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Preparedness (EP) Rule

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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PUBLIC MEETING

+ + + + +

PROPOSED CHANGES TO THE NRC EMERGENCY

PREPAREDNESS (EP) RULE

+ + + + +

THURSDAY, SEPTEMBER 17, 2009

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ROCKVILLE, MARYLAND

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The Public Meeting convened in the Glen Echo Room at the Bethesda North Marriott Hotel and Conference Center, 5701 Marinelli Road, at 12:30 p.m., Lisa Gibney, Moderator, presiding.

PANELISTS PRESENT:

LISA GIBNEY, Moderator

JOE JONES, Sandia National Laboratories

BOB KAHLER, US Nuclear Regulatory Commission

JEFF LAUGHLIN, US Nuclear Regulatory Commission

STEVE LaVIE, US Nuclear Regulatory Commission

CHRIS MILLER, US Nuclear Regulatory Commission

RANDY SULLIVAN, US Nuclear Regulatory Commission

DON TAILLEART, US Nuclear Regulatory Commission

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1 ALSO PRESENT:
2 KEITH KEMPER - Exelon Corporation
3 BILL RENZ - Entergy Nuclear
4 STEVE PAYNE (via telephone) - North Carolina Emergency
5 Management
6 RANDY EASTON (via telephone) - Pennsylvania Bureau of
7 Radiation Protection
8 ALAIN GROSJEAN - Entergy Nuclear
9 KEVIN WEINISCH - KLD Associates
10 ATRI SEN - IEM
11 CHRIS BOONE - Southern Nuclear Corporation
12 DON RICKARD - Callaway
13 DIANE HOOPER - Wolf Creek
14 DON MOTHENA (via telephone) - Florida Power and Light
15 Company
16 TED AMUNDSON - Southern Nuclear Corporation
17 JERRY BONANNO - Nuclear Energy Institute
18 MIKE SLOBODIEN - Entergy Nuclear
19 DAVID YOUNG (via telephone) - Nextera Energy
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T-A-B-L-E O-F C-O-N-T-E-N-T-S

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12:29 p.m.

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2
3 MODERATOR GIBNEY: On the record. Okay.
4 Great. Thanks everyone for coming. I'd like to
5 welcome everybody to what is now our twelfth public
6 meeting on the Proposed Rulemaking and Emergency
7 Preparedness Enhancements.

8 My name is Lisa Gibney. I'm the Outreach
9 Team Leader for the Security Interface and Outreach
10 Branch and it's my pleasure to be our facilitator
11 today. As I said, we do have a lot of questions. So
12 we would encourage you to sign up early and for those
13 of you that are listening on the phone if you could
14 also let us know if you have an interest in asking
15 questions. That would be great.

16 Just a couple of housekeeping type things
17 I'd like to take a minute to talk about. Of course,
18 because we're all in emergency management, safety
19 comes first. If we do have an emergency and need to
20 leave the room the emergency egress is out the doors,
21 take a left to the end of the hallway, take another
22 left and that will take you down to glass doors that
23 will lead you to the parking lot.

24 Restrooms if you go out the doors and to
25 the right. Restrooms for both the men and the women

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1 are outside to the right.

2 Of course, it wouldn't be a meeting if we
3 didn't ask you to put your cell phones and your pagers
4 on vibrate. That goes for the staff, too. Look at.
5 Good job; they're all reaching. Good job.

6 And we do have one formal break scheduled
7 in the agenda today. But please feel free to step out
8 as you need to.

9 Our agenda is packed pretty full today.
10 We're scheduled to run from 12:30 p.m. to 4:30 p.m.
11 We'll have some opening comments from Chris Miller.
12 Then Bob Kahler is going to step us through a summary
13 of the rulemaking. And then as I mentioned we're
14 going to try to group our questions into topics.
15 We'll talk first about the topics in Part 1. Then
16 we'll talk about the ones in Part 2. We'll have our
17 formal break. And then we'll move onto Parts 3 and 4
18 with some time for some closing comments at the end of
19 the day.

20 We do have lots of options for
21 participation today. This is a Category 3 meeting
22 which means we have time for questions and there are
23 multiple ways to participate. Of course, many of you
24 are here in the room and then as we did in the other
25 public meetings, we also have folks that are viewing

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1 us today using the Internet and also listening by
2 using our 800 toll-free number. So please it's going
3 to make it very important that you step to the
4 microphone whenever you're asking your questions.
5 That's also going to allow everyone to hear what's
6 going on today.

7 For those of you that are participating
8 remotely, we just do ask that out of respect for
9 others if you could please mute your phone. To do
10 that, you simply need to push * and the 6 key and then
11 that will also unmute your phone if you need to ask a
12 question. For anyone who asks a question today, we do
13 please ask that you state your name, your organization
14 and your question for the panel.

15 What's going to be even more important
16 today because even though we're not taking formal
17 comments from the microphone today, we do have -- we
18 are going to transcribe this meeting. Charles who is
19 stuck way in the corner is going to be our transcriber
20 for today. And so again it's going to be important
21 for us to be able to get a nice, clear transcript to
22 be sure that we're using the microphone.

23 The intent of our meeting is still to ask
24 questions. We know there are a lot of folks who have
25 questions and we want to answer those questions. The

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1 other nice thing about the transcript is it will allow
2 us to post the transcript so that we can have folks
3 who weren't able to participate today still have
4 access to those questions and the answers. The
5 transcript will be going up on www.Regulations.gov and
6 in ADAMS as soon as we have that available and it's
7 probably going to be our goal is somewhere a week to
8 ten days to be able to have that transcript up and
9 ready for you.

10 If you're ready now to make your comments
11 though, you can do that right now. We're accepting
12 comments. A very easy way to do that is through
13 www.Regulations.gov. All you have to do is go to
14 www.Regulations.gov and the NRC has a docket number
15 for comments as does FEMA. The NRC docket number is
16 NRC-2008-0122. All you really need to input to be
17 able to get straight to the documents that are
18 relevant to this rulemaking project. It's NRC-2008-
19 0122. And FEMA also has a docket for their draft
20 guidance documents associated with this rulemaking and
21 their's is FEMA-2008-0022.

22 And no, I didn't plan that. It just
23 worked that way. So it's very handy that they're the
24 same. Once you get there, just click on the blue,
25 it's now a blue, comment bubble and it will take you

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1 right there and you can submit your comment.

2 However, www.Regulations.gov is not the
3 only way you can comment. For NRC rulemaking, you can
4 also do email to rulemaking.comments@nrc.gov. You can
5 mail your comments in care of the Secretary, the U.S.
6 Nuclear Regulatory Commission, Washington, D.C. 20555-
7 0001 and please mark it Attention: Rulemaking and
8 Adjudications Staff, and you can also fax your
9 comments to 301-492-3446.

10 If your comments are for FEMA, you can
11 also comment other than www.Regulations.gov for them
12 as well. You can email to FEMA-POLICY@dhs.gov. You
13 can mail, hand deliver or use a courier to the
14 Regulation and Policy Team, Office of Chief Counsel,
15 Federal Emergency Management Agency, Room 835, 500 C
16 Street, S.W., Washington, D.C. 20472. You can also
17 fax your comments to 703-483-2999.

18 Now I did go through those comment ways
19 relatively quickly, but again for those of you that
20 are just listening on the phone they will appear in
21 the transcript and you can get them from there also.

22 Okay. Let me take just a quick second and
23 introduce the staff. We have a large panel, and I'm
24 going to step off camera. Probably a wise decision
25 if I would have made it a couple of minutes ago.

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1 Sorry to the people who are on the Internet. They got
2 my backside there, but let me just go ahead and
3 introduce the staff.

4 We've got the senior staff up. Jeff
5 Laughlin is on the far right. If you guys could like
6 -- I don't know -- throw confetti or something. Next
7 to Jeff is Randy Sullivan. Don Tailleart is a Team
8 Leader now for the Inspection and Regulatory
9 Improvement Branch. And Steve -- Wait for your name -
10 - Steve LaVie is also here joining the team today.
11 They're the senior staff that's been working on the
12 Rulemaking Project led by Bob Kahler, who is their
13 Branch Chief. You'll be hearing from Bob in just a
14 minute on a short summary of the rulemaking.

15 But we're going to start first with Chris
16 Miller. Chris is our Deputy Director and if you'd be
17 kind enough to give us a couple of opening comments
18 Chris that would be great. Thanks.

19 PANELIST MILLER: Thanks, Lisa, and
20 welcome to all the participants we have here who
21 braved a little bit of the weather to come here. I
22 know I got a little bit wet coming over. It was
23 raining. For you who are participating remotely and
24 are braving the perils of the Internet to tie into our
25 system, thank you for taking your time out.

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1 This is an important part of our process.
2 This is the part where we hear interaction from all
3 of our stakeholders including members of the States
4 that are here. We know we have county officials that
5 are tying in from various locations of the country.
6 We have industry representatives, people from NEI and
7 the various utilities. And I just want to give a
8 hearty thanks to all of you. We think this is
9 important and we look forward to your participation
10 and your questions today.

11 Someone once said this is the best
12 publicized of any NRC rulemaking ever and while I'm
13 not going comment or disagree with that concept, let
14 me just give you a short history of where we are in
15 the process. Typical NRC rulemaking process is fairly
16 lengthy because we like to hear from a large
17 population of stakeholders and we take some time to
18 listen and publicize draft documents.

19 It's normally done in two stages, a
20 proposed rulemaking stage and a final rulemaking
21 stage. But for this rulemaking we had such a large
22 interest that we thought it better to do it in three
23 stages. So we did a draft proposed rulemaking stage.
24 We did a preliminary stage; a proposed rulemaking
25 stage, which is where we are right now and then, of

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1 course, the final stage.

2 Many times you'll see when the documents
3 go out in the proposed stage that you don't have the
4 guidance documents. But we felt it very important
5 that you understood where the staff was going. So we
6 put out the draft guidance documents as well. In the
7 comments that we're receiving from people and hope to
8 receive from you we want your comment on the guidance
9 documents, too. It's just one more level down from
10 the rulemaking and it gets into more of the details.
11 We have those guidance documents out and they've been
12 out since the rulemaking has been out in the proposed
13 stage.

14 So we're in the proposed rulemaking stage
15 and we've had 11 public meetings to date, this being
16 our 12th. And why did we have this 12th one? Well,
17 we heard from -- A number of stakeholders said, "We've
18 got some additional questions." What we want to do is
19 be able to give you the best comments we can on your
20 proposed rulemaking and guidance and that's really
21 what we're looking for. So we said, "Okay; one more
22 public hearing to try to answer those questions." So
23 that when you provide your comments you give us the
24 best comments that you can, most informed by what the
25 rulemaking and the guidance documents are saying. So

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1 we hope to answer your questions today.

2 We specifically have this part reserved
3 for the NRC rulemaking. I mentioned that we have a
4 lot of stakeholders here. The one stakeholder who I
5 neglected to mention, Vanessa Quinn back there in the
6 corner represents FEMA. Our FEMA partners have been
7 in lockstep with us in this rulemaking, with FEMA
8 providing the changes to the offsite guidance
9 documents while NRC is doing the rulemaking and the
10 guidance documents for the typically onsite
11 regulations.

12 While we're doing that, FEMA is also
13 having their own meeting to interact with certain
14 stakeholders who have asked them questions. So today
15 we're trying to focus on the NRC part, the part of the
16 rulemaking and guidance that we, the NRC, drafted.

17 Where do we go from here? The FEMA and
18 NRC team is going to review your comments. The
19 comment period closes October 19th and we've already
20 started working with the FEMA and NRC team on how we
21 adjudicate those comments. We'll eventually
22 adjudicate the comments. We'll make the changes to
23 the rulemaking and guidance documents. Then we'll be
24 presenting that to our Commission sometime in the
25 Spring 2010, and then sometime in the Summer 2010 we

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1 hope to have the actual rulemaking and guidance
2 documents out.

3 So that's the path forward. I look
4 forward to a good healthy exchange and hear your
5 questions today and once again thank you for
6 participating. And I would like to turn it over to
7 Bob Kahler.

8 (Off the record comments.)

9 MODERATOR GIBNEY: As you get started if
10 everybody on the panel could just remember to speak
11 into the microphone. I was having a little bit of
12 trouble hearing you all in the back. Thanks.

