have questions. Try to get the comment  
6 out first, the specific comment, so the staff can hear  
7 that specific comment. And then you can -- I'm sorry.  
8 A question, if you have a question. Then the staff can  
9 address that question. And then you can follow up with  
10 your comments.

11 The restrooms are outside to the left  
12 around the corner. You'll see the men and women  
13 restrooms on the lefthand side once you turn the corner.

14 Also in case of an emergency, there is a  
15 door around the far end of the building. If you go here  
16 to the left and go around, there's a push-bar door. You  
17 can just go there.

18 Our gathering point is the next street  
19 over behind the parking lot which is by Harris Teeter.  
20 So Alex has a list of all the folks that are in this  
21 room. If you're going to leave, if you're not going to  
22 go to that area, please let Alex know so that he can  
23 at least account for everyone on that list.

24 Why you're in this space you do not have to  
25 be on escort. But you go past the security officer

1 and go up the elevator, you're going to go into NRC space.  
2 You need to be escorted. And if you go on the elevators  
3 and if you happen to get out of the elevators, you  
4 probably won't be able to get into NRC space because you  
5 need a badge to go through those doors.

6 But between here and the restrooms and here  
7 and the dining facility here, you do not have to be  
8 escorted. And also there is a restroom over by the  
9 dining facility.

10 And for those who are on the line the same  
11 thing. If they can clearly state their name and  
12 affiliation and their questions. We're going to try to  
13 go back and forth between this room and the lines in  
14 order to give those on the lines an opportunity to speak  
15 also.

16 Although I might see you've got a question  
17 if you can wait for a mike I'll bring the mike to you.  
18 But we're going to allow those on the lines also to  
19 partake in the call.

20 Again, welcome to the NRC. I'm going to  
21 turn it back over to Alex.

22 MR. SAPOUNTZIS: Thank you, George. So I  
23 just want to make sure everybody had a chance to sign  
24 in at the sheet outside and gather the materials. For  
25 those on the bridge line, the materials are on our

1 public website for the Part 73 and Part 26 effort. So  
2 if you need to access those materials, please go to that  
3 website.

4 I want to go over the agenda real quick with  
5 everybody and just make sure we're all in tune to exactly  
6 what we'll be doing today. So again, talking about the  
7 draft regulatory basis for Part 73 and Part 26.

8 We have a couple of presentations lined up  
9 by some of the speakers here at the table. But I'd like  
10 to go to the back page and make sure everybody's aware.  
11 So on the second page where I have the website link where  
12 everybody can get the presentations and actually get  
13 the regulatory basis which is under the G-12 meeting.  
14 You need to access that draft regulatory basis.

15 Again as Chris alluded to comments, we  
16 request that the comments be submitted by October 17th.  
17 There's a couple of ways you can submit comments. You  
18 can submit comments by regulations.gov as I have shown  
19 right here. If you have any sensitive information,  
20 proprietary information, you could call me and we could  
21 work something out where you can send that information  
22 to me. And again the comment period closes on October  
23 17th.

24 For those participating on the phone, we  
25 ask if you have any questions to please hold those

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1 questions off. We have designated points during the  
2 meeting where we'll ask for as George alluded to feedback  
3 from stakeholders in the public. If you could hold  
4 your comments or questions until then, we appreciate  
5 it.

6 And before we start our presentations, I'm  
7 going to ask that we go around the room so that those  
8 participating in the bridge line know who is present  
9 at NRC Headquarters. And then I'm going to ask for those  
10 participating on the bridge line to state their name  
11 and affiliation.

12 I'm going to start with myself. I'm Alex  
13 Sapountzis. I work in the Office of Nuclear Security  
14 Incident Response.

15 MR. L. HARRIS: Larry Harris, Office of  
16 Nuclear Security Incident Response.

17 MR. T. HARRIS: The other Harris, Tim  
18 Harris, Office of Nuclear Security Incident Response.

19 MR. BUKHARIN: Oleg Bukharin, NSIR.

20 MR. JACKSON: Gerry Jackson, NSIR.

21 MR. CLORE: AJ Clore, NEI.

22 MR. CARTER: John Carter, Babcock &  
23 Wilcox.

24 MR. SPIVA: Jay Spiva, B&W.

25 MR. RANDOR: Andy Randor, Babcock &

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1 Wilcox.

2 MR. YATES: Doug Yates, MOX licensing.

3 MR. WALDRON: Gary Waldron, Naval

4 Reactors.

5 MR. PARKER: Dan Parker, AREVA.

6 MS. SCHUETER: Janet Schueter, NEI.

7 MS. PARR: Nancy Parr, Westinghouse.

8 MR. YOUNG: Thomas Young with NRC.

9 MR. ERLANGER: Dave Erlanger, B&W.

10 MR. MURRAY: Scott Murray, Global Nuclear

11 Fuel.

12 MR. GODY: Tony Gody, NRC Region II.

13 PARTICIPANT: Nuclear Fuel Services.

14 MR. CLARK: Gary Clark, MOX Services.

15 PARTICIPANT: (Off microphone) MOX

16 Services.

17 PARTICIPANT: Mike (Off microphone) B&W.

18 MS. WILLIAMS: Sandra Williams B&W.

19 MS. BAILEY: Marissa Bailey, NRC.

20 MR. JOHNSON: Robert Johnson, NRC Fuel

21 Cycle.

22 MR. BAKER: Peter Baker, NRC.

23 MR. GOTT: Bill Gott, NRC NSIR.

24 MR. ERLAMLER: Craig Erlamler, NRC.

25 MR. P. HARRIS: Paul Harris, NRC.

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1 MS. HORN: Merri Horn, NRC.

2 MR. TARDIFF: Albert Tardiff, NRC.

3 MR. ADAMS: John Adams, NRC.

4 MR. HALL: Ivan Hall, NRC Region II.

5 MR. O. SMITH: Otis Smith, NRC Region II.

6 MR. SAPOUNTZIS: And who do we have on the

7 bridge line?

8 MR. ENGLEMAN: Devon Engleman, SHINE

9 Medical.

10 MR. RUND: John Rund with NEI.

11 MR. HAGER: Al Hager, Certrec.

12 MR. MOSLEY: Michael Mosley, Secure

13 Transportation Services.

14 MR. CRONIN: Dan Cronin, University of

15 Florida.

16 MR. HADLEY: Jeff Hadley.

17 MR. SUET: David Suet, NRC.

18 MR. SAPOUNTZIS: Is that it? No more on

19 the bridge line?

20 MR. LYMAN: Ed Lyman from the Union of

21 Concerned Scientists.

22 MR. SAPOUNTZIS: Do we have any others?

23 (No verbal response.)

24 Okay. Without further ado, we're going to

25 go to the first presentation. And my name is Alex

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1 Sapountzis. Again I work in the Office of Nuclear  
2 Security Incident Response.

3 Some of this information you would have  
4 heard from the June 12th meeting. Please bear with me.  
5 It's for those who may be participating for the first  
6 time in our public meeting here on the Draft Reg Basis.

7 Just to make sure that everybody is  
8 familiar with the reg basis in case you haven't read it  
9 yet. It's about a 200 page document. It basically  
10 explains why the NRC feels that the existing  
11 regulations need to be updated, revised or enhanced.  
12 Again, as I mentioned, comments are due by October 17th.

13 This effort encompasses three  
14 rulemakings, what we call enhanced security for fuel  
15 cycle facilities, transportation security and then  
16 security force fatigue for certain nuclear facilities,  
17 specifically Category 1 sites.

18 The objectives of this rulemaking of  
19 course is to improve our consistency and clarity, make  
20 generically applicable security orders we issued post  
21 9/11 to primarily the fuel cycle facilities, have those  
22 incorporated into the regulations, consider risk  
23 insights or operational oversights or what we learn  
24 from inspection activities and then use a  
25 risk-informed, performance-based structure or

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1 approach.

2 Back on June 18th, we issued the Federal  
3 Register Notice with the Draft Reg Basis. And what I  
4 have here is basically the questions. And I'm  
5 encouraging all the stakeholders to please consider  
6 those questions and send in your feedback. It would  
7 really help the NRC in their efforts in putting forth  
8 a strong regulatory basis.

9 The first question has to do with should  
10 we basically implement material attractiveness and  
11 should it be voluntary or mandatory.

12 The second question has to do with  
13 basically are the potential regulatory changes  
14 sufficiently performance-based where all the different  
15 categories can implement that physical protection  
16 objectives and strategies we have in the Reg Basis.

17 Are there any other problems that we need  
18 to consider? That's a big one.

19 Also are there any other approaches the NRC  
20 should consider to resolve our problems, our regulatory  
21 problem?

22 What are the cost impacts? You're going to  
23 hear later on from Larry Harris. That's a big area where  
24 we're trying, the NRC is trying, to understand what are  
25 the impacts from what's in the draft regulatory basis.

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1 The high level changes we're talking about in some of  
2 the attachments.

3 And then, of course, is there any  
4 additional data the Category I sites want to send to  
5 the NRC or do they want to bring or send us information  
6 such as officer work hours? Do they have procedures  
7 in place, control fatigue for these officers at these  
8 sites?

9 And then finally I want to go over the time  
10 lines. Though our time lines have shifted and it's based  
11 on the common period shifting, now the regulatory basis  
12 will be finalized in March 2015 by FSME. And then we  
13 have our proposed rule which we will give to the  
14 Commission in September 2016. And then our final rule  
15 which we give to the Commission in March 2018.

16 With that, I want to take any questions.

17 OPERATOR: If you have a question, please  
18 press star 1, state your first and last name, and  
19 affiliation. In order to state your question, you need  
20 to press star 1.

21 MS. SCHUETER: Just kind of process  
22 question.

23 MR. SMITH: If you can state your name and  
24 affiliation.

25 MS. SCHUETER: Yes. Sorry. Janet

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1 Schueter, Senior Director for Fuel and Material Safety,  
2 NEI. Process wise as we go through these different  
3 topic areas, fix site security, transportation, so  
4 forth, I'm hoping as the speaker is presenting their  
5 slides that we have an open dialogue for each and we're  
6 not going to bunch all that discussion up at the end.  
7 So we have that context as we go through.

8 MR. SMITH: Okay.

9 MS. SCHUETER: And we hope that the  
10 preliminary comments that we sent you in advance were  
11 helpful. The industry has spent a lot of time having  
12 dedicated calls going through the regulatory basis.  
13 You're right. It is a big document. There's a lot of  
14 information there.

15 And so we had grouped our comments into the  
16 same categories that I believe your presentations will  
17 be. And, two, additional facilities have taken a lot  
18 of time and effort to put specific comments together.  
19 We sent those in a table format.

20 So we're hoping as you present your material  
21 and then try to respond to any questions that come up  
22 you have that preliminary input in the back of your  
23 head. Maybe we can get some direct answers and  
24 feedback that will help inform the formal comment  
25 letter that will come from NEI and others by October

1 17th.

2 So we do appreciate the extension of time.  
3 That was very much needed. There are a lot of  
4 regulatory initiatives going in. So that's pretty  
5 helpful. And we appreciate the opportunity today to  
6 have the additional dialogue and interface so we can  
7 get some clarification on some things.

8 In addition to those comments, answer the  
9 questions as you've reminded us exist in the Federal  
10 Register Notice. We want to give you some feedback on  
11 that. We're also very interested as our preliminary  
12 comments indicated as to the degree to which the staff  
13 has further considered alternatives to rulemaking to  
14 address these matters, not only in the context of the  
15 Part 26 for work hours but also Part 73.

16 Since there are requirements in place  
17 today, they are facility specific. They are  
18 performance-based. And so as a regulator, there are  
19 alternatives such as license conditions, license  
20 amendments, some approach. So we're hoping that you've  
21 given those alternative approaches some more  
22 consideration and you can speak to that fact.

23 When I look at the time line, the  
24 coordination with the Part 74 rulemaking and the  
25 sequencing of material categorization versus material

1 control and accounting. That's not a new comment from  
2 us. You've heard that before that we're afraid that they  
3 are out of sync with one another.

4 And since Part 73 will not be finalized  
5 before Part 74, the industry will potentially be the  
6 victim of a whiplash effectively by changing  
7 requirements that were previously codified. The  
8 degree to which the agency can speak to the sequencing  
9 and coordination issue would be useful. And we'll  
10 certainly work that into our comments.

11 MR. SAPOUNTZIS: Thank you. So I ask  
12 Janet since you sent us a multitude of draft questions.  
13 So I ask if some of them if we don't address them in the  
14 presentation, please speak up. Ask the questions.  
15 It's not intentional.

16 With that, I will ask is there any other  
17 questions from the audience here at NRC Headquarters  
18 before I go to the bridge line?

19 (No verbal response.)

20 Arlene, could you please open up your  
21 bridge lines for any questions?

22 OPERATOR: Okay. Once again, if you have  
23 a question please press star 1, state your first and  
24 last name when prompted and your affiliation. At  
25 present, sir, there are no questions in the queue.

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1 MR. SAPOUNTZIS: All right. Thank you.

2 If you could please bear with us for a  
3 moment. We're going to be transitioning to our next  
4 speaker which is Tim Harris who is a Senior Program  
5 Manager in the Office of Nuclear Security Incident  
6 Response.

7 MR. T. HARRIS: Good morning. I pretty  
8 much hope this is going to be a discussion and a  
9 dialogue. At the NRC we would benefit very much from  
10 you expressing your concerns and us talking about them  
11 to make sure we understand them and make sure you  
12 understand what's in the regulatory basis.

13 I think it's important to always stress the  
14 objectives of the document. I think Alex went over  
15 these, but in terms of developing your concerns and  
16 comments these were the things that we hoped to achieve  
17 in the document. If there are other things, other  
18 problems, that you think the rulemaking should also  
19 address certainly we're open to hear about those.

20 My presentation is going to cover Sections  
21 3, 4 and 5. Section 3 is the Regulatory Problem that's  
22 defined in the Draft Regulatory Basis. Section 4 is  
23 the Basis for Requested Change and Section 5 was  
24 Alternatives to Rulemaking Considered. I hope we can  
25 spend some time and talk about those.

1           As Janet said, if you guys have questions  
2           in the room, I'm sure George will stop me when he feels  
3           it's appropriate. I'd be happy to discuss those things  
4           as we move through the presentation.

5           The Regulatory Problem section is laid out  
6           to match the objectives of the draft Regulatory Basis.  
7           The first types of problems that are discussed are  
8           consistency, clarity type of issues.

9           The second types of problems that are  
10          discussed are making generic applicable requirements  
11          that were issued through security orders. And as we  
12          talk about in the introductory section the Commission  
13          directed us to do that through rulemaking.

14          The next set of issues or problems were  
15          basically risk insights. And these include the  
16          concept of material attractiveness. We discussed some  
17          views on the threshold dose rate limit, how the  
18          regulations should treat sabotage, the issue of fatigue  
19          at Category I facility material officers as well as  
20          safety safeguards interface which will be a new  
21          requirement. Then we also talk about operational  
22          experience or international guidelines that created  
23          issues that we thought we should address in this  
24          rulemaking.

25          Any questions on the problem section? We



1 do have a question. We're getting the microphone  
2 passed.

3 MR. MURRAY: Thank you. Scott Murray  
4 from Global Nuclear. I had a question on the term in  
5 your objective of consistency and clarity. I  
6 thoroughly could understand improving clarity of the  
7 security regulations. They're very complicated as you  
8 probably know.

9 But I'm puzzled by the idea that we need  
10 consistency. Is consistency an issue for the licensee  
11 or is consistency more of an issue for the regulator?

12 The reason I ask that is because when  
13 interim compensatory orders were issued several years  
14 ago there was wide degree of flexibility in how they  
15 could be implemented. And I'll wager we probably all  
16 implemented them slightly differently. But there is  
17 no real requirement for consistency.

18 And if you're trying to make up a  
19 performance-based regulation you tell us how to do it.  
20 But you don't necessarily specify what we need to do to  
21 implement it.

22 So consistency and performance-based to me  
23 seem a bit two different objectives. Could you  
24 elaborate a little bit on the idea that consistency is  
25 a problem and for whom the problem is?

1 MR. T. HARRIS: Right. That's a very good  
2 question, Scott. So I guess to answer the question I  
3 think it's our problem. So if you read that section of  
4 the regulatory basis, it talks about consistency among  
5 the security requirements in Part 73.

6 Some of the examples, I can't quote them off  
7 the top of my head. But for example if you had a  
8 requirement for the protected area boundary and that's  
9 addressed in 73.55 as well as 73.45, 73.46, if they  
10 required it exactly the same, why would you want to say  
11 it differently?

12 The consistency issue largely is one of our  
13 issues. We wanted to set up the framework that was  
14 consistent and appropriate for the different  
15 categories.

16 MR. SAPOUNTZIS: Are there any other  
17 questions from here at Headquarters?

18 MR. T. HARRIS: Did you want to respond to  
19 that, Scott?

20 MR. MURRAY: If I can just add, I think  
21 what you're saying if I understand what you're saying  
22 correctly, is there is inconsistent requirements in  
23 Part 73. And you're trying to make the regulatory  
24 requirements more consistent.

25 MR. T. HARRIS: Right. So if you look at

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1 73.45 and 67 they were written back in late '80s or late  
2 '70, basically 35 years ago, as was the reactor security  
3 rules. What the reactor security rule was laid out  
4 performance-based structure for physical protection  
5 systems. We thought it would be a good thing to do and  
6 a consistent thing to do to match that framework.

7 If you look at the structure of the  
8 regulation, it talks about security plans, security  
9 organizations, physical barriers, search programs  
10 response, those are all laid out in individual  
11 sections. If you want to know what the response  
12 requirements are, you can go to the response section  
13 and see clearly what that is for the different  
14 categories.

15 Some of the issues with the existing  
16 regulations is they would talk about a barrier  
17 requirement and in the same subsection talk about a  
18 search requirement.

19 In their mind, that needed some clarity.  
20 And we thought adopting a new structure would add that  
21 clarity. All the barrier discussions are in one  
22 section. You can see what my -- If I go to the control  
23 area, barrier requirements. If I have protected area,  
24 I have barrier requirements. If I have controlled  
25 access area, they have barrier requirements. If I have

1 material access area requirements. You can clearly  
2 see those in the new structure as to what those are.

3 Just to address your performance-based  
4 issue, that's one of the questions that we asked.  
5 Right. So we don't think that consistency among the  
6 regulations in Part 73 detracts from the  
7 performance-based, risk-informed goal that we have.  
8 That's clearly one of the objectives.

9 The idea was that for a Category III  
10 facility that the regulations would be  
11 performance-based that would allow you to apply that  
12 regulatory framework to best suit your facility. But  
13 it would also allow other Category 3 fuel cycle  
14 facilities to implement it in a way that makes sense  
15 for them.

16 The regulatory basis also includes  
17 research and test reactors. So if you're a Category III  
18 research and test reactor, you could take that  
19 performance-based requirement and apply that to your  
20 site.

21 I mean that's a very good question, Scott.  
22 Thank you.

23 MR. SUWAY: Mike Suway, B&W. When the new  
24 regulation is implemented, will it supercede the  
25 requirements that were put out in a confirmatory order

1        talking about process control limits? And at that  
2        time, will that confirmatory order be rescinded?

3                MR. T. HARRIS: That's one of the things I  
4        was going to talk about later. But we'll talk about it  
5        now. I think that's a good thing to do.

6                Basically, what we said in the draft  
7        regulatory basis was that it was our goal where we could  
8        to rescind the orders. Some facilities are going to  
9        have orders that won't get rescinded. That's our goal.

10               The question I think that was discussed in  
11        some of the preliminary comments was tell me which ones.  
12        I can't do that now. I mean we're just in the regulatory  
13        basis phase. Things are going to change. I mean  
14        things are going to change from the draft. Once we get  
15        into the post rule phase, things are going to change.

16               So it's probably not until really -- At some  
17        point you can get some indication of the proposed rule  
18        stage once things start to gel a little bit more. You  
19        could look and see this requirement looks a lot like  
20        an order requirement. You would get an indication that  
21        that would potentially go away.

22               When you get to the final rule, the  
23        language is very specific. Not much change is going  
24        to happen at that point. At that point, as NRC has done  
25        in the past, once the rule is issued, we work with

1 facilities -- the PM works with facilities -- to  
2 identify which orders or order requirements would be  
3 rescinded.

4 MS. SCHUETER: Janet Schueter. So let's  
5 just pull the thread on the consistency discussion a  
6 little bit more and we can get into it in more detail  
7 I think. From our perspective what we're reading in the  
8 regulatory basis, we are inferring that the NRC's goal  
9 of consistency from our perspective actually is  
10 resulting in some delta between what's in place today  
11 and where we're headed and for certain categories of  
12 licensees, increased requirements.

13 It appears that the NRC's attempt to provide  
14 more consistency is in fact potentially yielding a more  
15 consistent, less risk-informed, less  
16 performance-based approach across the fleet. There  
17 are some categories of licensees that we believe are  
18 going to experience new requirements, more  
19 requirements, than others.

20 We infer from what we read that we are  
21 losing some flexibility in how we have implemented the  
22 requirements today. As we go through a PST site, you  
23 know, physical, security and transportation, I think  
24 that some of those examples will come out. And we tried  
25 to give you some examples in advance to help you fuel

1 the discussion.

2 I think that will demonstrate why we're  
3 having some concern about characterization of  
4 consistency.

5 MR. T. HARRIS: Right.

6 MS. SCHUETER: And the basis for it.

7 MR. T. HARRIS: Yes. Again as Alex  
8 mentioned in the June Federal Register, one of the key  
9 points we were interested in hearing was are the  
10 regulations or are the measures written in such a way  
11 that would allow that performance-based -- licensees  
12 to take advantage of performance-based approach. And  
13 if it's not performance-based, you could provide  
14 comments and wording that would say "If it said this,  
15 that would be more performance-based for me." Those  
16 are all good things.

17 MS. SCHUETER: Yes. And while we are  
18 interpreting that there is some delta from what's in  
19 place today to where we may be headed in the future it  
20 just causes you to sit back and ask yourself "What's not  
21 working about today's program? What does the regulator  
22 believe is not adequate?"

23 Are there examples out there that have led  
24 our NRC to believe that the set of requirements that  
25 applies to facilities is not adequate? To the degree

1 we can explore that as we move along it will be useful.

2 MR. T. HARRIS: Sure. And just as an  
3 example, if you look at the Category III requirements  
4 in 73.67(f) I think it is, I mean there's basically four  
5 requirements. And if you try apply that to security  
6 program in today's modern environment, staff feels that  
7 additional clarity is required. And that's what we  
8 tried to implement.

9 Some of the things we tried to describe is  
10 security program framework in a consistent manner.  
11 Now grant it if you look at just the number of measures  
12 in 73.67(f) and compare that to Appendix A, it looks  
13 like a lot. But we think a lot of that is kind of  
14 motherhood and apple pie type of measures. But  
15 basically the layout, the overall system of physical  
16 protection system.

17 MR. SMITH: Arlene, are there any  
18 questions on the line?

19 OPERATOR: Once again, I would like to let  
20 everyone know you're on listen only mode. If you have  
21 a question, you must press star 1 and record your first  
22 and last names and your affiliation. But at present,  
23 sir, there are no questions in the queue.

24 MR. SMITH: All right. Thank you. Tim.

25 OPERATOR: You're welcome, sir.

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1                   MR. T. HARRIS: Section 4 talks about the  
2 basis for requested changes. There's a fairly  
3 extensive discussion on material categorization and  
4 attractiveness and Joe is going to be available later  
5 this morning to discuss those in detail.

6                   It discusses changes that we're proposing  
7 for fixed site as well as transportation and we've got  
8 sessions later in the afternoon to forge through those  
9 issues. There are also a number of other changes that  
10 are listed in that section. These would include access  
11 authorization, the threshold dose limit. Fatigue is  
12 included there. And again safety safeguards interface  
13 concepts.

14                  Based on the initial feedback we got from  
15 NEI and licensees and the community, there's a number  
16 of things that I wanted to talk about. We've already  
17 talked about the orders and how NRC's goal would be to  
18 rescinded those as appropriate after the rulemaking is  
19 completed.

20                  Dealing with safety safeguards interface,  
21 I think we talked a little bit about this at the June  
22 meeting. So to the extent practicable, staff is  
23 proposing to use existing change management processes  
24 to ensure changes in one program area don't adversely  
25 affect changes in other program areas. It's a new

1 requirement. But again, staff's view is that we should  
2 be able to leverage existing change management programs  
3 in safety, change management programs in security as  
4 well as MC&A. And those change management programs  
5 should talk to each other and make sure that one program  
6 doesn't adversely affect another.

7 Questions? It's probably good to slow down  
8 just to make sure that we can --

9 OPERATOR: Excuse me. We have question  
10 from Mr. Edmund Lyman from UCS.

11 MR. T. HARRIS: Hi Ed.

12 MR. LYMAN: Hi. Can you hear me?

13 MR. T. HARRIS: Yes. You're good.

14 MR. LYMAN: Sorry I can't be there today.  
15 I just want to make a comment on the question of  
16 consistency. Here's one example where we'd like to see  
17 more consistency and that's between the power reactor  
18 force-on-force inspection requirements and for fuel  
19 cycle facilities.

20 Now tell me if I'm wrong. But right now the  
21 Category I fuel cycle facilities do not have a  
22 force-on-force inspection that's comparable to like the  
23 power reactor licensees have every three years, is that  
24 right, where there's active NRC participation?

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1 MR. T. HARRIS: Oleg can correct me if I'm  
2 wrong. I believe that's correct.

3 MR. BUKHARIN: Yes.

4 MR. LYMAN: So that's -- Go ahead.

5 MR. BUKHARIN: Let me just comment on that.  
6 Indeed in the regulations we do have a gap in that  
7 respect and that's why we are revising the regulations.  
8 But we operate under the Atomic Energy Act and various  
9 requirements in the Act. So we in fact do conduct  
10 triennial force-on-force inspections at fuel cycle  
11 Category I facilities.

12 MR. T. HARRIS: Can I just say one thing,  
13 Ed? So the staff is proposing to fix that gap as Oleg  
14 mentioned would be to require Category I fuel cycle  
15 facilities to adopt or change the regulation to require  
16 them to meet a Part 73 Appendix B. I think it's Section  
17 4. Maybe 5.

18 Anyway, then that's essentially equivalent  
19 to what's required for the power reactors and that  
20 includes language in there about force-on-force action.  
21 Go ahead, Ed.

22 MR. LYMAN: That is good. Thank you.

23 MR. T. HARRIS: Good. Thank you. So any  
24 other questions about the safety safeguards or anything

1       else we've discussed?

2                   Okay.   So another of the issues that we  
3       discussed in June and got comments from you through  
4       discussions was the concept of corrective action  
5       program.   Where that stems from is staff believes that  
6       an evaluation of the security program is an important  
7       aspect of maintenance and sustainability of the  
8       protection program.

9                   Findings from the security review and other  
10       program related issues should be tracked and trended.  
11       So what we discussed in the draft regulatory basis was  
12       the concept of either a corrective action program or a  
13       security event log.   I guess the purpose -- I mean if  
14       you want to talk about performance-based and outcomes  
15       -- the outcome that we're looking for is more licensees  
16       to track security events and see if those issues that  
17       are arising would cause you to change what you're doing  
18       now to improve it.   That's the goal of the requirement.

19                   Now maybe a security event log, maybe the  
20       wording that's there is too prescriptive.   And if you've  
21       got other words that would achieve the outcome we would  
22       certainly interested in it.

23                   Sorry, Janet.   Scott beat you.

24                   MS. SCHUETER:   That's okay.

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1                   MR. MURRAY: Again, Scott Murray, Global  
2 Nuclear Fuel. Yes, please use another term if you can  
3 other than corrective action program. Please keep in  
4 mind several of the fuel cycle licensees are not  
5 required to have a corrective action program. But yet  
6 this language here could imply that we need one just for  
7 this.

8                   MR. T. HARRIS: The intention, if you  
9 remember back earlier on, actually when we were having  
10 the webinars. We had just CAP. And we heard you. So  
11 we added or security event log to address that concern.  
12 If we didn't quite get all the way to where you think  
13 we need to be, we're open to change.

