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U.S. NUCLEAR REGULATORY COMMISSION

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DEVELOPMENT OF REGULATORY BASIS FOR PART 26 PROPOSED RULE TO ADDRESS QC/QV ACTIVITIES AND PERSONNEL

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PUBLIC MEETING

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WEDNESDAY,

FEBRUARY 11, 2009

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The above-entitled matter convened at 1:30 p.m. in the Commissioner's Conference Room at One White Flint North, O1F16/O1G16, 11555 Rockville Pike, Rockville, Maryland, Lynn Michael Hall, Office of Nuclear Reactor Regulation, presiding.

NRC PARTICIPANTS:

LYNN MICHAEL HALL, Part 26 Project Manager, NRR

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HOWARD BENOWITZ, OGC

MICHAEL BOGGI, Senior Human Factors Engineer/Technical Lead, NRR

ROBERT CARLSON, Branch Chief, PFPB

TIM KOLB, Acting Branch Chief, Operator Licensing, NRR

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PAUL PRESCOTT, Senior Operations Engineer, NRR

THEODORE QUINN, Deputy Director, DPR/NRR

JERRY WILSON, Office of New Reactors, NRO

STAKEHOLDERS:

HARVEY ANDERSON, South Carolina Electric and Gas

JESUS ARIAS, Xcel Energy

ED BRENNAN, Dominion

JOHN BUTLER, NEI

NANCY CHAPMAN, Bechtel

JOHN COLLIER, ICF

PETER J. DEFILIPPI, Westinghouse

JACK DeSANDO, Constellation

MARK HALE, Westinghouse

GREG HALNON, First Energy

M. JOHANNA JAWORSKY, Susquehanna

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GEORGIA THU, ICF

JIM VOORHEES, Florida Power & Light

JAMES WICKS, American Electric Power

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

(1:32 p.m.)

MR. HALL: Good afternoon. My name is Lynn Hall, and I'm the project manager for the Part 26 Project. And I will be facilitating today's meeting. I'm going to do my best to help make today's meeting worthwhile for everyone and I hope you will all assist me in making it very valuable for all of us.

The purpose of today's meeting is to provide you with the opportunity to discuss the development of a regulatory basis with respect to Part 26. A term you'll hear a lot today is "regulatory basis," which contains the information needed to determine if rulemaking will be the appropriate action to take.

Specifically, the regulatory basis contains the technical, legal, and policy information that supports the rulemaking. Today the meeting will essentially have two parts.

First, we'll hear some presentations providing rulemaking and Part 26 background information that should give a good understanding before we start the second part of the meeting, which will involve the discussion of the regulatory basis information developing that.

Copies of presentations are on the table by the sign-in sheet. If you didn't get one, they're right over here to the right and there's some over here to the left. So you're aware, we are transcribing today's meeting so we can make sure we get all the dialogue.

So when you participate, when you have a comment, please state your name and the organization that you're with even if you do it more than one time so when we're running the transcription and someone is reading it, they'll know who it is. And in order to get a good clean transcript, if you could use the microphone every time we talk. There's one over and one over there and I have a couple of hand-helds I can bring out as well.

Turn off all your electronics or at least put them on mute or vibrate. Keeping the side conversations to a minimum in helping us to keep only one conversation going at a time during the meeting.

Another item of interest are feedback forms for the public meetings. They're also over there with the sign-in sheets. You can fill it out today and give it to one of the NRC members or drop it in the mail. The postage is free. Your opinion, obviously, on the meeting will help us improve in the

future. For the people who are on the phone, if you are interested in giving us a feedback form, just email me or contact me and I can send you the form to fill out and send in.

We want to make sure what we're here to discuss today is the topics for discussion and the development of the regulatory basis and not, and not to reach any kind of agreement on any particular topic. It's just open forum. You're likely to hear opinions that you do not necessarily agree with, but please give the person speaking the opportunity to say everything they need to say so we can capture it.

This is a category three meeting, which means you're encouraged to ask questions and provide comments throughout the meeting, which will help us keep it orderly and collegial. If you do want to speak, please raise your hand and make it known that you want to speak and we'll try to call on you in order.

Furthermore, it's very important for your contributions. It'll help us develop the regulatory basis and we look forward to your active participation. For those participating by conference, I'll ask you from time-to-time if you have any comments, or –- so then at that point, please speak

up. And, again, state your name and any -- and who you're with. And then in other times, if you can keep your phone on mute so we can keep the noise level down.

Again, I'm reemphasizing the meeting today. The purpose is to discuss a regulatory basis and not on implementation issues with the most recently published Part 26 Rule or any other issues we want to that.

Finally, we are still in the regulatory basis development stage and there's no official comment period and we're not formally soliciting comments, but if anyone wants to submit a comment related to this meeting, after the meeting if they have some ideas, send your information to Mike. And his information is on the meeting notice.

So this will be our agenda today and we'll do our best to stay within our time constraints. For anyone who hasn't been here before, the restrooms are out these doors and to the left. So if there's no questions on that beginning, we'll start to do introductions. Mike, if you want to start.

MR. BOGGI: I'll start. And I'm Mike Boggi. I'm the technical lead for this regulatory basis development, NRR.

MR. PRESCOTT: My name is Paul Prescott. I'm senior operations engineer, NRR.

MS. MARTIN: My name is Kamishan Martin. I work in the human performance branch in NRR.

MR. BENOWITZ: Howard Benowitz with the Office of the General Counsel.

MS. BARNES: Val Barnes with the Office of Research Senior Technical Advisor in Human Factors.

MR. SMITH: Russell Smith with NEI.

MR. HALNON: This is Greg Halnon with First Energy.

MR. NEWKIRK: Todd Newkirk, IBEW.

MR. QUINN: Ted Quinn, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.

MR. KOLB: Tim Kolb, Acting Branch Chief, Operator Licensing, NRR.

MS. THU: Georgia Thu, ICF.

MR. WICKS: James Wicks, American Electric Power.

MR. ARIAS: J. Arias, Xcel Energy.

MR. ANDERSON: Harvey Anderson, South Carolina Electric and Gas.

MR. BUTLER: John Butler, NEI.

MS. HENDERSON: Pam Henderson, NRR.

MR. O'MALLEY: Phil O'Malley, Constellation

Energy.

MR. DESANDO: Jack DeSando, Constellation Energy.

MR. BRENNAN: Ed Brennan, Dominion.

MR. COLLIER: John Collier, ICF.

MR. WILSON: Jerry Wilson, Office of New Reactors.

MR. BOGGI: This is Mike Boggi. I also wanted to mention that our –- my branch supervisor, Nancy Salgado, gives –- sends her regrets not being able to be here today. She's on travel.

MR. HALL: People on the teleconference, you can start to introduce yourselves, please.