13 MR. KAHLER: Okay. Well, good afternoon,
14 everybody. And as I've been introduced, I'm Bob
15 Kahler. I'm the Branch Chief of the Inspection and
16 Regulatory Improvements Branch. I have the overall
17 responsibility for the oversight of the proposed
18 Emergency Preparedness Rulemaking effort.

19 I'd like to personally thank everyone who
20 is in attendance this afternoon whether you're here in
21 person, via the Internet, via the live meeting
22 technology, or hanging onto the phone and listening
23 intently as we go through the rulemaking and the
24 questions. Next slide please.

25 This table on this slide identifies the 12

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1 topics that are addressed in the proposed rule and
2 indicates their associated draft guidance document.
3 The first six topics are related to the security
4 issues and these are specifically the on-shift
5 multiple responsibilities, the emergency action levels
6 for hostile action events, the emergency response
7 organization augmentation, an alternative facility,
8 licensee coordination with offsite response
9 organizations, protective actions for onsite personnel
10 and challenging drills and exercises.

11 These first six topics are the proposed
12 changes and additions to the regulations. They would
13 codify certain voluntary protective measures already
14 implemented by the nuclear power plant licensees and
15 were previously contained in an NRC bulletin issued in
16 2005 and specifically that Bulletin was 2005-02,
17 "Emergency Preparedness and Response Actions For
18 Security Based Events."

19 The topics 7 through 11, the next five
20 topics, were a result of the NRC comprehensive review
21 and they were as an enhancement. We're proposing
22 those for an enhancement to the existing regulations.

23 Again, these five topics are the alert and
24 notification system backup means, emergency
25 declaration timeliness, emergency operations facility

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1 - performance-based approach, evacuation time estimate
2 updating, and the emergency plan change process,
3 sometimes referred to as the 10 CFR 50.54(q) process.

4 The final topic, the 12th topic, is
5 administrative in nature and it's associated with the
6 removal of one-time requirements that are no longer
7 binding on any current licensees. These were
8 implemented immediately following the Three-Mile
9 Island incident in 1979. Next slide.

10 In addition to the general invitation to
11 submit comments on the proposed rule, the NRC is also
12 specifically requesting input on seven topics.

13 First, the NRC is seeking input as to
14 whether licensees should be required to implement NIMS
15 -- that's the National Incident Management System --
16 and ICS, Incident Command System, into their emergency
17 plans.

18 Second, the NRC is seeking comments on
19 whether regulations should explicitly state the number
20 of emergency responders for both the on-shift staff
21 and the augmenting emergency response organization.

22 And third, as proposed, the effective date
23 of this rule would be 30 days after the publication of
24 the final rule in the Federal Register. The NRC's
25 concern over how the effective date may impact

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1 docketed applications by combined license and early
2 site permit applicants and is seeking comments on how
3 these applicants would implement the rule as proposed.

4 Fourth, as proposed, the rule would be
5 implemented on a schedule that varies from 30 days to
6 three years. The NRC is concerned that this schedule
7 may not be appropriate for some offsite response
8 organizations and nuclear power plant licensees and is
9 seeking comments on these time periods.

10 Three of the seven questions regard non-
11 power reactor licensees, also referred to as research
12 and test reactors, RTRs. The NRC is seeking comments
13 on whether three of the topics of the proposed rule be
14 expanded to include non-power reactors. Specifically,
15 should non-power reactor licensees be required to (1)
16 conduct a detailed analysis of on-shift staff
17 functions to ensure timely performance of emergency
18 plan functions without having competing
19 responsibilities; (2) should non-power reactor
20 licensees have the capability to declare an emergency
21 in 15 minutes; and (3) and finally, should non-power
22 reactor licensees include hostile action emergency
23 action levels in their emergency plans. Next slide
24 please.

25 The NRC has provided three draft guidance

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1 documents to accompany the proposed rule.

2 The first draft guidance document is Draft
3 Regulatory Guide, DG-1237. This draft document
4 provides guidance on the implementation of 10 CFR
5 50.54(q) with respect to making changes to emergency
6 response plans.

7 Second, the next draft guidance document
8 is a draft NUREG, which details the process for the
9 development of evacuation time estimates for different
10 population groups given certain parameters such as
11 weather conditions, day of the week, time of the day
12 and season of the year. The guidance document also
13 discusses the use of staged evacuations, which can be
14 more effective.

15 And, finally, we've developed an interim
16 staff guidance document. This document encompasses
17 all of the remaining topics. Since the proposed rule
18 impacted several existing guidance documents, this
19 draft guidance document was developed to encompass all
20 of the changes rather than propose separate changes to
21 each of the other guidance documents.

22 This interim staff guidance would
23 supplement or replace those previous guidance
24 documents in each of their respective areas. As
25 indicated in each of its sections with the intent of

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1 incorporating this guidance in future revisions to
2 NUREG-0654/FEMA-REP-1 which is our current governing
3 guidance document. Next slide please.

4 The end of the comment period is rapidly
5 approaching, October 19, 2009. It is anticipated that
6 the rule and guidance documents will be provided to
7 the Commission as Chris had mentioned in the spring of
8 2010. My current due date is in May of 2010. So that
9 does occur in the spring.

10 The purpose of this public meeting is not
11 to solicit comments on the proposed rule. Rather it
12 is to answer your questions that they aid in the
13 development of your comments. As stated previously,
14 to ensure your comments are considered, please submit
15 them to the NRC in one of those various ways that Lisa
16 had mentioned before. You can do that by posting them
17 on the Internet at www.Regulations.gov, by sending a
18 letter to the NRC at that address listed here on this
19 slide. You can also submit it via email to
20 Rulemaking.Comments@nrc.gov or you can fax your
21 comments to the Secretary, U.S. Nuclear Regulatory
22 Commission at 301-492-3446.

23 I'm going to return this meeting back over
24 to Lisa so we can begin our public portion of the
25 meeting and start with our first set of topics and

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1 entertain your questions. Lisa.

2 MODERATOR GIBNEY: Thank you, Bob.

3 (Microphone issue.)

4 You know it is share and share alike with
5 this staff. Thank you, Bob.

6 And actually I need to take a second
7 anyway and start over. We were evidently not very
8 clear in our request in the beginning. We actually
9 had four sign-up sheets at the table for signing up
10 for each particular topic. I'm getting the vibe that
11 it didn't get communicated that way.

12 So I'm going to ask. Does everybody have
13 a copy of the agenda because we have plenty of those?

14 And then I'm just going to hold up really quick for
15 those who would like to ask a question about Topic 1.

16 Anyone for Topic 1?

17 (No verbal response.)

18 Okay. I just want to verify that one and
19 then Topic 2?

20 (No verbal response.)

21 Okay. That wasn't nearly as bad as I
22 imagined. During the break, we can take care of Topic
23 3 and Topic 4. But for right now, we'll go ahead and
24 start with Topic 1. I'm trying to integrate not only
25 the topics, but the people on the phone and the people

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1 in the room.

2 As of right now, I don't believe I have
3 any questions on this topic from anyone on the phone.

4 So, Mr. Keith Kemper, could we start with you please?

5 Now I have to find you a microphone.

6 MR. KAHLER: Tell you what. Since we're
7 having some technical difficulty and we are
8 entertaining a host of people on the Internet, we're
9 going to take a few minutes here while we're trying to
10 correct the microphone problem, so we don't exclude
11 those who are remotely participating in the meeting.
12 So we'll be right back. Off the record.

13 (Whereupon, a short recess was taken.)

14 MODERATOR GIBNEY: On the record. Okay.
15 We seem to be working better now. Charles, can you
16 hear me okay now? Okay.

17 One more time. Welcome, everybody. Keith
18 Kemper, would you want to -- Let's try again. Let's
19 see if we can get it to work for you this time, and if
20 you could also tell us your name and who you are with.

21 MR. KEMPER: Sure.

22 MODERATOR GIBNEY: That would be great.

23 MR. KEMPER: Hi. My name is Keith Kemper.
24 I'm with Exelon Corporation. I'm also the Team Lead
25 for the NEI task force that's looking at the on-shift

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1 staffing multiple responsibilities.

2 We've been working on reviewing the ISG
3 and the other guidance and we've even been working on
4 coming up with a way to implement the rule and as a
5 result of that we've generated comments and questions
6 and we're really looking for some answers to some
7 questions to help us focus our comments. I really
8 appreciate the opportunity to be here today. The
9 first series of kind of questions I have are related
10 to the actual job task analysis/time motion study
11 that's mentioned in the rulemaking as a way to analyze
12 on-shift staffing.

13 And the first question I have is the rule
14 talks about, the ISG talks about, using the analysis
15 for design basis accidents as well as design basis
16 threats and we just want to make sure that the
17 analysis is to be limited to those events as
18 designated in the final safety analysis report. We
19 heard some answers before I think that related to
20 Chapter 15 of the final FSAR. Is that the intent of
21 the design basis accidents as defined?

22 PANELIST LAUGHLIN: Yes, the licensees
23 would analyze for the design basis accidents,
24 specified in the final safety analysis report. That's
25 correct.

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1 MR. KEMPER: Okay. Good. And really the
2 main reason I'm asking that is because there are some
3 events that aren't specifically defined in there. For
4 example, like fire safe shutdown events aren't
5 necessarily a standard Chapter 15 kind of design basis
6 accident. Would, for example, those types of events
7 also be included in that analysis as well?

8 PANELIST LAUGHLIN: We're just holding it
9 to the design basis accidents specified in the final
10 safety analysis report.

11 MR. KEMPER: Okay.

12 PANELIST LAUGHLIN: In addition to the
13 design basis threat as we mentioned.

14 MR. KEMPER: Okay, and we'll make sure we
15 tailor our comment to make sure that we get clear
16 guidance for that in the rule.

17 The second question I have is related to
18 the design basis threat and the issue with the design
19 basis threat is unlike design basis accidents which in
20 the FSAR are clearly delineated down to the sequence
21 of events how they are to be responded to. I'm sorry.
22 Design basis accident. I may have misspoken there.
23 The design basis threat on the other hand is more
24 about a defined initiating event as opposed to a clear
25 set of how the plant is going to respond and the

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1 expected response to that.

2 So given the lack of defined consequences
3 and sequences, what elements should be evaluated as
4 part of the staffing analysis?

5 PANELIST LAUGHLIN: Licensees can assume
6 that the design basis threat is defeated with no
7 consequences to plant safety.

8 MR. KEMPER: Okay.

9 PANELIST LAUGHLIN: But licensees must be
10 able to implement the emergency plan and the security
11 plan simultaneously in an integrated manner such that
12 there's sufficient on-shift staff to implement both.

13 MR. KEMPER: Got it. Okay. That's very
14 clear. Thank you.

15 There's also a third question in that area
16 which is there are tasks that are defined currently in
17 NUREG-0654 that aren't specifically required to be
18 responded to in a design basis accident or a design
19 basis threat, specifically, first aid, mechanical
20 repair, those kinds of things.

21 What is the expectation for how to
22 evaluate those tasks since they're not specifically
23 called out in response to those types of events?

24 PANELIST LAUGHLIN: Okay. By the way, my
25 name is Jeff Laughlin. I've been answering the

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1 questions on multiple responsibilities.

2 MR. KEMPER: Thanks.

3 PANELIST LAUGHLIN: Licensees must still
4 have sufficient staff to perform the Table B-1
5 functions. Even if there's no performance requirement
6 for a particular function during a site-specific
7 design basis accident, this should not be construed as
8 a basis for reducing or eliminating staff to fulfill
9 those functions.

10 MR. KEMPER: Okay.

11 PANELIST LAUGHLIN: So licensees would be
12 expected to fill those functions until augmenting
13 responders arrive.

14 MR. KEMPER: Understood. And then would
15 those functions be considered available to be
16 collateral duties or do they need to be independent
17 duties?

18 PANELIST LAUGHLIN: The personnel filling
19 those functions or lack thereof if they're not needed
20 at that particular time. They would be available as
21 long as there are no competing functions
22 simultaneously.

23 MR. KEMPER: Okay. Understood.

24 I'm going to switch now to another area
25 that is specifically in the rule about what's done

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1 with the analysis when it's completed. And the issue
2 here is really around once this time motion study or
3 job task analysis is completed will that be subject to
4 inspection by the NRC or will that be submitted to the
5 NRC for prior approval? And then sort of a second
6 part of that question would be then as conditions
7 change for whatever reason what would be the
8 expectation for re-performing, resubmitting,
9 reinspecting that initial document?