14                  MR. MURRAY: You could use a such as for  
15 example or just simply use security event log. I  
16 believe we all use the security event log. We do not  
17 or not all of us are required to have a CAP even though  
18 we may have one.

19                  MR. T. HARRIS: Correct.

20                  MR. MURRAY: Thank you.

21                  MS. SCHUETER: Janet Schueter. And in  
22 addition, I'm hoping that NSIR and NMSS are coordinating  
23 on the regulatory guidance for CAP that was just issued  
24 this year and the related inspection procedure which was

1 just issued in July and the meeting yesterday. You did  
2 have some discussion during that meeting about the  
3 management of security-related events and its  
4 relationship to the corrective action program. As  
5 Scott pointed out is not required for some facilities.

6 So whatever is going on over here in this  
7 space certainly needs to be coordinated with the fuel  
8 cycle divisions program for reviewing CAP programs.

9 MR. T. HARRIS: Good point.

10 MS. SCHUETER: And not get out of sync with  
11 one another.

12 MR. T. HARRIS: To the extent that what  
13 we're doing now is going to go into effect in 2018, we  
14 would try to put down what the outcome would be but  
15 recognize that details are going to change over that  
16 period.

17 MS. SCHUETER: Yeah. And I guess since I  
18 have the microphone I'll talk on 70.72 again. Just I'm  
19 sure we're at our comfort zone on what the NRC's  
20 expectation is with regard to modifying those existing  
21 70.72 change management programs under the safety  
22 program in the context of the ISA and so forth. And the  
23 expanded expectation if you will by the regulator at  
24 that process be also used to manage the impact or assess

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1 the impact of security program changes. I surmise that  
2 could be a program office type issue. That insight  
3 would be helpful.

4 MR. T. HARRIS: As we were developing this,  
5 we went through a number of iterations and looked at a  
6 number of different alternatives. One was simply to  
7 write a new requirement or adopt a new requirement like  
8 73.58 which applies to power reactors.

9 As you guys know, you're not power reactors.  
10 While I think the intention of 73.58 was to be generic  
11 when you look at the wording of that part of the  
12 regulation, it is fairly power reactor-centric.

13 So one of the options we looked at was revising  
14 that. Another option that we decided to go with was to  
15 revise change management sections in 70 and 50 to  
16 address the issue.

17 If you guys think there's a different or  
18 better way to do that, again the outcome that we're  
19 seeking in terms of performance-based regulation would  
20 be that the change management programs for safety,  
21 security and NC&A talk to each other. And that  
22 discussion results in unintended consequences of  
23 changes.

24 MR. MURRAY: Janet and I are trading

1 microphones. I'm sorry. Again, Scott Murray, Global  
2 Nuclear Fuel. I guess I'm struggling with the idea that  
3 there's an issue or a problem with the current way that  
4 we document changes in security and material control.

5 I mean I don't know if this is a consistency  
6 issue. I can't tell if this is a performance-based or  
7 a clarity issue. I don't know that it's an issue.

8 So to suggest that we need to somehow add  
9 a new requirement to use something like a 70.72 to  
10 document changes, I'm not aware of any issues that have  
11 existed in our security and material control processes  
12 that we need to augment.

13 MR. T. HARRIS: Do you want to address  
14 that, Larry?

15 MR. L. HARRIS: Just a couple of things  
16 regarding that. You've got to keep in mind what the  
17 intent of this is. While the insertion as Tim is  
18 talking about in Part 70 and Part 50 was to try and  
19 ingrain this in the existing change process, it was not  
20 to put it in there in such a way that it would be a new  
21 requirement where you have a heavy documentation aspect  
22 to it like maybe that some of the other aspects of 70.72  
23 that you have to do.

24 The real intent is to do much like what

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1 73.58 did and that's to increase an awareness and to make  
2 the related disciplines talk to each other during a  
3 change process or a configuration management issue if  
4 you will. And if there is an analysis, there could be  
5 a potential conflict that would be addressed before we  
6 get there.

7 We have had examples of where there's been  
8 changes in one discipline that's had unintended effects  
9 in others. So that was the whole purpose of this. It's  
10 not the idea of creating another burden or creating a  
11 huge other program.

12 But the real driver is try and use your  
13 existing processes. That was part of the idea of going  
14 with 70.72 and also the Part 50. As Tim said, if that's  
15 not the correct approach and we need to consider another  
16 way to make that more clear, the intent was we need to  
17 hear that.

18 MR. T. HARRIS: To answer your question  
19 with regard to adding onto what Larry said, in addition  
20 to the examples that we were aware of disciplines not  
21 talking to each other and causing some issues, there's  
22 also an international component here where the  
23 international community, IEA and others, are pushing  
24 the concept of safety security, safety safeguards,

1 interface. And that's been going on for a number of  
2 years.

3 So I think I hear what you're saying, Scott.  
4 It's not a big issue for me. Is it worth changing the  
5 regulations? Certainly, as you provide your comments,  
6 if you can look at discussing what the burden of  
7 implementing such a program would be and again staff's  
8 views is that you would just leverage existing programs  
9 that you already have.

10 And that needs to be informed by actual  
11 experience. You advise that the delta would be small.  
12 But that would certainly be something that, that type  
13 of discussion and comments, would be very helpful to us  
14 as we move forward.

15 MR. MURRAY: Scott Murray again. The way  
16 it strikes me is the burden would be fairly large for  
17 us.

18 MR. T. HARRIS: Well, help us understand  
19 that.

20 MR. MURRAY: One idea, the 70.72 process  
21 that we and others use is basically a team approach that  
22 it's obvious to many people that we have a change list  
23 that we supply to the NRC every year. And the types of  
24 changes that we are currently not using in that for

1 security and material control would not be appropriate  
2 to be used in that current process. We have to create  
3 a separate process -- maybe similar but separate --  
4 because these kinds of changes that I'm envisioning are  
5 more or less on a need to know basis.

6 In other words, you wouldn't -- If you were  
7 planning to change a security barrier or implement a  
8 different type of alarm system or surveillance system,  
9 you would not, we would not, typically use the current  
10 70.72 process for that kind of a post change. Now if  
11 the need -- What you're suggesting is for example someone  
12 --

13 MR. T. HARRIS: Let me just ask you a  
14 question.

15 MR. MURRAY: Sure.

16 MR. T. HARRIS: How does your facility in  
17 the absence of a regulatory requirement make sure that  
18 changes that you make in security and safeguards don't  
19 impact safety?

20 MR. MURRAY: Okay. The security  
21 organization at our facility that's responsible to  
22 implement a revision or upgrade or change interfaces  
23 with the other disciplines, both in the production areas  
24 and in the other safety areas, to ensure that whatever

1       they're proposing or doing is not creating, as you put  
2       it, an unintended consequence.

3               I was going to use the example. If we're  
4       erecting a new physical barrier, they have to interface  
5       with the other safety disciplines to make sure they don't  
6       block an egress point for example.

7               MR. T. HARRIS: Exactly.

8               MR. MURRAY: And it happens now. It may  
9       not be formalized to the point that you feel good about  
10      it. But it happens. This is just the way we do it.  
11      We've been doing it like this for years.

12              MR. T. HARRIS: And what people are saying  
13      is we want you to continue to do that.

14              MR. MURRAY: And we will. I mean with or  
15      without a regulatory requirement we will continue to do  
16      that. And that's the point we're trying to make. I'm  
17      not sure that for many of us it's even an issue. But  
18      to suggest a 70.72 type process to us is not the right  
19      approach because that's an entirely different kind of  
20      a review. It's primarily driven by our integrated  
21      safety analysis.

22              MR. T. HARRIS: Okay. I mean that's -- So  
23      I'm hearing you two things. One, you don't think it's  
24      an issue that warrants regulatory change and, two, that

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1 potentially the 70.72 process may not be the right way  
2 for NRC to implement what it sees as a means of  
3 addressing safety safeguards interfaces.

4 MS. SCHUETER: Or at least allow the  
5 licensee the flexibility to figure that out.

6 MR. T. HARRIS: Do you have questions,  
7 Larry, that you want to delve into more or you have  
8 enough to --

9 MR. L. HARRIS: Got enough.

10 MR. T. HARRIS: Okay.

11 (Laughter.)

12 Well, it's not even 9:00 a.m., Larry.

13 MR. SMITH: Tim, I'm hearing a lot about  
14 consistency and it appears that some of the stakeholders  
15 feel that there is regulatory requirements being levied  
16 for NRC consistency across all programs. But your  
17 point, if there is consistency, if it's written in one  
18 requirement, consistency has been written in another  
19 requirement. You're not putting extra regulatory burden  
20 on the licensees for consistency. You're making sure  
21 if you put a regulatory requirement out there whoever  
22 has written in different requirements, that they're  
23 going to consistent. Is that right? Did I confuse  
24 you?

1 MR. T. HARRIS: You confused me, but then  
2 again it's early.

3 MR. SMITH: Yes. There's a regulatory  
4 requirement that's written in 73 and it's written again  
5 in 71 and some other regulatory requirements. Your  
6 consistency is the language has to be consistent across  
7 both regs.

8 MR. T. HARRIS: We see that there's benefit  
9 in consistency in a requirement that requires the exact  
10 same thing.

11 MR. SMITH: Right. It seemed like some of  
12 the feedback appears that you're seeking consistency.  
13 So you're putting regulatory requirements in place. Is  
14 there a concern for that?

15 MR. T. HARRIS: I think Janet voiced that.

16 MS. SCHUETER: Absolutely.

17 MR. SMITH: Yes.

18 MR. T. HARRIS: And again what we are  
19 trying to do was to lay out a consistent security program  
20 framework in the regulations. That was our consistency  
21 goal. So it looks like more of a -- Going into position  
22 was that for most things that are new requirements, we  
23 wouldn't be requiring you to do anything different than  
24 what you're doing now

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1 I mean obviously things like a safety  
2 safeguards interface would be new. So the other things  
3 that are clearly identified as a new thing would be new.  
4 But the basic development and implementation of your  
5 program and what you're doing for your physical  
6 protection shouldn't change.

7 But if that's the case, I'm sure that you  
8 will want to submit that and we appreciate that.

9 MR. SAPOUNTZIS: So before we go on, let's  
10 ask if there is anybody on the bridge line who wants to  
11 comment or provide some insights?

12 OPERATOR: Once again, I would like to  
13 remind all parties/participants that you're on listen  
14 only mode. If you would like to ask a question, you must  
15 press star 1, state your first and last names and your  
16 affiliation. One moment please. There are no  
17 questions in the queue.

18 MR. SAPOUNTZIS: Thank you.

19 MR. T. HARRIS: Permission to move ahead  
20 now.

21 MR. SAPOUNTZIS: Permission granted.

22 MR. T. HARRIS: A couple of other concerns  
23 that we heard that I want to talk about and if I have  
24 your concern on the list, we can certainly talk about

1       that now or in the afternoon. We're in the tables. I  
2       went back and looked at a disco view and I said Wow. Let  
3       me tell you where we've been.

4               A lot of people get hung up about Table 4.1.  
5       Table 4.1 is an historical table that was added that  
6       showed from an initial standpoint where we were. It has  
7       not relevance to where we are now.

8               If you're looking at Table 4.1 and you're  
9       trying to figure it out, there's a reason we moved past  
10      Table 4.1. Right. The table in and of itself confuses  
11      me and I'm sure Joe has comments about Table 4.1. And  
12      he helped and was involved in the development of it.

13              We recognize that how we described that was  
14      confusing. And we're sorry about that. But let me tell  
15      you what we meant.

16              The current categorization of scheme and  
17      definitions we're not proposing to change. Right. If  
18      you look at that in Section 4 it talks about definitions.  
19      We are planning to change SNM from low significant  
20      significance to Category III which we think makes sense.  
21      I'm not sure what low strategic significance is.

22              But I know what Category III is. Most  
23      people in the SNM fuel cycle are all talking those terms  
24      anyway now. It's also consistency with the world as a



1 large international community and they know what  
2 Category III is.

3 So if you're a Category III facility now  
4 you're a Category III. If you're a Category I facility  
5 now, you're still a Category I. We're not proposing to  
6 change how that's determined.

7 The next thing was the idea about weight  
8 percent. And we got some comments specifically from  
9 the RTR community. They said that weight percent is  
10 already in my tech specs and it means something else.  
11 Good comment.

12 And I think you guys voiced this concern as  
13 well is that the way that we define weight percent really  
14 wasn't what we meant. We said SNM divided by the weight  
15 of other nonmechanical materials. So the question was  
16 was that total U. Is that U-235? And really what we  
17 meant was U-235. That kind of hopefully clarifies  
18 that.

19 To address the issue, what staff is  
20 contemplating now is rather than using the term weight  
21 percent would be to go to something like a dilution  
22 factor. So dilution factor would still be the same.  
23 You're still looking at if you're moderately dilute  
24 you're between one and 20 dilution factor. If you're

1 highly dilute, you would be a dilution factor of less  
2 than one.

3 Dilution factor would be defined as to use  
4 a simple example your grams of U-235 or if you have  
5 plutonium or U-233 divided by the weight of other  
6 non-mechanically separable --

7 PARTICIPANT: Total.

8 MR. T. HARRIS: Yes, the total weight of  
9 non-mechanically separable material. In some cases  
10 for you guys, that probably doesn't affect you at all  
11 especially if you're a Category III facility.

12 What staff was proposing was to have for  
13 Category I there would be non-dilute which would be the  
14 existing regulations that are now Category I. So if  
15 you're moderately dilute, there would be another set of  
16 requirements. And if you're highly dilute like for  
17 waste streams or other things, it would be highly  
18 dilute. If you're a Category II facility, you would  
19 either be Category II non-dilute or Category II  
20 moderately dilute.

21 Is that better? For those of you that  
22 aren't plutonium facilities, if you were figuring out  
23 your dilution factor we would contemplate like a unity  
24 rule type of calculation to apply. You do the

1 calculation for U-235 as well as plutonium. That would  
2 contribute to your dilution factor, although that may  
3 or may not make any difference. Probably wouldn't make  
4 any difference. We don't think it would make a  
5 difference.

6 Comments?

7 MR. CLARK: Gary Clark, MOX Services.  
8 Just to clarify and make sure I get this. The  
9 introduction of the dilution factor would not in any  
10 case ratchet a facility from one category up to another  
11 category.

12 MR. T. HARRIS: No. Because the  
13 categorization stays the same. So it's based on if you  
14 have more than five kilograms of U-235 you're a Cat I  
15 facility. So the question, good question -- I know  
16 you're not done yet. Sorry to interrupt you -- would  
17 be and I think we ask it in the Federal Register is should  
18 the implementation of dilution be mandatory or  
19 voluntary. So even though I may have moderately dilute  
20 material but I choose to protect it as non-dilute  
21 material.

22 Is that the way the framework or scheme  
23 should be set up or should there be the flexibility for  
24 it if you're a Cat I facility and you have highly dilute

1 material in a certain area that you can decide how you're  
2 going to protect this differently than I do my  
3 non-dilute material? That's where staff's views were.  
4 Should it be up to the licensee to determine whether to  
5 implement that or not?

6 MR. CLARK: Another related question for  
7 those of us that may have more than one kind of SNM, for  
8 calculation of dilution, you would then envision adding  
9 plutonium grams to 235 grams and then dividing by the  
10 total. Is that how you get dilution?

11 MR. T. HARRIS: No, because the limits are  
12 different.

13 MR. CLARK: That's why I asked the  
14 question.

15 MS. SCHUETER: We might need Joe Rivers.

16 MR. T. HARRIS: No.

17 MR. BUKHARIN: We have to take a look  
18 better. Honestly, if you have more than 2kg of  
19 plutonium and when you have 10 tons of LEU or natural  
20 uranium to MOX fuel, then you don't get to be a Cat III  
21 facility. You're still a Cat I facility.

22 So I think eventually we'll come up with  
23 some sort of guidance. But in the natural if you have  
24 non-dilute material that really addresses your

1 categorization.

2 And if you don't, I guess where my issue is  
3 I wish we would have to consider and figure out if you  
4 have a portion of your material is non-dilute and a  
5 portion is dilute. What does it mean? That's  
6 something which we'll have to evaluate and we'll come up  
7 with some guidance.

8 MR. CLARK: We have a comment on that. We  
9 can have further discussion.

10 MR. T. HARRIS: What I'm hearing you say is  
11 that we need to better define how you would handle  
12 multiple types of isotopes of SNM in determining  
13 dilution.

14 MR. CLARK: That would help, yes. Thanks.

15 MR. SMITH: Any other questions?

16 MR. T. HARRIS: Do you have any comments,  
17 Ed? I know that this was something we discussed down  
18 in Atlantic. And you had some concerns about that.

19 MR. SAPOUNTZIS: Are there any comments  
20 from the bridge line, Arlene?

21 OPERATOR: At this time, there are no  
22 comments. But if you have a comment, please press star  
23 1, state your first and last names and your affiliation.  
24 But at present, sir, there are no questions or comments.

1 MR. SAPOUNTZIS: Thank you.

2 MR. T. HARRIS: The last thing, I think one  
3 of the last things I wanted to talk about was the dose  
4 rate threshold. So this was the 100 R per hour at three  
5 feet for research and test reactors. It puts you into  
6 a different set of physical protection requirements,  
7 basically Cat II.

8 We met with the research and test reactors  
9 and they identified that if we did away with that portion  
10 of the requirements that would bump them up into  
11 probably Category I moderately dilute. Joe and I have  
12 had a lot of discussions as well as Oleg. Is that really  
13 what we want is a HEU test reactor to be a Cat I facility?  
14 It seems like it flies in the face of what we were trying  
15 to do.

16 So we looked at it and we said that really  
17 the categories are basically for theft and diversion of  
18 un-irradiated material and that if your research and  
19 test reactor fuel for HEU reactors screaming hot, does  
20 that really pose a theft and diversion target?  
21 Obviously, the radiation fields are going to have some  
22 adverse effect on your adversary.

23 What we were contemplating was going to a  
24 higher number. There is a number that we're bantering

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1 around, somewhere in the 6,000 R per hour range,  
2 although that may change as we have additional  
3 communication with the RTR community. I don't think  
4 that affects anybody here.

5 We listened to what they were saying and our  
6 thought now is if we would implement some kind of higher  
7 dose threat threshold where the material would not need  
8 to be protected against theft and diversion.  
9 Therefore, it wouldn't be calculated against  
10 determining what your category was.

11 The question is obviously you have highly  
12 irradiated research and test reactor fuel. Would that  
13 be a sabotage concern? And certainly the existing  
14 category requirements do address sabotage or cover  
15 sabotage.

16 In talking to them, we'll probably have come  
17 additional requirements for research and test reactors  
18 to address that sabotage issue. It's kind of where we  
19 are right now based on the early stakeholder  
20 involvement.

21 Questions about that?

22 MR. MURRAY: Sorry, Gary.

23 MR. HAWKINS: Gary Murray. I was just  
24 curious if you could give us an idea of what screaming

1 hot might mean.

2 (Laughter.)

3 MR. T. HARRIS: That's kind of like when  
4 your dose rate hits screaming hot, you kind of fall top  
5 the ground and that's all you remember.

6 MR. CLARK: I know that DOE is entertaining  
7 a change in this area, too. And I was just curious if  
8 you guys were talking. You probably are.

9 MR. T. HARRIS: Yes, I think we are. And  
10 it doesn't mean that we're going to come up out in the  
11 same place as DOE. Obviously, they have different  
12 materials than we do that we regulate.

13 The whole purpose of the change we're  
14 talking about would be that it would impact research and  
15 test reactors. Certainly, the regulations now use the  
16 100 R per hour in 73.51 to distinguish between  
17 irradiated and un-irradiated material. We wouldn't  
18 propose to change that. Certainly, physical  
19 protection of spent nuclear fuel under 73.51 or 72.210  
20 would remain the same. We're not planning to change any  
21 of it.

22 MR. CLARK: Thank you.

23 MR. SMITH: Any more discussion or issues  
24 that you guys want to talk about now relative to Section

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1 4? Scott.

2 MR. MURRAY: Scott Murray. You may have  
3 partially answered or anticipated answering my  
4 question. The question I was going to ask is if you  
5 propose to change to that, that so-called  
6 self-protecting criteria, 100 R at three feet, would  
7 that also then apply and change 73.50 and 73.51.

8 MR. T. HARRIS: Well, 73.50 we're proposing  
9 to do away with. If you read Section 4, we're proposing  
10 to delete that portion of the regulation. We're not  
11 proposing to do anything to 73.51 which is where the 100  
12 rem. I think it's 1 gray at one meter is.

13 MR. MURRAY: Then as a follow-on if 73.50  
14 is our current security requirement, does that then mean  
15 the change in the dose rate would then drive a facility  
16 that currently meets the 73.50 criteria to your Category  
17 I or Category II criteria then?

18 MR. T. HARRIS: Do you know of any  
19 facilities that are currently addressing 73.50?

20 MR. MURRAY: Yes. We probably should talk  
21 later.

22 MR. T. HARRIS: Okay. The idea is that --  
23 That's a good question. I would like to know more about  
24 that. I think there's probably one facility and they

1 are kind of unique.

2 But I guess if you read the current  
3 discussion that talks about the radiation dose  
4 threshold basically what it says is that by implementing  
5 the dilution concept -- and the material would probably  
6 be moderately dilute and therefore your security would  
7 be appropriately reduced -- that that would address the  
8 physical protection of that facility.

9 If that's not the case, then we need to talk  
10 in a different level of discussion. We certainly would  
11 welcome that.

12 MR. MURRAY: Thank you.

13 MR. SAPOUNTZIS: Okay. Before we go on, I  
14 need to go to the phone. We have I believe a comment.  
15 Will you please open up the bridge line, Arlene?

16 OPERATOR: Okay. At present, there are no  
17 questions in the queue. But do you want me to open all  
18 the lines, sir?

19 MR. SAPOUNTZIS: Yes, go ahead.

20 OPERATOR: Okay. Give me one moment. I  
21 will open everyone's line. At present, all lines are  
22 open and active.

23 MR. SAPOUNTZIS: Does Ed Lyman have a  
24 question from Union Concerned Scientists?

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1 MR. LYMAN: Hello. Can you hear me?

2 MR. SAPOUNTZIS: Yes. Please go ahead.

3 MR. LYMAN: I didn't quite hear. I had  
4 trouble hearing the last discussion. So did you say  
5 6,000 rem an hour was the self-protection threshold  
6 you're proposing? Did I hear that right?

7 MR. T. HARRIS: Yes. I don't know that we  
8 want to use the word "self-protect." Certainly, that  
9 wouldn't be something.

10 MR. LYMAN: Right.

11 MR. T. HARRIS: What we said was that that  
12 would be -- Again, that number may change.

13 MR. LYMAN: Right.

14 MR. T. HARRIS: Just giving you like an  
15 order of magnitude type of point to think about. Was  
16 that that material would no longer require protection  
17 for theft and diversion but would still require  
18 protection for sabotage.

19 MR. LYMAN: Right. Is that in the draft  
20 regulatory basis?

21 MR. T. HARRIS: No, as I talked about, that  
22 was something that came as a result of talking to the  
23 RTR community.

24 MR. LYMAN: Right. But you also said it

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1 wouldn't affect the research and test reactors. That's  
2 what I didn't understand. That's a pretty big loophole.  
3 That's a pretty big problem which is at relatively low  
4 irradiation level spent research and test reactor fuel  
5 it's pretty vulnerable. So why wouldn't you want to make  
6 that consistent with everything else?

7 MR. T. HARRIS: Yes. Right now, there's  
8 only a limited number of facilities that are using HEU.  
9 And typically they operate almost continuously. So  
10 their fuel to coin the term of Gary would be screaming  
11 hot.

12 The other RTRs that are using LTL or LEU  
13 fuel, you're absolutely right. They don't -- Their  
14 level of irradiation varies significantly. We were at  
15 a facility yesterday and they said, "We started the  
16 reactor last week for five hours." And they hadn't run  
17 it at all this week. So that material would be below  
18 the 6,000 and therefore whatever the dilution of the  
19 material would be would lead them to the appropriate  
20 physical protection requirement where that's Cat II,  
21 moderately diluted Cat III, depending on the quantity  
22 of U-235.

23 MR. LYMAN: Right. Okay.

24 MR. T. HARRIS: And then, Ed, since I've got

1       you on the phone, the discussion we had about weight  
2       percent and dilution and the defining all that, you're  
3       okay with or you don't have comment.

4               MR. LYMAN:   Yeah.   Actually, I couldn't  
5       hear all the details, but that was to address the issue  
6       of whether you're considering just the U-235 component  
7       and if you consider everything.   The new mine,   is  
8       that the issue?

9               MR. T. HARRIS:   Yes.   And what we were  
10      proposing was just to include U-235 for a uranium  
11      facility and the new rated which I think was the question  
12      you had at INM in Atlanta.

13              MR. LYMAN:   I thought the issue there was  
14      it wasn't clear.   It had to do with the definition of  
15      SNM, right?

16              MR. T. HARRIS:   Yes.   You're absolutely  
17      right.   It was not clear.   So we listened and we're  
18      trying to adjust and let you guys know where we are now.

19              MR. LYMAN:   All right.   Great.   Thanks.

20              MR. T. HARRIS:   Thanks, Ed.

21              MR. SAPOUNTZIS:   Take it away, Tim.

22              MR. T. HARRIS:   Do we want to close the  
23      lines?

24              MR. SAPOUNTZIS:   Close the lines, Arlene,

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1 please. Thank you.

2 MR. T. HARRIS: This is good. I like this.  
3 George, you also had the gentleman next to Scott as well.

4 MS. SCHUETER: I am back in Chapter 4 still  
5 with regard to some text that's on page 35 about  
6 proposing a change to 73.67 for Part 50 licensees to  
7 accept SMF.

8 MR. T. HARRIS: Okay.

9 MR. MURRAY: We talked about this a little  
10 bit at June 12th meeting. You all need to go back and  
11 think about that a little bit more. And we put a comment  
12 in to you to help you think about that. That is with  
13 regard to the security orders for the power reactors  
14 were codified.

15 And then we had Part 37 come along. So the  
16 plants have also ensured that all special nuke material  
17 is now located inside of the protected area in  
18 accordance with 37.

19 MR. T. HARRIS: Thirty-seven doesn't  
20 really address special nuclear material. It's only  
21 byproduct and PuBe and Pu-238.

22 MS. SCHUETER: Okay. Fair enough.

23 MR. T. HARRIS: But similar type issues.

24 MS. SCHUETER: Yes. It is similar type of

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1 issues. So the power reactors have done what I think  
2 they believe they need to do to be compliance with the  
3 requirements in 73 that pertain to them through several  
4 different steps that have transpired over the course of  
5 the last three-four years.

6 So I was seeking some additional  
7 clarification on how this particular rulemaking may or  
8 may not impact the power reactors.

9 MR. T. HARRIS: Okay.

10 MS. SCHUETER: And I would note that AJ is  
11 from our security group at NEI that works with the power  
12 reactors. So you can --

13 MR. T. HARRIS: Good comment and thanks for  
14 bringing it up. So the current regulations in 73.67(d)  
15 and (f) basically accept or exempt a facility that  
16 operates a nuclear power plant from those regulations  
17 if they're licensed under Part 50. It doesn't talk Part  
18 52 because when the regulations were written Part 52  
19 didn't exist.

20 I think the underlying concept is sound.  
21 But the currently regulatory language I don't think says  
22 what we mean or maybe -- I'm not sure what we meant back  
23 in the '80s. I can only infer.

24 What we're proposing would be to change that

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1 blanket exception or exemption to specifically exempt  
2 material that's within the protected area rather than  
3 just if you have a license you're exempt. If the  
4 material is in the protected area, then you wouldn't need  
5 to meet those regulations.

6 What we've seen through inspection is that  
7 in some cases you might have like HEU in an ex core that  
8 would be a Category III quantity that might be located  
9 outside the protected area. So under the current  
10 regulatory scheme, there is no requirement for them to  
11 protect that.