MS. JAWORSKY: Mary Jaworsky at Susquehanna and I'm with licensing. And we have three other people here.

MS. ROCHESTER: Marty Rochester, Susquehanna.

MR. HART: Jeff Hart, Susquehanna.

MR. HALE: Mark Hale with Westinghouse, Field Service Quality.

MR. DEFILIPPI: Pete Defilippi, Westinghouse, Access Authorization and Fitness-for-Duty Programs.

MR. HALL: Very good.

MS. CHAPMAN: Nancy Chapman, Search Licensing, Bechtel.

MR. VOORHEES: Jim Voorhees. I'm the oversight manager in the corporate office for Florida Power and Light.

MR. HALL: Very good. Thank you. All right. Well, the beginning –- the purpose of today's meeting is to initiate public involvement for the development of a regulatory basis. It came from SRM, a staff requirements' memorandum. You can see the number on the first bullet there, April 17, 2007.

If you want to get more detailed information, you can type SRM in that first bullet in the website and it'll pull up the SECY paper, or it'd give you the SECY, SECY information, you'd see on a line item in the SRM. And it'd give you more details on what the Commission wanted after the last proposed published rule in March of 2008. And, specifically, the action that we're working on is number four in the SRM.

Again, this meeting is not to discuss subpart I implementation issues or the rule that was published in 2008. A little bit more on the background of what a regulatory basis is in a few minutes. And on the SRM and history of Part 26,

Kamishan will be discussing in a few minutes here.

For this project, we encourage you to reach out to members of the Part 26 team with ideas, information, and concerns about the rule. We would like to maximize public involvement, and if necessary, we will have more meetings. And I guess today's meeting will give us the opportunity to gauge how many more meeting we need to have or what the path forward will be for this project.

And if you –- some time during this project as we're going along, if you don't think that your concerns are being addressed, please contact me and I will manage the issue publically as much as I possibly can through either, for example, I'll put together another meeting or I'll provide some kind of avenue to resolve the issue. I won't specifically get involved technically, but I will manage the best I can to keep it open and transparent and get everything resolved to move forward, more of a facilitative management role.

It's good that we're getting involved early with this rulemaking. We can, stakeholders, it allows you to provide your experience, knowledge to identify any kind of flaws or oversights or other issues that we might not necessarily have had been

able to see from our advantage point.

Lastly, by engaging in stakeholders, it supports the development of a complete regulatory basis and it'll help to ensure that the rulemaking is justified and then we avoid any kind of technical changes later on in the road, so we'll be on the right path from the beginning before we go into actual rulemaking state.

For rulemaking phases, there's potential to have four phases during rulemaking. But since this potential rule was commissioned directed, we only have three phases. So the phase two, developing a rulemaking plan, we're not doing that for this rule.

So where we are with regards to this project is in the development of the regulatory basis. And you can see public meetings and comments on the regulatory basis are –- we're at that state right now.

So we need to get to, if it makes sense, to the regulatory basis approval, which the current completion date is tentative, is November, the end of November of this year. And that includes the one month for the division of policy and rulemaking to review the document.

And the regulatory basis includes, excuse me, the technical basis, legal issues, and policy.

And, furthermore, it establishes the need to continue to the proposed rule phase. So if it does make it through the approval phase of the regulatory basis, we'll go to phase three, which would be our phase two, where we're developing and issue the proposed rule.

And under normal procedures, the timeline is approximately 12 months depending on the complexity of the rule and if it even gets to that state. Four of the main milestones within a proposed rule are potential advisory committee review approved –- it's approved by the Commission, it's published in the Federal Register, and it's issued for public comment.

So then for phase, our phase three, which is phase four on this diagram, is developing an issue, the final rule. That's again, 12 months possibly, an average of how long it should take to complete.

And, again, there's four milestones –- three –- four milestones. An advisory committee review. It's approved by the Commission. An FRN of the supplemental document will include the public comments and NRC responses to the comments from the stakeholders. And it is published in the FRN with final rule language.

If you want to learn more about rulemaking, there's some websites up there. We're

trying to establish an ID docket for what we're doing with this project. It's not set up yet. We're working on it. But that -- once we do have that established, that will be a place where you, if you have that docket ID, you can go, you can type in the docket ID, and it'll have all the information for this project through its final closure, whatever that might be.

So does anyone have any questions for me regarding any --

MR. HALNON: Yes, just real quick. Greg Halnon, First Energy. The first one, November 2009, that was, to get the final regulatory basis out. Is that what that timeline was?

MR. HALL: Correct.

MR. HALNON: Okay. Are we working under any kind of mandate for November or is that just a target date?

MR. HALL: Well, we, we do have an established -- for the final due date, so we --

MR. HALNON: You backed it from there?

MR. HALL: We backed it up and --

MR. HALNON: Okay.

MR. HALL: -- worked out the details and it came out to --

MR. HALNON: And the target for the final date is going to be November of 2011 then if you add up all the 12 month issues. That's --

MR. HALL: Give or take a few months. It's not exactly that date.

MR. HALNON: All right. Thanks.

MR. HALL: Yes, please.

MR. BUTLER: John Butler, NEI. Quick question. The phase two of the rulemaking process that's being taken out of this particular process, what's involved in that and why isn't it applicable for this rulemaking?

MR. HALL: Well, since this one was directed by the Commission, you don't do a rulemaking plan. I haven't had experience myself with developing a rulemaking plan. It's my understanding, Ted, the rulemaking plans are for, if someone, something brand-new. Do you understand it, John?

MR. QUINN: The rulemaking plan is just something we put before the Commission to get basic buy-in on rulemaking activities.

MR. BUTLER: I understand that part and I can understand taking that out for this case. What struck me on the phase two is the opportunity for public comment that, you know, at a point in the

process where there's draft language before the, but before there's, you know, it's put forward in the Federal Register, there's a way to, to have that as part of this process, but not part of formal phase two, that would be appreciated.

THE HALL: Well, the dotted line is not mandatory. It's just potential.

MR. BENOWITZ: We've done that in –- this is Howard Benowitz of the OGC, and we've made draft language available with other rulemakings in the past, so there's –- we're not precluding it in this case.

MR. HALL: And, also, I believe at times, if there's, if it's, if there's a necessity to do a parallel path because of urgency of a rule that they'll develop both the plan and the language at the same time.

Any questions from anyone on the telephone?

(No response.)

MR. HALL: Nothing. Okay. No, you can sit there if you're comfortable or if you want to stand. I'll click for you. You just let me know.

MS. MARTIN: Here's a brief history of Subpart I rulemaking dating back to 1982. The rule was published last year on March 31 in compliance with

Subpart I requirements. Will be mandatory by October 1 of this year.