10 PANELIST LAUGHLIN: Again, this is Jeff
11 Laughlin. The staffing analyses should be documented
12 and available for NRC inspection. They are not
13 required to be submitted for formal review. If the
14 analyses resulted in an emergency plan change, then
15 they can be used as a basis for that change under
16 50.54(q).

17 No staffing analysis update is necessary,
18 unless there is some technological innovation or other
19 circumstance that may affect the on-shift staff
20 commitment. And if an update is performed, it should
21 be documented. But the staffing analyses would not be
22 part of the E-plan and are not subject to any formal
23 change process.

24 MR. KEMPER: Okay. Understood.

25 I have one last question unrelated to

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1 those earlier ones. It's related to the question
2 section. In there, there's proposed an alternate
3 Table B-1 as a different means for the rulemaking as
4 opposed to describing the job task analysis. I'm
5 curious as to why though in that question the table
6 includes columns for 60- and 90-minute responders.
7 When the rule was clearly focused on on-shift
8 staffing, it's just surprising that it would include
9 the additional augmentation responsibilities. I'm
10 wondering why that's there.

11 PANELIST TAILLEART: This is Don Taillet,
12 NRC. The table was proposed as one of the
13 supplemental questions essentially as an alternative
14 to Table B-1 which includes both the on-shift and
15 augmented staffing response columns or personnel. In
16 looking at both what you would need on-shift and also
17 what you would need for augmented staff, it addressed
18 both of those areas.

19 You're correct. The proposed rule really
20 just focuses on the on-shift staffing. But we are
21 looking for feedback on perhaps coming up with an
22 alternative approach to what's currently in NUREG-0654
23 for staffing that's shown in Table B-1.

24 MR. KEMPER: So the question is expanding
25 the issue to the whole ERO, not to just Table B-1, on-

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1 shift staffing.

2 PANELIST TAILLEART: Right.

3 MR. KEMPER: Okay.

4 PANELIST TAILLEART: And the 60- and 90-
5 minute reference in the table that's in the
6 supplemental section was really put in in recognition
7 that a lot of sites have already eliminated the 30-
8 minute responders either by supplementing their on-
9 shift staff or through other means and a lot of sites
10 have also gone to 90-minute response for their
11 augmented staff. So it really just was in recognition
12 that a lot of that was already been done at several of
13 the sites.

14 MR. KEMPER: Okay. Thanks, Don. That
15 concludes my questions. Thank you.

16 MODERATOR GIBNEY: Okay. He told me I
17 wasn't waiting long enough before I started to talk,
18 not like anyone's ever told me that before.

19 Questions for Topic 1 from the phone?

20 (No verbal response.)

21 Okay. In the interest of time, should we
22 move ahead to the next topic and then we can come back
23 if we have other folks that join us later?

24 PANELIST MILLER: Yes. Unless someone has

25 --

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1 MODERATOR GIBNEY: Other Topic 1
2 questions?

3 PANELIST MILLER: -- another question,
4 what we're going to do even though we advertised we're
5 going to cover these topics at certain times if we
6 have somebody come in and wants to add an additional
7 question here we'll allow that just in the interest of
8 moving the meeting along.

9 MODERATOR GIBNEY: Right. And we should
10 have some time at the end since we're jumping so far
11 ahead.

12 PANELIST MILLER: Okay.

13 MODERATOR GIBNEY: For those of you that
14 are listening remotely on the phone, please feel free
15 to let Ned know if you have a question and we'll make
16 sure that you get in the line for the topics.

17 Topic 2. Mr. Kemper, how about I let you
18 rest your voice for a minute? Bill Renz. And again,
19 Bill -- And one other thing I should mention. We
20 didn't need it because we only had the one question,
21 but if we do end up having a lot of questions we do
22 have the little timing light available again if it
23 looks like we have a lot of questions which we haven't
24 so far.

25 The other thing I would ask is if anyone's

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1 in the room here if we could please folks to refrain
2 from using the Internet. It can seriously draw down
3 our bandwidth. If you could cooperate with us on
4 that, we'd sure appreciate it. Thanks.

5 Bill.

6 MR. RENZ: Again, my name is Bill Renz.
7 I'm with Entergy and I have the lead for the licensee
8 coordination with offsite response organizations
9 during a hostile action event, and my question is
10 primarily centered around or questions are primarily
11 centered around getting a better understanding of
12 NRC's expectations of licensees and then working with
13 the offsite authorities. As an introduction to
14 discuss this, I paraphrase some of the language.

15 "The NRC believes that hostile action
16 events pose a unique challenge at nuclear power plants
17 due to the increased demand on local law enforcement
18 that are expected to implement portions of an offsite
19 response organizations emergency plans as well as
20 responding to provide assistance at the plant. The
21 NRC believes that the current regulations do not
22 explicitly require licensees to coordinate with OROs
23 to ensure that personnel are available to carry out
24 preplanned actions such as traffic control and route
25 alert by local law enforcement during a hostile

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1 action, actually during a successful hostile action,
2 event at the plant." I'm trying to better quantify
3 the use of the word "ensure." It almost implies
4 oversight responsibilities for the licensee over the
5 offsite response organization.

6 The first question is in order to
7 understand the NRC's expectations regarding offsite
8 response organizations licensees need a clarification
9 on whether they must plan for a hostile action event
10 that results in a radiological release.

11 PANELIST SULLIVAN: Hi. Randy Sullivan.
12 Yes, licensees must be prepared to handle a
13 radiological release during a hostile action event
14 just as you're ready to handle radiological accidents.
15 Emergency plans by their nature are intended to
16 protect public health and safety in the event of any
17 emergency at the nuclear plant.

18 I wouldn't say it's an oversight function.
19 I would say it's akin to your current planning
20 function, just that the plans are adequate to deal
21 with onsite needs during a hostile action event.

22 MR. RENZ: Okay. Thanks, Randy.

23 Well, with that, then I made the
24 observation that a State certifies the adequacy of
25 offsite resources in their letter of annual

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1 certification to the Federal Emergency Management
2 Agency. Can you tell me what NRC's basis for
3 requiring the licensees to also perform this
4 verification when additional demands are placed on
5 offsite response organizations resources and since
6 that is also covered in that letter of annual
7 certification?

8 PANELIST SULLIVAN: Randy Sullivan again.

9 The intent is to have licensees ensure on an annual
10 basis that all MOUs and LOAs are updated and current,
11 such that the expected ORO resources responding onsite
12 would be available. The State's annual certification
13 letter to FEMA would be appropriate for verifying
14 adequate ORO resources are available for offsite
15 response. A comment should be submitted if the
16 stakeholder feels that this needs to be clarified in
17 guidance.

18 MR. RENZ: Okay. Appreciate that.

19 The Department of Homeland Security
20 Comprehensive Review Program conducted reviews at each
21 of the sites, the nuclear plant sites, and the Hostile
22 Action Pilot Program drills have led the NRC to
23 believe that there is inconsistent implementation
24 concerning coordination with offsite response
25 organizations to ensure adequate resources are

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1 available to respond to a hostile action event.

2 Can the NRC provide examples of inadequate
3 resources which are within the licensee's control to
4 correct?

5 PANELIST SULLIVAN: The proposed rule
6 lists several types of offsite resources including
7 local law enforcement, firefighting, medical
8 assistance which licensees would be responsible for
9 securing for onsite response. The necessary resources
10 include both equipment and personnel.

11 If any gaps exist in the capability of
12 OROs to respond, offsite response organization, ORO,
13 we use that fairly often. If any gaps exist in the
14 capability of OROS to respond onsite for hostile
15 action or other types of events, licensees would be
16 expected to address these gaps by identifying
17 additional onsite or offsite resources or having other
18 compensatory measures in place, I mean, such as mutual
19 aid among the county organizations or neighboring
20 counties.

21 MR. RENZ: Okay. Thanks.

22 During implementation of a hostile action
23 drill program, licensees have coordinated with OROs in
24 a number of areas. For example, licensees have
25 approved staging areas for ORO response resources,

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1 provided licensee representatives into the incident
2 command post, ensured radio frequencies are
3 compatible. This is the type of coordination that
4 you're suggesting?

5 PANELIST SULLIVAN: Randy Sullivan again.
6 Not specifically. NRC expectations are that licensees
7 have coordinated with OROs to ensure that offsite
8 plans can be implemented as written and that OROs
9 fulfill any agreements via MOUs, LOAs for the
10 provision of offsite resources for an emergency.
11 Staging areas and radio frequencies are a piece of
12 that. But it certainly is not the whole puzzle.

13 MR. RENZ: Okay. I was looking to see if
14 that was representative.

15 Okay. At one of the earlier public
16 meetings on the proposed rule, the NRC stated that
17 licensees would not be expected to close the gaps in
18 ORO resource planning identified by the Comprehensive
19 Review Program. But in its proposed rule, the NRC
20 sited gaps in ORO resource planning identified during
21 the DHS Comprehensive Review Program as support for
22 the amendments to that section of the regulation.

23 Can the NRC clarify whether the proposed
24 gaps will be implemented in the regulation to require
25 licensees to address these gaps? I think you just

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1 answered that question. But if you could, repeat.

2 PANELIST SULLIVAN: Yes, I think I did.
3 Any gaps identified in ORO response would be the
4 responsibility of the licensee to address. Any gaps
5 in the capability to implement response action offsite
6 would be the responsibility of OROs.

7 The purpose of the requirement in the
8 proposed rule is to ensure that the competition for
9 ORO resources is fully considered and incorporated
10 into the planning process through a coordinated
11 effort.

12 MR. RENZ: Appreciate that. A couple
13 more; both on the ISG.

14 With respect to the ISG Section 4(e),
15 licensee coordination of offsite response
16 organizations, the proposed guidance states "If this
17 issue does not apply to the licensee's site, the
18 licensee should document and amend a supporting
19 analysis to the Site Emergency Plan."

20 Could you provide an example of what the
21 provisions dealing with offsite response organizations
22 would not apply to the licensee's site? Also if a
23 licensee appended this analysis to their emergency
24 plan and if for some reason the issue was deemed to
25 apply in the future or would an update or removal of

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1 this appended analysis to the plan be considered a
2 reduction in effectiveness?

3 PANELIST SULLIVAN: One example where the
4 provisions dealing with OROs would not apply, maybe
5 the best example, is where a licensee has an onsite
6 fire department. ORO support for initial fire rescue
7 response would not apply.

8 The noted analysis is intended to document
9 that the licensees have verified adequate ORO
10 resources for the hostile action contingency. The
11 intent of this statement is that in cases where
12 licensees have already verified that sufficient ORO
13 resources are available then no further action would
14 be necessary.

15 It was not intended that this analysis be
16 made part of the licensee's emergency plan. However,
17 submit a comment if you feel that that's not clear.

18 MR. RENZ: Certainly. And my last
19 question. With respect to the ISG Section 5(e),
20 licensee coordination of offsite response
21 organizations, the proposed guidance states that
22 "licensees should verify the arrangements for adequate
23 ORO resources remain in effect as part of the annual
24 update of the emergency plan and agreements in
25 accordance with evaluation criteria in (p) (4) of

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1 NUREG-0654 Section (2)(p). That criterion requirement
2 is for each organization to update its own plan, not
3 for one organization to verify the response
4 capabilities of another organization.

5 But I was going to ask you to clarify the
6 reliance on (p)(4) in support of this because it seems
7 to be not misconstrued, but construed a little askew,
8 a little off.

9 PANELIST SULLIVAN: The intent of this
10 statement is to ensure that licensees verify on an
11 annual basis as part of the E Plan review process that
12 the intended ORO resources remain available for
13 response to a hostile action or any event at the
14 nuclear power plant. But if that's not clear, we'd be
15 happy to see a comment on it to clarify.

16 MR. RENZ: I appreciate your time. Thank
17 you so much.

18 MODERATOR GIBNEY: Mr. Kemper. And again
19 I'm just checking. We still have nobody from the
20 remote participation that has any questions on this
21 topic, right? Okay. Great.