12 I think stock quantities of HEU probably  
13 should be protected. That was the intent of the change  
14 that we were proposing. Basically, what we would like  
15 to see is that just as you mentioned with the byproduct  
16 material under Part 37 is that that material get located  
17 inside the protected area. And that would be  
18 sufficient protection for that material.

19 Was it AJ?

20 MR. CLORE: Yes.

21 MR. T. HARRIS: I'm not sure what's going  
22 under Part 37 space. But as currently written in 73.55,  
23 the physical protection security plan, contingency  
24 plan, only affects radiological sabotage. Right.

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1 MR. CLORE: That's right.

2 MR. T. HARRIS: I guess one question I  
3 guess I would have for you, AJ, is if we're bringing any  
4 small quantities of HEU inside the protected area what  
5 changes would we need to make in order to make sure that  
6 the physical protection or the security plan addresses  
7 those types of materials? Does that make sense?

8 MR. CLORE: Yes, it does.  
9 Unfortunately, I'm not necessarily the subject matter  
10 expert on it. Ray Landis, I don't know if you know Ray  
11 or not, within NEI.

12 MR. T. HARRIS: No, I know Jerry.

13 MR. CLORE: Yes, Jerry, actually he  
14 moved on. He's not longer in security. So Ray Landis  
15 has been handling that. Unfortunately, Ray is working  
16 on some security training this week. So I'm kind of  
17 sitting in for him. Just kind go taking a note I need  
18 to take that back with him. But I'm going to take that  
19 back with him.

20 MR. T. HARRIS: Didn't mean to put you on  
21 the spot.

22 MR. CLORE: Yeah, that's fine.

23 MR. T. HARRIS: So you understand the  
24 issue.

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1 MR. CLOREN: Yes.

2 MR. T. HARRIS: I mean we could craft some  
3 kind of exemption language to say that as long as it's  
4 within the protected area and addressed by the security  
5 plan or something like that. But your views on how to  
6 do that in a seamless and painless way would be  
7 appreciated.

8 Does that clarify your question, Janet, as  
9 far as how this affects or could affect power reactors?

10 MS. SCHUETER: Yes, thank you. So are you  
11 actually having the public meeting by reaching through  
12 NRR? Are you depending on NEI to do that? I mean we  
13 obviously are engaging our members on it. But I just  
14 wanted sure.

15 You had a meeting recently just with RTRs.  
16 I just want to have my antennae up if you are actually  
17 having some sort of public discussion where you're  
18 reaching through that community back through NRR?

19 MR. T. HARRIS: No, we're not.

20 MS. SCHUETER: Okay.

21 MR. T. HARRIS: And we appreciate your  
22 efforts to highlight issues and make sure that they're  
23 coordinated among that community.

24 Yes sir.

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1                   MR. SPANGLER:   Dave Spangler, B&W.   We  
2                   also have a facility with 73.50 utilization.   So to  
3                   remove that would be significant to go to 1,000 R.   Just  
4                   to let you know in addition to GE.   And so additional  
5                   security measures were put in place a number of years.  
6                   So on a risk-informed, performance-based, we'll take a  
7                   look what exists there now and see what --

8                   MR. T. HARRIS:       It's probably not  
9                   appropriate for us to discuss what materials and where  
10                  that's located.   But we would like to do that.

11                  MR. SPANGLER:   Okay.   So if you take a look  
12                  at what we have put in place in these versus change the  
13                  regulation, I don't think the regulatory change and the  
14                  morass would cause to elevate you from a III to a I for  
15                  a facility that is probably a non-problem.

16                  MR. T. HARRIS:   So this is irradiated  
17                  material above 100 R.

18                  MR. SPANGLER:   Yes.

19                  MR. T. HARRIS:   And is it Category III  
20                  material?

21                  MR. SPANGLER:   Yes.

22                  MR. T. HARRIS:   Are you saying that what  
23                  we're proposing for Category III protection is not  
24                  appropriate for that material?

1 MR. SPANGLER: Yes, as proposed. If it  
2 were to raise to 1,000 R, it would as I see it put the  
3 material to a Cat I with no benefit.

4 MR. T. HARRIS: You just told me it was Cat  
5 III material.

6 MR. SPANGLER: It is utilizing the 73.50  
7 protection of 100 R.

8 MR. BUKHARIN: We can probably talk  
9 offline.

10 MR. SMITH: Yes, you can talk offline and  
11 then maybe some information that you can provide as open  
12 communication you can provide that to the rest of the  
13 group after lunch or after a break.

14 MR. T. HARRIS: Okay. Oleg, you wanted to  
15 add something.

16 MR. BUKHARIN: No. As Tim indicated, for  
17 Rad Area 2 mechanisms, one is to increase the threshold,  
18 but the other one is introduce the material dilution  
19 concept. So the overall concept is based on the risk  
20 significance.

21 If you increase one, now you will be able  
22 to take credit for the other one. So your security  
23 measures probably would remain the same. But we would  
24 really just need to take a look at the site-specific

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1 information.

2 MR. T. HARRIS: That's a very good point.  
3 So I mean to say it differently, if you take the  
4 material, you look at the quantity and enrichment to  
5 determine what category it is barring any other part of  
6 the regulation and you look at its dilution. Then you  
7 determine whether it's Category I moderately diluted or  
8 Category II moderately diluted depending on the  
9 quantity and look at that.

10 I think that was our intent for that type  
11 of material. It's that as Oleg said that considering  
12 dilution would right-size the physical protection in  
13 the absence of 73.50. But I see where more discussions  
14 would be good.

15 Okay. Moving on, this was on the top ten  
16 list. Right, Janet? So we're going to discuss now the  
17 alternatives to rulemaking. The draft regulatory  
18 analysis presents a number of alternative that staff  
19 considered, how we considered it and why we didn't think  
20 that that was a viable alternative.

21 The first was a no action alternative and  
22 based on some preliminary feedback it seems like a lot  
23 of people like the no action alternative. The other was  
24 to issue generic communications. The third one was to

1       revise existing regulatory guidance. The fourth was to  
2       issue new regulatory guidance. The fifth would be to  
3       issue site-specific license conditions. I think,  
4       Janet, you mentioned that in your previous comment.  
5       And the last one relates to fatigue issues whether those  
6       should be handled since a limited number of facilities  
7       handle it through orders or some other means. We don't  
8       necessarily need to talk about fatigue unless you guys  
9       want to.

10               Those are the alternatives that we  
11       considered. The draft regulatory analysis describes  
12       how we felt about each of those alternatives and why they  
13       may or may not be sufficient to address the regulatory  
14       problems.

15               Certainly, if you guys want to add to it and  
16       maybe there are things that we missed in the discussion  
17       or evaluation, that would certainly be helpful and  
18       welcomed. Hopefully, I teed that up, Janet, for  
19       further discussion.

20               MS. SCHUETER: Okay. So thank you for  
21       having a whole slide to that. I guess you know we just  
22       would have liked to have seen a little bit more  
23       discussion of the alternatives in the regulatory basis.  
24       Not seeing that, I'd like to just talk through some of

1       them that were presented to you last week and get some  
2       reaction from you on that.

3                       Basically,                       given                       they're  
4       facility-specific, both by licensed category and site  
5       characteristics requirements that are in place today,  
6       they've been inspected against and they've been  
7       determined to be adequate. And we just don't as an  
8       industry have a lot of evidence to suggest that what's  
9       in place today is not adequate.

10                   And you know all the fuel cycle licenses  
11       that have been issued even in recent years, recently in  
12       the last four or five, have approved NRC security plans  
13       in place as well. Those that have been licensed post  
14       all the orders for 9/11.

15                   We were wondering to what degree the NRC had  
16       considered even issuing facility-specific license  
17       conditions that could say something to the effect that  
18       no changes to the physical security plan can be made  
19       which would reduce its effectiveness or something to  
20       that degree. Because again just like we started out the  
21       conversation this morning by what we're inferring of  
22       what we're reading, there is a delta between what's in  
23       place today and where we may be headed. So it's unclear  
24       to us what the basis for that change is and whether or

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1 not the regulator has evidence to suggest that what's  
2 in place today is no longer adequate.

3 You know the operating fleet is small. It's  
4 not growing any time soon. I think fuel cycle will tell  
5 you there's no applications on the horizon for new  
6 facilities. I mean granted facilities change and  
7 processes are introduced and they amend their licenses.  
8 But no new facilities come down the horizon.

9 So we don't have a one-size-fits-all  
10 approach today. They are facility-specific. But it  
11 looks like that's kind of where the regulator is trying  
12 to head in the context of the overall consistency goal.

13 We're just trying to figure out to what  
14 degree did you even consider something along the lines  
15 I mentioned of the license condition and essentially  
16 grandfathering those facilities that are operating  
17 today with what they have in place. And then imposing  
18 any additional requirements as the NRC might see fit in  
19 the future to new facilities.

20 MR. T. HARRIS: Yes, I understand that is  
21 a comment. I think our understanding or position is  
22 that if you want to know about Cat III facilities that  
23 the actual requirements or things that they would have  
24 to do would be the same.

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1                    Obviously, there's a couple new aspects of  
2                    safety, safeguards that are basically one. That is  
3                    clearly new. Right. But the general protection of the  
4                    material being in a controlled access area, that you  
5                    have some kind of security force to do assessment, that  
6                    you coordinate with local law enforcement, you know the  
7                    basic things that are in the current regulation are  
8                    maintained. And we didn't see that as big delta.

9                    Obviously, we're interested in hearing from  
10                   those facilities that "This is different or new or I'm  
11                   not doing this now. And it's a burden. It's going to  
12                   cost me X." Or "The language that you have in there now  
13                   isn't sufficiently performance-based and it may  
14                   restrict how I address an aspect in the physical  
15                   protection program."

16                   We do have discussion in there about  
17                   license conditions. Certainly, one of the aspects was  
18                   implement the security orders that were issued post  
19                   9/11. We do have Commission direction to incorporate  
20                   those into rulemaking.

21                   I think Joe is often fond of saying "We only  
22                   do this once every several decades." If you look at the  
23                   last time the regulations were amended, that was back  
24                   in the '70s. And certainly, NRC's approach of physical

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1 protection has evolved over that time.

2 What we're trying to do now is to put in  
3 place a framework that is based on sound physical  
4 protection principles and that would be adaptable to a  
5 large number of facilities and appropriately  
6 right-sized physical protection. For example, if a  
7 reprocessing facility was licensed at some point in the  
8 future, the regulations would be sufficiently flexible  
9 enough for them to be adapted. That was our goal.

10 And certainly medical isotopes as well, as  
11 Larry mentioned, this is another example. That's a new  
12 facility that I'm pretty sure wasn't contemplated back  
13 in the '70s.

14 I think while I understand your perspective  
15 from your facility's perspective is this is different  
16 than what I'm doing now or perceived to be different,  
17 what we're really trying to do is to write regulations  
18 that are flexible enough to sustain the future, the next  
19 30 years, before they get revised again. And then  
20 certainly for the limited number of Cat I facilities,  
21 they would continue to do what they're doing under the  
22 regulations and orders and we don't see the delta there  
23 being significant. These are things that we could be  
24 interested in hearing.

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1                   You know you get into the aspect of if you're  
2                   doing everything by license condition or order you lose  
3                   that regulatory predictability. So as a new facility  
4                   comes in and they're getting ready to be licensed, the  
5                   question is what license conditions are you going to  
6                   impose on me for security that are different from the  
7                   regulations. There are a number of issues that we're  
8                   thinking about.

9                   George.

10                  MR. SMITH: Arlene, if you want to open up  
11                  the lines. Are there any questions on the phone line?

12                  OPERATOR: Yes, we have a question from Mr.  
13                  Lyman. Please hold on, Mr. Lyman. I'm opening the line  
14                  for everyone. All lines are open. Mr. Lyman, you may  
15                  speak.

16                  MR. LYMAN: Can you hear me?

17                  MR. SAPOUNTZIS: Yes, we can.

18                  MR. LYMAN: Great. On the issue of  
19                  rulemaking versus orders, isn't there also a potential  
20                  legal issue? I remember after the power reactor ICMS  
21                  were issued that you were sued because without having  
22                  a rulemaking but is showing a large number of essential  
23                  identical orders that looked like you were trying to get  
24                  around the Administrative Procedures Act.

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1                   Isn't it also a concern that this would have  
2                   the appearance unless you actually finally consolidate  
3                   all these things into a rulemaking that you're going down  
4                   the same path which could open up another lawsuit?

5                   MR. T. HARRIS: Yes, I think that's a very  
6                   point and certainly true. The rulemaking process is an  
7                   open and collaborative effort and certainly we've been  
8                   doing that for the last year or so. And we'll continue  
9                   to do that and think that it's extremely valuable. Good  
10                  point, Ed.

11                  MR. SMITH: Arlene, are there other  
12                  questions?

13                  OPERATOR: At this time, no sir. There  
14                  are not. But once again, all lines are open. If you have  
15                  a question or comment, please state your name and your  
16                  affiliation.

17                  MR. SMITH: Thank you, ma'am. You may  
18                  close the lines.

19                  OPERATOR: All right, sir.

20                  MR. T. HARRIS: Any other question? I  
21                  guess I have a slide that said Questions on it. But  
22                  maybe we've been doing that for awhile.

23                  That concludes what I wanted to talk about.  
24                  Again, as you digest what you've heard, certainly in the

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1       afternoon we're going to talk through the meeting. So  
2       I would encourage if you want to go backwards and talk  
3       about something that we talked about this morning later  
4       in the meeting, we want to hear from you.

5                       With that, I think I'm done, Alex.

6                       MR. SAPOUNTZIS: Okay. What we can do is  
7       go ahead and take a break until 10:00 a.m. And then  
8       we'll start back up with cost and impacts with Larry  
9       Harris, Senior Program Manager. Thank you for  
10      participation and, Arlene, if you could let everybody  
11      know we're going on break, we'd appreciate it.

12                      (Whereupon, the above-entitled matter went  
13      off the record at 9:41 a.m. and resumed at 10:01 a.m.)

14                      MR. SAPOUNTZIS: Without further ado, we  
15      have Larry Harris today, Senior Program Manager from the  
16      Office of Nuclear Security Incident Response. He will  
17      be discussing the cost and impacts considerations  
18      regarding the draft regulatory basis for Parts 26 and  
19      73.

20                      MR. L. HARRIS: Good morning, everyone.  
21      As you've heard, the last public meeting that we had  
22      this. We discussed very broadly cost impact. And we  
23      noted at the time in that last presentation about  
24      applicability of the proposed changes, the impacted

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1 entities, the potential impacts and the fact that in the  
2 basis document our cost impact concept is currently a  
3 qualitative document right now.

4 Why do we need cost impact information and  
5 why are we continuously soliciting you for that  
6 information? It's rather simple. The basis document  
7 has and just about everything that is in there will be  
8 in support to the rulemaking itself if it goes forward.  
9 And in terms of cost impact information, this is your  
10 opportunity to better inform in particular one aspect  
11 of a potential rulemaking package, the regulatory  
12 analysis.

13 Now regulatory analysis is one of many  
14 tools used in the decision making process at the NRC.  
15 It's an analytical tool that allows the folks that are  
16 involved in making that decision to recommend a  
17 preferred option or an alternative from many potential  
18 courses of action.

19 It also contains estimates of benefits and  
20 costs on each alternative considered. And it comes to  
21 conclusion on a proposed course of action going forward.  
22 Finally, it provides a decision rationale for that  
23 alternative.

24 What you see on the slide here is a typical

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1 regulatory analysis content. Again, this is at the  
2 rulemaking stage and these are the types of sections  
3 that you would see in there. In particular, I note the  
4 one subject matter there, the estimation and evaluation  
5 of cost and benefits. That's what we're driving at in  
6 particular here.

7 This section would describe the analysis  
8 the DNRC conducts to identify and evaluate the cost and  
9 benefits of a regulatory action. It will identify the  
10 attributes that the staff expects the proposed  
11 rulemaking to affect, how the cost and benefits have  
12 been analyzed and detailed results of those proposed  
13 impacts.

14 Clearly, from an input perspective and from  
15 your knowledge of operating the facility, your inputs  
16 to this would give us a more comprehensive analysis and  
17 strengthen our logic rationale in terms of where we're  
18 going forward. Clearly, also when we say we want your  
19 cost impact information, we need that. But we need to  
20 understand really where that came from. Just giving us  
21 a dollar figure is nice, but we need to understand that  
22 so that we can put it in this comprehensive analysis  
23 process that our rulemaking lead office will help us  
24 perform during the rulemaking stage.

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1                   Is there any particular comment yet?

2                   MS. SCHUETER: Janet, NEI. All righty.  
3                   I need to go back a slide -- I'm sorry -- with that last  
4                   bullet. Can you clarify the last bullet with regard to  
5                   the timing of cost information coming into the NRC? I  
6                   ask that because of the regulatory or rulemaking process  
7                   where you all create a draft regulatory analysis that  
8                   has cost impact information on it.

9                   During the proposed rule phase, I thought  
10                  stakeholders had an opportunity to actually comment on  
11                  your draft regulatory analysis where your cost  
12                  estimates are. But this implies that while we might  
13                  have that opportunity, there are certain aspects of our  
14                  cost estimate that we can provide you now but not later.

15                  MR. L. HARRIS: Yes. And this is a direct  
16                  result of some awareness that we've gained through other  
17                  rulemaking efforts that are going on here and you're  
18                  probably aware of what I'm speaking of where licensees  
19                  and applicants want to comment on a rulemaking action.

20                  And they say it would be appropriate to  
21                  provide proprietary information in this case. Working  
22                  with our Rulemaking Office, that was determined to be  
23                  an appropriate time to do that because of the openness  
24                  aspect of the rulemaking process where everything



1       essentially has to be out in the public, if you will,  
2       including comments associated with that.

3               This last bullet, it's not trying to imply  
4       that we're limiting in any way your opportunities to  
5       comment during a proposed rule stage. What it's really  
6       saying is you look at this and you think I've got some  
7       good qualitative or quantitative I'd like to provide.  
8       But because of the way the information is, maybe it's  
9       more of a business proprietary thing and it's something  
10      that you wouldn't want shared with the whole world during  
11      the proposed rule stage, now might be an opportunity to  
12      supply that. And then we could take a look at somehow  
13      using that to inform this section of the basis document  
14      so it would be available for the analysis stage when that  
15      occurs during the proposed rule. But in no way would  
16      that curtail your rights to look at the draft analysis  
17      document and say whether you think it might be  
18      appropriate.

19              MS. SCHUETER: Okay. That clarification  
20      helps a lot. In that regard, we in the industry have  
21      been certainly focused in the last three or four years  
22      in making a more concerted effort of giving you cost  
23      estimates in a more timely way earlier in the process,  
24      more complete. But it's that whole chicken and egg

1 thing.

2 MR. L. HARRIS: Sure.

3 MS. SCHUETER: And we can only develop  
4 those costs estimates based on what we infer, what we  
5 learn out of meetings like this. And then at this point  
6 because we're not actually seeing rule language, it's  
7 kind of a best guesstimate.

8 And in some cases it's worst case  
9 estimation, you know, making a worse case  
10 interpretation of the rule, not dissimilar from what we  
11 did with the Part 74 proposed rulemaking. We said if  
12 we interpret it this way it's this number. If it's not  
13 and we don't think that's really what you meant, it's this  
14 number.

15 So at this early of a phase as part of the  
16 comment period here that's going on now, we'll make an  
17 attempt at giving you some cost information. But those  
18 numbers certainly are hinging a great deal of what we  
19 learn today.

20 MR. L. HARRIS: Surely.

21 MS. SCHUETER: That's why I think as we go  
22 through the discussions in some detail, particularly on  
23 transportation and fixed site security, that will help  
24 inform our estimates.

1 MR. L. HARRIS: And I appreciate that. I'd  
2 just like to point out one thing. Tim can correct me  
3 if I'm misspeaking on this point. But I think the  
4 attachments to this basis document goes further than  
5 some draft basis documents have in the past as it  
6 actually projects a bit what it might look like instead  
7 of just saying we're proposing on doing something.

8 But the attachments try to put a little bit  
9 of meat on the bone. And that's done for several  
10 reasons. But certainly it would help I think with your  
11 consideration of costs and impacts also, too.

12 Anything else right now?

13 MR. SAPOUNTZIS: Can we go to the bridge  
14 lines, Arlene, and see if there are any comments or  
15 questions please?

16 OPERATOR: Once again, I would like to  
17 remind all parties that you are on the listen only mode.  
18 If you have a comment or question, you need to press star  
19 1 and state your first and last names and your  
20 affiliation. One moment please for our first comment  
21 or question. Presently there are no questions or  
22 comments.

23 MR. SAPOUNTZIS: Thank you, Arlene.

24 OPERATOR: I think we have our first

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1 question. Dan Cronin from the University of Florida.

2 MR. CRONIN: Hi. This is Dan Cronin.  
3 Just one question. This particular presentation isn't  
4 available on the NRC website. Is this going to be put  
5 on there or can this be sent out by email?

6 MR. SAPOUNTZIS: It should be there, Dan.  
7 I'll double check.

8 MS. SCHUETER: It wasn't last night.

9 MR. SAPOUNTZIS: Yes, I posted them all  
10 yesterday. All the presentations. Oh it wasn't.

11 MS. SCHUETER: This one wasn't there last  
12 night.

13 MR. SAPOUNTZIS: Okay. I can check that.

14 MS. SCHUETER: You shared the link.

15 MR. SAPOUNTZIS: Yes. It wasn't there.

16 MS. SCHUETER: No.

17 MR. SAPOUNTZIS: Okay. I'll have to  
18 double check it.

19 MS. SCHUETER: The other four are.

20 MR. SAPOUNTZIS: Thank you.

21 MR. T. HARRIS: Thanks for pointing that  
22 out, Dan. We'll make sure that it gets posted and I'll  
23 make sure that I send you a copy.

24 MEMBER COOPER: Thank you.

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1 OPERATOR: Next comment comes from John  
2 Rund from NEI. Sir, the line is open.

3 MR. RUND: Thanks. Just a follow-up on  
4 Janet's point about the proprietary information. It's  
5 good that we'll be able to provide that information now.  
6 But to the point about later stages, we commented on this  
7 in some other rulemaking that the position that you can't  
8 accept proprietary information or it can't be submitted  
9 in proposed rule stages is inconsistent with the NRC  
10 regulations. 23.90 allows that explicitly.

11 It's also inconsistent with past practice  
12 of NRC and other federal agencies which do allow that.  
13 I think you guys should rethink that policy. I'm happy  
14 to follow up with somebody from OGC or anybody who has  
15 some further thoughts on that.

16 But it really does a disservice to the  
17 agency and discourages participation from the industry  
18 and other members of the public who have the type of  
19 information that you're looking for at the proposed rule  
20 stage, but may have a business interest that may limit  
21 their ability to provide it if it's going to be made  
22 public.

23 Anyway, at this point it sounds like that's  
24 not an issue at this stage. But it's just something to

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1 keep in mind going forward.

2 MR. L. HARRIS: I do appreciate the  
3 comment. And again we're kind of really pressing a bit  
4 on this point about supplying that kind of information  
5 now. Because we have been sensitized about a different  
6 rulemaking that's going on that's at the proposed rule  
7 stage. When there is some discussion about the basis  
8 analysis or the regulatory analysis, I think that  
9 entities want to supply some of that sensitive  
10 information and yet we weren't able to receive that at  
11 that time.

12 That did receive a very broad discussion  
13 here at the agency including a GC about the  
14 appropriateness of that. Because of that sensitivity,  
15 that's the reason we're really bringing it to the table  
16 now to try to give you that opportunity.

17 Merri, did I state that correctly? Okay.  
18 Next slide.

19 Now this slide I really put up there just  
20 to show you that we announced this process. It is a  
21 formalized process. It goes through several  
22 particular steps. And these are just an example of some  
23 of the references that are used. If you notice, it's  
24 not only NRC guidance, but there's also external

1 guidance like Department of Labor for cost efforts.

2 There is an effort to have some semblance  
3 of reality in terms of attaching these analysis  
4 documents to best information available. And  
5 certainly if you're able to supply any information we  
6 can feed that into the process.

7 That's pretty much the end of this  
8 presentation. Do we have any more questions, comments,  
9 regarding this?

10 MR. MURRAY: Scott Murray, Global Nuclear  
11 Fuel. One of the difficulties in providing costs  
12 estimates as Janet and others have pointed out is there  
13 are a variety of what I call unclear terms or vague terms  
14 sprinkled throughout. And when we're trying to do even  
15 a range of costs it can be as little as nothing because  
16 if you look at this thing and it's what we're currently  
17 doing or we anticipate that there is no change, then  
18 there's no incremental cost.

19 However, if it's the other way, if it was  
20 meant to be something different or something  
21 significant in addition -- and I know we're going to talk  
22 about the transportation potential costs later --  
23 it could be very large. And that's why it's very  
24 difficult at this point to give any kind of accurate cost

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1 estimate.

2 I'll just give one example. You'll recall  
3 several years ago when someone was trying to implement  
4 something called the Dangerous Weapon Rule. There was  
5 a statement in there that people's current screening  
6 processes should already be excluding these types of  
7 things. And there was an assumption someone made that  
8 everyone was apparently doing this type of screening.

9 If we look at that example, many of the Cat  
10 III facilities, none of the Cat III facilities were  
11 doing that type of screening on people entering their  
12 vehicles. If you would interpret that one way and said  
13 we have to do that additional search or screening, that  
14 is a huge incremental cost. As it turned out, it was  
15 not that big of a deal for the Dangerous Weapon Rule and  
16 it wasn't that huge of a cost.

17 But I'll give you one other example. There  
18 is a term in there about physical barriers. This is one  
19 of those perhaps unintended consequences in physical  
20 barriers. It says something to the effect that  
21 physical barriers should channel personnel through an  
22 exit point. And I believe that's a 73.46 requirement.  
23 The language is currently in there I believe for Cat I  
24 facilities.

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1 But clearly, the Cat III facilities do not  
2 have an arrangement of physical barriers that currently  
3 channel personnel. I don't know exactly what was meant  
4 by that. I don't know if that was intended to accept  
5 what we currently, if the intended is what our physical  
6 barriers currently provide and meet that criteria  
7 channeling. It's a zero impact.

8 If on the other hand the intent is now we  
9 have to either augment or rearrange our physical  
10 barriers to somehow channel personnel. That could be  
11 huge incremental cost. And that's just one example of  
12 the difficulty when we're trying to predict costs.  
13 Thank you.

14 MR. L. HARRIS: Good comment. What I  
15 would suggest is as the presentations roll forward and  
16 those specific technical aspects are brought up, that  
17 we need to clarify our intent. And then there's really  
18 two things we need from you. We need an appropriate  
19 comment to address unintended consequences if you'll let  
20 me use that word in the basis document.

21 But keep that in mind as you roll forward if you're  
22 thinking about cost impacts, think about what you've  
23 heard and say "Well, yeah. I saw something like this.  
24 But what they told me when we had that technical

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1 discussion was that." Hopefully, that will clarify  
2 that some for you.

3 If there are more like that, these need to  
4 be brought forward so that you can also give us that  
5 technical comment but also inform this section if you're  
6 so inclined to do so.

7 Anything else?

8 MR. SMITH: Arlene, are there any  
9 questions on the lines?

10 OPERATOR: At present there are no  
11 questions or comments on the line. Once again, if you  
12 have a question or comment please press star 1.

13 MR. SMITH: Thank you.

14 MR. SAPOUNTZIS: Now we're going to  
15 transition to Joe Rivers who is our Senior Technical  
16 Advisor here in the Office of Nuclear Security Incident  
17 Response.

18 Joe doesn't have any presentations lined  
19 up. But he's here to address or answer any questions  
20 or concerns you have regarding material attractiveness.  
21 If you want to take about two minutes, if you want to  
22 formulate any questions, please go right ahead. And so  
23 we'll take a short pause.

24 MR. SMITH: There are a couple of

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1 reminders. If you use your telephone, make sure you use  
2 your cell and put it on the courtesy mode, be it silent  
3 or vibrate. And also just to remind you as we're doing  
4 the presentations to let one person talk at a time.  
5 Please don't cut each other off. And I'll be here to  
6 remind you guys if that happens. All right.