And these are the major provisions of Subpart I. Oh, I'm sorry, we're on slide ten for those of you on the phone. On slide 11 now. All the provisions and requirements of Subpart I are not applicable to all individuals and subject to Part 26 in the exact same way.

Individuals with unescorted access for licensees within the scope of Part 26 and those required to report as a part the technical support center or emergency operations' facility are subject to the general provisions and fatigue assessment requirements of Subpart I only. Within this group of people who have unescorted access, those performed the job duties listed at the bottom of this slide, are also subject to work hour controls, waivers, and exceptions, and self-declarations.

There are asterisks next to health physics and chemistry techs because only the ERO minimum complement are subject to all of Subpart I and it's for fire brigade. Only the individuals responsible for us, they shut down or subject to all of Subpart I as well.

During the rule development, it was

highlighted in the Final Rule Statement Consideration that independent verifications and peer checks were important work controls that ensured reliable human performance. And alertness in these individuals is key in dealing with human errors and this can be affected by fatigue.

As stated previously, the staff received direction from the Commission and the SRM that individuals who are performing these peer checks and independent verifications should be under the same provisions of Subpart I as individuals identified in 26.4(a)1 of the rule. And this is the direct quote as you see, as you've seen before from the SRM.

These individuals basically are operations' personnel and they are subject to the work hour controls and have more stringent minimum day off requirements than maintenance personnel. The staff is addressing the concerns of the Commission by gathering information via surveys and public meetings, such as this one today. We will use all the information that we gather to develop the regulatory basis and determine which path we should take.

And Paul Prescott will now talk about the technical details of developing a regulatory basis.

MR. SMITH: Russell Smith. Can I stop and

ask a couple of questions here? And it really goes back to the process slide and my weak understanding of your rulemaking phases and process.

For a new rule, my understanding is you'd have to do an analysis for safety benefit and regulatory benefit under the backfit rule. Where in this process would that be played out?

MR. HALL: Under the –- previously, what was done is just a technical basis, but now, the technical basis is part of the regulatory basis. In the regulatory basis, we're performing about 25 percent of the backfit and of the reg analysis in the regulatory basis space. So it's not a full-blown analysis or a backfit, but we're starting to look into that to inform whether we go forward with the rule. But the –-

MR. SMITH: Yeah, I guess I have to known, know what you mean by a 25 percent backfit analysis, what that means.

MR. HALL: I guess we're going to look into it, but probably not into the depth as you do for the proposed rule state is my understanding.

MR. BOGGI: This is Mike Boggi. My understanding is in the past the regulatory analysis, backfit analysis, was all done in the proposed rule

phase, the next phase of this project if we take it that far.

As was Lynn was saying, we're going to do enough by procedure, the rulemaking procedure, if you will, to understand the effects of backfit as to have a sense for what it's going to take so that when we get to that, the end of this process, the regulatory basis process, we'll have an informed, the Commission or whomever makes the decision to go forward, will have, it'll be an informed decision.

MR. SMITH: I guess the origin of my question comes back to taking that phase two out of, you know, maybe I'm off base on the understanding of this, but I would assume before you went to the Commission to ask for approval, you would have a backfit analysis that showed safety benefit based on cost to the industry and a regulatory analysis statement. And it seems like without that phase two, just trying to understand when we would see that product, when it would be available for public comment, without this phase two in there, so if you could direct that question –- answer.

MR. BENOWITZ: The Commission met several years ago directed, I believe it was NRR, and I think more recently, FSME, who are the tool rulemaking

offices in the agency, that they don't have to develop rulemaking plans for every rulemaking. It depends, I think, up to their discretion. The –- there is some backfit analysis, but it's in the rulemaking, in a rulemaking plan; however, it's more of OGC identifying any potential backfits.

A full backfit analysis and regulatory analysis, we've prepared for the proposed rule. Staff will look at those issues and identify any potential obstacles in development of the regulatory basis. And I think that's what Lynn and Mike were saying.

It may not be what you see in the proposed rule or the final rule, but it will –- and I don't know to the extent that that information will be made public before a decision is made to go forward with a proposed rule, meaning when we have a regulatory basis prepared and any backfit or other cost issues are identified, that information is used internally to determine whether to move forward or not. And we won't even have draft language to be made public at that point. At that point, just whether or not to move forward with the rulemaking.

MS. BARNES: So the point in time at which a full reg analysis and backfit analysis would be available would be at the proposed rule stage if the

decision is made to go forward.

MR. HALNON: This is Greg Halnon, First Energy. I had just a –- and maybe, Paul, you're going to cover. Commissioner, you said something about operating personnel, that these are operating personnel. Paul, you going to clarify that?

(No response.)

MR. HALNON: Okay.

MR. BENOWITZ: The comment meant that the requirements that these potential individuals would be subject to are the same that the operating personnel are subject to under Part 26.

MR. HALNON: Right. And when we look at Commissioner Lyons' vote record on that, he made it clear that he was putting a lot of people and just generically using operating personnel as people under the rule.

MR. BENOWITZ: Well, we look at the SRM, which is the voice of the full Commission, not just one Commissioner.

MR. HALNON: Well, I understand that, but hopefully, your survey will help you understand where these people really reside and what they really do. So I'll listen, wait for Paul to do his stuff. And, again, the industry is always interested in any

operating experience that the Commission is using or the staff is using to establish some basis for going forward of rulemaking.

You know, what, what events out there are you concerned about that have happened that affect safety or other issues that alertness of QC/QV personnel have been involved with? So any real life examples would help us to understand the basis for where we're going forward.

MR. HALL: Any other questions from the phone or in the room here?

(No response.)

MR. HALL: Okay. Paul.

MR. PRESCOTT: Good afternoon. My name is Paul Prescott. As I said before, I'm a senior operations' engineer in NRR in the quality and vendor branch. Just briefly, my job at the NRC includes review of quality assurance programs and participation and the review of quality assurance standards. And I also review the implementation of Part 21 by vendors and I perform vendor inspections on a routine basis.

My role in this is as a technical lead and support of developing and technical basis. Next slide, please. On this slide, I have a number of topics I want to discuss.

The first topic is to address the reason why I think we're all here today. The second topic is to generate discussion on the terminology related to the QC, or quality control/quality verification function. I believe the terminology that is currently being used may not have been specific enough to the personnel that the SRM was concerned with addressing.

Finally, I would like to discuss what may be the activities and the personnel that you believe to be covered, that need to be covered in this technical basis. Next slide, please.

As you seen this paragraph before, but I bring that up again because this paragraph to me essentially is all the directions supplied by the Commission for what it wanted to achieve and will act as a source in the development of the technical basis. What I took from this when viewed in the current QA environment was that the Commission was interested in covering personnel that performed some form of independent verification or quality checks under, under the licensees existing quality assurance programs.