22 Mr. Kemper, thank you.

23 MR. KEMPER: Okay. Thanks. Yes, this is
24 Keith Kemper again from Exelon. I'm also on the
25 Challenging Drill and Exercise Task Force that NEI has

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1 working. I have a couple of questions relative to
2 that area of the rulemaking.

3 The first one deals with the hostile
4 action based drills and exercises. During the
5 preliminary stages of the rulemaking some of the
6 correspondence that came out both the OROs and the
7 industry got the impression that the frequency for
8 hostile action drills was going to be an eight year
9 frequency as opposed to the normal REP frequency which
10 was six years.

11 Contrary to this understanding when we
12 read the draft ISG it looks like there is a dual
13 requirement, both a six and not to exceed eight year
14 requirement for the hostile action drills. Just
15 really looking for clarity since it's a little bit
16 confusing in the draft ISG exactly how that's
17 constructed and what exactly the expectation is. Is
18 it every six or every six not to exceed eight?

19 PANELIST KAHLER: We put together that --
20 Oh, this is Bob Kahler. I'm a Branch Chief here. We
21 put together that requirement such that we based it
22 upon there's a six year planning cycle. So we would
23 like to see a hostile action based drill performed
24 during that six year planning cycle. So as you
25 schedule your six year planning cycle and place the

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1 hostile action based drill within it, we wanted to
2 clarify that we did not want the frequency of the
3 hostile action based drill to exceed eight years as
4 you're spanning two different planning cycles.

5 So this would curb that you would perform
6 a hostile action based drill in the first year of your
7 six year planning cycle and not perform it again until
8 the last year of your second planning cycle
9 potentially having about 11 years between hostile
10 action exercises. We wanted to limit that span to
11 eight years. And if you have any comments on that,
12 we'll be happy to see that on www.Regulations.gov.

13 MR. KEMPER: And I think we will, Bob,
14 because the concern would be especially in the States
15 where there are multiple plants. The burden on the
16 OROs and the removal of the flexibility within that
17 State to move the drills around to maximize is going
18 to be even more, you know, further complicated by
19 putting two restrictions on there, both an eight and a
20 six. So we will definitely comment on that.

21 The second question I have and this is
22 really related to in reviewing some of the questions
23 from some of the earlier public meetings. There was a
24 specific question about how will the NRC plan to
25 rejoin the scenario review process affect the time

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1 line for scenario development and as a result of some
2 of the answers to that question, we have some other
3 follow-up questions. Sorry about piling on here with
4 the questions.

5 Basically, the NRC response was that
6 initially the NRC would defer to the FEMA's
7 established scenario review process and then FEMA
8 responded that the way that the Homeland Security
9 Exercise and Evaluation Program is structured the
10 Exercise Planning Team will continually review the
11 scenario as it is being developed. FEMA expects that
12 there will be FEMA and NRC representation on the
13 Exercise Planning Teams taking part in the continual
14 review process.

15 So that just -- We weren't quite sure what
16 that meant and specifically what the question is can
17 the licensee expect participation during the site's
18 planning for drills and, if so, what will be the
19 nature of that participation and will that
20 participation be from Headquarters or from the region
21 just from a consistency perspective?

22 I realize I said a lot there. So if you
23 need me to clarify that at all, I certainly can. It's
24 really about the NRC's role in reviewing and/or
25 participating in the development of drills.

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1 PANELIST KAHLER: Again, this is Bob
2 Kahler.

3 Our intent to this point is outlined in
4 the guidance. It is for us only to be a participant
5 whenever the scenario is finalized and receiving a
6 copy of that scenario for our review and approval. We
7 also, of course, reserve the right to be part of that
8 process that comes up to that point, but we're not
9 proposing that in the rule or in the guidance
10 documents at this time.

11 MR. KEMPER: Okay. Good.

12 PANELIST KAHLER: The HSEEP Program does
13 include that all groups be part of that, but again
14 that's a guidance document as well. So we are looking
15 at that and seeing how we can or how much we want to
16 become involved in that process.

17 MR. KEMPER: Okay. Understood.

18 The next question I have is -- Well, I'm
19 sorry. There was the follow-up question in there
20 about is that going to be a Headquarters' review or is
21 that going to be regional review? Just from a
22 consistency perspective is really the reason to ask
23 that question.

24 PANELIST KAHLER: Okay. Right now, we see
25 it as a regional review.

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1 MR. KEMPER: Okay. Thank you. That's the
2 extent of my questions.

3 PANELIST MILLER: Let me just say that if
4 you have particular opinions on which way that should
5 go.

6 MR. KEMPER: Yes, we will have comment on
7 that.

8 PANELIST MILLER: I would say please --
9 Thanks.

10 MR. KEMPER: Thanks, Chris.

11 MODERATOR GIBNEY: Thanks, Mr. Kemper.
12 How are we doing for our remote folks? Anybody in the
13 audience or in remote mode looking to --

14 (No verbal response.)

15 Okay. Yes. Okay. Sorry. You're not
16 seeing me. You're probably wondering what all the
17 stops and stutters are for, but we're still having a
18 couple of microphone issues. We're trying to get that
19 working.

20 How about a break? Should we take a short
21 break? We're very far ahead on our time. That will
22 give us a chance to regroup and hopefully work on some
23 of these technical issues with our microphones. So
24 let's take a 15 minute break. Can somebody tell me
25 what time it is and we'll -- 1:20 p.m. Can somebody

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1 do the math for me? So we'll be back at --

2 (Laughter.)

3 Okay. It's a two-part question. 1:35
4 p.m. here Eastern Time we'll join back on. Thank you.
5 Off the record.

6 (Whereupon, a short recess was taken.)

7 MODERATOR GIBNEY: On the record. Welcome
8 back. It does work if I stop and I'm patient.
9 Welcome back. Thanks everybody for coming back and
10 joining us after the break. We have a couple of
11 things that we're going to take care of right away.
12 I've got a couple of questions from some of our State
13 folks that we're going to get to in just a second on
14 Topic 2.

15 But before I do that, Randy, you said
16 you'd like to make a follow-up on something.

17 PANELIST SULLIVAN: Yes. Randy Sullivan.

18 With regards to the staff's intent with
19 the on-shift task analysis or detailed review of
20 duties, I thought we may have left you with the
21 impression, with an incorrect impression. Some sites
22 have no 30 minute responders. Those 30 minute
23 responders' duties have been encompassed by the on-
24 shift organization. When you do your analysis and you
25 have no 30 minutes responders, you must address the

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1 emergency plan functions that would be expected of the
2 emergency responders. Also, whether the DBA calls for
3 it or not.

4 So the 30 minute responders include things
5 like maintenance people. So you have to have those
6 functions addressed whether you would use that in
7 response to a DBA you're analyzing or not. All right.

8 I just wanted to -- There's that variability in the
9 industry. I didn't want to leave that unclear. Thank
10 you.

11 MODERATOR GIBNEY: Okay. Thank you,
12 Randy.

13 Okay. I'm glad we have some remote
14 participation. Steve Payne, are you with us?

15 MR. PAYNE: I'm with you, Lisa.

16 MODERATOR GIBNEY: Excellent. Can you
17 tell your name please? I want to make sure we're
18 adjusting the volume.

19 MR. PAYNE: Understand. Steve Payne with
20 North Carolina Emergency Management.

21 MODERATOR GIBNEY: Okay. Hang on one
22 second. We're going to punch you up just a little
23 bit.

24 Can you punch him up just a little bit? I
25 mean, on the phone, of course. Not like really.

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MR. PAYNE: Thank you.

MODERATOR GIBNEY: There. That's much better.

Okay, Steve. If you could tell us one more time for the transcriber your name, your organization and then we'll have your question. Thanks.

MR. PAYNE: Steve Payne with North Carolina Emergency Management. I've got a couple of questions. These will probably go to Randy and this is on the area of the offsite response coordination by the licensee.

You indicated that if there were inadequate resources that both personnel and equipment would have to be addressed by the licensee. What I want to know is what is it that the licensee uses to determine the adequacy of these responses and then if he's going to address them, how does he address these.

And what I'm thinking from your discussion here, you're wanting a full staff from fire, EMS and law enforcement ready to respond to only the nuclear power plant because there might be a hostile action or if there is something there a hostile action that the hostile action has to take priority over everything else that is going on.

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1 So I would go back to the original -- Who
2 determines this adequacy and, if so, how does the
3 licensee correct the inadequacy?

4 MODERATOR GIBNEY: Okay. Guys, they're
5 talking about who is going to answer that.

6 MR. PAYNE: Okay. I have one more
7 question beyond that.

8 MODERATOR GIBNEY: Okay. Hang on. Let's
9 let -- Steve LaVie I think has a thought for you.

10 PANELIST LaVIE: I'm going to try to give
11 a response to this because I really think this issue
12 has gotten really confused. And I'm going to go back
13 in the history a little bit.

14 When applicants put in for a license, one
15 of the things they have to address -- I'm going to use
16 the example of the fire departments. The licensee has
17 to identify where he's going to get fire resources and
18 the licensee work with the mutual aid agreements or
19 wherever to get this resource and the local fire
20 departments give them a memorandum of understanding.
21 The applicant shows it to us and we say, "Okay. You've
22 met that requirement."

23 They've been required to do this for
24 years. We're not changing that. Okay. As a result
25 of what we learned out of the comprehensive reviews

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1 when we had these comprehensive reviews meetings and I
2 participated on many of them and when the people from
3 FEMA would say, "Okay. Fire Chief, what are your
4 duties during an emergency?" And the Fire Chief would
5 rattle off a whole list of things he was doing. He
6 was going to be doing traffic control. He was going
7 to be doing route alerting.

8 So then FEMA turns around to the NRC and
9 says, "Well, where are you going to get your
10 firefighters from? This guy is busy." That was the
11 gap. Now it's not limited just to firefighters.

12 What the regulation is asking the licensee
13 to do as it has always asked the licensee to do is to
14 make sure that he has adequate resources identified in
15 his plan. If his plan says I have an onsite fire
16 department and I'm not relying on all OROs for that
17 support, then the issue is resolved for that licensee.

18 Okay. What the rule is asking the
19 licensee to do is that the next time they get in
20 involved with these offsite fire departments or the
21 local hospitals or the local law enforcement is when
22 they issue you a memorandum of understanding. We want
23 the licensees to go a step further and say, "Are you
24 sure you're going to be able to respond as you're
25 telling me?"

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1 Now if the local fire department comes
2 back -- We're not asking the licensee to do a
3 qualitative evaluation of whether or not it's
4 adequate. But if the local fire department comes back
5 and says, "No, I can't respond to your site," that's a
6 problem. The emergency plan on that site says, "I
7 have fire support coming from this point." Well, the
8 licensee just got information that he can't comply
9 with his plan. His plan said, "Fire Department X is
10 going to come to my site." He's just been told the
11 fire department can't come to the site.

12 Licensee is expected to take action to
13 compensate for that weakness. Now the licensee can go
14 out and make arrangements and talk with the fire chief
15 and look at mutual aid agreements and all of this type
16 of stuff. But what the licensee is doing is not
17 evaluating what the local fire department is doing
18 otherwise. What the licensees are being asked to do
19 is determine how he, the licensee, is going to get
20 those resources.

21 The rule does not require licensees to go
22 in and hold the hands of the local emergency
23 management agency to see whether or not he has
24 adequate staff. The issue is solely with regard to
25 that offsite response coming to your site.

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1 I'm hoping I clarified it because we've
2 had an awful lot of comments. This is the licensee
3 taking over FEMA's role. No, it's not. We are
4 responsible for determining whether or not the
5 licensee can meet his commitments and that's what
6 we're addressing.

7 Did I get anywhere close to answering your
8 questions or?

9 MR. PAYNE: You kind of, but at the same
10 time let me read from Federal Register that says that
11 it will, that "NRC will require licensees to confirm
12 ORO resources will be available in the event of a
13 hostile action and that the requirement will be
14 enforced during routine inspections." So it still has
15 the sound of the licensee going out to review the OROs
16 MOUs and as a State agency my MOUs to ensure that I
17 can do what I've told FEMA that I can do.

18 PANELIST LaVIE: No. What the licensee
19 has been tasked to do is to demonstrate to the NRC
20 that that resource, the resources the licensee is
21 expecting to come onto his site will be available
22 during a hostile action event or actually any event.