7 MR. T. HARRIS: Joe, just to bring you up  
8 to speed about what we talked about this morning, we  
9 talked about the tables and how Table 4.1 was really the  
10 current scheme. We talked about the weight percent and  
11 the new concept of dilution factor and how that would  
12 be calculated and how what was in the regulatory basis  
13 was SNM really wasn't what we meant. I think that  
14 probably gets you up to speed as to where we are now.

15 MR. RIVERS: Basically over the last  
16 several public meetings, I've given pretty much the same  
17 talk with a few adjustments on both occasions. So we  
18 decided it probably was just best not to redo the same  
19 thing which you've already heard, but give you the  
20 opportunity to ask for questions that might clarify your  
21 understanding of that issue.

22 I guess I'll open it to the floor. Are  
23 there any questions?

24 MR. SUWAY: Mike Suway, B&W. We're still

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1 living under the process control limits that were  
2 developed in the early 2000s.

3 MR. RIVERS: We're not going to talk about  
4 process control limits here.

5 MR. SUWAY: Okay. Will they be addressed  
6 in Part 73?

7 MR. RIVERS: We will address them  
8 separately.

9 MR. SUWAY: Okay. Will they be up?

10 MR. RIVERS: Don't talk about them here.

11 MR. SUWAY: Okay.

12 MR. RIVERS: They get into classified  
13 information.

14 MR. SMITH: All right.

15 MR. T. HARRIS: If I can just maybe add to  
16 that. So what the regulatory basis does say is that we  
17 introduce this new concept that NRC could provide or  
18 require additional security measures beyond what was in  
19 the regulation depending on the facility and types of  
20 materials. And that could lead to things being  
21 addressed in classified reg guides.

22 MS. PARR: This is Nancy Parr from  
23 Westinghouse. And maybe I'm a little dense. But it is  
24 not clear to me how material attractiveness comes into

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1 play with the new Table 4.1 material categorization  
2 table.

3 MR. RIVERS: What's Table 4.1?

4 MR. SAPOUNTZIS: Table 4.1 is the 09123  
5 table.

6 MR. BUKHARIN: That's the historical.

7 MR. T. HARRIS: That's what I said this  
8 morning.

9 MS. PARR: So with the new Table 4.2.

10 MR. T. HARRIS: Which is just the current  
11 scheme.

12 MR. RIVERS: Essentially right now the  
13 approach we sort of arrived at over the several years  
14 we've been working this topic is that we're not going to  
15 change how we categorize material. Essentially what  
16 we'll do is we'll allow for some alternative measures to  
17 be employed if the material has different levels of  
18 dilution.

19 For example, Westinghouse is a Category III  
20 facility. Currently, it's not going to change. It  
21 will continue to be a Category III facility with the new  
22 rule.

23 MS. PARR: Right. So where would  
24 attractiveness come in? How do we factor that in --

1                   MR. SMITH: I just want to completely hear  
2 your question before the answer. Just say it again.

3                   MS. PARR: Yes. My question is how does  
4 attractiveness level apply to the new proposed  
5 regulatory requirements.

6                   MR. RIVERS: If we're looking at a low  
7 enriched uranium facility, it has very little impact on  
8 the low enriched uranium facility because you're already  
9 at a Category III protection level.

10                  MS. PARR: If you look at the presentation  
11 that was made on February 6, 2014 and when you take into  
12 account the attractiveness of U-235, you could be in  
13 various categories depending on whether you're dealing  
14 with a solid or a liquid.

15                  MR. RIVERS: Okay. But we're not dealing  
16 with physical forms anymore. We're only dealing with  
17 the concentration of uranium 235 in the matrix.

18                  MS. PARR: Okay.

19                  MR. RIVERS: So if I'm in uranium oxide and  
20 say I have an oxide about 85 percent by weight uranium.  
21 If I'm at 90 percent enriched, I would be roughly about  
22 70 weight percent. If I was down at six percent  
23 enrichment, I would be around five weight percent  
24 because I'm counting the uranium 235, the dilution

1 factor.

2 So we're not looking at the specific  
3 physical and chemical form. It's not whether it's in the  
4 solution, whether it's in the compound. It's actually  
5 the concentration of the uranium 235 in the matrix  
6 material.

7 MS. SCHUETER: So just for clarity the  
8 slides that you used back in the public meeting in  
9 February that were titled "Initial for tracking the  
10 levels considered are basically off the table.

11 MR. RIVERS: They're basically historical  
12 information. What we were trying to do was to give you  
13 insights into how we arrived at our current approach.  
14 And we provided you feedback as to why we made  
15 adjustments to get to where we're at right now.

16 MR. SMITH: Arlene, are there any  
17 questions on the line?

18 OPERATOR: Yes, we have one question from  
19 Mr. Dan Cronin from the University of Florida. Your  
20 line is open, sir.

21 MR. CRONIN: Thank you. One question.  
22 Have you guys considered or has staff considered the  
23 concept of an aggregated quantity like in Part 37? Have  
24 you considered including that in this rulemaking effort

1 so that it better clarifies these thresholds between  
2 Category I, II and III and gives the licensee an ability  
3 to limit their quantities basically by aggregating it?

4 MR. RIVERS: I guess I need clarification  
5 as to what you mean by aggregating.

6 MR. CRONIN: By separating it. If I have  
7 two plutonium beryllium sources that are less than the  
8 Category III quantity but combined, they're greater than  
9 a Category III quantity. In Part 37, I can keep those  
10 sources separated and not have to have a security plan.

11 MR. RIVERS: If I look at that, a lot of  
12 what we're focused on in special nuclear material is  
13 whether or not an adversary can accumulate all of that  
14 material. So we'll probably have some guidance in the  
15 regulatory guide that talks about how that could be  
16 done. But one concept of that would be if I'm at a  
17 university and I've got one security area that  
18 essentially has the reactor in it and I've got some of  
19 my sources there. Then on the other side of the campus  
20 I have another building which has its own security  
21 there. That might be a way of separating it to some  
22 extent.

23 But I think that level of detail we'll  
24 probably put in our regulatory guide that goes out with



1 the rule.

2 MR. T. HARRIS: Just to elaborate a little  
3 bit more, Dan, I think certainly from your perspective  
4 these may be different than the fuel cycle facility  
5 because they don't have small quantities of plutonium  
6 or HEU that are separate from the bulk materials.

7 We understand the issue. I think we are  
8 going to elaborate more in the final reg basis to address  
9 that. And we're working with --

10 MR. RIVERS: Yes, we've been visiting  
11 several the research and test reactors. We're trying to  
12 get more insights into what the specifics are of the  
13 research and test reactors so that we can come up with  
14 what will give us an approach that will actually make  
15 sure the material is protected and try not to adversely  
16 impact the research and test reactors if we don't have  
17 to.

18 I think we're in the process of working that  
19 issue. And hopefully we come up with a good resolution  
20 of that.

21 MR. CRONIN: If I could just follow up a  
22 little bit. This wasn't necessarily supposed to be  
23 research and test reactors specifically. Actually, I  
24 was kind of referring to an earlier example you made

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1       about excore nuclear instruments with a small quantity  
2       of high enriched uranium in them. And the dose could  
3       be outside the protected area now, but you want to change  
4       that to bring them into the protected area.

5               That's a case where you've got a small  
6       quantity and unless you put all these detectors in the  
7       same spot it's really not feasible for an adversary to  
8       do something with them. Maybe that's a case where you  
9       can separate them or apply this aggregation concept like  
10      in Part 37, the Part 73, and provide the licensee with  
11      a little more flexibility there.

12             MR. RIVERS: We're going to be looking at  
13      that issue both as it applies to RTRs and how it may apply  
14      to nuclear power plants and other places and come up with  
15      guidance on how to best address that.           This is  
16      an issue I know that's been around for decades. DOE has  
17      been addressing it. It's their concept of roll-off.  
18      And we will have guidance in the regulatory guide that  
19      you'll have an opportunity to comment on.

20             MR. BUKHARIN: Just to add to that, you  
21      will look at the single attack scenario. Its adversary  
22      is getting a target quantity of material in a single  
23      attack. You would need that to have a security systems  
24      in place for a role individual components. But the

1 security might be a lesser level than as it would apply  
2 for aggregate material. And we'll figure it out and  
3 provide a guidance.

4 OPERATOR: Our next question or comment  
5 comes from Devon Engleman. Mr. Engleman, your line is  
6 open. Please state your affiliation.

7 MR. ENGLEMAN: This is Devon Engleman.  
8 Thanks for the time. I apologize if you've ready  
9 covered this. I don't have the greatest connection.  
10 Could you clarify if there's a difference in comparing  
11 the weight percent with the dilution factor discussed  
12 earlier? Is the formula the same for HEU and LEU?

13 MR. RIVERS: The dilution factor is  
14 exactly the same. We're essentially looking to try to  
15 measure what percent of the weight of material is  
16 uranium 235. So it's the same formula for both LEU and  
17 HEU.

18 MR. ENGLEMAN: And in the earlier  
19 presentation you stated that LEU and diluted material  
20 would be moderately diluted. But that doesn't take into  
21 account this calculation. Is that correct?

22 MR. RIVERS: Generally, what you'll find is  
23 that LEU can at most be moderately dilute. If the  
24 dilution factor gets below one weight percent, then it

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1 would become very dilute or highly dilute. But in  
2 general I think you're going to find that most LEU that's  
3 in fuel and in other things is probably going to be of  
4 the moderately dilute variety.

5 MR. ENGLEMAN: Thank you, sir.

6 MR. T. HARRIS: For research and test  
7 reactors. Maybe not so for --

8 MR. RIVERS: For LEU fuel it's about four  
9 to six weight percent. It just depends on what the  
10 matrix is. But even RTR fuel is going to be still above  
11 one weight percent and it will be still moderately  
12 dilute.

13 MR. SMITH: Arlene, are there any more  
14 questions on the line?

15 OPERATOR: At this time, sir, there are no  
16 other questions or comments in the queue.

17 MR. SMITH: Thank you. Any other  
18 questions in the room?

19 (No verbal response.)

20 MR. RIVERS: If any come up during the day,  
21 let me know, Alex.

22 MR. SAPOUNTZIS: Okay. Thank you. Can  
23 we take a short break pause real quick for two minutes?

24 (Whereupon, the above-entitled matter went

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1 off the record at 10:34 a.m. and resumed at 10:44 a.m.)

2 MR. SAPOUNTZIS: I hope everybody is  
3 ready. I would like to introduce, of course, Tim Harris  
4 again, Senior Program Manager in the Office of Nuclear  
5 Security Incident Response. And Tim is going to get  
6 into the details regarding fixed site physical  
7 security.

8 MR. T. HARRIS: I'm always envious of  
9 speaking after lunch. I kind of like speaking after  
10 lunch because everybody has had their lunch and they've  
11 kind of calmed down and maybe a little sleepy. But I'm  
12 not sure I like speaking actually before lunch and after  
13 lunch. It might be cruel and unusual punishment.

14 All right. I've said it before and I'll say  
15 it again. Here are the objectives of the regulatory  
16 basis. So keep in mind of this is what we hope to  
17 accomplish and why. As we move forward, I would just  
18 ask you to keep those in mind.

19 If we look at the basic structure  
20 components of a physical protection system that are laid  
21 out in the appendices, they basically fall into 10 or  
22 12 different items. From a security program, you want  
23 to have a general performance objective with a  
24 protective strategy type of statement. And that varies

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1 based on category and dilution.

2 So you're not going to protect Category I  
3 material. It's not going to have the same protective  
4 strategy as Category III material. So then it talks  
5 about security plan requirements. Obviously, Category  
6 I facilities have more plans than a Category III  
7 facility.

8 Your security organization probably should  
9 be about the same kind of structure. You should know  
10 what the structure of your organization is, who's  
11 responsible for security, how that gets implemented and  
12 evaluated and changed as appropriate.

13 The next component would be physical  
14 barriers. And you have access control. Search  
15 programs. Detection and assessment systems.  
16 Communication is probably fairly close among all the  
17 different appendices. And then obviously your  
18 response changes.

19 So the other things -- Those are kind of the  
20 guns, gates and guards type of part of your physical  
21 protection program. But then there's other parts that  
22 are important. And I think they're to some extent  
23 missing in the current regulations to varying degrees.

24 So the idea that you're going to review your

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1 program on some periodicity and evaluate is it working,  
2 is it doing what I think it's doing, are there things  
3 I should change is an important part.

4 Certainly, maintenance and testing of components  
5 that you're relying on in part of your physical security  
6 program is important. You want to make sure that if  
7 you're relying on them that they're working and that  
8 you're maintaining them. They're in good order.

9 This concept of compensatory measures I  
10 think is more in the power reactor world. But we see  
11 that that has benefit to you guys as well. That is if  
12 I have truck run through my CAA boundary and now my CAA  
13 barrier is degraded, the current regulatory framework  
14 doesn't really address what you do or how yo do that.  
15 It's kind of like between you and your inspector to agree  
16 what's appropriate.

17 The idea that you might have some kind of  
18 base document and compensatory measures in your plan  
19 that would say if my CAA barrier is degraded maybe that  
20 means that I supplement it with either an armed or  
21 unarmed security officer to ensure that the function of  
22 the barrier is maintained until I can repair it.

23 The other concept that's new is suspension  
24 of security measures. We think this is probably a good,

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1 physical protection principle that we recognize that in  
2 some cases a chemical spill, a fire, something beyond  
3 your control you at the site might need to suspend some  
4 of the actions that you're doing for physical  
5 protection. That's currently not in the current  
6 scheme. But we see benefit that would allow you to make  
7 prudent measures and changes in the regulatory  
8 framework.

9 Records I think those probably wouldn't  
10 change much at all. I think the same records that you're  
11 doing now would be required, although I'm sure some  
12 people might debate that.

13 The other new concept is alternative  
14 measures. This would be a new requirement that would  
15 say the requirement says it requires you to have a  
16 barrier for example. And you may say this doesn't work  
17 for me. I want to do something else.

18 Under the current scheme, you'd have to put  
19 in some kind of exemption request. So allowing  
20 alternative measures allow you to propose something  
21 else that works for you. It's performance-based,  
22 flexible. It meets the intent of what a requirement  
23 might be in a different way without having to go through  
24 an exemption.

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1           The rationale of why we are proposing what  
2       we're proposing, we talked about this morning  
3       consistency and clarity. The new scheme sets a  
4       framework and format and we believe it's  
5       performance-based. Obviously, you may not see that as  
6       performance-based. We certainly want to hear from you  
7       and look at it and strongly consider making sure that  
8       is performance-based. That's one of our high level  
9       goals.

10           We think the measures are appropriately  
11       graded based on the risk significance of the material.  
12       And we separated that into six protection levels. Now  
13       granted, say, Cat I how you dilute looks a lot like  
14       Category III. There are some differences.

15           But we thought that rather than relying on  
16       I guess four protection schemes that actually having six  
17       would allow us flexibility in the future. If for some  
18       reason there was information it would change us for Cat  
19       I highly dilute material that wouldn't be applicable to  
20       Cat III. We wouldn't inappropriately ratchet some  
21       licensees over others.

22           In essence, the new framework elaborates on  
23       sound physical protection practice. I mean I think  
24       this is probably what you're doing now. It's just not

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1       documented in the same way. That lays out the  
2       rationale.

3               If you guys have questions, I'm happy to  
4       stop. Gary. I sensed that you had a question.

5               MR. CLARK: Gary Clark, MOX Services. The  
6       performance-based approach is in general something that  
7       I applaud and am a fan of. I do have one question. With  
8       the removal of some specific requirements and moving to  
9       a performance-based approach, there's some flexibility  
10      allowed for inspectors as well.

11              And I guess my question is are you going to  
12      put some of the specificity that you remove from the rule  
13      in some of the guidance that helps us there. Or how do  
14      you envision it?

15              MR. T. HARRIS: Absolutely. A very good  
16      point. Certainly the proposed rule language will have  
17      guidance that would be hopefully written so that the  
18      facilities could interpret it. In some cases, you  
19      might even have facilities with specific guidance.

20              Say, for example, the RTR community because  
21      they're a distinct subset of special nuclear material  
22      licensees. You might have guidance that would be  
23      specific for them. Certainly, the Cat I facilities  
24      because they're a separate group might have separate

1 guidance.

2 And then again in the guidance it would kind  
3 of explain how for those types of facilities NRC would  
4 describe what we would find acceptable. We would need  
5 to say that that would not be the only thing that you  
6 guys could do.

7 MR. CLARK: Right.

8 MR. T. HARRIS: You raise another good  
9 point which was inspection procedures. If you look at  
10 I think Section 10 maybe, it talks about guidance. One  
11 of the things that we noted is obviously if you change  
12 the regulations you have to change the inspection  
13 procedures. And that would happen as well.

14 MR. SMITH: Any questions on the line?

15 OPERATOR: A reminder for audio  
16 participants, you are on listen only mode. If you have  
17 a question or a comment, you need to press star 1, state  
18 your first and last names and affiliation. At present,  
19 sir, there are no questions or comments.

20 MR. SAPOUNTZIS: Thank you, Arlene.

21 MR. T. HARRIS: Some of the new measures  
22 that I'll just talk about briefly and I'll just say I'm  
23 hoping this will evolve into a lengthy discussion. At  
24 some point if you guys get down to the level of detail,

1 I may have to sit down and refer to the actual language  
2 in the draft.

3 I'm not sure what that means. Implement  
4 additional measures deemed necessary. Oh, I know what  
5 that means. So there was a new requirement that we  
6 instituted in all the physical protection schemes or  
7 levels. was this requirement that NRC could impose  
8 additional measures that it deemed necessary based on  
9 your specific facility and materials. In the  
10 regulatory analysis, discuss why that might be  
11 advantageous.

12 It would be a lot if some new threat came  
13 along. It would along us to do things through the  
14 license condition. Whether this concept makes it to  
15 the end, we'll see.

16 Another reason that we implemented it as I  
17 discussed it with gentlemen in the back from B&W was that  
18 there are certain requirements that are currently  
19 imposed by classified orders. That would be a way that  
20 we could still impose those measures through license  
21 conditions. And we could do away with the orders.  
22 Certainly, any enumeration of those would be those would  
23 be in classified guidance.

24 Do you guys want to respond to that or not?

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1 I don't see anybody's hands going up. Okay.

2 So another new requirement would be this  
3 concept of insider risk analysis. And this would only  
4 apply to Category I licensees.

5 Andy has a question.

6 MR. RANDOR: It's really more of a comment.  
7 Andy Randor, B&W. My biggest comment is that it's from  
8 the language in the draft reg basis. It's very  
9 difficult to determine exactly what this is. And the  
10 requirement in the reg basis also implies that the  
11 security measures will be informed by this analysis.

12 So it's really difficult to take a look at  
13 just as words and figure out what it is you have in mind  
14 and exactly what informed by means for a security  
15 program. Essentially through the orders and  
16 regulations you define the measures that I need to take  
17 in order to protect against the insider.

18 I'm trying to understand exactly what you  
19 think you're going to get out of the insider risk  
20 analysis, the scope of it and where does it end.

21 MR. T. HARRIS: I say that the vagary was  
22 probably intentional. And to the extent I'll let Oleg  
23 if he wants to comment at an unclass level provide  
24 comments. And certainly this may be something that we

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1 want to talk about it at a different level.

2 MR. BUKHARIN: Just a general comment.  
3 Obviously, we will work with you on defining the scope  
4 of this analysis. But the overall idea was that, yes,  
5 we do have a set of security measures both in the  
6 regulations and in the nonpublic orders which we believe  
7 are acceptable.

8 The only thing which is not as well defined  
9 is the approach which is not totally holistic. We have  
10 a set of measures, but all I can say protective measures  
11 against outsider attack where we have tabletops and we  
12 have force-on-force and we have protective strategies  
13 which are all required by the regulations.

14 We address insider measures as individual  
15 measures. So this would be an attempt to get a more  
16 holistic approach to addressing the trouble.

17 But again we do have measures. So we  
18 believe they are adequate measures. So it's not an  
19 issue with vulnerabilities. So insufficiency is just  
20 another way to look at things.

21 MR. RANDOR: Thanks. As long as I have the  
22 microphone.

23 MR. T. HARRIS: Sure.

24 MR. RANDOR: This is kind of a general

1 question. I mean it was an earlier question raised  
2 about force-on-force, triennial inspections at the Cat  
3 1s and force-on-force program at the Cat 1. In general,  
4 my comment gets back to this performance-based versus  
5 I guess compliance-based regulations.

6 The way we view the move to Appendix B  
7 somewhere in the power reactors program really takes us  
8 from a performance-based approach because we do have to  
9 have a force-on-force program which is in the  
10 regulations. We conduct those triennial exercises  
11 with you.

12 So we have wide latitude on how we currently  
13 can implement that. And we are tested and exercised and  
14 evaluated on the performance of those programs.  
15 Whereas, moving to Appendix B gives us a lot of details,  
16 will generate a lot of churn and a lot of cost. But at  
17 the end of the day, the program is going to be no more  
18 effective because I have an effective program today.

19 So we don't see that as moving to a  
20 performance-based approach. Nor do we see the benefit  
21 coming out of that because I have a program today. It's  
22 effective today and it's inspected both by the regional  
23 inspectors and by the performance evaluation branch out  
24 of Headquarters on a triennial basis.

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1                   MR. T. HARRIS:    There are a lot of  
2 similarities. But there are some differences. So I  
3 guess I mean any kind of specificity you could add in  
4 a comment would be helpful and why you perceive it would  
5 be more burdensome and what that burden would be would  
6 also be very helpful.

7                   MR. RANDOR:   Right. There is burden and  
8 change for changes sake.

9                   MR. T. HARRIS:   Right. And we recognize  
10 that. Any time you change the regulatory requirement  
11 you're going to have to massage your plans maybe too.  
12 There's going to be that administrative burden to do  
13 that. We recognize that.

14                  MR. RANDOR:    Right. There's also an  
15 operational burden, right, because we're going from a  
16 performance-based approach where I'm told to have a  
17 plan. It's got to be effective.

18                  So I've structured my organization to  
19 develop a plan that works for my organization, my site.  
20 We validated that it's effective. Okay. And now I'm  
21 going to be forced into a different box. So there are  
22 structural and organizational changes to in the end  
23 produce a program that's no more effective than what I  
24 have to date and we'll be happy to provide specific

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1        comments on that.

2                    MR. T. HARRIS:    Okay.    This is a case where  
3        say your armed responders perform a very similar role  
4        than they do at power reactors.    The consistency  
5        question is why are you training and qualifying those  
6        people differently.    And you don't have to answer that  
7        if you don't want.

8                    MR. RANDOR:    I'm not going to answer  
9        directly.        I'm only going to say though a  
10       performance-based approach tells me to go train and  
11       qualify and produce an effective security force and then  
12       evaluate the performance of that security force which  
13       is what I do now.

14                   A compliance-based approach tells me how do  
15       I have to go do that.    And that's what the reactor  
16       section is more like.    It tells me specifically what I  
17       have to go do to produce that trained, qualified and  
18       effective security force.

19                   MR. T. HARRIS:    Let me ask you a question  
20       and all of you can chime in at any time you'd like.    So  
21       would you rather -- let's talk broadly -- beat those  
22       issues out during your plan review or would you rather  
23       have them more articulated clearly in the regulations  
24       where you know at fairly prescriptive level what would

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1 be required, what a passing score is, how many times you  
2 have to qualify people? Or would you rather --

3 MR. RANDOR: So there are some of those  
4 details in my existing regulations. However, I would  
5 prefer a performance-based approach so I can structure  
6 my program the way that works best of my site.  
7 Additionally, by the way, we obviously have an  
8 NRC-approved training qualification plan. So those  
9 issues have already been hammered out for me.

10 I see this completely as change for changes  
11 sake. It's going to drive my cost. It's not going to  
12 produce a better trained or qualified security force.

13 MR. T. HARRIS: Okay. If you can  
14 articulate that argument, that would obviously sway our  
15 decision to eliminate Appendix B, Sections 1-4 in lieu  
16 of Section 5. It's a good comment.

17 MR. BUKHARIN: I believe in general that  
18 the intent is not to change an operational program or  
19 activity if it works well. And there are a number of  
20 tools with NRC. So we can work with you to make sure  
21 that we do not get into unintended consequences. That  
22 goes to the change for the changes sake. I think we can  
23 work with it. We just need to have you articulate what  
24 you think the issues are.

1 MR. RANDOR: Thank you.

2 MR. T. HARRIS: I didn't see that coming.

3 MR. CLARK: So just to build on Andy's first  
4 point, the slide says that you're going to require an  
5 insider risk analysis, but the regulation says that we  
6 have to put a program in place. Is there a reason why?  
7 Is there an analysis that will be required? And if so,  
8 what does that look like?

9 MR. BUKHARIN: There is obviously an  
10 insider mitigation program which Category I licensees  
11 have to have. It's based on the regulations and in  
12 particular based on the description of the design-based  
13 criteria.

14 Inside the risk assessment is a separate  
15 activity. It supports the overall objective of  
16 protecting material against insider fraud. It's  
17 something which we'll discuss in greater detail in  
18 forthcoming guidance.

19 MR. T. HARRIS: So I think something Oleg  
20 didn't say but he said it earlier and didn't repeat now  
21 was the fact that insider risk analysis would help  
22 inform during your program review if you needed to make  
23 changes to your physical protection program.

24 MR. CLARK: I guess I get all that. I'm

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1       trying to decide if there's a difference between what's  
2       going to be required based on the verbiage in the basis  
3       and what we've seen on the slide. I think Oleg said no.  
4       I believe that's what that was.

5               MR. T. HARRIS: No, he didn't say no. He  
6       said you're only required to do insider mitigation.

7               MR. CLARK: Right.

8               MR. T. HARRIS: That's not going to change.  
9       But this new analysis is new.

10              MR. CLARK: Okay.

11              MR. T. HARRIS: You don't do that now.

12              MR. CLARK: So it is new.

13              MR. BUKHARIN: It is new.

14              MR. CLARK: Okay. And it's not in the  
15       basis language that I could find.

16              MR. T. HARRIS: It is.

17              MR. CLARK: Okay. Maybe I missed it.

18              MR. T. HARRIS: It's in the first section  
19       under Cat I and before you get to security plans. It's  
20       probably around six down.

21              MR. BUKHARIN: To rephrase, it's not part  
22       of the existing regulations or requirements. But it's  
23       a new element. It's something we proposed as a new  
24       measure.

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1 MR. CLARK: Good. I will add that to my  
2 list. Thanks.

3 MS. SCHUETER: I was wondering early on if  
4 it wouldn't help some of the discussions and support.  
5 Some of the comments that Andy has made if we look back  
6 at Attachment 3 because that is the Cat I fixed security  
7 description. And there's a big description in there  
8 about insider risk analysis.

9 We had some questions as has been stated  
10 what does that mean. What is the intent? When is it  
11 done? There's also defense in depth methodologies.  
12 And no implication that there is a graded approach that  
13 would be allowed to addressing insider risk issues  
14 identified by the licensee.

15 So there's a whole bunch of stuff going on  
16 here in the general performance objectives at  
17 Attachment 3 that all we can do is sit here and read and  
18 sort of make these worst case interpretations over what  
19 you mean. So insider risk is just one piece of the Cat  
20 1s that we're struggling with.

21 MR. T. HARRIS: Cat 1s are a little bit more  
22 complicated than other facilities for a number of  
23 reasons. I mean the language we put in there was  
24 intentional. Obviously, at a classified level, we

1 can't always express things maybe in a meaningful way.

2 To get to your point, Janet, I mean and I  
3 think Larry mentioned it earlier what we tried to do in  
4 the appendices was to put as much detail as we could as  
5 far as what we thought things would look like so that  
6 you guys could provide input early on.

7 A lot of the questions you're asking "What  
8 does that mean?" That's not in the regulation and would  
9 never be in the regulation to have that specificity. So  
10 that's going to come in guidance space. That's going to  
11 be part of the proposed rule.