As I'm sure most of you are well aware, over time, this function has for the most part shifted from personnel designated as quality control or

quality assurance to plant personnel of verifying the quality of their peers' work. Next slide, please.

Criteria ten, inspection of Appendix B to 10(c) Subpart 50 states in part that "A program for inspection of activities affecting quality shall be established and executed by or for the organization performing the activity to verify conformance with documented procedures or instructions. Such inspections shall be performed by individuals other than those who perform the activity being inspected."

As I said earlier, there has been a shift from the construction days in early operation and nuclear plants from having a dedicated quality control or quality assurance group performing inspections and oversight of plant activities. Most licensees currently apply criterion ten as it was originally worded.

In general, inspection activities affecting quality are done by personnel within the same organization not directly involved with that specific activity. Personnel and a licensees, quality assurance, quality control, or nuclear oversight group tend to perform an overview or specific spot check function selecting various activities to be performed and observing them for compliance and performance-

based attributes.

So the terminology used in the SRM in my mind was perhaps not adequately descriptive of how quality checks are performed today. Therefore, I would propose for discussion that another, perhaps more descriptive and fitting term be used. Some possible choices are given on this slide.

So I don't know if there's any comments yet, but this is where I'm going with it. So the slides may seem out of sequence. Normally, I would have defined what activities might be covered before deciding who was to do it. However, the SRM focused on the function of quality checks without describing what activities were to be addressed.

So I look to the existing rule for any guidance that might lead me to think what activities the Commission might be looking to address when it said that. The staff should be sure that personnel actually performed independent quality control/quality verification checks under the licensees' NRC approved quality assurance program should be covered.

The definition for maintenance in the rule addresses activities, such as modifications, surveillances, post-maintenance tests, and corrective and preventive maintenance. The vast majority of

quality checks of activities at plants are focused on these activities. Next slide, please.

After the finding, who will perform the quality check function and what activities are to be addressed? There are certain items that may help to refine the scope of activities. As you all are well aware, the NRC's focus is on activities that could have a direct effect on the safe operation of the plant.

The rule focuses on the maintenance of system structures and components that a risk of formal evaluation process has shown to be a significant to public health and safety. So essentially, only activities that a licensee's PRA has determined to be significant to public health and safety would be covered in the scope of the technical evaluation.

Obviously, I believe that licensees apply in-depth approach to all safety-related activities. Engineering shows that equipment is operated and maintained as designed in trends, equipment, and performance. Operations, they ensure the equipment remains in operable status for safety-related plant equipment through surveillance activities.

Maintenance ensures plant equipment remains operable through preventive and corrective

maintenance. Operations ensures equipment is operable to post-maintenance testing prior to accepting the equipment. However, there is a potential concern with maintenance errors that may impact equipment operability. Inspection of maintenance activities by a personnel could potentially prevent the situation.

Finally, we are looking to know the potential impact on a licensee's resources. The potential impact on licensees is always considered in the development of any rule, so we are looking for stakeholder input into the number of quality checks that are performed and the personnel resources that are applied to these activities. Next slide, please.

As I mentioned earlier, I believe I'm fairly familiar with the ways most of these are conducting quality checks of activities. Well, quality assurance, quality control, and nuclear oversight personnel generally perform an oversight function at most licensees. The routine quality checks of safety equipment are performed by maintenance personnel.

What I'm looking for here is stakeholder opinion on whether it is appropriate to only consider QA or QC personnel in the scope of the technical justification or whether it is appropriate to also

capture, discussed earlier, maintenance personnel? Next slide, please.

So I just wanted to close in saying thank you for any valuable insights we may get today and look forward to any further stakeholder discussions we may have.

MR. HALE: This is Westinghouse, Mark Hale, field service quality. For clarification, does this include nondisruptive examination personnel for in-service testing? Would that be included in what we are calling "a quality or a quality assurance function?"

MR. PRESCOTT: This is Paul Prescott. I don't believe I've gotten to that level yet. Right now, we're just looking to see –- I'm talking of maintenance and the broad scope of maintenance and haven't really defined every single job function that may possibly fall into that.

MR. SMITH: Paul, Russell Smith, NEI. I'm going out on a limb here, but I agree with your presentation that very closely align with what we discussed with, this morning. I do think you understand, I heard from I think seven or eight industry people describe their QC activities and I believe you understand how we do QC out in the plants,

so I'll agree with that.

In fact, in this morning's discussion, there were three items that we wanted to discuss with you on them. We already had and that's -- we're really interested in the safety basis for going ahead with this rulemaking and, and how that sits. And I understand that you're going to work on that, at least I heard that, so we're interested in that.

The second one that we saw that we're very interested in is defining what quality control is. And it's not that easy as we sit around the table. When we read the SRM and looked at the rule, it appeared to us that they were looking at the maintenance activities.

That those quality checks that were performed at the end of the maintenance activity to ensure that the maintenance was done correctly prior to returning the service, but the words of the SRM are much larger than that. They do bring into the scope the Appendix Bravo criteria ten and that's a large issue.

You well know, Paul, that goes into inspection of materials' receipt. In fact, it actually is defined quality control in Part 26 when we look at quality control on specimen gathering and we

don't want to confuse the quality control that we talk about in Part, Subpart I with quality checks that we're doing on specimens required elsewhere in Part 26.

So we agree, we don't have a definition of quality control that we can hand you today, but we're very interested in working with you and proposing some, some boundaries on what that would be.

MR. PRESCOTT: Thank you. What –- the reason I want to try and move away from that terminology is to, is really quality control is really something to do with the old construction days. And today, we really talk about more like peer verification or self, you know, self-checks that are performed in the plant on a routine basis.

And, and inspection in the early days really meant those inspections that were put in place for code inspection and, and for specific engineering activities that were deemed to require during construction, direct observation by somebody other than people who perform the work, so that was, that's another reason why I try to move away from that.

MR. SMITH: Russell Smith, NEI, again. We didn't discuss this morning about peer checks or independent verifications, so that'll be a new

discussion we have whether that's the right term to call it. We were looking more using quality control, but further defining what parts of quality control activities were applicable to the work hour restrictions if it was deemed necessary to go forward with this.

The third area that we would like to engage you in discussion --

MR. HALL: Russell, this gentleman in the back I think wants to comment on an earlier -- before we go on to the next state.

MR. WICKS: James Wicks, American Electric Power. Going back to your comment, Paul, I want to clarify because while you're right, a majority of the industry has gone to the independent verification, dual verification, personnel verification, the rest, some plants still use quality control personnel, especially during outages.

So while I agree with you on a big sense, we don't lose sight that there are some plants, especially, DC Cook is one, who uses QC personnel to specifically do whole points for maintenance work.