23 MODERATOR GIBNEY: Steve Payne, Bob Kahler
24 has a thought. I see him reaching for his microphone.
25 Bob.

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MR. PAYNE: Go ahead.

PANELIST KAHLER: Steve, this is Bob Kahler. As Steve LaVie has stated, our expectations during that confirmation process would be that they receive from the offsite response organizations through the MOU, Memorandum of Understanding, or the Letter of Agreement that the offsite response organization states that they are able to support the licensee's request for onsite support and what we're saying is that's always been in place. It is something that's currently out there and all we're saying is we are specifically telling the licensees that included in that we would want to see something that you have indeed considered the hostile action event in that support request and that's the only thing we were saying.

As a matter of fact, we have had discussions on this internally and stated that that is really an enhancement to the current regulation. It is not changing the regulation. It is just recognizing post 9/11 that this type of an initiating event at the site is what we need to include in our planning process. And again, I hope that kind of clarifies it.

MODERATOR GIBNEY: Steve, are we getting

1 close to an answer for you?

2 MR. PAYNE: It's getting close, but let's
3 not drag this thing out.

4 MODERATOR GIBNEY: Okay. I know you said
5 you had another thought. Let me just check with
6 Randy. Randy Easton, are you there?

7 MR. EASTON: Yes, I'm here.

8 MODERATOR GIBNEY: Is your question kind
9 of about this ORO thing, too?

10 MR. EASTON: No, this is more about the
11 challenging drills and exercises.

12 MODERATOR GIBNEY: Okay. Steve, can you
13 stay with us for just a second if I give Randy a turn?

14 MR. PAYNE: Well, considering my other
15 question was along Randy's let him go first.

16 MODERATOR GIBNEY: Okay. Randy, you're
17 on.

18 MR. EASTON: Okay. Thank you. I'm Randy
19 Easton from the Pennsylvania Bureau of Radiation
20 Protection in Harrisburg, and considering challenging
21 drills and exercise, first a point and then a
22 question. I'd like to express our concern also about
23 at a State with five reactor sites that more guidance
24 be given to scheduling these challenging drills and
25 exercises. There seems to be a six year window and

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1 then an eight year window and then numerous items
2 within those windows. And a State with five sites we
3 see that that could make for a challenging scheduling
4 conference.

5 The second one concerns we're looking at
6 from the Federal Register notice having scenarios that
7 have no radiological release, unplanned minimal
8 radiological release. That there are other types of
9 protective actions and initial classification and
10 rapid escalation to a site area or general emergency.

11 Our concern is that for these exercises,
12 these biennial exercises, we have quite a few required
13 elements that are evaluated and it looks like we can
14 end up with scenarios that would not cause a number of
15 these evaluation areas to be demonstrated which leads
16 us to either having out-of-sequence demonstrations or
17 the item not being demonstrated and my question is in
18 proposing these challenging scenarios is NRC going to
19 work and be cognizant of the fact with FEMA that we
20 need to have these evaluation areas demonstrated or
21 how this will be handled if a scenario ends at a point
22 prior to the demonstration of certain elements.

23 MODERATOR GIBNEY: Gentlemen?

24 PANELIST KAHLER: If I can, this is Bob
25 Kahler again. First of all, your comment about having

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1 a State with five reactor sites, I'm kind of familiar
2 with that from a past life. That is an excellent
3 comment and that is something that we would hope that
4 you provide to us as far as how that would impact you
5 and to provide that comment to us for our
6 consideration.

7 MODERATOR GIBNEY: AND how can he do that,
8 Bob?

9 PANELIST KAHLER: He can do that on
10 www.Regulations.gov. Thank you, Lisa.

11 MODERATOR GIBNEY: Yes.

12 PANELIST KAHLER: Or by sending us a
13 letter or emailing or faxing it to us, yes. But that
14 is a good comment that we would hope that you could
15 submit to us.

16 The other one that you have having the
17 multitude of different types of challenging drills and
18 exercises whether they be a no release, minimal
19 release or rapid escalation, so on and so forth and
20 the concern about not being able to demonstrate all of
21 the objectives that FEMA would require to have you do
22 over a planning cycle, again another excellent comment
23 because when we did put this together and put together
24 the varying types of drills and exercises that would
25 have these type of elements in it we believed that

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1 when we wrote that that there would be no impact upon
2 that capability quite honestly.

3 So if you believe that is; please again
4 put that comment out to us. Tell us more about how
5 that perception is made and we would, of course, these
6 kind of comments and I believe when we had explained
7 it before, following October 19th we do have a joint
8 comment resolution team in place between FEMA and the
9 NRC and those type of comments that span both the NRC
10 requirements and the FEMA guidance and their
11 evaluation criteria we're going to seek a common
12 resolution to those comments such that we're in
13 lockstep going forward with the rule and the FEMA
14 guidance documents. So that is something that I would
15 propose that you place not only on www.Regulations.gov
16 underneath our docket but maybe propose that you do it
17 also with the FEMA docket number for
18 www.Regulations.gov.

19 MR. EASTON: Thank you, Bob.

20 PANELIST KAHLER: You're welcome.

21 MODERATOR GIBNEY: Steve, did Randy's
22 question jive with yours or did you have another
23 follow-up or follow-on?

24 MR. PAYNE: Yes. It does with mine and it
25 goes to the idea of six-year/eight-year cycles.

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1 Considering we currently have the requirement to do at
2 least one ingestion pathway zone. We're now required
3 it for a hostile action exercise doing your more
4 normal emergency planning zone or emergency plume zone
5 exercise. When you look at doing these biennially in
6 six- or eight-year period, you've only got three or
7 four exercises that can be accomplished to do this and
8 we get back to the arena of predictability. Well,
9 it's been so long since we did the last one of this
10 type. It's probably this one coming up or things of
11 that nature.

12 Has there been any thought given to having
13 a larger span cycle of time frame understanding that
14 we need to, say, put things as you said -- the earlier
15 one -- make it so that somebody couldn't take two six-
16 year cycles and put your hostile action drill as the
17 first and last one going 12 years? I would agree
18 that's a little long but look at somewhat longer
19 cycles especially for those of us as Pennsylvania. I
20 now have five sites to deal with. So rotating this
21 through, I'm spending an awful lot of time doing
22 exercising.

23 PANELIST KAHLER: Steve, this is Bob
24 Kahler again. To answer your first question, yes, we
25 did give consideration to longer planning cycles and,

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1 yes, we did give consideration to longer frequencies
2 and in conjunction with coordination with FEMA again
3 we've put forward for your consideration in the
4 proposed rule and the guidance documents what we were
5 thinking at the time we published it in the Federal
6 Register which was a six-year planning cycle with that
7 eight-year frequency and believing that that was
8 something we wanted to put out to receive comments on.

9 Again, please if you want to comment on
10 that, I would urge you to do it both on the FEMA and
11 the NRC docket numbers for our consideration and to
12 tell us as to what your desires are and the impacts of
13 what the current proposed frequencies would do and so
14 on and so forth.

15 MR. PAYNE: And that argument is being
16 prepared. Thank you.

17 PANELIST KAHLER: Good.

18 MODERATOR GIBNEY: Great. Thank you,
19 Steve.

20 Okay. Let's check one more time for any
21 other questions on the Topic 2, Segment 2. Anybody
22 remotely for Topic 2 or Topic 1? Mr. Kemper?

23 MR. KEMPER: Can I go back to Topic 1
24 based on Topic 2?

25 MODERATOR GIBNEY: Let's come back if we

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1 have time at the end. I don't want to get too far off
2 my beaten path.

3 Okay. As we move to Topic 3, we're going
4 to do a couple of staff shifts. So we have the best
5 folks up at the table to help you. Do you know what?
6 Joe, why don't you take a second to introduce
7 yourself?

8 PANELIST JONES: This is Joe Jones with
9 Sandia National Labs. I support NRC in the emergency
10 preparedness activities.

11 MODERATOR GIBNEY: Okay. Great. Thanks,
12 Joe.

13 How about if we start with Atri Sen?
14 You're in the room, right? Come on up.

15 (Off the microphone comments.)

16 You're coming en masse. Okay. There's
17 only one microphone though. So you've got to share
18 it.

19 MR. GROSJEAN: We'll take turns.

20 MODERATOR GIBNEY: Okay.

21 MR. GROSJEAN: Good afternoon. My name is
22 Alain Grosjean with Entergy Nuclear. I do have with
23 me today Kevin Weinisch who is from KLD Associates and
24 Atri Sen from IEM. Again, both of these individuals
25 represent traffic engineering firms with again a lot

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1 of experience in preparing traffic evacuation travel
2 estimates for nuclear and non-nuclear emergencies and
3 I also again want to thank you and appreciate having
4 Joe Jones from Sandia here at this presentation so
5 that we can have some good dialogue on some of these
6 questions.

7 I basically have five questions, two that
8 are on rulemaking language and three that are on the
9 Sandia, the draft NUREG documents, the Sandia
10 document. I'm going to basically provide the
11 question, give some thoughts. I'll kind of queue it
12 up and then I'll ask these gentlemen if need be to
13 provide some technical support.

14 The first question deals with the 10
15 percent criterion on the ETE updates. The rulemaking
16 language currently calls for an update of ETEs at
17 every decennial census and then in between some type
18 of annual review of population data. You're proposing
19 a 10 percent change in that population will require an
20 update to the ETE.

21 So the question that I have, and just two
22 thoughts, what is the basis again of this ten percent
23 criteria for the ETE updates. Reading the rulemaking
24 language and kind of what we can determine from what
25 was written it's being based on curves that are in

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1 this highway capacity manual. The curves it appears
2 are based on curves for roads that are primarily
3 freeways which again I think in our opinion not many
4 freeways run through our EPZs and also again some of
5 the curves, there's I think a difference in the level
6 of service interpretation for some of these curves.
7 So, with two points, I'll go back again, the basis
8 that you're proposing for this ten percent criterion.

9 PANELIST JONES: Okay. This is Joe Jones.
10 Yes, the basis for the ten percent increase is
11 because traffic results, the ten percent increase in
12 traffic results in a decrease of level of service from
13 Level D which is congested mode to a Level E which is
14 a heavily congested mode as indicated in the Highway
15 Capacity Manual. But that is for two-lane roadways as
16 well as freeways in the Highway Capacity Manual.

17 I have the exhibit numbers. We can
18 provide that in a formal response when you submit that
19 as a comment. But if you want to take a look at that,
20 you'll notice that it is for two-lane roadways as well
21 as freeways. A change in level of services is an
22 indicator that traffic slows down and evacuation times
23 would then increase.

24 MR. GROSJEAN: Okay. The other issue has
25 to do with your assumption that roadways in EPZ are at

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1 or near capacity which is not necessarily the case in
2 these EPZs.

3 PANELIST JONES: Joe Jones again. Yes.
4 The guidance is not intended to establish any
5 assumptions on roadway operating capacity. For
6 example, in Section 2.5.3 of the guidance, it states
7 that the volume of vehicles should be representative
8 of the average daytime traffic within the EPZ and it
9 allows for values to be reduced for nighttime
10 scenarios. So it is not intended to establish that
11 roadways are at capacity.

12 MR. GROSJEAN: Okay.

13 PANELIST MILLER: If I could just provide
14 one clarification. When you were talking about the
15 curves and where the information came from and Mr.
16 Jones talked about when you submit comments and we
17 could provide you, our intent is not to provide a
18 formal response at that point. So you provide your
19 comments. We take those into adjudication and we'll
20 change or adjust the rulemaking or the guidance as
21 necessary. If you need a specific reference, you
22 would have to seek that in another manner besides the
23 comments on www.Regulations.gov.

24 MR. GROSJEAN: Okay.

25 PANELIST MILLER: Okay. Thanks.

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1 MR. WEINISCH: This is Kevin Weinish from
2 KLD. Just a quick comment on Joe's response. Sorry
3 for my voice. I'm a little sick today.

4 But I agree with what you said on Section
5 2.5.3 that we do need to assess what the actual demand
6 is and what we have found that a majority of U.S.
7 sites is that they're at Level Service A or B. So to
8 make the baseline assumption that they're at D and a
9 ten percent increase would take them into a congestion
10 environment. That kind of brings into question the
11 validity of the ten percent criterion.