12 I can kind of tell you what we think it might  
13 mean. But you guys I appreciate where you're coming  
14 from. You've got to interpret it just as much as I do  
15 knowing that once we get the guidance space things are  
16 going to change. I don't know much in life, but all I  
17 know is things are going to change.

18 MS. SCHUETER: Yeah. So that's back to my  
19 earlier comment. It just sort of leads us as an  
20 industry to make these worst case cost estimates. We  
21 don't really have much choice.

22 MR. BUKHARIN: We are sensitive to what I  
23 believe for like insider risk analysis. We initiated  
24 the initial discussion of Cat 1 licensees and we can

1 continue that. But it's something which does belong to  
2 a public meeting and we just have to push it in a closed  
3 public meeting environment.

4 MR. T. HARRIS: But I would say, Janet,  
5 where you can say if you're requiring this then my burden  
6 is going to be X. But if I interpret this as Y, then  
7 my burden is going to be some other value. That will  
8 help us as we move forward to know once we get into  
9 guidance space if we try to go in this direction there's  
10 going to be more burden than if we go in this direction  
11 and try to balance that out as we proceed forward.

12 MS. PARR: Nancy Parr with Westinghouse.  
13 And you mentioned adding this additional specificity in  
14 guidance space. Is there any consideration to  
15 providing us with some definitions?

16 MR. T. HARRIS: Sure.

17 MS. PARR: And maybe it's -- If you look  
18 specifically for Cat III in Attachment 8, there are a  
19 number of terms that are used that could be construed  
20 as new requirements for Cat III facilities and some  
21 which are vague which are left up to interpretation.

22 I'll just name a few examples. There's  
23 timely. There's promptly. There's a cause and  
24 problems and regulatory space before. Access

1 controls. Detection and assessment systems. We've  
2 already talked about the CAP. Even the word public has  
3 gotten us into trouble before. Channel. Material  
4 access control, I already said. Access control  
5 devices. Some definitions of those terms may help us to  
6 provide better cost estimates if that can happen.

7 MR. T. HARRIS: So the question is how to  
8 make that happen.

9 MR. BUKHARIN: I think there are several  
10 ways this can happen. One is with something like RTR  
11 community where we responded in a Q&A fashion what is  
12 standard detection and the answer is. That's one  
13 mechanism.

14 Another mechanism is to provide formal  
15 definition. It might take a little longer because you  
16 would have to work with our legal counsel and everybody  
17 else. I think we can think of that. And you already  
18 provided the comments. So we have a basis for  
19 responding. We could just --

20 MR. T. HARRIS: This definition aspect I  
21 don't think was at least in the initial comments I saw.  
22 Right. Or was it and I'm just not remembering?

23 MS. SCHUETER: Yes, we did it. We  
24 identified some specific terms in the context of the



1 transportation security piece.

2 MR. T. HARRIS: Okay.

3 MS. SCHUETER: But the same issues reside  
4 in fixed sites.

5 MR. T. HARRIS: So I think it would be fair  
6 -- I see my management in the background looking  
7 intently at what I'm about to say -- and helpful to you  
8 if you could identify at least for the fixed sites for  
9 me and transportation for Oleg and Jerry what those  
10 terms might be. And if we can provide those back to you  
11 before the comment period closes. I think we would try  
12 to make that a high priority to get information back to  
13 you.

14 And that's something that we could put on  
15 the website in addition to funneling the answers through  
16 Janet because she's really good disseminating and  
17 coordinating. And we like that. Does that work for  
18 you, Janet, or is there some other way that we can?

19 MS. SCHUETER: It sounds great. It sounds  
20 like a lofty goal considering that the comment period  
21 is really only about three and a half weeks from now.  
22 And we did give some of them to you in the written  
23 comments that we sent in to help facilitate this  
24 discussion. Yes, we can try to identify some

1 additional terms. The channeling was one of them.

2 MR. T. HARRIS: So we can talk about that.  
3 Your controlled access area boundary, typically a  
4 fence, is designed to keep people that don't have  
5 authorization to go into an area from people that do.  
6 So the Cat III facilities I've seen typically there is  
7 a front door where personnel are funneled through. And  
8 whatever the procedure is for verifying that they're  
9 authorized and whether you do searches or whatever  
10 things that you may do at that facility is done at that  
11 point. So the barrier, or the opening funnels people  
12 in to allow security to do their access control  
13 functions.

14 There may be an opening in the gate where  
15 trucks go through. So again that's an opening that  
16 funnels vehicular traffic to where you want them to go.

17 MS. SCHUETER: Okay. Got that part.

18 MR. T. HARRIS: So channeling it wasn't a  
19 passive vehicle barrier or chicane or those types of  
20 things. You're not required in the barrier section.  
21 There's no vehicle barrier requirements for Cat III  
22 facilities. So channeling was just the fact that you're  
23 having a point where personnel, packages and vehicles  
24 go through.

1 I mean if there are others I'd be happy to  
2 talk about them. I recognize my own limitations and may  
3 not be able to provide you an answer here standing up.  
4 And if that's the case we can get back to you. If you  
5 want to discuss some of these, we've got plenty of time.

6 MR. RANDOR: This is Andy Randor from B&W  
7 again. So what is an access control device?

8 MR. T. HARRIS: Access control device  
9 should be a personnel portal. It could be hand  
10 geometry. It could be biometrics. It could be a key  
11 pad. Could be a prox thing that would allow you to go  
12 through a door. Those are the examples of access  
13 control devices. It could be a lock.

14 MR. RANDOR: Okay, because you have  
15 written in a requirement here.

16 MR. T. HARRIS: It's not a requirement.

17 MR. RANDOR: Okay, potential requirement.

18 MR. T. HARRIS: Measure.

19 MR. RANDOR: Okay, to inventory those  
20 annually.

21 MR. T. HARRIS: If you have locks and keys,  
22 don't you think it's a good idea to keep track of those?

23 MR. RANDOR: Yes, but you want me to  
24 inventory my portals and hand geometry units. Do you

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1 consider a badge at access control?

2 MR. T. HARRIS: Could be.

3 MR. RANDOR: If you do, do I have to  
4 inventory those annually?

5 MR. T. HARRIS: It's a good question.

6 MR. RANDOR: Okay. The other thing and  
7 this hinges onto a bigger question. We talked about  
8 some new measures. The particular point I'm talking  
9 about actually comes partially out of 73.46.

10 MR. T. HARRIS: Can I ask you a question?  
11 I'm sorry. It takes me a while to think. My wife hates  
12 that.

13 MR. RANDOR: Go ahead.

14 MR. T. HARRIS: So wouldn't you want to know  
15 where your employees' badges were and if they were lost?

16 MR. RANDOR: Yes and no. Badges do get  
17 lost.

18 MR. T. HARRIS: Yes.

19 MR. RANDOR: And because I'm a Cat I  
20 facility, when a badge is lost, it's deactivated and at  
21 that point I don't care.

22 MR. T. HARRIS: Okay.

23 MR. RANDOR: And if it's lost, I'm not going  
24 to recover it anyway. It's been run through the laundry

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1 and disintegrated or whatever.

2 But actually it leads me to a second  
3 question. The draft reg basis for this particular  
4 requirement we're talking about for access control  
5 devices references the existing regulation. However,  
6 this requirement, to inventory access control devices  
7 annually is not in the existing regulation.

8 As you brought this across into the draft  
9 regulatory basis, the words got changed. And it's not  
10 just here on this particular one, but it's throughout  
11 the citation of the 73.

12 MR. T. HARRIS: Those citations were to  
13 help you say this is what the old requirement was. This  
14 is what the measure is proposing.

15 MR. RANDOR: But you didn't indicate that  
16 you were changing a bunch of them. And there's no  
17 notation that many of the citations out of 73 actually  
18 changed from what's actually in 73. So when you change  
19 the wording on the existing ones, I mean other than me  
20 discovering it and going back and now starting to  
21 compare the existing regulation to what's in the draft  
22 regulatory basis document, there's no way for me to  
23 determine whether those are merely somebody who  
24 attempted to summarize and clarify the language with no

1       desire to change or whether those were intentional  
2       changes.

3               There's another citation I was going to try  
4       to work it out for you. But if you have a waste  
5       processing, currently it says that waste processing  
6       must be done in a CAA. In the regulatory basis, that  
7       was changed to it must be done in a CAA and in an MAA.  
8       So that obviously is a very different concept putting  
9       the CAA into an MAA to do waste processing.

10              My concern is I'm not sure as I go through  
11       and I look at what I thought was coming from 73 and it's  
12       kind of a lift and plant to what changes in that language  
13       were intentional, what changes weren't. And if they  
14       weren't intentional, okay. The different words have an  
15       impact for both operations and obviously the thing we  
16       always worry about industry cost.

17              If there is some way you could review those  
18       and help us understand which categories, that would be  
19       helpful to me.

20              MR. T. HARRIS: Getting back to a  
21       consistency level, I think we speak about this in the  
22       draft regulatory basis. If you're required to have a  
23       protected area boundary and power reactors are required  
24       to a protected area boundary, the function of the

1       protected area boundary and intrusion detection system  
2       is exactly the same. Why should the regulations say it  
3       differently?

4               That's one case. I think you'll probably  
5       see that. We'll call that intentional.

6               The aspect of CAA and an MAA that may be  
7       inadvertent and maybe something you want to raise to us  
8       so we can think more about that.

9               MR. BUKHARIN: We would have to take a look  
10      at it. But for a waste site MAA you process it inside  
11      the MAA before you get it out. We just need to look at  
12      the specifics.

13              MR. RANDOR: That's really the concern of  
14      my question.

15              MR. T. HARRIS: It maybe would have been a  
16      CAA inside a PAA. And maybe we inadvertently used the  
17      wrong word there. We'll have to look at it.

18              MR. RANDOR: We'll obviously highlight those in  
19      our comments when we submit them. But if there are  
20      anything you could do to kind of help us understand which  
21      category that may help us. I mean some of them are  
22      pretty obvious. Right. But some of them aren't.  
23      Anything you could do to help clarify that would be very  
24      useful.

1 MR. T. HARRIS: Okay.

2 MR. SMITH: Arlene, any questions on the  
3 line?

4 OPERATOR: No, there are no questions at  
5 this time. I will remind you that all participants are  
6 on listen only mode. If you'd like to ask a question,  
7 press star 1 on your touch tone phone.

8 MR. SMITH: All right. Thank you.

9 MR. PARKER: Don Parker with AREVA. I've  
10 got two areas. One is throughout the Attachments 6 and  
11 8, there seems to be a lot of places where you combined  
12 low strategic and moderate strategic significant areas.  
13 It will say low or moderate.

14 The current regulations apply only to  
15 moderate, but not to low. Now are you trying to elevate  
16 the low to the moderate requirements or is that an  
17 oversight?

18 MR. T. HARRIS: I think the answer is no and  
19 potentially yes. And at this point I know exactly what  
20 I mean. Let me elaborate.

21 I think certainly the pointers that are in  
22 Appendix 8 also refers Category II requirements or  
23 73.67(d). And to be honest I don't know how those got  
24 there and that's certainly an oversight.

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1 I'd have to go back and look. I feel fairly  
2 confident that the measures that are there are  
3 intentional. I think the citations I can't tell you how  
4 they got there. That's obviously an oversight. And I  
5 apologize for that for the confusion that it caused. I  
6 think the measures that are there are what we envisioned  
7 for a Category III facility.

8 MR. PARKER: Okay.

9 MR. T. HARRIS: Did that answer your  
10 question?

11 MR. PARKER: Yeah.

12 MR. T. HARRIS: Now if there are things  
13 that are in there that you think shouldn't be obviously,  
14 we would like you to comment.

15 MR. PARKER: On a completely unrelated  
16 topic in Section 4, you specifically talk about  
17 eliminating 73.67.

18 MR. T. HARRIS: Correct.

19 MR. PARKER: But then in 73.71 almost  
20 everything in here talks about licensees subject to the  
21 provisions of 73.67.

22 MR. T. HARRIS: Right. And we also talk  
23 about it in Section 4 that there would need to be  
24 conforming changes.

1                   MR. PARKER:   Okay.   But those haven't been  
2 identified yet.

3                   MR. T. HARRIS:   They're not going to be  
4 identified until you get to the proposed rule stage  
5 because things are going to change.   But certainly the  
6 record-keeping type of thing would.   Hopefully, in the  
7 proposed rule stage, you try to figure out where all the  
8 problems and fix things at that point.

9                   Hi Nancy.

10                  MS. PARR:   Hello.   We're kind of on the  
11 free-for-all, ask-any-questions section.

12                  (Laughter.)

13                  So again Attachment 8, the section being  
14 communication, some of the terms that are a little  
15 puzzling are the continuous communication capability.  
16 And then the statement non-portable communications  
17 equipment should remain operable from independent power  
18 sources in the event of loss of normal power.

19                  You have an earthquake and it knocks all power.  
20 Are we violating a certain requirement?   Or your  
21 back-up generator --

22                  MR. T. HARRIS:   It gets into the suspension  
23 of security measures as appropriate for circumstances  
24 beyond your control.   I think continuous maybe that was

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1 language we might need to think about. But the concept,  
2 the outcome, that we're looking for is that you have more  
3 than one way to call local law enforcement, whether  
4 that's a hardwired phone and a cell phone, a radio,  
5 whatever combination of communication ways that you  
6 have to communicate with local law enforcement that are  
7 for a Category III facility your response or your  
8 responders.

9 MR. BUKHARIN: It is continuous  
10 communication capability. So that's exactly what that  
11 says.

12 MR. T. HARRIS: That's exactly what we  
13 meant then, Oleg.

14 MS. PARR: With onsite and offsite  
15 resources.

16 MR. T. HARRIS: Right. I mean to some  
17 extent your guard force performs an assessment function  
18 that's going to go back to your security personnel that  
19 is responsible for calling local law enforcement. The  
20 security guard would assess a situation, make a  
21 determination whether a response was needed,  
22 communicate to that individual.

23 Then that individual would communicate  
24 with law enforcement and coordinate their presence on

1 the site. Having that security communicate I think is  
2 an important function that needs to be maintained.

3 MR. SMITH: Any other questions in the  
4 room? Comments?

5 (No verbal response.)

6 Any comments or questions on the phone?

7 OPERATOR: There are no comments or  
8 questions in the queue.

9 MR. T. HARRIS: I am so happy I only have  
10 seven slides. So maybe a new concept is the idea of  
11 sufficient redundancy and diversity. I think that's in  
12 just about every one of the performance objective  
13 sections.

14 I'm just trying to highlight new things to  
15 make sure you guys are aware of them. Another concept  
16 was coordinating security plan with other plans. If  
17 you look from a detailed operational standpoint we're  
18 asking you to coordinate change management among  
19 different divisions. At a higher level, at the plan  
20 level, we would also like you to coordinate your  
21 security plans with your EP plan if you have one. It's  
22 kind of what we were thinking and why.

23 Slide 6. I think we already talked about  
24 the corrective action program and security event log.

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1 Janet, do you think that just using the words security  
2 event log in the requirement would be sufficient and  
3 then that would get elaborated on in some kind of  
4 guidance phase? Or is there some other words that would  
5 be common that would be a mechanism for facilities to  
6 capture events that would need to be evaluated during  
7 program reviews? Merri. Nancy.

8 MS. PARR: Could you say something like  
9 corrective action program, security event log or other  
10 appropriate program?

11 MR. T. HARRIS: Maybe. I think that gets  
12 moved forward now. Once it gets into the proposed rule  
13 stage, the rulemakers will do what they do in the sausage  
14 making. Tony.

15 MR. GODY: Tony Gody, Director in Region  
16 II. I think it's really important for us to understand  
17 that there's a big difference between the term  
18 corrective action program or problem identification and  
19 resolution program and the various methods for logging  
20 or databases for placing corrective action issues.  
21 Just because something is logged doesn't mean that you've  
22 got an adequate process to deal with the issues.

23 We need to be real careful about the terms  
24 we use. The requirements are is that you have a program

1 to deal with the issue properly. It's all about problem  
2 identification and resolution, not where you log it or  
3 where you document it.

4 MR. T. HARRIS: And the fact that you're  
5 trending those things and evaluating during the  
6 security program review to determine whether there are  
7 changes that you want to make in your program as a result  
8 of those issues that come up. Hey, Andy.

9 MR. RANDOR: Andy Randor of B&W again.  
10 Just to be clear as we talk about a security event log  
11 --

12 MR. T. HARRIS: Are you guys required to  
13 have a CAP?

14 MR. RANDOR: We are not required to have a  
15 CAP.

16 MR. T. HARRIS: I would like to change  
17 that. But go ahead.

18 (Laughter.)

19 MR. RANDOR: We understand that. So when  
20 we talk about security event log, are we saying that that  
21 security event log is the safeguards event log that we  
22 are required to keep today? If so, are you going to  
23 change the requirement for that log to include other  
24 items that must be placed in it?

1                   Currently, there is specific direction in  
2                   the regulation about what events must be logged in that  
3                   safeguards event log. And there's not a requirement for  
4                   tracking and trending and evaluating.

5                   MR. T. HARRIS: I think that's the new event  
6                   that we would like to see happen. I think that was  
7                   Tony's point. If you write it down on a piece of paper,  
8                   the inspector's happy. But really what we want is to  
9                   have you evaluate that and determine.

10                  MR. RANDOR: So my recommendation to you  
11                  would be that the safeguards event log currently is  
12                  supposed to be focused on very significant items. If  
13                  you start to use it as a CAP, you may lose its value.  
14                  So you might want to consider more language along the  
15                  lines of a program to do what you want rather than trying  
16                  to jam it into a security event log.

17                  MR. T. HARRIS: So I think what we need to  
18                  do is the section that talks about security program  
19                  review to amplify that to make sure that the connection  
20                  between the log and what you do with the log is there.  
21                  Is that what you were suggesting?

22                  MR. RANDOR: That would be helpful. Yeah.

23                  MR. T. HARRIS: Okay. That's helpful for  
24                  me as well.

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1                   Unintended openings, I think if you look at  
2                   the barrier section there's a requirement or a measure,  
3                   sorry. In each one of the barrier sections it talks  
4                   about unintended openings. So if you have an  
5                   unintended opening and it's made impassable you  
6                   basically have a way for an adversary to get in  
7                   potentially circumventing your barrier, your detection  
8                   systems.

9                   And certainly I think that's probably  
10                  gradable based on facility. Obviously, 48 inch pipe  
11                  going underneath B&W's PAA would be more significant  
12                  than a 24 inch pipe crossing the CAA barrier. But the  
13                  idea is that you're aware of those and that you're taking  
14                  appropriate security actions to make sure that the  
15                  barriers are performing their functions and that it's  
16                  compatible with your detection and assessment programs.  
17                  Go ahead, Gary.

18                 MR. CLARK: I think the language says  
19                 monitor. You have to monitor these.

20                 MR. T. HARRIS: I like it when you ask me  
21                 questions I know the answers to, Gary.

22                 MR. CLARK: Why don't you rephrase my  
23                 question and then give me the answer?

24                 MR. T. HARRIS: Your question is what does

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1 monitor mean. Right. That was your question.

2 MR. CLARK: To build on Nancy's question  
3 earlier.

4 MR. T. HARRIS: Yes, getting into -- You  
5 look at the function of the barrier and the function of  
6 your detection and assessment program. For Category I  
7 facility, you have a PAA barrier. So if the unintended  
8 opening crosses the PAA barrier, then your barrier  
9 function from an assessment standpoint you have an  
10 intruder detection system. Right. We would expect  
11 that for you monitoring would mean that you would have  
12 intrusion detection capability as to when the protected  
13 area was penetrated through an unintended opening.

14 MR. CLARK: So monitoring in this case  
15 would be consistent with what the barrier performs.

16 MR. T. HARRIS: Right. So moving on to  
17 Nancy's case, your CAA barrier, you may have intrusion  
18 detection on it or the regulations also allow you to do  
19 roving patrols at some periodicity. So in her case it  
20 may be that she alters her implementing procedures to  
21 make sure that when the security officer patrols the CAA  
22 barrier to see if it's been penetrated he also checks,  
23 monitors, the unintended opening to verify that that  
24 hasn't been breached as well.

1                   It's a perfect example of how the  
2 regulations are performance-based and can be applied to  
3 numerous types of facilities. Good question.

4                   MR. CLARK: You're welcome.

5                   MS. SCHUETER: In your response, you  
6 limited your comment to the PAA. Was that intentional?

7                   MR. T. HARRIS: I used the PAA as one  
8 example and the CAA as another example.

9                   MS. SCHUETER: As an example, okay.  
10 Because it does say openings. In Attachment 3, it says  
11 openings and any barrier. There's no further  
12 definition of that.

13                   MR. T. HARRIS: Right. Because the  
14 barrier function I think is clear to most people that  
15 would have a PAA barrier or an MAA barrier what the  
16 function of the barrier is.

17                   MS. SCHUETER: Openings is not defined  
18 either.

19                   MR. T. HARRIS: Right. That would be  
20 something that would be an in-guidance space as to  
21 which openings you should be concerned about and which  
22 you wouldn't.

23                   MR. SMITH: I think the question is  
24 openings in a barrier. What specifically does that

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1 mean?

2 MS. SCHUETER: I think it gets back to  
3 Andy's overall comment about the delta between the  
4 program that's in place today and we're just trying to  
5 predict what the expectation is from NRC in the future.  
6 To the degree there's more clarification on openings and  
7 barriers and other such specific program issues, that's  
8 going to help us determine what the delta is. Are we  
9 clear?

10 MR. TARDIFF: Al Tardiff, NRC. At this  
11 meeting we can't define further what the openings are  
12 considered. That will have to be a different forum.

13 MR. T. HARRIS: I would say that that comes  
14 at the guidance stage, Janet. But I mean can you  
15 appreciate our position from our goal is to make sure  
16 that we have security requirements that are robust.  
17 And if you have unintended openings, that basically  
18 allows you to penetrate or circumvent part of your  
19 required protection scheme. That would be an important  
20 thing to think about.

21 MS. SCHUETER: Certainly, that's inherent.

22 MR. T. HARRIS: Right.

23 MS. SCHUETER: The programs that are in  
24 place today.

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1                   MR. T. HARRIS:    So we had issues with  
2 facilities that have had openings and barriers that they  
3 hadn't thought about and that's why that's in there.

4                   MR. RANDOR:    This is Andy again, B&W.  My  
5 comment is there's a big difference between any opening  
6 and an opening that could defeat the purpose of the  
7 barrier.

8                   MR. T. HARRIS:    Right.

9                   MR. RANDOR:    So I don't think that comes  
10 through in the regulation.  If you clarify that  
11 language, I think that might help us understand that.  
12 Now suddenly the CAA barrier for instance, any opening,  
13 okay.  There are lots of openings in CAA barrier that  
14 don't have any significance because it's not what that  
15 barrier is designed to defeat.

16                   MR. T. HARRIS:    Right.

17                   MR. RANDOR:    Whereas similarly in a PAA or  
18 CAA or an MAA boundary it may have significance.  So if  
19 you could clarify that language so that it's not an  
20 opening, that would help us a lot.

21                   MR. T. HARRIS:    Okay.  But does everybody  
22 understand what we intend?

23                   MR. RANDOR:    I would just like the words to  
24 say that.

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1                   MR. T. HARRIS:   Okay.   We can probably  
2                   message that.

3                   MR. RANDOR:   Thank you.

4                   MR. PARKER:   On that same line -- Don  
5                   Parker with AREVA -- not all barriers are security  
6                   barriers.

7                   MR. T. HARRIS:   Correct.

8                   MR. PARKER:   So we need to be specific that  
9                   you're only talking about security barriers, not  
10                  radiological barriers or something else.   That's not in  
11                  the language now either.

12                  MR. T. HARRIS:   Maybe in the definition  
13                  section which I think Nancy was nice enough to point out  
14                  that maybe the definition of barrier isn't exactly --  
15                  maybe too reactor-centric.   But the idea is just from  
16                  an overall barrier standpoint for a Category III  
17                  facility you're required to have a CAA barrier by  
18                  regulation.   The regulations also say that you should  
19                  analyze your facility and determine what other barriers  
20                  you may need to implement your protective strategy  
21                  detection of loss of special nuclear material.

22                  If you determine based on your review that  
23                  you only need a CAA barrier, then in your case, Don, that  
24                  would be the barrier we're talking about.   Your point

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1 is well taken. But recognize that there may be other  
2 barriers that you as a facility determine are necessary  
3 and that would be part of your security plan.

4 PARTICIPANT: If they're security  
5 barriers.

6 MR. T. HARRIS: If they're security  
7 barriers.

8 MR. SAPOUNTZIS: Arlene, are there any  
9 questions or comments on the telephone line?

10 OPERATOR: There are no questions in the  
11 queue. As a reminder, all participants are on listen  
12 only mode. So if you would like to ask a question or  
13 make a comment, press star 1, record your first and last  
14 names and affiliation at the prompt.

15 MR. T. HARRIS: Maintenance and testing.  
16 Certainly, for Cat III, this is something that's new.  
17 Again, from a security fundamental standpoint, if you're  
18 relying on a piece of equipment as part of your  
19 protective strategy, it only makes sense if you're going  
20 to maintain that piece of equipment and verify its  
21 operability.

22 And depending on Cat III facility you may  
23 have no equipment that requires maintenance and  
24 testing. I mean depending on your use of intrusion

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1 detection would be a good example. Whether you have  
2 some access system that would fall under equipment type  
3 of activity. It kind of depends on the facility.

4 Through discussions with RTRs actually  
5 yesterday, I think there's a requirement in there that  
6 says you should test access control equipment at the  
7 beginning and end of each shift. I think for Category  
8 III facilities that probably doesn't make any sense  
9 whatsoever. We would look for that to go away.

10 The idea that you want to test some  
11 periodicity generally probably in accordance with the  
12 manufacturer's recommendations is more like what we're  
13 thinking. I think that's currently in there.

14 Questions? Andy. Obviously for your facility,  
15 Andy, your maintenance and testing program is a little  
16 bit more extensive.

17 MR. RANDOR: Andy Randor, B&W again. Yes.  
18 The maintenance and testing section, I talked earlier  
19 about how some of the requirements of the site, the  
20 current 73 requirements that changed a little bit, this  
21 is another one. There's a requirement that we  
22 establish, maintain and implement maintenance and  
23 testing and calibration program.

24 The calibration program piece is not in the

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1 existing 73.46 section. So I guess what I'm asking, is  
2 this a new program? Do I have to create a calibration  
3 program?

4 MR. RIVERS: One thing I want to point out,  
5 there are some elements of your system that do get  
6 calibrated at certain levels of sensitivity like a metal  
7 detector and radiometric scanners. Where I think it's  
8 appropriate for you to have calibration of equipment,  
9 then that's when you'll do it.

10 If you have some sensors like BMSes that are  
11 not able to get calibrated -- they work or they don't  
12 work -- then that wouldn't be necessary. But I think  
13 it's focused on those elements like metal detectors or  
14 radiometric scanners and things of that nature that  
15 calibration is important.

16 MR. RANDOR: Do you envision this as  
17 separate from the facility calibration program that we  
18 currently use to do those functions?

19 MR. RIVERS: It is just that you have to  
20 have a program that does that whether it's part of  
21 another program or its own program. It doesn't really  
22 matter. But it wouldn't be the same program as your  
23 calibration of your measurement equipment.

24 MR. RANDOR: Is there something that gives

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1 us or will in the future gives us guidance on what is  
2 an acceptable calibration program?

3 MR. RIVERS: I would think you would find  
4 that in the regulatory guidance when it is published.

5 MR. RANDOR: We look forward to that.

6 MR. T. HARRIS: Me too, Andy.

7 MR. RANDOR: One other question. I'm  
8 sorry. There is a requirement or a potential  
9 requirement listed in the draft reg basis for  
10 performance testing of access control equipment. Can  
11 you give us any idea of what performance testing of  
12 access control equipment is? Is that just a simple  
13 functional test to make sure that performing its access  
14 control function? Or is there some other statistically  
15 based test I'm supposed to do to make sure that it meets  
16 some --

17 MR. T. HARRIS: And this is in the access  
18 control section?

19 MR. RANDOR: It's in the maintenance and  
20 testing section.

21 MR. T. HARRIS: Can you say that again?  
22 It's getting close to lunch and my blood sugar goes down.

23 MR. RANDOR: Okay. It reads "Intrusion  
24 detection and access control equipment should be

1 performance tested in accordance with security plans  
2 and implementing procedures."