MR. PRESCOTT: Yes, I was a, I was a resident senior one time out in Region III, so I'm familiar -- I've been at DC Cook many times and I'm

familiar with that. And that's why I chose the words "most." But as, as probably most of you may be aware or familiar with quality assurance programs, most of the big utilities have come in and revised their QA programs to go more towards peer verification than the old –- I don't want to say "old," the existing, I guess, process of using a dedicated quality assurance or quality control group. So, yes, I understand.

MR. HALL: Good.

MR. SMITH: Russell Smith, NEI, once again. The area that wasn't –- it was pointed to in the slides, but we'd like a lot more dialogue on is this categorization and the operations area. Our discussion felt that would be the inappropriate place to put them if we did decide to continue with this rulemaking and put some restrictions on QC activities.

So we'd like to get your fill. When we read the SRM, certainly it seems like it started in the Lyons' vote sheet and, and certainly when they paraphrase that it turned into operating personnel and the number one category being operating. But when you read his notes, he certainly described that he was talking about operating personnel on a bigger sense all the four groups that were noted, operations, maintenance, HP, chemistry, in there.

And as we look at the functions of QC now in the power plant, a number of it is done by the organization themselves. Maintenance covers the majority of their quality control checks. And those plants that use quality control inspectors, they're tied to maintenance activities at a most part.

So to disjoint the actual work hour restrictions with one specific function of a job category wasn't making sense to us. So we would like to invite you as you go through this technical basis to really look hard at is the operating category the correct one when most of the function is associated with the category of maintenance. Just keep that in mind.

MR. HALL: Anything from the, anyone on the telephone from anything thus far?

(No response.)

MR. HALL: Okay. Thank you.

MR. SMITH: So I would like to get your feel around the table on operating versus maintenance and quality control.

MR. BOGGI: I think at this time, Russell, that we're listening and trying to understand if there's -- certainly understanding the technical basis for going down one direction or another, particularly

if there's a rationale for giving quality control personnel hours other than operations.

MR. HALNON: This is Greg Halnon, First Energy. I guess you can reverse that and say, "If someone is under the maintenance work hours and they're doing the work and we consider them fit-for-duty and not fatigued, why would we expect that a guy who had the exact same hours coming in from a QC office or the office somewhere else wouldn't be just as fit as the guy who's doing the work."

So it doesn't make a lot of sense to say, "He has to be more fit or less fatigued." If we're concerned that the maintenance folks are –- those hours don't protect the maintenance folks from being non-fatigued, why would we expect –- for a QC or someone else coming in? So that's the point. Is -- you know, for the amount of hours and for the amount of work that they do, the verification check is much less demanding from a physical perspective.

Now, you know, cognitively mentally maybe not, but the same hours would apply. So, so you just got to use that logic all the way through this.

MR. BOGGI: I believe the logic –- this is Mike Boggi again. I believe the logic, and stop me if I'm wrong, looking at the Subpart I rule on a bigger

picture, not just the people we're talking about today, security people, operations people, and –- when I say operations, I include the, the other chemistry health physics, and maintenance workers, there was a –- and each have in some respects different work hour controls. And one of the thoughts was, from what I understand, that security people are potentially pointing guns at people. And on officers, security personnel who are alert, able to make those deadly forced decisions without impairment, they were given the most stringent work hour controls.

The operations group had to make decisions in real time, save the plant, possibly keep the plant up, prevent cascading issues, and had to, and had to be alert, but they didn't make deadly forced decisions, so they didn't necessarily have to have the hours that security had.

The maintenance people had more time was, I believe, the rationale that if they weren't sure they could ask, they could figure it out, they had, and they had time to work through the issue and were given the most relaxed work hour controls. I can't speak to the rational necessarily for requesting that quality control personnel be included with operations, that's part of the reason why we're here today.

MR. HALNON: Yes, and actually you made a good argument. I wouldn't have said it any better there. The rationale you use, maybe that's an interest to come back and talk more about the actual function that we're talking about.

If we find that the actual function we're talking about does have that direct tie to safety as an operator who may turn the wrong switch or may trip the plant or not, you know, be able to mitigate a safety issue, certainly, I would say that, but I don't think with what we all know about the nuclear industry that is the quality verification check in turn has time. If they're not sure, they can ask.

I mean everyone is under a certain amount of schedule pressure because of the way you run these schedules, but certainly, there's time to do it right and there's, there's a cognitive issue with fatigue with the maintenance folks working under those hours then we should probably go back and talk, which we're not allowed to talk about the existing rule. But the whole fact is that in our minds, it clearly falls into the maintenance work hours, and I think that going forward we can probably provide more examples of functions that would show that.

Back to Russell's point too, and this is

just from a tactical perspective as we think through this, even maintenance department that does their own, and you said majority of the verification checks are done within the department, just people not involved tactically, it'd be very difficult to have part of your maintenance department on operations hours because they might do those checks, another part of the department on maintenance work hours because they don't do the checks, tactically that would mess crews up.

You're talking about the quality of life, which in turn this rule is, you know, directly tied to the quality of life because what we're talking about people having enough time, enough rest time, to be able to come to work fit-for-duty from a fatigue perspective. We would –- changing people's schedule, messing them up, you know, having weird schedules because of that in turn directly adversely affects that quality of life, so we want to make sure we don't adversely affect thinking that we're solving one problem or causing another one.

So that's another concern that we'll go through some dialogue on and probably make some comments. We owe you some specific examples where that might happen. You know, just waving our hand and

saying it could happen is not good enough, so we know we owe you some good examples.

MR. HALL: The gentleman in the back, please.

MR. WICKS: No. This is James Wicks. That's actually the point I was going to bring up about maintenance as Paul pointed out before. On the other side of the coin, maintenance does the majority of the QV, so I was just going to make the same point he did before he made it. Thank you.

MR. PRESCOTT: This is Paul Prescott. Thanks, Greg. That was one of the points I was –- in the initial survey that we had sent out, we wanted to ask that question and it was felt to be too intrusive and, you know, too resource intensive to get that kind of information.

But one of the things, and quite frankly, I don't know the percentage of work that has to be verified that might fall under this scope of equipment that, that's covered by Part 26, but obviously that would be one thing I'd be very interested in being able to take a look at to see what, what you guys feel, excuse me, is the amount of resources that would be needed to do this kind of work.

MR. HALL: Anyone on the phone, comments?

(No response.)

MR. PRESCOTT: Just real quickly then while we're here. I guess one of the other things I'd be very interested in is any data you might have on maintenance preventable functional failures.

Obviously, I'm taking a very –- I used to work with the maintenance rule. I think that is a potential gauge of problems that may, or the existence of a problem not being there out in the plants, I mean, that's initially why the maintenance rule was put into place was to take a look at maintenance and make sure that maintenance is gauged and checked and see if there's any problems in that area when it, when it first was issued.