12 PANELIST JONES: Okay. Now that better
13 explains Comment No. 1. The ten percent, again we're
14 not assuming Level of Service D at the start of an
15 evacuation. But during an evacuation you do get to
16 Level of Service D and a ten percent increase would
17 cause that to fall to a Level of Service E sooner than
18 it would had you not had an increase in traffic, but
19 it's not a baseline roadway condition.

20 MR. WEINISCH: Okay. Our stuff is more
21 comments than questions. We'll submit that relative
22 to those responses.

23 MODERATOR GIBNEY: Actually, Kevin, thanks
24 for that opening because I was just going to say that
25 what I'm hearing does sound a lot like a comment and

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1 even though we've talked a lot about this is just to
2 ask questions if anybody is listening remotely
3 especially or anybody here in the room just a reminder
4 that those kinds of comments really do need to get
5 into the written record. So if you could put those in
6 writing that would be great.

7 Alain, did you have other?

8 MR. GROSJEAN: Yes. Again, the second
9 question also deals with the rulemaking language. It
10 deals with the 180-day time frame of submittal of the
11 ETE updates. Again, the question is, "What is the
12 basis for the 180-day time frame for ETE updates?"
13 We've investigated with the Census Bureau.
14 Historically again, this data is released in stages.
15 The Census Bureau currently plans on releasing some
16 preliminary data April 1, 2011.

17 If you actually go to the AskCensus2010
18 website they will state that other data products such
19 as demographic profiles, summary files of aggregated
20 data and reports will be released on a flow basis from
21 April 2001 through September 2013. So some of the
22 data that's needed for these ETE updates could be
23 available as late as 2013. The basis and then when
24 does this 180-day clock begin given those census
25 assumptions?

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1 PANELIST JONES: This is Joe Jones again.
2 The basis of the 180-day time frame, this is based on
3 past experience. We recognize an ETE study takes
4 several months to complete. The NRC thought that six
5 months was a reasonable amount based on this
6 experience. But the NRC's intent is that once the
7 Census data is available to stakeholders, the data
8 that would be used for the ETE update that is when the
9 180-day clock would start.

10 MR. GROSJEAN: So basically whatever the
11 data that's needed for a particular site, whenever
12 that data has all come in, that the 180-day clock
13 would start from that point on.

14 PANELIST JONES: That was the intent, yes.

15 MR. GROSJEAN: Okay.

16 The third question deals with the draft
17 NUREG, the Sandia document, and it deals with the
18 staged evacuation. Obviously, there is great benefit
19 for staged evacuation. It's not necessarily -- Staged
20 evacuation doesn't necessarily work at every site, but
21 the question is why was not criteria provided to
22 estimate the impact of a staged evacuation. It's
23 acknowledged that it's beneficial in the document, but
24 there really isn't any way of assessing when that is
25 beneficial for a particular site.

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1 PANELIST JONES: The ETE is not a document
2 that's intended to evaluate the impact of the staged
3 evacuation. If a staged evacuation does not affect
4 the ETE, that information would still be available or
5 would still be valuable to decision makers. And, as
6 you said, a staged evacuation can be more beneficial
7 to the public health and safety because it moves the
8 public nearest the plant first.

9 MR. GROSJEAN: So this staged evacuation,
10 an analysis would be done to determine whether it's
11 beneficial for a site. It's not necessarily a mandate
12 for every site to have a staged evacuation in their
13 document.

14 PANELIST KAHLER: Do you want to take
15 that, Jeff, or do you want me?

16 PANELIST LAUGHLIN: I think as I recall
17 the way it's worded in the NUREG. Yes, Jeff Laughlin.
18 Sorry. That, yes, we do want scenarios run for
19 staged evacuation. But if you make a strong case and
20 establish the basis that that's not necessary based on
21 the population around the site, then make that case,
22 establish your basis.

23 MR. WEINISCH: So if we provide a
24 sensitivity study on a worst case scenario and we find
25 that staged evacuation has no effect on the ETE, is it

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1 okay at that point to say I don't need to consider 35
2 regions if my worst case scenario has no benefit?

3 PANELIST LAUGHLIN: Well, I won't make a
4 blanket statement on the way you can do your business
5 right now. I would say if it's counter to what's in
6 our present guidance, then submit a comment and let us
7 evaluate that.

8 MR. WEINISCH: Okay. Thank you.

9 MODERATOR GIBNEY: Alain, before you go
10 on, let me just check real quick to see for those
11 participating remotely any ETE type questions? Any
12 questions for Part 3?

13 (No verbal response.)

14 Okay. I just wanted to ask. Trying to
15 balance.

16 PANELIST KAHLER: If I can -- This is Bob
17 Kahler. If I can follow up on that comment or that
18 answer that Jeff provided. I think what I heard in
19 your question was if you do do an impact analysis of
20 staged evacuations which isn't something that the
21 Evacuation Time Estimate Guidance document is
22 requesting you to do. It's asking you to do an
23 analysis of what the evacuation time estimate would be
24 for staged evacuations. That's what it's asking you
25 to do.

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1 It didn't intend you to conduct an impact
2 study on that. That is if you decide to do that and
3 you identify that the impact of a staged evacuation
4 obtains no additional benefit from an all evacuation
5 for those areas that you were doing that staged
6 evacuation time estimate for, then you would need to
7 be able to justify that analysis, all right, that had
8 impact and say, "I'm not going to perform a staged
9 evacuation."

10 I think that's how we answered it before
11 in that the ETE is exactly that. It's an evacuation
12 time estimate. It doesn't look at the impacts of that
13 staged evacuation versus non-staged evacuation. But
14 what the ETE did do though was that it did identify
15 that staged evacuations can be beneficial because they
16 can provide a lower ETE and we recognize that. So we
17 want you to make that analysis and that's what the
18 NUREG is stating.

19 MR. GROSJEAN: Exactly again what you're
20 saying, it can be beneficial to make the analysis.
21 But it's not prescribed that every site have a staged
22 evacuation. Again a low population site may not work.

23 PANELIST KAHLER: We want you to -- That's
24 correct. We want you to make the evacuation time
25 estimate for staged evacuation and then do with it

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1 what you can for the decision makers. I mean your
2 decision makers may still want to do a staged
3 evacuation even though there's no additional benefit.

4 Okay. But you need to provide them that information
5 up front as part of that analysis so they can make the
6 decision. You're providing them the numbers. They
7 provide the decision based on those numbers.

8 MR. GROSJEAN: Okay. The next question --

9 MODERATOR GIBNEY: Just a second.

10 PANELIST SULLIVAN: I have to stand over
11 here and is this working?

12 MODERATOR GIBNEY: Yes.

13 PANELIST SULLIVAN: Oh, on the tape.
14 Randy Sullivan here. I wonder if we're using
15 different language. By staged evacuation we mean, you
16 know, generally the two miles closest to the plant.
17 Does this mean something different in your world?

18 MR. GROSJEAN: No.

19 PANELIST SULLIVAN: Okay; then fine.
20 Thank you.

21 MR. GROSJEAN: My next question again with
22 the Sandia document deals with shadow evacuation. The
23 document discusses shadow evacuation out to 15 miles
24 from the plant. It uses a percentage of about 20
25 percent. It appears as though it might be based on

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1 NUREG-6953, Volume II, the Focus Groups and Telephone
2 Survey. But it's not necessarily perfectly clear that
3 it comes from that document. So the basis for that 20
4 percent is one of the questions.

5 But the other question is why was a shadow
6 evacuation percentage of 20 percent considered for all
7 areas not within the plume, a consistent 20 percent
8 versus some varying percentages. Experience has shown
9 that you might have a higher percentage closer in and
10 further out. But it was a uniform 20 percent. So
11 again the basis of the 20 percent and why wasn't kind
12 of a graduated percentage scale not applied?

13 PANELIST JONES: This is Joe Jones.

14 The 20 percent is derived from Section
15 3.2.3.5 of NUREG-6953, Volume II. That's the section
16 where you'll find the information that discusses that.

17 And it's a derivation. It's not a precise number.
18 That's difficult to come up with, but we have
19 confidence in that number.

20 As far as applying a uniform 20 percent
21 versus a graded approach, we selected a uniform
22 approach just as general basis. If you have a
23 suggestion for a graded approach, we'd appreciate a
24 comment on that.

25 MR. GROSJEAN: Okay.

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1 MR. SEN: Good afternoon. This Atri Sen
2 with IEM. The question I have about the shadow
3 evacuation there are two preceding NUREG/CR documents
4 I think published by Sandia. If I remember it right,
5 I believe 6863 and 4831 where the conclusions have
6 been kind of twofold. One has been shadow evacuation
7 has no impact on evacuation either in traffic capacity
8 or on the congregation center capacity. And the
9 second document states it has some impact only on
10 sites of 600,000 or more.

11 So my question is does this new guidance
12 supersede the two before? And, if yes, why?

13 PANELIST JONES: This is Joe Jones. In
14 the earlier statements, this guidance will supersede.
15 However, it is NUREG-6864 that does conclude that
16 shadow evacuations do not typically affect a large
17 scale evacuation. But shadow evacuations can affect
18 evacuation speeds. So they don't always, but they can
19 and that's the reason that they should be considered
20 in this analysis.

21 MR. SEN: Regardless of the size of EPZ
22 population. I mean if it's above an EPZ of 4,000 do
23 you expect shadow versus 100,000?

24 PANELIST JONES: Again for this element we
25 provided a uniform approach rather than a graded

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1 approach and if you have a suggestion on a graded
2 approach, we would appreciate a comment on that.

3 MR. SEN: Great. Thank you.

4 MR. GROSJEAN: Okay, and the last question
5 also on the Sandia document deals with a relatively
6 new concept with evacuation time estimates, the
7 traffic signal timing requirement.

8 The question again is, "What is the basis
9 for this traffic signal timing field data
10 requirement?", and again a couple thoughts on that in
11 the sense that traffic signal timing varies greatly,
12 the time of day, the day of the week, you know, maybe
13 season of the year. New technology in traffic
14 signalization is more active so that it basically
15 changes itself due to the flow of the traffic.

16 Trying to get this data from the locals,
17 they may not have it. It may be outdated. Going to
18 the field to take this information again would be a
19 very, very laborious effort. Probably extend your six
20 month period to a year. So again, the basis for this
21 requirement given the challenges that this faces in
22 collecting this data.

23 PANELIST JONES: This is Joe Jones. Well,
24 the timing signal, the traffic signal timing, is an
25 element of evacuations that affects the ETE because it

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1 controls traffic flow at intersections. You did a
2 good job of explaining the variations you see in
3 traffic signalization. In review of evacuation time
4 estimates, we see an inconsistent approach regarding
5 assumptions on signalization timing. So if you have a
6 comment that might propose another approach to this,
7 we'd be interested in that.

8 MR. GROSJEAN: Thank you.

9 MODERATOR GIBNEY: Okay. Anybody remotely
10 for Topic 3?

11 (No verbal response.)

12 Okay. Then let's move ahead into Part 4.
13 Anybody remotely for Part 4?

14 (No verbal response.)

15 Okay. How about Chris Boone? Now I see
16 there's someone else from Southern Nuclear. Are you
17 guys a team, too?

18 MR. BOONE: We're a team.

19 MODERATOR GIBNEY: You're a team, but not
20 that kind. Okay. Well, Chris Boone and then Ted.
21 You're going to have to help me. AMUNDSON?

22 MR. AMUNDSON: Amundson.

23 MODERATOR GIBNEY: Okay. Amundson. Okay.
24 We'll come to you next, sir.

25 Mr. Boone.

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1 MR. BOONE: Okay. Great. I'm Chris
2 Boone. I'm with Southern Nuclear. I'm on the
3 50.54(q) Task Force with NEI and we've assembled
4 several questions we want to ask you today. And then
5 there's a separate one of the other gentleman that
6 will ask questions, not Ted, but Jerry has a follow-on
7 question that is related to these same topics. But
8 because of its specificity, he's going to ask that
9 particular question separately.

10 These questions are in the area of
11 50.54(q) in trying to clarify to inform our comments
12 back to you regarding that. And we've asked several
13 of these in the other public meetings and appreciate
14 the input and feedback that you've given us thus far
15 and we're trying to finalize those comments with these
16 last few questions.

17 In the spirit of that, I'd like to start
18 with the Federal Register notice introduces a new term
19 that's called the Emergency Planning Function and, as
20 explained in the Federal Register notice, the
21 Emergency Planning Functions would not replace or
22 supplement the regulations upon which they would be
23 based and compliance with those functions would not be
24 required which is the language from the Federal
25 Register notice.