3 MR. T. HARRIS: Right. And if you read two  
4 down, it talks about for your facility which we don't  
5 want to change is that you would do that at the beginning  
6 and end of each shift I think.

7 MR. RANDOR: Right. I'm just asking for  
8 clarification in performance test versus a functional  
9 test.

10 MR. TARDIFF: Al Tardiff, NRC. Similar to  
11 what we did with the power reactors, we'll probably have  
12 operability and performance tests. Operability test  
13 is to test a requirement. Performance testing is to  
14 test a device or a system throughout the drains of  
15 intended operation.

16 MR. T. HARRIS: So what does that mean, Al?

17 MR. TARDIFF: It depends upon the  
18 particular system that you're looking at. Let's say if  
19 you had a radiometric scanner if you came through with  
20 a cobalt source, it breathes (phonetic). But does it  
21 detect the minimum detection limit of actual isotope  
22 that you're trying to detect?

23 MR. T. HARRIS: Put that in terms of  
24 something Andy has at his facility.

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1                   MR. RANDOR:     Specifically for access  
2     control.

3                   MR. TARDIFF:   For access control, hands  
4     down you should have false positive/false negative in  
5     the right range for hand geometry.

6                   MR. SMITH:    Basically you have different  
7     type systems, right?   For explosive detection, hand  
8     geometry.

9                   MR. TARDIFF:   Yes.   Explosive detection  
10    would be certain nano sized detection limits for  
11    specific types of explosives.

12                  MR. BUKHARIN:   I believe the overall  
13    intent is not result in any change of your operational  
14    activities.    So it's something in which you could  
15    qualify, but I believe that what you do is acceptable  
16    to us at this time.

17                  MR. RANDOR:    I appreciate that.   We'd like  
18    that clarification just simply because -- I understand  
19    the concept of performance tests.   But in some cases it  
20    goes well beyond what we're doing today.

21                  MR. T. HARRIS:   I don't think performance  
22    is the same performance that's in FOF type performance.

23                  MR. RANDOR:    Right.    In some cases it  
24    makes sense to be performance test.   In other cases when

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1       you have a threshold criteria for something like for  
2       instance a metal detector there is a threshold criteria  
3       that's defined that we must meet. So there's no sense  
4       in performance testing that if I can functionally test  
5       it. If it meets that standard at a minimum, then any  
6       performance testing beyond that to see whether it needs  
7       a lower threshold or a higher threshold is meaningless  
8       and obviously just adds cost and waste and focuses  
9       attention on things that really don't prove security.

10               If I could flip to a different section  
11       because I know you're almost to the end of your brief  
12       and I want to ask this question.

13               MR. T. HARRIS: I'm speaking before lunch  
14       and after lunch. So I'm good.

15               MR. SMITH: Just to add we're about seven  
16       minutes out for lunch.

17               MR. RANDOR: This will be quick maybe.

18               MR. T. HARRIS: But will it be painless?

19               MR. RANDOR: Yes, it will be painless. It  
20       can be a yes or no question. In the section, Attachment  
21       3, Category I requirements under tactical responders  
22       you list the --

23               MR. T. HARRIS: I'm sorry. Category?

24               MR. RANDOR: Category I, Attachment 3 but

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1 Category I facility fixed site requirements.

2 MR. T. HARRIS: Gotcha. We list the  
3 number.

4 MR. RANDOR: You list a minimum number of  
5 tactical responders the plan must include. That number  
6 is not the same.

7 MR. T. HARRIS: Correct.

8 MR. RANDOR: Is that intentional?

9 MR. T. HARRIS: Yes.

10 MR. RANDOR: At a closed meeting, I would  
11 to discuss what's driving that change.

12 MR. T. HARRIS: Do you want to comment now  
13 on that, Oleg?

14 MR. BUKHARIN: Obviously we did not want to  
15 use the same number because the number is used in that  
16 classified document. So we just wanted to have  
17 something close enough. But I think we should as you  
18 stated just discuss any concerns in a closed meeting.

19 MR. T. HARRIS: So the number, Andy, just  
20 so you know, that's the same number that's in 73.55 power  
21 reactors. Right. That's the minimum X number of TRT  
22 folks.

23 MR. SMITH: Any other questions?  
24 Comments?

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1 MS. SCHUETER: We might. I know it's  
2 almost noon. We'll do our lunch then. But I guess  
3 there is a lot going on on the fixed site security and  
4 I know Scott in particular had to take a conference call  
5 and was concerned he was going to miss this discussion.

6 So it's conceivable that when we return  
7 after lunch there might be some more issues in the Cat  
8 III world on fixed site security that we'll want to talk  
9 about.

10 MR. T. HARRIS: I still have one more  
11 slide, George. I would propose is that we break for  
12 lunch now. It will allow me to get my blood sugar in  
13 a state that will allow me to cognitively evaluate what  
14 people are saying, get something to drink. And then we  
15 can talk as long as we need to this afternoon.

16 MR. SMITH: Okay, Arlene. If you could  
17 inform everyone on the line that we're going to break  
18 for lunch. We'll be back at 1:00 p.m. Thank you very  
19 much.

20 (Whereupon, at 11:54 a.m., the  
21 above-entitled matter recessed to return at 1:00 p.m.  
22 the same day.)

23 MR. SMITH: We're going to go on after  
24 lunch. I would like to emphasize the fact that you have

1 your phone on courtesy mode, silence or vibrate. If you  
2 have any kind of phone calls please take it on the  
3 outside so we won't disrupt the meeting.

4 MR. SAPOUNTZIS: Why don't I do this? Why  
5 don't I open it up for comments first? If there are any  
6 comments that maybe people thought about during lunch,  
7 I'll open it up to NRC Headquarters if they want to ask  
8 some questions before Tim continues on.

9 MR. SMITH: Any comments?

10 MR. MURRAY: Scott Murray, Global Nuclear  
11 Fuel. I'm sorry. I have to leave the meeting early.  
12 So if this comment or question has already come up, just  
13 say we've heard that one before and I'll stop.

14 The questions that I have because there are  
15 several what appear to be additional requirements for  
16 the Category III facilities. One has to do with access  
17 controls. The access controls aren't specifically a  
18 call-out for the Category III facilities.

19 It appears with the language there is some  
20 attempt to extend something and I'm not specifically  
21 sure what it means around access controls. Can you  
22 explain or elaborate a little bit on what may be meant  
23 by access controls for Cat IIIs?

24 MR. T. HARRIS: Sure. I think you, Scott,

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1       that early on we thought we were going to do  
2       fingerprinting for Cat IIIs. And you were kind enough  
3       to point out that fingerprinting and background checks  
4       of Cat IIIs were currently subject to. Recognizing  
5       that say for a Cat III RTR facility, they are subject  
6       to background checks in accordance to 73.67.

7               The question is what does access control  
8       mean to you? As a Cat III facility you have a controlled  
9       access area boundary. So if you look at the definition  
10      of a controlled access area -- and I hope I get this right  
11      -- basically it's a demarcation between people that are  
12      authorized to enter the facilities and those that  
13      aren't. Right.

14             For you, access control, we talk about the  
15      channeling or openings that people coming into your  
16      facility, you need to verify that they're authorized to  
17      be there. And how you do that I think is up to you.

18             We talked about whether you may or may not  
19      have access control devices that you rely on as part of  
20      your security program and what those might be and if you  
21      do have those, how those might be maintained and tested.

22             So I don't think we're thinking anything  
23      different than what you do now in order to meet the  
24      definition of a controlled access area. But you have



1       some program in place to determine who has access, who  
2       doesn't, who requires escort, those types of things.  
3       Did that answer your question?

4               MR. MURRAY: Yes, it does. And thank you  
5       for the explanation. It would be nice if somehow either  
6       the language somewhere or somehow that was articulated  
7       because control access area, of course, implies that  
8       there is an access control mechanism of some sort.

9               And we do that. It's been reviewed and  
10       found to be acceptable. But it's not real clear when  
11       we read the current language if that's clear that there's  
12       no additional things that we're doing now. I guess  
13       that's just an idea that somehow should be captured  
14       somewhere. We were worried that this would mean some  
15       additional access control that we're not now providing.

16              MR. T. HARRIS: Okay. That wasn't our  
17       intent to require anything new.

18              MR. TARDIFF: Al Tardiff, NRC. What we'll  
19       --

20              (Off the record comment.)

21              MR. TARDIFF: What we have developed in  
22       guidance specifically for each requirement. For Cat  
23       III, access control can be defined and the NRC's intent  
24       could be expressed there similar to Reg Guide 5.59 now

1 for Cat II and Cat III.

2 MR. MURRAY: Okay. Thank you. That is  
3 helpful.

4 MR. T. HARRIS: But that happens at the  
5 proposed rule stage. So it's important for you now to  
6 ask the question what do you mean so that that can help  
7 inform your comments at this stage. So we definitely  
8 appreciate that.

9 MR. MURRAY: One other follow-up  
10 Similarly, I think there's some language in there that  
11 talks about protections and assessments systems. And  
12 similarly I think this may be going back to some of the  
13 compensatory measures that we took because we did have  
14 to augment some of those systems.

15 MR. T. HARRIS: That we're not going to talk  
16 about.

17 MR. MURRAY: No. We're not going to talk  
18 them. My point was it's difficult to understand  
19 specifically what is meant by that term. Similarly,  
20 that could be in guidance. It could be somewhere else.  
21 But some additional explanation, either a definition or  
22 something, as to what is meant by those two phrases,  
23 detection and assessment systems, would also be useful.

24 MR. T. HARRIS: Okay. Just in terms of

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1 security fundamentals, if you don't detect the adversary  
2 when he crosses a boundary, that's not necessarily a good  
3 thing. Right. It increases time lines, all those types  
4 of things.

5 Similarly, if you have a detection system  
6 that detects somebody going through your CAA barrier but  
7 you don't assess it, then that really doesn't buy you much  
8 either. So you need the combination of both detection  
9 and assessment to have an effective program.

10 The question is what does that mean for you  
11 as a Cat III facility. The requirements for Cat III are  
12 that you either have some kind of intrusion. I think  
13 it says alarm. Some of kind of intrusion system or that  
14 you do that detection piece through security personnel.

15 Depending on which one you choose either  
16 you're going to have some kind of annunciation into some  
17 kind of control. We won't call it a central alarm  
18 station, but some kind of location where the alarms go  
19 back that security personnel would do the assessment and  
20 initiate response or not. That would be the case if you  
21 had intrusion alarms on your CAA.

22 But if you did the other approach which  
23 would be patrols and whatever periodicity you decide is  
24 appropriate and that's approved in your plan, you would

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1 go and look at the barrier and see if it's been  
2 penetrated.

3 At that point, the security staff would do  
4 the detection piece. You would detect that the barrier  
5 had been penetrated. You would contact the individual  
6 that does the security coordination and call response  
7 and say, "Hey, I've done this. I've identified this  
8 detection. My assessment is X."

9 The security person would follow your  
10 implementing procedures and contact local law  
11 enforcement if that was the appropriate action to take.  
12 It kind of walks you through what detection and  
13 assessment is and how that might apply to your facility.

14 MR. MURRAY: Yes, that is useful. I think  
15 what you're touching on is something that we brought up  
16 earlier which is it's a performance-based idea.  
17 Adequate means for detection and assessment or some  
18 words like that. As I recall, that may be currently  
19 what's a part of maybe 70.67(f)(4) perhaps. There are  
20 some words like that to provide adequate something,  
21 something, something. And it's performance-based.

22 Again, I would suggest that in this case  
23 this is one example where consistency may not be  
24 consistency of how we implement. It may not be one of

1 the objectives that we would have. Again, if it's  
2 performance-based, there may be several ways to obtain  
3 that objective.

4 And that was one of the puzzlements we had  
5 earlier about consistency that you prescribe and of  
6 course you can get consistency on how we implement. But  
7 it seems just as well in this case for performance-based  
8 and let us then determine how to do.

9 MR. T. HARRIS: Help me understand how what  
10 we're proposing isn't performance-based in the realm of  
11 detection and assessment. Currently, we're allowing  
12 you the two methods that are in the current regulation  
13 to continue. I don't think we're proposing anything  
14 different that would cause you to do something other  
15 than what's already allowed.

16 MR. MURRAY: No, what I'm suggesting is you  
17 are doing that in this case.

18 MR. T. HARRIS: Help me understand how.

19 MR. MURRAY: Well, by allowing different  
20 methods or maybe even there's a third method that hadn't  
21 been specifically called out or identified previously.  
22 I just didn't see that in the sections where this was  
23 called out for detection assessment. It didn't seem  
24 like there was a performance measure like adequate

1 systems of or for detection and assessment.

2 I'd have to go back and re-read 70. I'm  
3 trying to quote this from memory. It's been awhile.  
4 73.67(f)(4) as I recall may be the section that  
5 currently has language in it which of course is going  
6 to be modified or eliminated and replaced with something  
7 else.

8 MR. T. HARRIS: Correct.

9 MR. MURRAY: So I will make a comment about  
10 this if that's acceptable as part of our written  
11 comments.

12 MR. T. HARRIS: Sure. I would have to go  
13 back and see what it actually says to speak more about  
14 it. But I think your point is that you would like more  
15 flexibility.

16 MR. MURRAY: Yes.

17 MR. T. HARRIS: So then the question is for  
18 detection you currently have two methods, either  
19 intrusion alarm or security patrol. And the additional  
20 new requirement for alternative measures which would  
21 say I don't want to do either method A or method B. I  
22 want to do method C which is equivalent and this why.

23 Does that fit? Or do you think that there's  
24 another method that we should specifically cite?

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1           MR. MURRAY: This is going to be one of  
2 those examples where we've already done something that's  
3 been implemented eight or ten years ago. We probably  
4 wouldn't want to throw that one away if it's been  
5 acceptable all this time and do something else just  
6 because there's only two options available to us.

7           As we're thinking through this, we've  
8 probably done something that's acceptable I would assume  
9 around the choices we've made during interim  
10 compensatory. And what we would like to suggest if  
11 possible is that was okay before. We'd like to think  
12 it's okay now.

13          MR. T. HARRIS: And I would think that it  
14 would be okay now as well.

15          MR. MURRAY: Right. But it may be  
16 something else besides those two is the point I was  
17 trying to make.

18          MR. T. HARRIS: Okay. That's a fair point.

19          MR. SMITH: Any other questions or  
20 comments from the room?

21                (No verbal response.)

22                Any questions or comments on the telephone  
23 line?

24          OPERATOR: One moment, sir. Hold on. At

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1       this time, I have the lines open. If you have a question  
2       or comment, please press state it.

3               MR. SMITH: All right. Thank you.

4               OPERATOR: There are no questions or  
5       comments, sir.

6               MR. T. HARRIS: I will move on to my last  
7       slide which we already talked about. But one of the new  
8       requirements, Scott and Nancy, that's in there is this  
9       concept of training qualifications for you guys. You  
10      guys should perk up and say, "I'm not required to do that  
11      now." Absolutely right.

12              So I think there's a requirement in there  
13      that if you're Army, your security officers if you choose  
14      as part of your security system that you have armed  
15      personnel. What we were proposing in the draft  
16      regulatory basis is that it would be tested and  
17      qualified at some periodicity. It's kind of similar to  
18      what's in Appendix B which apparently the old Appendix  
19      B was better than the new Appendix B.

20              The idea is that if your guys are carrying  
21      a gun we think it's prudent that they should demonstrate  
22      some competency and understand what they should and  
23      shouldn't do. It just seems like a good practical  
24      common sense thing to do. That was my thought at lunch

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1 as I was eating my chicken sandwich.

2 Compensatory measures were as a new  
3 functional area that we talked about this morning.  
4 Actually, I think we talked about all of them this  
5 morning and probably don't have anything more to add.  
6 But I would be happy to continue discussion on maybe  
7 definitions. Nancy, anything else you want to talk  
8 about? We're happy to talk about it.

9 (Off record comment.)

10 The question, is there anything that we can  
11 clarify now that would help you prepare your comments?  
12 And if there's not, you can pick up the phone and call  
13 us. Shoot us an email.

14 And if it's generic, we'll bring in Janet to  
15 make sure that it's shared with everybody. We certainly  
16 want to give you as much information before you provide  
17 comments so that the comments are beneficial to you as  
18 well as us.

19 MS. SCHUETER: In attachment 8 under  
20 security organization, the top of the second page, if  
21 you could just give us some clarification. It says, "A  
22 security organization should follow a management system  
23 to oversee the physical protection program..." What do  
24 you perceive as a management system or an accessible

1 management system? What is that?

2 MR. T. HARRIS: I think they should be  
3 organized and functional that you have implementing  
4 procedures and talk about goals, responsibilities.  
5 There's a system that you follow so that your personnel  
6 understand what their roles and responsibilities are,  
7 what their duties are, how that integrates with other  
8 areas of the physical protection system, whether it's  
9 equipment or escorting or record keeping. So I don't  
10 think there's anything gotcha in the management system.

11 MS. SCHUETER: Maybe you could just say the  
12 security management organization or something like  
13 that. There's a lot of words sometimes. So I think it  
14 may be confusing the meaning or implying that there's  
15 more to it than there really is just because there's a  
16 lot of words.

17 MR. T. HARRIS: Right.

18 MS. SCHUETER: Okay.

19 MR. SMITH: Was there any kind of  
20 indication of a relationship or contract for security  
21 force or security oversight or?

22 MR. T. HARRIS: We didn't get into that  
23 specificity in the regulation. Obviously, that would  
24 be something that would be discussed in the independent

1 guidance that would go along with that.

2 So the bottom line, let me just reiterate.  
3 I mean if you're a Category III fuel cycle facility, we  
4 think what you're doing now is what we intend. There  
5 was a number of new areas that we highlighted that are  
6 clearly new and different that we would like your  
7 comments on and an estimation of what the burden might  
8 be.

9 And if you're a Category I facility except  
10 for maybe training and qualifications, there are a  
11 couple of other new things like the insider risk  
12 analysis. What we're proposing is 99 percent or maybe  
13 90 percent of what you're doing now we don't think the  
14 delta is big.

15 Now if you guys are receiving the  
16 differently, certainly we want to hear that. But it  
17 wasn't our intent to create a bunch of new things that  
18 you would have to do differently. Our thought was that  
19 your existing program would mesh into the current  
20 regulatory or the proposed regulatory framework.

21 MS. SCHUETER: I guess there's one maybe.  
22 The Cat III people can maybe help me out here. But again  
23 in attachment 8(hh)(5) law enforcement liaison, there  
24 are some annual local law enforcement site

1 familiarization activities and joint response  
2 exercises that I don't believe are required now.

3 We need to be careful I think. I know  
4 you're trying to help us understand what the delta is.  
5 But we need to be careful to recognize that what the Cat  
6 III facilities have in place today doesn't sound like  
7 it's going to meet some of these expectations and there  
8 are some new requirements. And this is one area I  
9 think.

10 MR. T. HARRIS: Right. So I think if you  
11 look in that section of law enforcement liaison, in  
12 local law enforcement is your responders in most cases.  
13 So we recognize that we don't regulate local law  
14 enforcement. And my regulations mean nothing to them.  
15 We regulate licensees.

16 What we intended to be is that you would  
17 have some kind of memorandum of understanding. And I  
18 think you guys are doing that now based on order  
19 requirements.

20 So what we wanted to expand on that to  
21 ensure effectiveness is to the extent practicable you  
22 guys should have local law enforcement come out and  
23 visit your facility. Then they would understand what  
24 it looks like.

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1                   And then, if practicable, if you guys run  
2                   tabletop drills or other types of exercises to evaluate  
3                   your physical protection system, they should be invited  
4                   and included. If they come, that's great. I mean  
5                   obviously I'm not sure that Otis would cite you for the  
6                   sheriff not coming up. You invited him but.

7                   That was our intent behind those types of  
8                   things.

9                   MR. RANDOR: I'm just looking to see if Otis  
10                  agrees.

11                  MR. T. HARRIS: Yes, I can't see whether  
12                  he's smiling or not smiling. He's smiling. So it must  
13                  be good or it must be bad.

14                  (Laughter.)

15                  Tony.

16                  MR. GODY: Tony Gody, Region II. We don't  
17                  cite that. We would not normally cite something like  
18                  that.

19                  MR. T. HARRIS: Right.

20                  MR. GODY: What we would do is if we  
21                  identify a gap. We would have dialogue with the  
22                  licensee and local law enforcement or the mayor or  
23                  whoever is the right party, the stakeholder, to have  
24                  that conversation with to help facilitate that

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1 arrangement.

2 That's what we've done in the past. We've  
3 actually coordinated tabletops with local law  
4 enforcement and local responders and state responders  
5 before to try to resolve gaps that we've seen.

6 MR. T. HARRIS: Can I comment on something  
7 that Scott said that is -- I don't know the right word.

8 MR. MURRAY: Intriguing.

9 MR. T. HARRIS: Intriguing. Scott said  
10 I've been doing this forever and I'm in compliance.  
11 Therefore, I must be okay. And I would say that that's  
12 not the mindset we want.

13 What we want you to do in a  
14 performance-based, physical protection scheme is say I  
15 have a protected strategy that I'm going to implement.  
16 I designed my physical protection strategy to meet my  
17 protective strategy. And there are certain regulatory  
18 things I have to do, but it's up to me as a licensee to  
19 determine what else I might need to do to meet the  
20 protective strategy.

21 And part of the regulation was I need to  
22 evaluate that on some periodicity. I need to have some  
23 objective person come in and look at that. Are there  
24 trends in my system that may cause me to do something

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1       else? Replace widget X with widget Y because it's going  
2       to be more reliable.

3               That's really what the performance-based  
4       regulations are intended, not that you're checking a  
5       check sheet to make sure I've met all my regulatory  
6       requirements. It's that you embrace that. Maybe that  
7       was too much of a down trod.

8               MR. MURRAY: Actually, that's not exactly  
9       what I said. Just for the record, I think what I was  
10      mentioning was we were given some flexibility from the  
11      interim compensatory orders to choose a variety of ways  
12      to implement them. And we did. And those methods that  
13      we chose to implement were found to be acceptable.

14              That was really the context of my comment  
15      and not that we've done this forever and why are we  
16      changing kind of thing. It was just the idea that there  
17      is more than one way to approach a goal or to meet a goal  
18      that's laid out for us.

19              And the orders were one example of how I  
20      believe many of us had some degree of flexibility to  
21      achieve that goal. And I think we did that.

22              By the way, you just reminded me of one  
23      other thing. There is some language -- I believe it's  
24      in 70.22 -- where they talk about emergency plan

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1 participation. I can't remember the exact citation of  
2 where it is. But there is some language where it talks  
3 about offsite support agency should be invited but are  
4 not required to participate in these routine exercises  
5 and drills.

6 As you get closer to either guidance or  
7 clarification for again local law response or whatever,  
8 you might want to look at some of that language. It  
9 could be somewhat useful in this case as well.

10 MR. T. HARRIS: Yes, that's a good point.  
11 So maybe I just had a Rosanna Rosannadana moment.

12 MR. SMITH: Any other questions or  
13 comments in the room?

14 MR. RANDOR: Andy Randor, B&W. My  
15 question is relatively generic. The existing  
16 regulations have exceptions for the DOE OST couriers,  
17 transport vehicles from search requirements at the  
18 facilities. I didn't see any of that in the draft  
19 regulatory basis. I'm assuming the intent is to leave  
20 those exceptions in place.

21 MR. T. HARRIS: Yes. We didn't include  
22 that.

23 MR. RANDOR: It's an oversight.

24 MR. BUKHARIN: I believe the language is in

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1       because we discussed that.

2                   MR. T. HARRIS:   And in the new regulatory  
3       framework you can find that by going to the search  
4       section and it should be right there.   But maybe we  
5       omitted it.   But that was our intent that those  
6       individuals don't need to be searched.   Obviously, you  
7       would verify their credentials before you would allow  
8       access as you would normally.

9                   MR. SMITH:   Any questions on the line?

10                  OPERATOR:   Once again, I would like to  
11       reminder all parties that you're in listen only mode.  
12       If you have a question, please press star 1 and state  
13       your first and last names and affiliation.   But at  
14       present, sir, there are no questions in the queue.

15                  MR. T. HARRIS:   That concludes my prepared  
16       remarks.   We will be real happy to answer your questions  
17       as long as need to or come back at it after you give Gerry  
18       a chance to I was going to say run the gauntlet, but  
19       that's probably not fair.

20                  No, let me just say personally.   I think  
21       this is very helpful and I find it very beneficial.   I'm  
22       really appreciative of the time and effort you guys are  
23       spending on this.   I think ultimately it will make a  
24       much better product that will be serviceable for

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1 everybody for generations to come.

2 But how long is a generation? Last time we  
3 did this was 35 years. And that's funny, Gary.

4 MR. SAPOUNTZIS: Any more comments for  
5 those on the phone before we switch to another speaker?

6 OPERATOR: Once again, if you have a  
7 comment or a question please press star 1, state your  
8 first and last names and your affiliation. At present,  
9 sir, there are no queue.

10 MR. SAPOUNTZIS: All right. Please give  
11 us two minutes while we switch to another speaker.

12 OPERATOR: All right, sir. Thank you.

13 MR. SAPOUNTZIS: Okay. I would like to  
14 introduce Gerry Jackson who is going to talk to you today  
15 about transportation security.

16 MR. JACKSON: Good afternoon. I'm not as  
17 smooth as Tim. So forgive me here. I'm the guy who's  
18 going to talk about transportation. And I'm going to  
19 be backed up by the team here.

20 And transportation security, it's a unique  
21 environment because we're trying to bring what we're  
22 looking at and trying to bring it to totally dynamic  
23 environment. That environment involves not just what  
24 we're doing but other federal entities, state entities,

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1 local entities, tribal entities.

2 It operates in a unique environment, rail,  
3 maritime, highway. We use different conveyances. We  
4 use trucks, trains, rickshas, bicycle messengers,  
5 whatever we're moving the material with. That kind of  
6 feel on dead ears, didn't it? Trying to keep the active  
7 lunch thing going here. And we're settling down.

8 But I want to echo what was said this  
9 morning and thank Janet for mentioning that the reason  
10 we're here and what we're trying to do is be able to  
11 provide you with more information so that you can  
12 properly prepare your official comments back. The more  
13 clarity that we have on that process the better it is  
14 for both teams here. And with that in mind as we go down  
15 for the transportation piece, again because it is  
16 unique, keep in mind the cost requirements and burdens  
17 that may be included in changes or modifications of the  
18 transportation requirements.

19 And I'm going to echo Tim's comment about as  
20 we go down the line we're going to talk about additional  
21 guidance going forward from here. And I know we've  
22 beaten this to death, consistency and clarity. But for  
23 me the consistency and clarity was bringing the  
24 requirements of the fixed sites over to the

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1 transportation world.

2 In doing that, I tried to think about what  
3 slides we can do. And unfortunately I got the  
4 presentations of the handouts from Janet via Alex on  
5 last Thursday or Wednesday.

6 Instead of doing the whole mind numbing  
7 slide presentation, I just put that up there for the  
8 categories that we're going to talk about and the ones  
9 in blue are the different categories we have and the  
10 protective strategies. And I'm going to try and go into  
11 a more of a conversation. And I was going to touch on  
12 the handouts that I've got of the documents I've reached  
13 about drafting the industry comments, Part 26 and 73,  
14 draft regulatory basis. Thank you again for sending  
15 this. This helps me try and digest and understand what  
16 you're looking for.

17 The first one we're going to talk about is  
18 transportation security. Your first question was  
19 current DOE/OST shipments. We're not going to change  
20 or really modify what they do. We really can't.

21 We're going to work with DOE obviously. But we're  
22 not going to do anything that's going to change those  
23 requirements in the transportation world.