So the area of maintenance preventible functional failures might be a very good indicator also if plants have factored in fatigue as one of the items that they look at when they take a look at areas that have been made by maintenance crews.

MR. HALNON: So to clarify, centered around the human performance aspect of maintenance. I mean, sometimes it's a procedure that's long or something like that, but mainly concerned around the human performance, which would be in effect, could be –- by fatigued –-

MR. PRESCOTT: Sure. Sure, I mean, it could be a root cause of the causal factor, but again, it depends on the level of detail that the licensee went into when creating their database on NPFS.

MR. BENOWITZ: Just to be clear, we're not asking for licensee specific information. We can't, so –- unless we go with the OMB. So if you can just provide, you know, more general information that would be helpful.

MR. SMITH: Russell Smith, NEI. I certainly don't have that information, but we'll work to get it. I think you're giving us some hints on what can help you for a technical basis. The QC checks are not required for rulemaking, so –- at least that's what I heard was a hint, and we'll certainly take a look at that.

I did want to stress one thing that –- to make sure we're all on the same page with. When we look at these QC functions, and we do include them in Part 26, they would still be only those category of work that are risk informed process that determined to be significant to public health and safety. That's our position anyway. I'd be interested in making sure that's the Commission's side also.

MR. PRESCOTT: This is Paul Prescott. Yes,

Russell, I believe that that, that would be, at least in my, this is my opinion and my development on a technical basis, yes, I believe that I should strictly focus on work for significant SSCs as may have been outlined by a licensee's PRA.

And I also believe, like I said earlier, just to get back to that, to the maintenance rule discussion that I believe that this can go, could show either way which way we should go in the rulemaking process as a valuable indicator, if you will, as to just how significant or non-significant a problem this may, may be.

MR. SMITH: Another comment. I think I did hear someone say they had an O after their name, NRO was here or did I not? They left. You know, one of our, the industry at least going forward, we need to make sure how this will be applied in our new plant constructions, you know, when we do get back into those more construction-type QC areas.

And that's why it's key that it stays with the risk significant determination process safety and healthy to the public to us and it stays as a not -- you know, right now I believe the construction doesn't include Subpart I, and so we'd be interested in making sure those two conditions stayed complete as we move

forward.

MS. BARNES: That's correct. Subpart K addresses the fitness-for-duty programs –- this is Val Barnes, sorry, for construction and the, none of the requirements in Subpart I are applicable until immediately before fuel arrives on site.

The parallel to what we're discussing here though is that in terms of having a basic fitness-for-duty program for personnel who are working at a construction site, the individuals who are performing the ITAAC, are required to be subject to an operating plant like fitness-for-duty program. So I think part of the basis here was recognizing that we were putting some higher requirements on the kinds of programs that people who were performing ITAACs during construction needed to be subject to compared to your average construction worker who is working on constructing safety and security-related SSCs.

Whereas, in the main rule in terms of our fatigue requirements, we had not included that category of personnel, so there was some parallelisms there, but Subpart I does not apply for construction.

MR. HALL: Anyone on the phone have any comments/questions?

(No response.)

MR. HALNON: This is Greg Halnon. Just one last thing to consider. And this is not, not a push back or anything like that. It's just something for you to consider, especially for quality control personnel, and you know, Paul, sometimes they sit at their desk for eight hours and then the last 15 minutes is they're actually doing work from the standpoint of going out and doing the check.

Sometimes for the same thing, they may be only four hours because they're done on nuclear hold or something like that, so there's an erratic or sporadic piece to their schedule that makes them dependent on other things happening. So that may be another thing to think about when you look at the full set of comments on operating versus maintenance versus other things is that they're not engaged the entire time in that, in that covered work, if you will, which would be the actual check.

It may be nothing more than going off, signing off a whole point, and watching a torque wrench reach the right torque value as opposed to, you know, involve check of something else. So how that might all fit in, I don't know, but it's something else to consider is that they're not always working in that covered work standpoint.

A maintenance guy would be working the full eight hours in his covered work, you know, so it's clear to see their nexus to the rule as opposed to a quality guy that might be sitting at his desk for eight hours and then –- oh, the other thing to keep in mind, remember, you know, when you have the RT, if you go to the NDE route, you might have a radiographer and those guys are often pressed by plant conditions and other things that are happening.

And you talk about crazy hours that they could be asked to work. Go to the hotel, sleep for two hours, come back. So the minimum break period may be a real issue there to get work done. And that could have a real impact on safety of the plant because you want to get the plant to a certain point and you're ready for the RT guys to come in and do their work.

And they got to do their work, they got to do it well, they got to do it carefully because of the high source, and then they've got to leave so that the operator's people can get back to doing what they need at the plant. So that's the minimum break period for folks that are like that could be a problem from the standpoint of, you know, –- ready for you type of thing.

So just a couple of ideas, especially during outages. That happens when you have, maybe not so much nuclear safety, but industrial safety concerns and radiological safety.

MR. BOGGI: This is Mike Boggi. Greg, I just wanted to clarify your ask a question. You were just speaking of radiography. In the context, their work is quality controlled. That's a question –- I don't understand their work in total.

MR. HALNON: Yes, utilities do it different ways. Some folks have the radiographers that are qualified and it's a, you know, it's a anti-qualification that –- and then sometimes they're right resident in the plant in their quality control group, sometimes they're not. Sometimes there are vendors that come in that may not even be badged, which again, causes that other issue with the vendors who are not badged. They'd have to be escorted by a quality control person.

So a lot of things to consider. And I think when we get down to talking about the impact on individuals and impact on the site resources is to walk through some, like an outage schedule, and look at the different activities that happen and how they happen. Same thing with online.

We should probably take a typical steam generator replacement outage, which is, you know, upwards of 60 days, which the existing rule kind of deals with, but how does it deal with them from a QC perspective? Because sometimes all the QC work could be towards the end or it could be bunched up right in the middle where you need these guys.

So, you know, it's just a lot of things to think about as we go through this. As we produce the language in regulatory basis we can start doing those tests on the different groups and different types of functions to see how it would be affected to see if we're backing up or going forward in the name of safety. Thanks.

MR. HALL: Paul, do you have more to discuss? Mike, --

MR. BOGGI: Sounds, excuse me, it sounds like we're coming to the end of our three-hour/four-hour meeting, so I don't want to rush you.

MR. PRESCOTT: Well, I guess I would open up for discussion. I mean, some of the, like I said earlier, some of the terminology that, that may not be covering the whole scope of the work, as I said before, I guess maybe you just haven't had a chance to think about it, but again, I would hope that you'd

think when you go back and maybe give some feedback on what do you believe would be the real correct, the more appropriate term I guess to make sure that we address those that we believe that to be within the scope of this, of these activities, truly within the scope of these activities.