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1 And if the legal standard for compliance
2 is the planning standards at 50.47(b) then those
3 should be the standards utilized for the 50.54(q)
4 review rather than these new introduced emergency
5 planning functions. So our question is what is the
6 purpose and basis for introducing this new term,
7 emergency planning function, and how is that
8 specifically to be utilized in lieu of the
9 requirements in the regulations?

10 PANELIST LaVIE: Okay. I guess this is
11 going to fall to me. I'm going to answer -- my name
12 is Steve LaVie. I was the author of this, although I
13 used an awful lot of documents that have been provided
14 by other people in drafting it including NEI.

15 Answering the second question first, your
16 bottom line, since the change process in 50.54(q) has
17 to address non-power reactors as well as power
18 reactors and since the planning standards in 50.47(b)
19 do not apply to non-power reactors, we cannot use the
20 term planning standard. The other issue involved here
21 is that referring to the planning standard alone would
22 not bring the requirements in Appendix E that support
23 the planning standards.

24 So when we developed this, we needed to do
25 something different. We could not rely on the

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1 planning standard. As specified in the statements of
2 consideration, the use of emergency planning function
3 is an evaluation approach that's used to determine
4 whether or not you may have a reduction in the
5 effectiveness of your plan. It's not really
6 addressing compliance. You understand a regulatory
7 requirement and use the emergency planning space would
8 include the regulations, any license orders, but also
9 includes the plan itself. Okay. So it's not
10 regulatory based, although what's in your plan is
11 supposed to meet the regulation.

12 Now why did we particularly pick this
13 approach? In drafting the proposed rulemaking
14 language we wanted to build on the work that the
15 industry and the NRC staff did in developing the
16 reactor oversight process and that the process that
17 was documented primarily in Appendix B in Manual
18 Chapter 0609. In that document, the emergency
19 planning significance determination process which is
20 used to determine whether or not what the significance
21 of a violation is is based on planning standard
22 functions and the significance assigned is based on
23 whether the planning standard function is lost or
24 degraded and whether the planning standard function is
25 risk significant or not. We put more significance on

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1 things which are risk significant.

2 Appendix B of Manual Chapter 0609
3 tabulates the planning standard functions much as the
4 Draft Guide 1237 tabulates the emergency planning
5 functions. Now as I pointed out earlier, we couldn't
6 use the words planning standard because they don't
7 apply to non-power reactors. That's why we went with
8 another term, a new term.

9 Now Appendix B for Manual Chapter 0609
10 also tabulates for each set of the planning standard
11 functions the supporting requirements of Appendix E.
12 So those are pulled in and the informing criteria of
13 NUREG-0654 just as Draft Guide 1237 does for the
14 planning standard functions.

15 Now in adapting the protocol for the
16 proposed 50.54(q), the staff determined that the plan
17 changes that would cause a planning standard function
18 to be lost or degraded would constitute a reduction in
19 effectiveness. We saw a wonderful synergy with the
20 work that had been done in 1999-2000 time frame to
21 work with that synergy and develop it. And therefore
22 we determined that, and it's explained in the rule
23 language and in the draft guide, is that we were
24 looking at the parallel, the increased significance of
25 violations of the planning standards that would result

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1 in a loss function or degraded function.

2 So what we're saying in essence is that if
3 we discovered this on an inspection, would we consider
4 it a loss of a function or a degraded function? In
5 either case, that would be a decrease in
6 effectiveness, a reduction in effectiveness. Excuse
7 me. I've got to get used to that terminology.

8 If it didn't result in a degraded function
9 or a loss of a function, then it's low significance
10 and most likely it wouldn't cause a decrease of
11 effectiveness. So that's why we adapted the use for
12 emergency planning function in the proposed rule
13 language and as implemented in Draft Guide 1237.

14 We are certainly open to additional
15 approaches. If you want to make a comment to that
16 effect, please do.

17 MR. BOONE: Steve, I think we can submit
18 our comment now that we have that additional
19 information. You guys would clarify that in the rule.
20 That's what we would expect.

21 PANELIST LaVIE: If not the rule -- If we
22 determine that it's necessary to change the rule, we
23 would do so. I dare tell you we have poured over the
24 language in the rule. My colleagues in the Office of
25 General Counsel have poured over it. Other groups

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1 have poured over it. We think it says what it needs
2 to say. However, we are open to --

3 MR. BOONE: Well, it may just be the
4 guidance that needs to --

5 PANELIST LaVIE: Yes, the guidance or the
6 statements of consideration perhaps.

7 MR. BOONE: Yes, that would be perfect.

8 PANELIST LaVIE: Right.

9 MR. BOONE: Okay. The additional question
10 resolves around the Draft Guide itself, 1237.

11 PANELIST LaVIE: Okay.

12 MR. BOONE: And that proposed rule
13 requires the use of the 50.90 process for changes that
14 would result in a reduction of effectiveness of
15 emergency plans. And then since we've had our public
16 meetings back in the May-June time frame, you guys
17 have actually issued a draft RIS to address this
18 particular issue and we understand we're not
19 discussing that there today.

20 But, as proposed, the Draft Guide 1237 and
21 the rule do not provide licensees with true ownership
22 of the margin of capability. Our question would be
23 why wasn't the proposed 50.54(q) process aligned with
24 the 50.36, 50.59 and 50.92 processes and what should
25 licensees expect to license amendment returning back

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1 from a submittal of a reduction in effectiveness to
2 actually look like?

3 PANELIST LaVIE: Okay. This is a slightly
4 different twist than we were expecting. We changed
5 the rule language to require the submittal under 50.90
6 because it had been determined that under the Atomic
7 Energy Act that if you had identified this change as a
8 reduction in effectiveness you were asking us for an
9 additional authority on your part and we were advised
10 that under the Atomic Energy Act the only mechanism in
11 place to do that was a license amendment.

12 So we expect that once the licensee has
13 determined -- This is a binary situation. If the
14 licensee determines there is a reduction in
15 effectiveness, it must be submitted under 50.90. If
16 it is not a reduction in effectiveness, it does not
17 have to be submitted under 50.90. The licensee would
18 implement it as he does now.

19 Now once that license amendment comes in,
20 it will be processed through the Office of Nuclear
21 Reactor Regulations, the license amendment process.
22 The project manager will issue work orders and so
23 forth and a safety evaluation report would be issued
24 on that amendment and the licensee would get back the
25 safety evaluation report indicating our determination

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1 that even though you identified this as a reduction in
2 effectiveness the staff determines that reasonable
3 assurance is still present and that you are still in
4 compliance with the various regulations or not if it's
5 rejected. That's the basis of our determination at
6 that point.

7 It's not whether or not we agree or
8 disagree with your determination it's a decrease in
9 effectiveness. If you've told us it's a decrease in
10 effectiveness, we're proceeding on the basis that we
11 have to look at it that way and what we're looking at
12 is do you comply with the regulations and do we still
13 have reasonable assurance that your plan provides for
14 implementation of protective measures, can and will be
15 taken.

16 PANELIST MILLER: Let me just -- Chris
17 Miller here. Let me just add a little bit of input to
18 that response in that in the -- if you submit
19 something, a plan change, and say that it is a
20 decrease in effectiveness there may be some discussion
21 on whether it is or whether it's not and the staff may
22 make a determination it's not and we may recommend a
23 different process. So there may be some ability. But
24 I think your question was -- There may some ability to
25 change that amendment request.

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1 But I think your question was what happens
2 to it if it is processed as 50.90.

3 MR. BOONE: Right. We're just curious
4 what it looks like when it comes back.

5 PANELIST MILLER: And what Steve described
6 is the process. So I just wanted to make sure I
7 clarified the up front part.

8 PANELIST LaVIE: What you would see in the
9 final page of the safety evaluation report under
10 conclusion is a statement and of course it will be
11 poured over by our lawyers, but a statement in
12 essence, we still have reasonable assurance that your
13 plan as modified can continue and will implement
14 protective measures in the event of an emergency and
15 that you comply with all the regulations.

16 MR. BOONE: Right. The other piece of
17 that question that hasn't really been addressed is why
18 that particular process is more closely aligned with
19 the 50.90 process. Specifically who is going to own
20 this margin between the base regulatory requirements
21 with the planning functions as you described them or
22 the emergency planning functions and the current level
23 of preparedness as stated in the existing emergency
24 plans and in the revision and how that's controlled in
25 50.90 space?

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1 PANELIST LaVIE: Thank you for asking
2 that. What we want to emphasize is that the rule
3 language does not talk about that margin.

4 MR. BOONE: We recognize that.

5 PANELIST LaVIE: What the rule language
6 requires a licensee to do is to make an evaluation of
7 whether the change he is considering would reduce the
8 effectiveness of the plan and then based on that
9 determination you either submit it or you don't.
10 Whether or not the margin between the regulatory
11 requirements -- Let me use an example.

12 Table -2B1 apparently may require two
13 firefighters or, excuse me, two mechanics. And for
14 whatever reason during the years your predecessors
15 decided to have four. The fact that it appears that
16 you have an excess of two is not really correct until
17 you determine why those excess people were put there.

18 If they were put there in order to meet shortfalls in
19 performance, then removing those two "excess people"
20 would likely result in a reduction in effectiveness.

21 The staff is extremely uncomfortable
22 working in this margin space, particularly in
23 emergency planning. Yes, margin is identified in the
24 50.59 rule, but in most of those analysis situations
25 you're dealing with numerical values. You can

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1 demonstrate the margin. The containment fails at 145
2 pounds. We want to move up five pounds from our
3 design pressure. Okay. You have numerical criteria.
4 That's not really relevant to emergency planning.

5 MR. BOONE: All right. Thank you, Steve.

6 PANELIST LaVIE: Okay.

7 MR. BOONE: One final question.

8 PANELIST KAHLER: If I can.

9 MR. BOONE: Sure.

10 PANELIST KAHLER: You asked the question
11 who owns the margin.

12 MR. BOONE: Yes.

13 PANELIST KAHLER: It's your responsibility
14 to maintain your emergency plan and if whatever it is
15 that margin that you have created above the
16 requirements you own that margin and you need to be
17 able to assess that margin and the reasons that margin
18 exists. So when you do your 50.54(q) process if you
19 want to go and alter that margin that you created in
20 your plan, your 50.54(q) assessment must be such that
21 it addresses whether a change in that commitment that
22 you have in your plan results in a reduction in
23 effectiveness.

24 Now I can go back to Steve and say, "You
25 know, you had those two mechanics on shift. You added

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1 an additional two. You now have four. And the reason
2 why you did it was just because you wanted to have
3 extra people on shift because they were there as a
4 result of some sort of an agreement between the
5 personnel of the site and management of the site." And
6 then that agreement was later changed. But what may
7 have occurred was the conditions under your emergency
8 plan operated with those four mechanics and as a
9 result of that some other changes may have occurred in
10 your emergency plan as a result of those additional
11 people being there that took credit for it.

12 Don't assume that you can just alter that
13 margin just on the basis of the original concept. You
14 must perform the 50.54(q) on a whole for the emergency
15 plan to ensure the plan as described continues to be
16 maintained and effective. We've seen that in the past
17 too is that the original reason is no longer the
18 reason that currently exists today because other
19 changes have been impacted as a result of that. So be
20 sure that it's a totality of review of the change
21 across your emergency plan.

22 MR. BOONE: What I'm hearing you saying is
23 that it's truly the intent of the proposed regulation
24 that the 50.54(q) evaluation of the margin be
25 consistent with the 50.59 process.

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1 PANELIST LaVIE: No, I don't think he's
2 saying that.

3 PANELIST KAHLER: No. I don't think you
4 heard that from me.

5 PANELIST LaVIE: 50.59 does have an
6 evaluation criteria and it talks about reduction in
7 margin.

8 MR. BOONE: Yes.

9 PANELIST LaVIE: There are no such
10 criteria.

11 MR. BOONE: There are no criteria in
12 50.54(q), right.

13 PANELIST KAHLER: It does address margin.
14 The 54(q) process does not address margin. It
15 addresses maintaining effectiveness of the plan.

16 MR. BOONE: All right. So I would go back
17 to my original question then. Why wouldn't we align
18 those processes when the draft guide says that we're
19 doing that?