24 I know we touched on it earlier about

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1 exceptions. We're going to keep that exception.

2 What we are doing is we're thinking about  
3 as we go forward in generations and time lines in five,  
4 ten, 15, 20 years, someone may want to start a private  
5 Category I transportation industry. So we're trying to  
6 incorporate those requirements into our requirements or  
7 our regulations now.

8 I want this to be a dialogue, too. So as  
9 we go down the road and I say something, please pop your  
10 hand and I'll try and answer.

11 MS. SCHUETER: I guess Andy may want to  
12 chime in here, but that's helpful to hear. Very helpful  
13 to hear. But if you look at the general performance  
14 objectives discussion on the first page of Attachment  
15 10, you can see why we see the word licensee every  
16 paragraph. Licensee, licensee, licensee. So maybe it  
17 would just be as simple as to have some sort of  
18 introductory paragraph that at this time the NRC does  
19 not foresee any changes to the current arrangements  
20 between do-do-do. So that it recognizes that the OST  
21 program would continue and every time you refer to  
22 licensee they're not talking about the NRC licensee  
23 necessarily perhaps.

24 MR. T. HARRIS: And again that's the type

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1 of clarity that I wanted brought to this conversation.  
2 Absolutely. And I got these Thursday night. I only  
3 got a chance to look at them Monday, Tuesday and  
4 Wednesday. And when you read something and you read it  
5 again, I'm trying to find what we can do to provide  
6 information to you to help you answer these questions.

7 MS. SCHUETER: I don't recall -- I don't  
8 think we recall any recognition of OST in this document.  
9 So that's pretty big. You can see if we didn't see any  
10 discussion or reference to a licensee all throughout  
11 that attachment we thought "Oh, NRC is going to have the  
12 same expectations of the licensee now that licensees  
13 currently belong to OST."

14 MR. T. HARRIS: I think there's a current  
15 exemption that exempts OST from the physical protection  
16 transportation requirements in the current  
17 regulations.

18 MS. SCHUETER: Right. But you don't ever  
19 say that in here.

20 MR. T. HARRIS: Okay. Sorry.

21 MS. SCHUETER: You can see in the answer  
22 though that every time we see the word licensee we're  
23 thinking Cat I has a new responsibility.

24 MR. T. HARRIS: But absent OST the

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1 requirement for transportation, security, coordination  
2 is the licensee. Right.

3 MR. RANDOR: I guess our concern was as we  
4 looked through the draft reg basis we didn't see any  
5 acknowledgment that the licensee when they're using OST  
6 doesn't have to execute all these responsibilities. So  
7 if it would be nice to see some kind of language that  
8 indicates that use of the OST program meets the  
9 requirements of all of these licensee --

10 MR. T. HARRIS: We're not going to say that.  
11 We're going to exempt OST from complying with that  
12 requirement.

13 MR. RANDOR: Okay.

14 MR. T. HARRIS: We're not going to make them  
15 meet the requirements. We're not going to say that they  
16 need to do anything different than what they determined  
17 they need to do.

18 MR. RANDOR: That's fine. If that could be  
19 put in a document.

20 MR. T. HARRIS: Yes, I think you've  
21 highlighted an omission. A difference between what we  
22 said or didn't say and what we meant.

23 MR. BUKHARIN: I think there is a statement  
24 in the existing regulations that DOE program was

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1       accepted from NRC requirements. So we do not regulate  
2       DOE. And it will not happen.

3               MR. RANDOR: Right. Ultimately, that's  
4       what we're looking for is just something that says that.

5               MR. JACKSON: I think we're on the same  
6       page. We're trying to get the common language.

7               MR. RANDOR: Right. Exactly.

8               MR. T. HARRIS: But my point to Janet is  
9       the word licensee is in there intentionally because as  
10      a regulator we require things of the licensee just like  
11      I can't regulate local law enforcement. It's up to the  
12      licensee to coordinate their transportation security in  
13      a number of different ways. But they're ultimately still  
14      responsible.

15              MR. RANDOR: All right. So we understand  
16      that if a hypothetical Cat I transporter started up that  
17      we would have to meet all of the requirements if we use  
18      them vice OST.

19              MR. T. HARRIS: Right.

20              MR. RANDOR: Okay. I understand that.

21              MR. T. HARRIS: Or if OST ever said, "Hey,  
22      we're going to stop transporting your stuff."

23              MR. RANDOR: Right. We would have to meet  
24      all those requirements as we transport.

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1 MR. T. HARRIS: Or somebody.

2 MR. RANDOR: Okay. I understand that.

3 MR. MURRAY: Scott Murray, Global Nuclear  
4 Fuel. Unfortunately because even more problematic for  
5 strategic material, when I look at attachment 15 and  
6 specifically the access control requirement, there are  
7 four or five bullets there listed where the licensee for  
8 example should control access to the transfer access  
9 areas which of course we don't control.

10 The transfer points many times are in  
11 Baltimore or Oakland or some other place. Licensees  
12 should implement a numbered photo identification badge  
13 for all individuals. And, of course, we don't do that  
14 because many times we use a contracted carrier. And  
15 they hand it on to an agent or someone else who is  
16 exporting.

17 Licensees should implement an unescorted  
18 access to control access areas. Transports, aircraft,  
19 railcars, that's really the issue. This term licensee  
20 I think we're saying we need to do things that are far  
21 beyond our control as a licensee.

22 MR. JACKSON: Right. What we're looking  
23 at is your security plan. So if you're talking about  
24 Category III material going through a contract licensee

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1       who is going to hit the Port of Baltimore for an overseas  
2       shipment --

3               MR. MURRAY:   Hold on.   Hold on.   The  
4       contractor is not a licensee.   He's your agent.

5               MR. JACKSON:   No, but he's your agent.

6               MR. MURRAY:   Yes.

7               MR. JACKSON:   And so we're asking you to  
8       look at your security program and then you have to think  
9       about if that licensee or that agent is going to drive  
10      onto the Port of Baltimore.   Then he's going to have a  
11      transportation card or identification card.

12              So have you looked at that?   Have you  
13      worked the program into your security program to take  
14      that into consideration?

15              We've been to the Port of Baltimore.   We've  
16      talked to the Coast Guard.   We've talked to Customs and  
17      Border Protection.   We've talked to the Port of  
18      Baltimore itself and we've talked about their  
19      requirements for security.   What we're looking at is if  
20      you're going to ship material, have you taken that into  
21      consideration?

22              MS. PARR:   In our transport security  
23      program.

24              MR. JACKSON:   Transportation, correct.

1 Right. Go ahead. I'm sorry.

2 MR. MURRAY: Can I just make a comment  
3 again? For us I believe that's a part of the current  
4 physical security plan where we describe how we control  
5 transport. But clearly that's an additional  
6 requirement we are not now describing in our current  
7 transport physical security plan, how the Port of  
8 Baltimore maintains access control to the Port of  
9 Baltimore. Just a comment.

10 MR. JACKSON: Okay.

11 MR. T. HARRIS: To just ask a question,  
12 Scott. I mean transportation security is a little  
13 different than your fixed site security. Right. So  
14 either the shipper can be responsible or the receiver  
15 can be responsible, recognizing that the actions are  
16 often taken out by a third party.

17 But either one of those two, the receiver  
18 or the shipper as the responsible agent has to ensure  
19 that the requirements are met and are responsible for  
20 their requirements being met. Right. Am I missing  
21 something?

22 MR. MURRAY: Perhaps. When you say  
23 requirements being met, I'm reading five bullets under  
24 access controls that are not now being described as

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1 being a requirement. And these appear to be what I  
2 think we were talking about earlier, perhaps Janet  
3 mentioned, that when we look at these these appear to  
4 be fairly significant additional requirements. In  
5 fact, I'm not even sure I can either do some of these  
6 as a licensee.

7 MR. T. HARRIS: I was speaking at a higher  
8 level.

9 MR. MURRAY: I'm just saying whatever  
10 requirement you're thinking of, notification of a loss,  
11 yes. If the truck turns over in Palo Alto somewhere we  
12 would respond or try to aid that response as a licensee.

13 But there are a variety of things that I'm  
14 nervous about in attachment 15 that appear to be fairly  
15 significant or fairly burdensome and maybe even  
16 difficult requirements and costly by the way.

17 MR. JACKSON: In 15, we're talking about  
18 Category III material.

19 MR. MURRAY: That's correct. I'm sorry.  
20 Maybe we should talk about category first.

21 MR. JACKSON: Right. The requirements  
22 for identification in Category I are slightly different  
23 than Category III. Right. So within your security  
24 plan of Category I you have extensive security

1 requirements for identification. Less so in Category  
2 III.

3 If you can incorporate other functions TWIP  
4 cards, your agent who is going to moving your material  
5 will move it through the Port of Baltimore. If you  
6 understand that relationship and understand that your  
7 agent now has a transportation work identification  
8 card, he's going to come into a secure facility inside  
9 the Port of Baltimore.

10 We've been there. We've seen the access  
11 control situations. We know how it works. We know how  
12 materials get checked in and checked out. Customs  
13 takes a look and Coast Guard takes a look. And there's  
14 a tracking program.

15 Are you aware of that? Have you worked  
16 that into your plan and you're cognizant of that? Then  
17 can you take credit for that?

18 MR. MURRAY: This is part of the thing we  
19 need to comment on. Yeah, I have no control over the  
20 Port of Baltimore in how they do their access control.

21 MR. JACKSON: Understood. Understood.  
22 Right. So totally agree. You have no control over  
23 what happens in the Port of Baltimore.

24 MR. MURRAY: I would even be hesitant to

1 describe it in my transportation plan because I have no  
2 idea if they change it. Do you see some of the  
3 difficulties I'm worried about?

4 MR. JACKSON: Understood. But then again  
5 we're talking about different material categorization  
6 and we're talking about different protective  
7 strategies.

8 MR. SMITH: Let me just ask. It seems like  
9 we're going in circles. One question we're going to  
10 answer, what's the bottom line question? Are you  
11 concerned that your requirements that you're not going  
12 to be able to meet? You have no control, for example,  
13 over the Port of Baltimore.

14 Is your answer we understand? We want to  
15 know your process.

16 MR. JACKSON: We understand. You have no  
17 control.

18 MR. SMITH: So let me give this question  
19 and then you give me your answer. So what's your bottom  
20 line question?

21 MR. MURRAY: I haven't seen the rulemaking.  
22 These are statements that are in attachment 15. So I  
23 need to qualify that. It just simply describes several  
24 steps and it says licensees. This is the term. And

1 under access controls licensees should, which is a  
2 should and not a shall.

3 But then it goes on to have a variety of  
4 statements that I'm very concerned that a licensee  
5 transporting most strategic material either should or  
6 even can implement. That's my concern. It's again an  
7 observation of the statements that are here.

8 And I'm only reacting by the way to the words  
9 that I'm reading. I can't understand if that's really  
10 what you meant. If I should control all of these areas  
11 on transports, aircraft, railcars because I can't.

12 MR. SMITH: And the answer is?

13 MR. JACKSON: The answer is we understand  
14 that and we would work at a plan or evaluation level.  
15 I'm sorry. Tony, what were you going to say? Okay.

16 So we would take that into consideration  
17 and be happy to work with you on those requirements.  
18 And again as part of your comments coming in, your formal  
19 comments coming in, again we can discuss those things  
20 so that we're at a clear level.

21 MR. SMITH: So the expectation is that they  
22 identify those requirements. And if there's a delta,  
23 is there an expectation to see there is some sort of way  
24 they are addressing the delta or?

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1                   MR. JACKSON: That's part of it, right.  
2                   But again, this is a very difficult mapping over from  
3                   fixed site to mobile site. And understanding that at  
4                   a fixed site you have a lot more control than at a mobile  
5                   site using agents to transport material. So we  
6                   understand that. And again we're willing to work and  
7                   have conversations about how that works.

8                   MR. SMITH: Any other questions in the  
9                   room?

10                  MS. SCHUETER: I think all we're trying to  
11                  do is to give you enough feedback and information based  
12                  on what we're reading to help the regulator not put  
13                  themselves in a situation you promulgate some  
14                  regulations that we know from the get-go we cannot meet.

15                  We would not want to wait and see this issue  
16                  come back up years from now on the security plan that  
17                  have been submitted and you're rejecting them. We want  
18                  to help you put some requirements in place that meet your  
19                  intent that we believe we can meet and as they read  
20                  they're not possible for Category III facilities at this  
21                  time.

22                  Maybe if we can get a little bit more  
23                  thought on your intent behind the access control that  
24                  we could eventually come up with something that would



1 work.

2 MR. JACKSON: And again I've read this just  
3 for two days. Is that something that you've documented  
4 in the back and forth? You've sent those comments and  
5 those bullets to us in either one or two of -- Because  
6 I've got three different documents. I know that will  
7 help us. That will help me again look at it, look at  
8 what you're trying to say to us.

9 MS. SCHUETER: Right. At a glance, it's  
10 buried sort of in Item 7 under transportation security.  
11 But just for the benefit of everyone here, those are some  
12 preliminary comments to help you facilitate today.

13 MR. JACKSON: And then again it does help  
14 me do this.

15 MS. SCHUETER: Certainly, we'll include in  
16 our comment letter that's due on October 17th.

17 MR. JACKSON: Right. And that said  
18 non-Cat I facilities. So could that be Cat II? Maybe  
19 we're talking about -- So I totally understand and again  
20 more than happy to drill down a little bit more on this.

21 MS. SCHUETER: And Item 6B access to  
22 loading and transfer areas in transportation, page  
23 seven.

24 MR. JACKSON: Right. Without a category

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1 definition in there, what are we talking about? In  
2 other words, are we talking Category III or Category I  
3 or Category II?

4 MR. MURRAY: That comment came out of a  
5 Category III facility.

6 MS. SCHUETER: It did. So did Item 7.  
7 But that's neither here nor there. We'll get some  
8 comments and explain a little further as to why we don't  
9 think we can meet what we're inferring.

10 MR. JACKSON: And again we're all human.  
11 So I do really truly appreciate these. Again going  
12 through them a couple of times, looking at this and  
13 trying to get better clarity about what we're talking  
14 about.

15 Along those lines, I'm willing to take any  
16 questions. I don't really have a slide presentation.  
17 This is the chart that we've done before if you have any  
18 comments on the chart. I'll reiterate what Tim said.  
19 Is this the right approach? What are we talking about?  
20 And I'm talking about transportation obviously because  
21 again this is a unique environment.

22 For example, I totally understand about  
23 route reviews and if a truck has to deviate because  
24 there's construction. Yes, we totally understand.

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1 We're not going to cite you because it wasn't on a correct  
2 route.

3 If there's a weather incident, if you're  
4 shipping on a vessel that's force majeure and you have  
5 to put into another port, we understand those types of  
6 things. You're not going to get penalized for that.  
7 Again, unique, dynamic environment that we're  
8 operating. And I totally understand that.

9 MR. SMITH: Any other questions or  
10 comments in the room?

11 MR. MURRAY: Without going through this  
12 line by line I noticed on one of your slides -- your  
13 slides aren't numbered -- I think it's the second slide  
14 that you had. Yes. If we could go to that, I just had  
15 one as I read it. On the handout under notifications,  
16 I noticed that there was some perhaps need for perceived  
17 consistency of advanced notifications across Cat I, Cat  
18 II and Cat III.

19 And again I'm just asking the question.  
20 For Category III low strategic materials, what was the  
21 idea or the need or even the notion that we needed  
22 advanced notification to NRC for those type of  
23 shipments?

24 MR. JACKSON: I thought it would be

1 something on these national realm. You could do  
2 international, UF-6 containers going overseas. There  
3 are some requirements for that.

4 MR. BUKHARIN: I looked at that  
5 performance very briefly. And what I would suggest is  
6 that when you generate your comments, it's a little bit  
7 confusing because it's a set of comments. It's not clear  
8 which attachment is specifically referred to.  
9 Sometimes it's clear. It seems like it addresses  
10 byproduct materials which are not part of rulemaking.  
11 It's not clear what category of material it refers to.

12 So it's a little bit sometimes difficult to  
13 understand what the comments are about. When you do  
14 write a letter, please reference the attachment and the  
15 type of materials so we can effectively disposition the  
16 comments.

17 MR. MURRAY: I appreciate that. If I  
18 could clarify then, what I'm talking about on this slide  
19 is the far righthand column under Category III. The  
20 first line item under notification says "Advanced  
21 notification to NRC on receiver."

22 And my question is for that column for  
23 Category III type material -- and we'll clarify this in  
24 a written comment -- there is no current requirement for

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1 advanced notification to NRC. My question is is there  
2 even a perceived need that NRC needs to be notified for  
3 low strategic shipments. We did notify the receiver  
4 obviously. Thank you.

5 MR. BUKHARIN: I believe the answer is it's  
6 just a typo because if you look at the attachment there  
7 is no requirement to provide advanced notification to  
8 the NRC. And in general for Category III shipments, the  
9 intent again is not to introduce significant changes  
10 because we do not perceive the current practices to be  
11 inadequate.

12 As Gerry indicated, there is a desire for  
13 consistency. If we require access control for material  
14 at a fixed site, it just tends to reason that we also  
15 would like to have some access control to material in  
16 transit. Otherwise, why do we bother about fixed  
17 sites? What's the intent?

18 But overall I think the intent is not to  
19 make significant changes to the current operational  
20 practices.

21 MR. MURRAY: If I understand, this slide is  
22 an error. Is that correct of what you suggested?

23 MR. BUKHARIN: I believe that advanced  
24 notification to NRC is probably a typo.

1                   MR. JACKSON: It may have been pulled over  
2                   from Category I. And I apologize. But again, don't go  
3                   by exactly what this slide is. Again, this was a large  
4                   cross matrix of trying to bin up the requirements. If  
5                   I carried one over, I apologize.

6                   But again, if you read the attachments and  
7                   you look at the attachments for Category III, that's what  
8                   we're talking about.

9                   MS. PARR: This is Nancy Parr from  
10                  Westinghouse. Bear with me. I am on attachment 15.  
11                  I'm not sure the best way, but I have a fair number of  
12                  questions. If asking them out loud in this audience,  
13                  if it's better for us to get one on one and talk through  
14                  them, I'm happy to do that.

15                  But in general attachment 15 includes a  
16                  fair number of vague terms again which we're looking for  
17                  some further clarification and definition on. And I'll  
18                  highlight those as we go through.

19                  I just want to echo the point Scott has  
20                  mentioned. We feel we lose control with an  
21                  international shipment. That is a huge deal for us in  
22                  trying to understand how we would implement attachment  
23                  15. Domestically, for the most part we'll be okay. But  
24                  international causes us great concerns.

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1                   MR. SMITH: Can we stop there? Do you have  
2 a --

3                   MR. JACKSON: Just to try and clarify. So  
4 are you currently now shipping Category III  
5 internationally?

6                   MS. PARR: Yes.

7                   MR. BUKHARIN: And again just look in the  
8 attachments, that states it's material protected within  
9 the geographical limits of the United States. So the  
10 regulations would apply primarily on this particular  
11 section from the point of origin to the port or from the  
12 port of entry into U.S. to the destination in the United  
13 States. So it really addresses -- this attachment  
14 addresses domestic leg or the transport.

15                  MR. T. HARRIS: What words, Merri, are  
16 driving you to think that it would be applied more  
17 broadly?

18                  MS. PARR: I guess maybe point me to the  
19 section where it says it's just for domestic shipments.

20                               (Off microphone comments.)

21                  MR. GOTT: The term domestic shipment I  
22 think means starts and ends in the United States and it  
23 doesn't go any further. All we're talking about is to  
24 and from departure, Baltimore or wherever. I mean when

1 does your all responsibility end and when does the  
2 international shipment responsibility begin which the  
3 NRC has I assume no regulatory interest in?

4 MR. BUKHARIN: In fact, Part 73 currently  
5 has an appendix. I forgot which one it is which  
6 references the international leg. And it pretty much  
7 has reference to the convention for physical  
8 protection. We do not expect any new requirements on  
9 the licensees in that respect.

10 So the responsibility of the licensee for  
11 an international shipment would be always domestic  
12 regulations from say Wilmington to Port of Baltimore.  
13 For receiving the material, as in the current  
14 regulation, the licensee would confirm the  
15 tamper-indicating device on the containers and would  
16 just follow all the domestic regulations for shipping  
17 the material from point A to point B within the United  
18 States.

19 MR. SMITH: Is this something we'll provide  
20 to the licensee when \*\*\*1:53:50 or anything like that.  
21 There's seems to be some.

22 MR. T. HARRIS: Details would, but I think  
23 it's important to understand what the appendix says and  
24 how that may or may not impact licensees.



1 MR. SMITH: Right. It seems like it's not  
2 clear. Are you guys clear on that or you still need more  
3 clarification.

4 MR. BUKHARIN: And, Nancy, one option.  
5 What's the intent? And if it's not clear when it's  
6 obviously our fault and when you do produce the  
7 comments, indicate what. And we might add a statement  
8 to the attachment that it addresses the domestic portion  
9 of international shipment or some language to it.

10 MR. T. HARRIS: Let me just say that we're  
11 having the meeting transcribed. So we're taping the  
12 discussions here as a de facto comment. And we'll take  
13 action appropriately. So don't feel like you've got to  
14 capture every single word that was said because it's  
15 transcribed and we've got it.

16 MS. PARR: We appreciate that. But again  
17 just maybe some other areas where we have concerns and  
18 some of this has been discussed. But under access  
19 controls, the federal identification badge program, we  
20 don't feel we have the authority to implement that for  
21 people who don't work for us.

22 MR. SMITH: One moment. Any comments?

23 MR. JACKSON: Again, what are we talking  
24 about? What category are we talking about?

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1                   MR. T. HARRIS:    They're all probably  
2                   Category III.

3                   MS. PARR:    These questions are all related  
4                   to Category III facilities attachment 15.

5                   MR. JACKSON:   Cat III, all right.

6                   MR. SMITH:    So I don't stop up, these are  
7                   just comments.

8                   MR. JACKSON:   Again like Tim said, we'll --  
9                   (Several speaking at once.)

10                  MS. PARR:    Okay.    Really confused about  
11                  that licensees should limit unescorted access.   I'm not  
12                  really sure how we do that at all times, especially when  
13                  this is going on a boat or rail or some other ways.

14                  Let me see.    The shipment should be  
15                  protected at all times.   That seems to be a pretty new  
16                  burdensome requirement.

17                  There is somewhere about records being  
18                  removed from the site that is contrary to DOT  
19                  requirements.   That the NRC may inspect, copy, retain  
20                  and remove all reports.   We understand that the  
21                  regulator has full and uninhibited access to anything  
22                  that's on the site.   But you can't remove all the records  
23                  and leave the licensee in a state of noncompliance.  
24                  You can copy or remove copies.

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1 (Off microphone comments.)

2 And then another, I know heightened  
3 security, there is talk of diverting a shipment to a safe  
4 haven location. That's not a term currently used within  
5 Category III facilities.

6 And it talks about under maintenance and  
7 testing and performance capabilities that we have a  
8 program to ensure that security systems and equipment  
9 are tested. And it's not clear to us what equipment and  
10 systems you're talking about for Category III.

11 MR. JACKSON: In the transportation mode.

12 MR. BUKHARIN: If there are no systems to  
13 test, I guess you don't test any. But, for example, if  
14 you use a certain type of tamper indicating device then  
15 they might be subject to testing. As Tim stated, it's  
16 kind of a generic language. And we are doing it for the  
17 next 40 years. So that's why it's included.

18 And some of it may or may not apply. I  
19 guess for a record removal I also note that we have it  
20 pretty much throughout all the appendices. So it's  
21 something we need to consider.

22 MS. PARR: And then also under general  
23 requirements for transportation security measures, let  
24 me if I understood one of your comments earlier. We

1       were confused by the statement that says the integrity  
2       of locks and seals should be checked before departure,  
3       during intermodal transfers, and upon arrival. That  
4       would apply only if it's arriving in the U.S.

5               MR. BUKHARIN: Right.

6               MS. PARR: Because we can't do that for  
7       Europe if we're making an export.

8               MR. BUKHARIN: Correct.

9               MS. PARR: As we said before, maybe some  
10       clarifying introductory paragraph would potentially  
11       help clear up that confusion.

12              MS. SCHUETER: Again, when Nancy -- we were  
13       looking at the export-import shipment part when we were  
14       talking about domestic versus international, I think  
15       where we got confused on the export piece is up at the  
16       top of page 03 in attachment 15 for Cat III. It says  
17       "Licensees who export Cat III should comply with the  
18       transportation security requirements as applicable up  
19       to the first point where the shipment is taken off of  
20       the transport outside of the United States." So that  
21       implies the material of the CAT III, the fresh fuel, has  
22       already arrived in a foreign country, but the licensee  
23       is responsible for applicable requirements until it  
24       comes off that conveyance in another country. And

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1       that's just impossible.

2                   MR. JACKSON:   It says it.

3                   (Laughter.)

4                   MR. BUKHARIN:   Thank you for bringing it to  
5       our attention.

6                   MR. JACKSON:   See this is good.

7                   MS. PARR:     What is the threat warning  
8       system that Category III licensees should maintain?

9                   MS. SCHUETER:   It's under the paragraph of  
10      heightened security, page 03, attachment 15.

11                   MR. SAPOUNTZIS:   Repeat your comment.  
12      Are you talking about the -- We were talking about the  
13      national threat advisory system.

14                   MR. JACKSON:   NTS.

15                   MR. MURRAY:   We don't know.

16                   MS. SCHUETER:   We don't know.

17                   MR. SAPOUNTZIS:   Okay.   I'm sorry.

18                   MR. RANDOR:   You called it a threat warning  
19      system.

20                   MS. SCHUETER:   "Under heightened security,  
21      licensee should establish, maintain and implement a  
22      threat warning system."   So clearly it's not DHS'.

23                   MR. T. HARRIS:   I will just point out that  
24      for fixed facility that heightened security is not a

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1 proposed measure. And maybe it should be. Maybe that  
2 was an oversight on our part.

3 (Off microphone comments.)

4 MR. RANDOR: I can speak to it a little bit  
5 on what we do for Cat I. This is Andy Randor, B&W. I  
6 can speak to that just a little bit for Cat I fixed site  
7 security. Okay. We're required to have a system that  
8 changes our security posture as the national threat  
9 level has changed or local or NRC provided intelligence  
10 changes the threat level for a particular facility. I  
11 don't know that that's what you mean.

12 MR. T. HARRIS: That's what we mean. So  
13 the concept is for your facility it's certainly  
14 appropriate. Right.

15 MR. RANDOR: Right.

16 MR. T. HARRIS: For a Cat II facility, it's  
17 probably also appropriate. Right. So an adversary  
18 can steal a significant quantity from your facility, but  
19 he's got to steal quantities from two Cat II facilities  
20 in order to get a significant quantity. If an adversary  
21 attacked one of the Cat II facilities, you would want  
22 to notify other Cat II facilities that they should maybe  
23 heighten their security.

24 For Cat III LEU facility, I guess what I'm

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1       seeing is that may not make sense because can steal  
2       truckloads and still be fine.

3               MR. SAPOUNTZIS:       However -- Alex  
4       Sapountzis -- we issued those NTAS letters back into  
5       2011, Cat Is to Cat IIIs. So I believe that is probably  
6       the intent.

7               MR. T. HARRIS: But I'm telling you for Cat  
8       III fixed site it's not in there and I think that was  
9       a conscious decision. Maybe we should have included  
10      it.

11              MR. SMITH: Can we go to the phone? Are  
12      there any questions or comments on the phone?

13              OPERATOR: Yes. The first question or  
14      comment comes from Dan Cronin from the University of  
15      Florida. The line is open, sir.

16              MR. CRONIN: I just wanted to ask about the  
17      transcription and when that would be available for the  
18      participants.

19              MR. SAPOUNTZIS: It will be a couple of  
20      weeks probably to be honest, Dan, until I get the  
21      transcriptions back and go through them.

22              MR. T. HARRIS: I think our goal, Dan,  
23      similar to the last meeting was try to get those out as  
24      soon as possible so that they can help inform

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1 stakeholders in their comments, but recognizing that  
2 there's a process to go through.