MR. HALNON: Yes. This is Greg Halnon, First Energy. I think we start with the fact that the activity would have to be doing some kind of verification or check on work that has been covered. It would almost be silly to say, you know, you have to be covered QC-wise, but you're checking on work that was not covered.

So we got to make sure we don't drive ourselves into that box by saying, you know, "All inspection work or all second verification." Because we do second verification for business critical stuff to make sure that we don't trip a turbine or something like that that may not have safety significance, but certainly is business critical.

So we make sure that business critical stuff is not necessarily included, unless it falls into that category of safety significance like you talked about. So some of these words, if we just leave them alone, like independent verification, well,

we do independent verification of things that are non-safety significant, so we need to make sure that we don't set ourselves up by using certain categories.

So it may be better to come at it from a different angle as a suggestion, look at the work that we do that's covered, and follow that path to operability rather than to try to come at it from a function of a person who –- we don't distinguish from a safety versus non-safety-related independent verification. Independent verification has to be independent verification, so there's an aspect in that definition that could get us into a box we don't want to get into.

MR. HALL: There's a gentleman in the back.

MR. ARIAS: J. Arias from Xcel Energy. I wanted more information to what Greg provided because we had a meeting with my company talking about the possible inclusion with QC work as covered work. I just want to point out that when we discussed it, the big issue that came up within our company was the tracking of the cover work versus non-covered work.

For example, QC inspectors –- you know, QC whole point on the covered activity, but then he goes and does non-covered work for the rest of his shift. Well, that presents a, you know, a problem for

tracking the hours that cover work and the commutative work that they're doing.

So one of the things that is coming as a pretty clear indication if these go through, and I just want to throw that out for consideration, is in order to play it safe, a lot of the, of the lot of the personnel that I have working with me may consider the QC fault as covered work during the whole period because the tracking of in-and-out of covered work it could be a nightmare.

They could be working cover work for five minutes and then off for two hours and then coming back for ten minutes because on the other QC whole point. So that presents a big task of tracking commutative cover work hours. So I just want to throw that out for consideration that we went through that and we don't see our self clear how you can clearly track those hours back-and-forth or minutes or periods of hours that they'd would be working what would be cover work.

MR. BOGGI: Thanks for that comment. This is Mike Boggi. Let me throw this out, how it might be implemented just using the existing, I should say, the Nu-Gro, as the basis. I don't think it would be implemented any differently than how it would be

implemented on October 1 with the other covered groups.

And if that person, for instance, if they're working, if a maintenance person is working on a, on covered work, then for the entire shift cycle, if you're familiar with the, with the rule language, then they have to maintain the work hour controls for that shift cycle. Without drawing a conclusion, one would expect that that same process would be brought forth to the quality control people that are covered in the rule, excuse me, if they, if it goes that far to become a rule, then my sense is then it would be, at this point in our thinking, covered in the same way.

And, please, offer any feedback and comments and thoughts to the contrary if you feel that way.

MR. ANDERSON: This is Harvey Anderson with South Carolina Electric and Gas. Along those same lines, there's a lot of subtleties and intricacies written into the rule that went into effect for Subpart I. Kind of dovetailed this new rule in with that is going to present a challenge if you don't essentially reissue a new rule that just includes QC if that's the route it goes.

MR. BOGGI: Mike Boggi again. We do agree there's a lot of subtleties and the potential for unintended consequences is great. And if we don't do a lot of discussions in open meetings and we –- I personally feel today we're starting off on a really good foot in that aspect of open discussion. I agree and hope to minimize the unintended consequences as much possible.

MR. PRESCOTT: This is Paul Prescott. I just –- to go back to the discussion we just had earlier about trying to bring in what, what would be covered as a scope of work by trying to give a new name, if you will, to, to the people that perform the work. Essentially, let me just throw this out there, but are you thinking that there should be this laundry list of activities that would be covered or –-

MR. SMITH: Russell Smith. And, no, we are not.

MR. PRESCOTT: All right.

MR. SMITH: We did, you know, actually, I appreciate that you actually wrote your brainstorming down on a piece of paper so we could rip it apart. So –- and let's not do that. No, some of these terms that you put in there, we actually haven't talked about yet, so we need to think about them before we

really give you a good opinion back.

Our discussion this morning, we didn't write down, but let me just sort of read what we had, I think, come as a group, what QC would be. Those activities integral to cover maintenance work that check the safety-related attributes of SSC something like that. That's really what our discussion came around to that it was integral to the maintenance activity.

It was covered maintenance activity and it was those points that you use to check those key attributes, so that's really what we looked at, which was more the back to the old historical definition of what quality control is. I think we need to toss the idea of IVs around peer checks and that type and give the Commission some thoughts back. And this time we'll write them down so you can tear ours apart as we can tear yours apart.

So what I would propose is you give us a little time and I will take a look what the industry at three areas, the three I talked about, some words about safety basis behind this. And that will include some, your two questions. We'll try to get a feel for what kind of resource and time we actually spend on this type of attribute work and we'll take a look at

this maintenance preventable functional failure and see if we get any insight and get back to you.

We'll take a look at what a definition of this control activity would be and we'll take a look at peer check and IV since, you know, we didn't really talk about that until now. And then third would be some, some words of where it should fall in the function category of Part 26 should it get there. So we'll work with the industry to get something put together and I'll work with Mike on how to send that on a piece of paper to you.

MR. HALL: Is there anyone on the phone has any comment, and questions?

(No response.)

MR. NEWKIRK: Todd Newkirk, IBEW. I do believe the evolution of peer checking, how the QC started delegating a lot of that work back into the shops truly on a maintenance side. As a SSC package to be safety-related, it would go through the QC departments, I think there might be a limited list as the evolution has gone to peer checking where the QCV verification of check points was a very large list at one time.

I think those plants are peer checking now. If you look at that same inspection, points have

dwindled to those departments that are doing the true peer checks. So I do believe the SSC equipment work for the verification is critical.

Just put it in a layman's perspective, when you have to have that QC inspector come out and inspect a ray cam in containment, you definitely -- that, that guy may have been doing a lot of inspections throughout the course of the day and somebody hit it on the head that I'm on/I'm off. I'm kind of like in the bullpen waiting to come out and they do that to the course of their day.

And those are the critical inspections that they're reserving that classification qualification of work for. So I think you could actually key in on, on those specific qualifications that we don't peer check. We don't allow to peer check. You know, there's a higher level it seems that we've made a choice in operating plants to focus on that work group.

MR. HALL: A question in the back.