3 MR. CRONIN: Yes. Basically, I was  
4 thinking in drafting the comments going back and looking  
5 at the transcription and making sure that it's not  
6 something that's already covered.

7 MR. T. HARRIS: Yes, and that's  
8 appreciated.

9 MR. CRONIN: Thank you.

10 MR. T. HARRIS: I don't want to make  
11 promises, Alex, I can't keep.

12 MR. SAPOUNTZIS: Me neither.

13 MR. SMITH: Any more questions or comments  
14 on the phone?

15 OPERATOR: At this time, sir, there are not  
16 any questions.

17 MR. SMITH: Questions or comments in the  
18 room?

19 MS. PARR: My last question at this time,  
20 page 05 under shipper requirements, the last two bullets  
21 are troublesome. Prior to transfer, release to  
22 shipment only when the individual who is possession of  
23 the shipment has assured positive identification of all  
24 persons assuming custody for the shipment.

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1                   When we're making a shipment, the driver  
2                   will sign for it. But when it gets to the port and gets  
3                   on the boat, we have no control over who the ship captain  
4                   is.

5                   MR. JACKSON: O5 was Cat II.

6                   MR. T. HARRIS: They were all talking about  
7                   Cat III.

8                   MS. PARR: Cat III. And then the last  
9                   bullet as well and I believe this is an existing  
10                  requirement that is somewhat confusing now, too.  
11                  Again, arrange for the in-transit physical protection  
12                  of the material unless the receiver is a licensee and  
13                  has agreed in writing to arrange for the in-transit  
14                  physical protection. What is meant by in-transit  
15                  physical protection?

16                  MR. T. HARRIS: I think it's similar to what  
17                  it is now. Somebody has got to be responsible for  
18                  transportation security. And that's either the shipper  
19                  or the receiver if he's a licensee. Or they coordinate  
20                  with an agent who does it, but the licensee is still  
21                  responsible.

22                  Are there things that we could do to improve  
23                  the wording there, Nancy?

24                  PARTICIPANT: Just say yes.

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1 (Laughter.)

2 MS. PARR: I don't have proposed wording to  
3 offer at this point. But, yes, it is confusing.

4 MR. MURRAY: For the record, her answer was  
5 yes. Scott Murray, Global Nuclear Fuel. There is one  
6 other potential additional requirement on the Category  
7 IIIs. And again I'm sorry your slides aren't numbered,  
8 but I believe it's on your second slide. You had it up  
9 there before when I was talking about access controls.

10 Let's see. I think it's a slide or two  
11 before that even I believe. It's the slide that you have  
12 on the top box is configuration and physical barrier.  
13 There we go.

14 And perhaps again this is a typo. But on the  
15 lefthand side, it talks about specifically design  
16 covered vehicles for Cat I. And then the center column  
17 is covered transport vehicle for Cat I-Cat II. And then  
18 Cat II - moderately, can cover transport vehicle.

19 But when I get over to the Category III  
20 column on the far righthand, it has that same wording,  
21 covered transport vehicle or open conveyance with a  
22 heavy transport cask. And I understand that's  
23 something like a 2,000 kilogram weighted cask. It's hard  
24 to move in other words.

1                   The idea or the concept about using covered  
2                   transport vehicles for low strategic materials,  
3                   specifically Cat III and our example fresh fuel, is  
4                   extremely problematic for us. We don't ship any of our  
5                   shipments in covered transport vehicles currently.  
6                   And that is a significant additional cost to not only  
7                   us, but our utility fuel receivers because they  
8                   currently offer our containers from these basically  
9                   flat-bed conveyances.

10                  I'm just curious. Was that truly an  
11                  intended additional requirement on the Category III  
12                  facilities? And if so what was the rationale to require  
13                  that?

14                  MR. BUKHARIN: Let me try to explain.  
15                  Where this comes from is from INFCIRC 225 latest  
16                  revision, Revision 5, with the international  
17                  recommendations. So our understanding is that the  
18                  industry is probably doing business in a somewhat  
19                  different way.

20                  And the whole idea is to understand current  
21                  practices, operational practices. That's a draft.  
22                  When we get that information from you we will see how  
23                  to modify it. The question is how it's being done at  
24                  present.

1                   MR. MURRAY:    Let me help to explain  
2 perhaps. For most international shipments, UF-6 and  
3 also fresh fuel, those are loaded in with sea van because  
4 most of them go by boat and they, of course, put it in  
5 the boats whole.

6                   MR. BUKHARIN: Right.

7                   MR. MURRAY: For INFCIRC whatever it is,  
8 there may not be an issue because it truly is a closed  
9 transport vehicle. But for almost all of the domestic  
10 fuel shipments, particularly UF-6 and other fresh fuel  
11 shipments, they are not in what would normally be  
12 considered a closed transport vehicle.

13                   The UF-6 owner both full and empty is  
14 typically in a UX-30 overpack. That overpack is bolted  
15 to a flatbed. There are typically five or six of those  
16 overpacks on a single flatbed. And again we move these  
17 on a regular basis. And it's not what I would consider  
18 anyway a closed transport vehicle.

19                   MR. BUKHARIN: Right.

20                   MR. MURRAY: Now the concept of 2,000  
21 kilograms maybe satisfied for a full UX-30 overpack with  
22 a full UF-6 cylinder in it. But unfortunately we don't  
23 ship full cylinders that way from our facility. We ship  
24 empties. And I would wager they do not weigh 2,000

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1 kilograms.

2 It's still very heavy, very large, very  
3 bulky. I can't imagine why anybody would try to take  
4 an empty UF-6 cylinder. But it does have some residual  
5 what we call heel amount in it.

6 MR. BUKHARIN: Yes, 25 pounds or so.

7 MR. MURRAY: And it's not in a closed  
8 transport. But it would not meet the definition if that  
9 was the regulatory requirement for either post  
10 transport or greater than 2,000 kilograms.

11 MR. T. HARRIS: Can I ask a question,  
12 Scott? So when you ship the cylinders with heels, do  
13 they have a Category III quantity of material in them?

14 MR. MURRAY: No, but we don't change the  
15 designation on the UX-30 when we ship it. It's still  
16 I think a 29.01 shipment. So we don't try to use that  
17 as an exemption.

18 MR. T. HARRIS: But I mean if you don't have  
19 Category III material, then you shouldn't protect it as  
20 Category III is my point.

21 MR. MURRAY: Okay. You're defining  
22 Category III materials as 10,000 kilogram. I don't know  
23 that where 10,000 kilograms of U-235 as I understand  
24 that we ever shipped that amount.

1 MR. BUKHARIN: It would be a 10 kg of U-235.

2 MR. MURRAY: I'm sorry.

3 MR. BUKHARIN: The definition for a Cat III  
4 for a reactor grade LEU is 10 -- It's not 10. I think  
5 10 is when you do a security plan.

6 (Off microphone comments.)

7 MR. T. HARRIS: No, I think it's 10 kgs.

8 MR. BUKHARIN: 10 kg for U-235.

9 MR. T. HARRIS: Yes.

10 PARTICIPANT: It's how much?

11 MR. T. HARRIS: Ten kgs and that the  
12 current definition between U-NAT and 10 percent  
13 enriched.

14 MR. BUKHARIN: Right. It's U-235, 10 kg.

15 MR. T. HARRIS: Yes, U-235. That's the  
16 current definition.

17 MR. BUKHARIN: It translates 10 kg U-235.  
18 It's about what? 50 kg uranium. It's 100 pounds which  
19 is probably more than the amount of heel that you have  
20 in your cylinder.

21 MR. PARKER: That's per container.

22 MR. BUKHARIN: Right.

23 MR. PARKER: You put five containers on a  
24 truck and you're over.

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1 MR. MURRAY: That's the point.

2 MR. BUKHARIN: But when you have five  
3 containers, I don't know what.

4 MR. MURRAY: It depends on how big a heel  
5 it is too.

6 MR. BUKHARIN: Right. That's exactly.  
7 We certainly don't want to make life miserable for you.  
8 So this was in the international recommendations. We  
9 understand about the threat environment and this  
10 country is not international. So we can adjust the  
11 numbers the way they make sense.

12 MR. T. HARRIS: Said differently, Scott,  
13 is there another number that would make sense to you?

14 MR. MURRAY: If you're talking about a size  
15 or a weight limit that would preclude someone from  
16 removing it from the truck, I'm not even sure that that's  
17 even a requirement in my mind if it's low strategic  
18 material.

19 I mean again if it weighs more than a few  
20 hundred pounds, one or two individuals can't  
21 conveniently remove it. I would wager even if they did  
22 so what. It's low strategic material for a reason. And  
23 that's why I'm puzzled by the concept that we think we  
24 need to augment this transportation security for this

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1 material.

2 The real question is closed transport  
3 vehicle to me offers no additional protection. We rely  
4 on the agent or the carrier to protect it on route.  
5 There's a notification if it's late. We do an  
6 investigation. And whether or not it's in a closed box  
7 or a tarp over it to me is equivalent for physical  
8 protection.

9 MR. BUKHARIN: One thing to remember is  
10 that there are different types of Category III material.  
11 You might have a 999 grams of HEU for example. And it  
12 would be Cat III material. So we probably do not want  
13 to put just as a box on a flatbed and transport it.

14 And I think that's the idea behind the  
15 international recommendations. If you have Cat III  
16 material that might be more attractive when three  
17 percent enriched fuel. Well, you do want to have it in  
18 a covered conveyance.

19 And if you have a large height which is of  
20 less significance and which is heavy to steal when it  
21 might be right in the open. Again, it falls into -- We  
22 can change it. Just I would like to understand the  
23 current practice and make an informed decision.

24 MR. SMITH: Your bottom line is you would

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1       like more feedback, specific feedback.    You guys  
2       understand that.

3               Are there any more comments or questions?

4               (No verbal response.)

5               Are there any comments or questions on the  
6       phone line?

7               OPERATOR:   At this time, there are none.  
8       But if you have a question or comment, please press star  
9       1 and state your first and last names and    your  
10      affiliation.    But at present, sir, there are no  
11      comments or questions in the queue.

12              MR. T. HARRIS:   I think Scott's point was  
13      (1) they don't do it now.   So the operational experience  
14      is they don't do it now.   And (2) his other comment was  
15      he doesn't think he needs to do it.

16              MR. MURRAY:   And there's a third comment.  
17      I mentioned this at the beginning.   This is one those  
18      areas that's very difficult to predict cost impacts  
19      because again if it's not truly what you meant and we  
20      don't have change the way that we're currently shipping  
21      this material, the cost is nearly nothing.   I mean we're  
22      doing it now and it's okay.

23              If, however, you truly mean that we have to  
24      now retrofit a UX-30 overpack shipment into a closed

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1 transport vehicle or our fresh fuel into a closed  
2 transport vehicle, that is significant additional cost.  
3 And that's one of those that I said at the beginning is  
4 very difficult to give you a cost estimate. Likely in  
5 all of these transportation augmented changes if these  
6 truly are regulatory requirement, that one might be one  
7 of the biggest ones that we looked at to drive additional  
8 or incremental cost.

9 MS. SCHUETER: And we'll have to factor in  
10 the additional costs for handling it at the nuclear  
11 utilities and our customers when they receive it.

12 MR. SMITH: Gerry, anything further?

13 MR. JACKSON: Any other questions?

14 MS. WILLIAMS: Sandra Williams, B&W.  
15 Just a couple of questions. On the slides where it  
16 talks about access controls, it says lock the vehicle  
17 with key controls. Would a tamper site indicating  
18 device suffice for locking that vehicle? If not, what  
19 is the intent of key controls? Could we give the driver  
20 the key or is it somehow that we have to mail a key?

21 MR. T. HARRIS: Or maybe said differently,  
22 is the security provided by tamper indicating device  
23 what you meant or does the NRC expect that it actually  
24 be locked with some kind of security lock? Is that what

1       you meant?

2                   MS. WILLIAMS:   Yes sir.

3                   MR. BUKHARIN:   What type of material are we  
4       discussing now?

5                   MS. WILLIAMS:   It could actually be either  
6       Cat II, moderately dilute or Cat III.

7                   MR. BUKHARIN:   For Cat II moderately  
8       dilute material, I think it's to provide the integrity  
9       of the boundary for example.   You ship research reactor  
10      fuel from B&W to a research reactor facility.   You  
11      probably want to have the conveyance worked.   And again  
12      we would have to come up with some guidance.

13                   If your driver's trustworthiness has been  
14      established when he controls the keys, he just needs to  
15      control the key physically or in some other means, a  
16      lockbox.   But it's something which we can come up with  
17      a guidance.

18                   MR. T. HARRIS:   Typically for Category III  
19      material.

20                   MR. BUKHARIN:   I don't think we have key  
21      control for Cat III.   I don't remember.

22                   MR. MURRAY:    I believe that again is one of  
23      those access control requirements we were talking about  
24      earlier.

1 MR. JACKSON: Right. And actually that  
2 goes across all categories if you look at it. And it's  
3 going to mean different things to different categories.

4 MR. BUKHARIN: All right. Yes. If there  
5 is a security key it would have to be controlled. If  
6 there is no key, then it doesn't have to be controlled.

7 MR. T. HARRIS: So I think the answer was  
8 -- thank you for the comment. We'll make sure that  
9 things say what we mean if they don't.

10 MS. WILLIAMS: One more comment. On the  
11 Category III also under response, immediate  
12 investigation of material arrival on time. For  
13 instances, we ship Category III material to a disposal  
14 facility.

15 We have a time that we would like for it to  
16 arrive. But frequently because of time differences and  
17 things of that nature, we don't get notification from  
18 them until sometime after we've gone home for the day.  
19 Again, a definition of on time arrival.

20 MR. BUKHARIN: All right.

21 MS. WILLIAMS: Because they don't notify us  
22 until they actually physically receive the shipment and  
23 accept it.

24 MR. BUKHARIN: Isn't that the existing

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1 requirement as well to initiate the prompt  
2 investigation upon arrival?

3 MS. WILLIAMS: Yes sir.

4 MR. BUKHARIN: So how do you handle it now?

5 MS. WILLIAMS: We actually have it in there  
6 built in basically because of time differences and  
7 personnel work hours that it would be the next day when  
8 you would really know if it did not arrive on time.

9 MR. BUKHARIN: I expect that for that type  
10 of shipment we wouldn't expect anything different from  
11 what you are doing now.

12 MR. SMITH: Any questions on the line?

13 OPERATOR: At this time there are no  
14 questions. But once again if you have a question please  
15 press star 1 and state your first and last names. But  
16 at present, sir, there are no questions in the queue.

17 MR. SAPOUNTZIS: I do have one thing to  
18 add. This morning you talked about Larry Harris' cost  
19 impacts presentation wasn't on the website. It's now on  
20 the website. You can access that at Part 73-Part 26  
21 website.

22 MR. SMITH: Any other questions in the  
23 room? Comments?

24 MR. T. HARRIS: Could I have a comment?

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1 MR. SMITH: Absolutely.

2 MR. T. HARRIS: Thank you. Just to point  
3 out that commenting on the draft regulatory basis is an  
4 opportunity for you to provide input. But that doesn't  
5 mean that the conversation stops between now and the  
6 proposed rule.

7 As we go through and start evaluating  
8 things once we get into the post rule phase, we may have  
9 questions or need additional input which means we would  
10 contact you and seek that. I think the dialogue will  
11 continue into the future. But as far as formal public  
12 comment period, the next one would be at the proposed  
13 rule stage. I just wanted to reassure you that the  
14 conversation was not going to stop between now and 2016.

15 MR. SMITH: Alex, are we at the end?

16 MR. SAPOUNTZIS: Unless everybody wants to  
17 take a break and maybe formulate a few questions. We  
18 can come back.

19 MR. SMITH: I mean you do have some time  
20 left. If you want to do sidebar, we can --

21 MR. SAPOUNTZIS: Let me ask the audience.  
22 Do you feel if we give you a 15 minute break you might  
23 come up with more questions when we come back? Or we  
24 can sidebar, release everybody and just have the

1 sidebar?

2 MR. T. HARRIS: I think there's benefit to  
3 maybe not side-barring because that allows multiple  
4 stakeholders to provide multiple views on issues.

5 MR. SMITH: The only concern is you may get  
6 into safeguards.

7 MR. T. HARRIS: We're not talking  
8 safeguards.

9 MR. SMITH: You're not at all, okay.

10 MR. SAPOUNTZIS: Would you all like to take  
11 a break and then come back to formulate any more  
12 questions on anything?

13 MS. SCHUETER: I'm seeing some yeses, heads  
14 nodding.

15 MR. SAPOUNTZIS: Okay. I can't see.

16 MR. SMITH: How much of a break do you want?

17 MR. SAPOUNTZIS: Let's give them until 2:45  
18 p.m.

19 (Whereupon, the above-entitled matter went  
20 off the record at 2:24 p.m. and resumed at 2:44 p.m.)

21 MR. SAPOUNTZIS: I hope you all have some  
22 questions of us. I'm going to open up the opportunity  
23 to ask questions on anything on the draft reg basis.  
24 And then I'll go the bridge line. With that, I want to

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1 open up the floor for questions.

2 MR. PARKER: Thank you. Don Parker with  
3 AREVA. I'm still on transportation security. We  
4 noticed that there is a requirement for GPS. That is  
5 not currently a regulatory requirement. And we wanted  
6 to know if that's intentional or if it's just assumed that  
7 we do it anyway. And what the expected actions are if  
8 the GPS dies in the middle of Butte, Montana or  
9 something? Do we stop the truck and put it on the side  
10 of the road?

11 MR. BUKHARIN: As I remember the  
12 protection requirement in the attachments, it's  
13 required for Cat I not dilute, Cat I moderately dilute  
14 which is like MOX fuel shipment and Cat II which would  
15 be like for example HEU. So these shipments don't  
16 happen very often. They are high risk shipments. In  
17 fact, these shipments would be premeasured in the OST  
18 space or even we could sometimes forget Cat II  
19 non-dilute material shipment. That definitely is a  
20 possibility.

21 For the Cat II moderately dilute, research  
22 reactor fuel shipments and for Cat III where there is  
23 no GPS requirement, if the general philosophy of NRC is  
24 that's actually throughout the rulemaking. If you have



1 a piece of equipment die on you, you need to implement  
2 some sort of a compensatory measures.

3 So in rulemaking, we do not specify what it  
4 might be or would be. It's really up to the licensee  
5 to propose it.

6 MR. PARKER: So are you saying there is no  
7 GPS requirement for Cat III?

8 MR. BUKHARIN: No.

9 MR. PARKER: It's not in the table.

10 MR. JACKSON: If we made some  
11 transcription errors, we apologize.

12 MR. PARKER: Okay.

13 MR. JACKSON: The details are in the  
14 attachments.

15 MR. T. HARRIS: If you look at page 42.

16 MR. JACKSON: And that's where you want to  
17 be.

18 MR. T. HARRIS: If you have the actual reg  
19 basis, page 42.

20 MS. SCHUETER: We definitely read it.

21 MR. MURRAY: On page 40 in the text. But  
22 it's unclear on page 40 what category you're intending  
23 it to apply to. If you read the text on page 40 as I  
24 recall.

1 MR. BUKHARIN: Page 40 would be a generic  
2 justification of why we cannot \*\*\*23:48 and issues.  
3 Attachments are really the place where you would see  
4 specific requirements. And that's what we would  
5 suggest you look at.

6 MR. T. HARRIS: Consistent with the table,  
7 summary table, on page 42, under movement control  
8 center, there is none for Category III. And if you look  
9 at attachment 15, there's no requirements for movement  
10 control center.

11 MR. MURRAY: So it may have just been a  
12 confusion because it was on your slide that you showed  
13 today under the Category III requirements.

14 MR. T. HARRIS: Correct.

15 MR. MURRAY: And some of that by the way  
16 could be because you've kind of lumped together Cat I  
17 highly dilute and Cat III.

18 MR. JACKSON: Correct. As I mapped the  
19 lines over, I may have made a mistake. I apologize for  
20 the confusion.

21 MR. SMITH: Any other comments or  
22 questions?

23 MS. PARR: Speaking for Category III  
24 facilities, there appears to be a new requirement for

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1 independent audits of the transport security plan and  
2 also the physical security plan every two years. That's  
3 not an existing requirement. And the requirement of  
4 independence almost implies the contractor or someone  
5 which is something that would add to the cost estimate.  
6 Any clarification on what was meant by that new  
7 requirement?

8 MR. T. HARRIS: Nancy, you're talking fixed  
9 site or you want to talk transport.

10 MS. PARR: Actually in both.

11 MR. T. HARRIS: Both, right.

12 MR. BUKHARIN: Yes, and transport security  
13 plan is part of the site physical security plan. So I  
14 think it kind of applies to both. But it really is more  
15 with fixed site issue.

16 MR. T. HARRIS: I think what Nancy is  
17 saying it goes to both. So let me just address that,  
18 Nancy. For the fixed site, our intent was that some  
19 objectivity be applied. That is if your security  
20 manager does the audit, then really what's the value  
21 because he's doing what he's doing.

22 That's not to say that you have to hire a  
23 contractor, somebody independent. It could be maybe  
24 you talk to Scott's facility and say, "Hey, can your

1 security manager come over and look at what we're doing  
2 and maybe provide us some suggestions?" Or visa versa.  
3 I don't know if you'd do that or not.

4 But our intention wasn't that you would have  
5 to go out and hire a security expert every two years to  
6 validate your plan.

7 MS. PARR: With the plan considered  
8 safeguards information that would present challenges if  
9 I invited Scott's group to come and inspect.

10 MR. T. HARRIS: That just means that you  
11 would have to grant him access to your safeguards.

12 MS. PARR: And another, is there any  
13 rationale for the 24 months? We have some requirements  
14 that are doing audit every five years. Most of the  
15 safety programs are every three years.

16 MR. T. HARRIS: We graded that. So for Cat  
17 I facilities, Andy's facility, it's an annual. We  
18 thought that annual probably wasn't the right number.  
19 It seemed like two years was an appropriate number. If  
20 you think that three years might be more appropriate,  
21 five years, I don't know if that's palatable. But we're  
22 happy to have you suggest whatever change.

23 And if you think that there's another way  
24 to accomplish an objective, look at the security program

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1       beyond the independent review, if there are other ways  
2       that you think would work better, we certainly are open  
3       to hear those.

4               MR. RANDOR:   Andy Randor.   So this is an  
5       existing Cat I requirement.   It might help if you  
6       clarified to be independent from security management.  
7       We currently meet that requirement with our quality  
8       assurance organization conducting the audit because  
9       they are independent of the security management.   And  
10      that meets the current regulatory standard.

11             MR. T. HARRIS:   Right.

12             MR. BUKHARIN:   It could be an internal  
13      audit just outside the security organization.

14             MR. T. HARRIS:   And then you're using your  
15      CAP program to trend things that you may want to change  
16      in your program.

17             MR. RANDOR:   We do not have a NRC-certified  
18      CAP program.   However, we do use our corrective action  
19      program to do so.

20             MR. SMITH:       Anyone have any other  
21      questions or comments?   Anyone?

22                       (No verbal response.)

23             Any questions or comments on the telephone  
24      line?

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1 OPERATOR: Once again, if you have a  
2 question, please press star 1, state your first and last  
3 names and affiliation. But at present, sir, there are  
4 no questions or comments in the queue.

5 MR. SMITH: We seem to be at the end of the  
6 question and comment period. Do you have anything else  
7 before I close it out and hand it over to you?

8 MR. SAPOUNTZIS: Go ahead and close it out.

9 MR. SMITH: Okay. Good. Question?  
10 Comment?

11 MS. SCHUETER: It dawned on me when I was  
12 sitting here. So I talked with some of our members that  
13 are in here right now. In the future, if you believe  
14 it would be helpful to further inform the development  
15 of reg basis and the proposed rule and you want to make  
16 site visits, they will more than welcome you there.

17 In hind's sight, it probably would have  
18 helped if you all would have been able to have spent some  
19 time out at a representative sample, maybe other  
20 facilities, to get a better understanding of what the  
21 practices are now for physical security and  
22 transportation security and so forth and so on. It  
23 might have informed some of your assumptions. We might  
24 be in a slightly better place than we are now.

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1           But we are where we are. And you still have a long  
2 way to go before you develop the proposed rule. So they  
3 would more than welcome your visit if you think it would  
4 help inform how the package evolves.

5           MR. T. HARRIS: I don't want to leave the  
6 impression that we've never seen one of these facilities  
7 before. You know obviously we've been to both Cat I  
8 facilities. We've been to Cat III fuel cycle  
9 facilities. I think we did use that as a basis for  
10 developing the document.

11           Now granted there is a large number of  
12 facilities and we didn't go to every single one and  
13 recognize that people do things differently.

14           MR. SMITH: You guys have gotten feedback  
15 from Region II which you've also visited some of the  
16 facilities also.

17           MR. T. HARRIS: Sure.

18           MR. SMITH: Great input. Thank you guys  
19 for showing up.

20           MR. T. HARRIS: Can I ask a question first,  
21 George?

22           MR. SMITH: Go ahead.

23           MR. T. HARRIS: Nancy, I think we've  
24 committed to try to clarify some definitions for you.

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1       So if you would like to send those to us we'll try to  
2       prioritize those in a quick format to get those back to  
3       you.

4               MR. SMITH: Thank you guys for showing up  
5       to the meeting today. Great communication back and  
6       forth. When you leave you have to go back out and  
7       process out through the front. Make sure you don't go  
8       in any other place within the building. That's about  
9       it for me. I'll turn it over to you, Alex.

10              MR. SAPOUNTZIS: I would like to thank all  
11       again personally for coming and coming these two long  
12       meetings that we had, one in June and one today. And  
13       also if you participated in the webinar, we do  
14       appreciate that.

15              All your feedback, we're taking that in and  
16       we're going to process it and make the reg basis a much  
17       better document. We appreciate that.

18              I just again want to remind you all the  
19       questions in the Federal Register Notice. Please if  
20       you could get us that information especially on the  
21       costs. We appreciate that.

22              With that, I just want to turn it over to  
23       Bill Gott who is my Branch Chief also for some remarks.

24              MR. GOTT: I would like to thank everyone

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1 for the lively discussion, especially the lively  
2 discussion we had this afternoon. Janet, thank you for  
3 the offer to visit some fuel cycle facilities. I'm sure  
4 these guys are wanting to get on the road right away to  
5 get out there. And Tony for some of his suggestions  
6 about incorporating some of the inspectors from the  
7 region in some of our development.

8 The key to understand here is this is a long  
9 process. This document is just the beginning of the  
10 process for the rulemaking and as to inform the decision  
11 makers here at the NRC that this rulemaking is  
12 worthwhile to go forward. And this is indeed the first  
13 draft of that document. We're taking all this input.  
14 We'll feed it in.

15 And that's the key again for the information  
16 that you provide to be as specific as you can. The  
17 individuals who will be taking the input and trying to  
18 weave it into the document know where it should so that  
19 they can inform actual possible requirements that will  
20 show up a couple of years from now.

21 Without some specifics, without where you  
22 really want it to go. And again a lot of the things they  
23 put in there was based on their understanding on what's  
24 going on, some other requirements that they've received

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1 from the Headquarters, from international trends and  
2 their understanding. If they are cost prohibitive,  
3 write it in there. Say that it's going to be cost  
4 prohibitive.

5 I'm not saying that it can't make it into the  
6 rule. Who knows what the Commission will want a couple  
7 of years from now. But it's important for us to work  
8 together to get this document written well so that it  
9 informs the rulemaking process which is going to be the  
10 next hurdle in this marathon race that we're in.

11 Again, I would like to thank all of you for  
12 your participation and especially all of you that had  
13 to travel all the way up here to Washington, D.C. area.  
14 I know what a hassle that is. Please have a safe trip  
15 home after you've finished all your meetings here this  
16 week.

17 MR. SMITH: Okay. That ends the meeting.  
18 Thank you.

19 (Whereupon, at 2:58 p.m., the  
20 above-entitled matter was concluded.)  
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