MR. O'MALLEY: Phil O'Malley, Constellation. I think getting at what Paul was saying, the -- it would appear to me that there are things that are covered work that are not Appendix B and things that are Appendix B that are not covered

work. So it would seem to me -- in other words, there's a lot of operations' activities that require the vendor verification that are not Appendix B that we would not have to cover in QC or as a peer inspector.

So it would almost be, the appearance to me would be that the subset of things that are Appendix B and covered work, that subset is where you'd be getting real close to defining it.

MR. PRESCOTT: Excuse me, could I ask you to elaborate a little bit more on that? To me, and I'll just give you my point of view, okay. My point of view is this pretty much if it risks significant SSC, it's going to be covered under Appendix B.

MR. O'MALLEY: The point was that there are independent verification that we do on operations procedures and things like that that would not, would not be Appendix B inspection criteria. It's an operational --

MR. PRESCOTT: Oh, right, right, right.

MR. O'MALLEY: And it seems to be getting kicked around the concept of what are we excluding, independent verifications, and all these different terminologies that are out there. It seems like what we're talking about are the Appendix B required QC

activities. And we also have to make sure that the -- there are some things that we would QC that aren't necessarily covered work, so we have to make sure that it's Appendix B required and covered work.

If you want to do it in the most generic terms because the conversations that we had earlier, you're going to find things that are out there that are in a variety of different locations right now since a lot of this QC work is spun off. And there's one thing that having been around the industry awhile, there's a lot of different ways, a lot of different companies do it. And some of the companies it's different stations. So the, you know, the only way that you could really nail this down is to come up with a very generic term that discusses what the requirements are by the different documents, not necessarily terminology that companies use.

MR. HALNON: So before we close the meeting, you said, Lynn, at the beginning that this possibly would clear up when we need to have additional public dialogue. Has that -- is clarity in your mind about when, when you have more public dialogue?

MR. HALL: I guess, Mike, were you going to cover that in your summary? Were you going to kind of

question that?

MR. BOGGI: What it sounds like is NEI and the industry is going to send us a couple stacks of information --

PARTICIPANT: Short stacks.

MR. BOGGI: Short stacks, that's good. And we'll need a little bit to pour through it, understand it, digest it. But about the time we get that, we should think about when we have our next public meeting, you know, a month from that date, approximately, and discuss all that information, if that make sense.

PARTICIPANT: Yes.

MR. PRESCOTT: This is Paul Prescott. I guess my thought is at least I don't think we're far off base in understanding what we think are the activities that should be covered and who we think is performing these activities. So that's a good thing in my mind and that's a good start.

Again, what I'm looking for is if we can get feedback that's relative to maintenance activities and, you know, things that have been an impact on those maintenance activities. And, again, I point to the maintenance rule as being a real good source, I would think for most licensees to get that kind of

information.

And so we would appreciate is with the codicil how it had that, you know, that we could get any information related to that would be a big benefit. In my mind to try and to support or say that this is or isn't a good idea. So –- that's about it. Thanks.

MR. HALL: Anything else from anyone on the phone regarding what's been stated?

(No response.)

MR. HALL: Is there any other topics that you want to discuss, Paul, or anyone? Any final topics anyone wants to talk to on the phone as well? I'm looking around.

(No response.)

MR. HALL: Okay. Mike, you want to sum everything up.

MR. BOGGI: Sorry, Mike Boggi again. We want to say thank you again and reiterate that it sounds like we're really going down a good interactive open path to get all the information we need to do the right thing.

I do want to reiterate that we're hoping to –- our tentative schedule to have the, this phase of the process done is the end of November. And might

be a little ambitious, but we hope to meet it.

We –- Greg, you had mentioned that down the road that we could, you know, test the proposed language against different groups and actual situations. It sounds like a great idea. Make sure we get –- we don't –- that we do avoid unintended consequences that we hadn't thought about. And we do want to test this as good as possible. Fantastic idea.

Paul asked a lot of questions. We're looking forward to the information that we get back that you send us and with great interest. It'll help us do our jobs. Thank you.

MR. HALNON: This is Greg Halnon. I wanted to reiterate. We appreciate the opportunity coming forward too, especially early in the process to help you with the data rather than at the end and, you know, we didn't want to be contrarians, you know, to all this, so we appreciate the opportunity and we will provide the data in a generic sense so that it doesn't, it can be used in rulemaking.

We're interested in like in what Russell said as far as the regulatory basis/regulatory analysis that we do. We have to sell that for our management also because they need to, you know, we go

to our CNOs and say, "We've got to do additional work. It's coming out of the regulatory area." Of course, their push back is "Show me."

So we need your help in that respect to have a real solid case so that we can show them. And that helps us both fall around in that, so we'll work with you to do that and to help undo this. Because certainly, we're learning a lot about the implementation of the existing Subpart I.

We've got a lot more interaction we're going to have with both the staff and the industry on figuring out where we're at with all that stuff. And certainly, we want to avoid and/or prevent any conflicts with what we're already doing that is significant impact to our resources, maybe not necessarily blossoming a lot more people into the industry, you know, working world, but certainly in the administrative portion of trying to get this new rule set, so we don't want to go through that again. And the other thing we don't want to go through again is eight years later after we decide to start rulemaking that we're still at the table trying to figure out what the right thing to do is.

So in all that I think it's a very positive thing to get together. We encourage the

public meetings. We –- we'll provide you the data as promptly as we can making sure that it's validated and good for you. So thanks.

MS. SMITH: Russell Smith, NEI. I also want to thank you for the ability to provide you some information on this. Normally, we like to have a date with my action item. I don't have one for you today. I'll need to talk to the industry about getting some of the data back, but you and I will see each other next Thursday and I will have a date for you then on when the industry can get back to you on that.

Another item that we would like some feedback on, and it doesn't have to be in this meeting, but we, we did start –- Greg asked a very good question and that's always a good question to ask is what problem are we trying to solve here? And, so we're thinking of rulemaking.

Certainly, we know the origin came from a Commissioner's vote sheet and then onto an SRM, but as we get data back to you on what the envelope would be, we'd certainly like to hear from the regulator mind or thought what problem in the industry are you actually fixing or addressing with this rule change.

So if you could give us some words that also helps us go to our bosses and say, "Here's why

the rulemaking is coming and here's the problem we're going to shoot at." Thank you.

MR. BOGGI: Thanks, Russell. We will.

MR. HALL: All right. Is there any other remarks from anyone in here or on the phone?

(No response.)

MR. HALL: Again, if you haven't signed the sign-in sheet, if you'd do that before you leave so we have a log of everyone who's been here that would be great. If there's nothing else, thanks a lot. And we conclude this meeting.

(Whereupon, proceedings in the above-entitled matter concluded at 2:59 p.m. on February 11, 2009.)