20 PANELIST KAHLER: And thank you, Chris. I
21 would hope that you can provide us something in a
22 comment on www.Regulations.gov as to your thought
23 process as to why you would like to see that.

24 MR. BOONE: Okay. Great.

25 PANELIST KAHLER: We certainly appreciate

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1 it.

2 MR. BOONE: Wonderful. The last question
3 that I have in the same area is on 50.54(q) covering E
4 Plan changes and all the proposed changes to
5 resources, capabilities and methods. We had some
6 other questions talking about ORO that's related to
7 this, but this is a similar issue but in 50.54(q)
8 space where the ORO changes in scope and impact really
9 have fallen under 44 CFR 350 space for evaluation by
10 FEMA. There are several examples in the draft guide
11 that imply that 50.54(q) evaluations for resources and
12 capabilities outside the licensee's scope must still
13 be performed.

14 Our question is how is that line of
15 demarcation to be drawn on what necessitates a
16 50.54(q) evaluation in the ORO space specific to their
17 resources and things and I think Steve kind of
18 answered earlier it's all about them replying and
19 responding to the site.

20 PANELIST LaVIE: Right.

21 MR. BOONE: And if that's the answer, then
22 --

23 PANELIST LaVIE: There are a couple of
24 things I think that can maybe help clarify this
25 greatly. We need to keep in mind that 50.54(q)

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1 actually has two major parts. Okay. First off, it
2 provides the licensee with authority to make changes
3 provided they don't reduce the effectiveness. There's
4 a second part that, however, that says the licensee
5 shall follow and maintain the effectiveness of his
6 plan. So there are two issues involved here.

7 In order to be in the change process, the
8 licensee has to be making an intentional change to his
9 plan. Otherwise you're not changing your plan. So if
10 the licensee is considering, "I want to change this
11 paragraph in my plan," the change process applies.
12 Okay.

13 If as a result of some action offsite --
14 Oh, in addition, the licensee intentional, it also has
15 to be involved with something that is in the plan.
16 Okay. If your plan identifies certain resources and
17 certain capabilities and you want to make a change in
18 those resources and capabilities, then the change
19 process in 50.54(q) will apply.

20 Now if your plans, for instance, specifies
21 that you are going to rely on a certain hospital to
22 treat people or a contaminated injured person from
23 your site or radiation exposed individuals and your
24 plan identifies this resource, when the NRC reviewed
25 their plan, they looked at this and said, "Okay. We

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1 agree with what they've done and they meet I think
2 it's (b) (13). It meets one of the planning standards
3 that talks about medical support." And that's great.

4 Now you want to change that. Okay. Maybe
5 you've decided to go with a different vendor. That's
6 an intentional change. However, if you get a letter
7 from that hospital mid between memorandum of
8 understanding periods and they tell you "We're going
9 out of business. We can no longer respond to your
10 site," that isn't under your control. We recognize
11 that. But you are also not making an intentional
12 change to your plan. You didn't intend for them to go
13 out of business.

14 Now, with that said, the second part of
15 50.54(q) comes into play. Your responsibility is to
16 maintain the effectiveness of your plan. You're not
17 in compliance. Once they go out of business, you are
18 no longer in compliance with your plan because your
19 plan says they're going to respond. Okay. So the
20 effectiveness of your plan is now in question. You're
21 going to have to do compensative actions. Find
22 another hospital to participate or whatever
23 arrangements you need to. We're not specifying them.

24 Whatever arrangements you decide to do you
25 then need to make a change to your plan. That change

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1 now must be evaluated under 50.54(q) change process
2 because now you're making an intentional change to
3 your plan. The fact that the hospital decision wasn't
4 under your control still impacts your plan.

5 I'm seeing a puzzled look.

6 MR. BOONE: No. I'm hearing what you're
7 saying.

8 PANELIST LaVIE: I think a lot of this is
9 -- I realize this is terribly confusing. We have
10 discussions internally constantly. Our Office of
11 Enforcement just doesn't understand some times why we
12 cite violations under traditional enforcement and
13 sometimes under the ROP and the difference is there
14 are two requirements in 50.54(q). Okay. We can't
15 separate the two requirements.

16 But when we're talking about when you must
17 do a 50.54(q) evaluation just because the hospital
18 tells you they're going out of business does not
19 require you to make a 50.54(q) evaluation. But you
20 are required to do something to fill that gap. I
21 don't want to use that word. Fill that weakness.

22 MR. BOONE: Yes, as you would say,
23 planning function.

24 PANELIST LaVIE: And as you evaluate
25 handling this weakness, you now have to rely on a

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1 hospital that's 200 miles away. When you do your
2 50.54(q) evaluation on your plan change, you're going
3 to need to address the impact of that additional
4 travel time. Can the hospital respond as quickly as
5 they used to? Do they have the capabilities of the
6 previous hospital?

7 MR. BOONE: Yes, and, Steve, really that's
8 getting at the heart of the comment there or question.

9 PANELIST LaVIE: Okay.

10 MR. BOONE: But another piece of that
11 question with a different example, not so much a
12 hospital going out of business, the draft guidance and
13 the regulation as proposed would imply that changes to
14 those resources offsite such as a change in the shift
15 schedules or equipment availability, something like
16 that, would need to be evaluated in 50.54(q) space.

17 My question, understanding that you'd
18 really be evaluating that to determine whether or not
19 it has an impact on their ability to respond onsite:
20 If you were to determine that does, yet it wouldn't
21 really require a change to your existing emergency
22 plan -- they are actually revising their plan -- the
23 definition of emergency plan in the proposed
24 regulations to include those supporting documents and
25 other documents, States' plans, what would that look

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1 like when we submit it under 50.90 to come back and
2 we're really talking about a change to the State
3 emergency plan, not so much the licensee's plan?

4 PANELIST LaVIE: Okay. There is a very --
5 I'm going to call it a bright line -- maybe it isn't,
6 between offsite and onsite with regard to who's
7 responsible. Changes to the State plan go through
8 FEMA in the 44 CFR process if they constitute a
9 substantial change. They are not subject to 50.54(q).

10 Now, if that State plan change affects the
11 fire department from coming to your site and now
12 they're telling you "We can't respond to your site,"
13 you're going to have to do something to your plan.
14 Now you're making a change to your plan.

15 MR. BOONE: Right. Under 50.54 (q).

16 PANELIST LaVIE: Under 50.54 (q).

17 MR. BOONE: Right, and I understood that.
18 But it's just not as clear --

19 PANELIST LaVIE: You will never submit a
20 State plan change under 50.90.

21 MR. BOONE: Right. It's just the way it's
22 currently written and we'll clarify this with a
23 comment is that it's not clear that all of those
24 changes made to ORO plans would result in a change to
25 the onsite plans. Yet they're supposed to be reviewed

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1 under 50.54(q).

2 PANELIST LaVIE: Our intent was to address
3 what's in the licensee's plan.

4 MR. BOONE: Okay. We'll clarify that in a
5 comment.

6 PANELIST LaVIE: And I do invite you. As
7 a matter of fact, when we thought about some of these
8 issues, I went into the draft guide and I found an
9 example where I quite frankly specified the wrong
10 thing. Okay. It talks about the volunteer fire
11 department. And when I went back and read it I
12 thought, "That's obviously one place I made a
13 mistake."

14 Please file comments to show where we may
15 need to rethink some of the other items. I noticed in
16 the draft reg guide in most cases the lead-in
17 paragraph specified changes to the licensee's plans,
18 procedures, resources, capabilities relied upon in
19 that plan. And then it lists the examples. And the
20 one case that was identified it didn't have that lead-
21 in and it could obviously be confused that we were
22 talking about the change in the volunteer fire
23 department plan. That really was not our intent.

24 So if you do have several, hopefully not
25 several more, but if you can identify a few more we

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1 would certainly like to fix them.

2 MR. BOONE: Okay. Great. And we'll
3 include that in our comments.

4 PANELIST LaVIE: Thank you.

5 PANELIST KAHLER: Very good, and that's
6 why I love this process because we do get the
7 involvement of the stakeholders. We put a proposed
8 rule out. You read it. We have one interpretation of
9 it. If you have another one, please provide a comment
10 as to why you perceive it differently than the staff
11 intended it to be perceived. Please make those
12 comments again on and I'm going to give you a plug
13 here, Lisa, www.Regulations.gov or you can, of course,
14 fax it to us, email it to us or send it to us by
15 letter.

16 Thank you again, Chris.

17 MR. BOONE: Thank you.

18 MODERATOR GIBNEY: Chris -- Mr. Boone,
19 were you done?

20 (No verbal response.)

21 I just need you to step to the microphone
22 if you could please.

23 MR. RICKARD: Don Rickard with STARS
24 Regulatory Affairs. Who owns the functional
25 capability above the planning standards? We got rid

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1 of the term "margin." So there's an "excessive level
2 of functional capability in the emergency plan." Who
3 owns that? Who can make the change to that?

4 PANELIST KAHLER: Once you have written
5 your plan and its part of your license you own it. If
6 you determine that you're going to make a change to
7 whatever you have in that plan, you own it. You will
8 make that determination as to whether it's a reduction
9 of effectiveness or whether it's not. If you
10 determine it's not a reduction of effectiveness, then
11 you make the change. If you determine it is a
12 reduction of effectiveness, the change you want to
13 make you must submit it to us through the 50.90
14 process.

15 MR. RICKARD: So if the planning standards
16 remain fully met, the plan fully executable, and there
17 is some element that is removed, we still meet the
18 plan.

19 PANELIST KAHLER: No. What you said was
20 the plan remains executable. We used the term the
21 plan is maintained effective.

22 MR. RICKARD: Effective.

23 PANELIST KAHLER: Yes.

24 PANELIST LaVIE: I want to clarify
25 something if I might. I want to make sure you're

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1 using the terminology the same way I thought you were
2 using it. I was involved with the 50.59 debacle years
3 ago. When you say that you own the margin, you were
4 implying that you can make whatever change you want
5 because you own that margin. That's not the way Bob
6 answered the question.

7 PANELIST KAHLER: We do not consider there
8 to be a margin when I see your plan. What you have in
9 your plan is what you're committed to. If you can
10 make a change and continue to prove that there is
11 effectiveness in the implementation of that plan, you
12 could make the change and that is your process that's
13 provided to you by 50.54(q) regulation.

14 When you're saying who owns the margin,
15 you're saying you have a margin. We see a plan.
16 Okay.

17 MR. RICKARD: Okay. A follow-up and it's
18 a question. The current 50.54(q) guidance document,
19 the draft guide, more than implies, essentially
20 states, that an ever increasing level of performance
21 effectiveness can occur but there's no diminishment
22 under the 50.54(q) process from your current level of
23 performance. Based on the draft guide language right
24 now, you can always go up but can never come back down
25 regardless of the extent to which the plan is

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1 effective.

2 PANELIST KAHLER: No. If that's your
3 perception, please identify to us in a draft reg.
4 guide where you get that perception from. If you want
5 to propose something to clarify that situation to us,
6 please do so and provide us the comment.

7 (Off the record comments.)

8 MS. HOOPER: I have a question.

9 MODERATOR GIBNEY: Sure.

10 MS. HOOPER: Diane Hooper from Wolf Creek.

11 MODERATOR GIBNEY: Go ahead. You're fine.

12 MS. HOOPER: Okay. You stated that when
13 you submit the 50.90 which is a license amendment
14 request that we get an SE. I think the question that
15 we were trying to look for is, "What is the license
16 amendment specifically going to look like because
17 you're going to actually have to amend our license for
18 some of these changes?"

19 It's not just the SE or the SER, however
20 you want to state it. It's that document. Is it
21 going to be a -- You know, are we going to have some
22 kind of a commitment or a condition? How is that
23 going to look? It's a problem with 50.59. We've done
24 some of these and we all thought we'd get the SE and
25 it would be fine. But we're finding that it's a bit

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1 difficult.

2 PANELIST LaVIE: I think one of the --
3 Maybe this helps and if it's not, please correct me.
4 And maybe I can help clarify it. License amendments
5 are typically issued, typically not exclusively, for
6 changes to the FSAR. That's what triggers 50.59.

7 MS. HOOPER: Or all tech specs.

8 PANELIST LaVIE: Okay. All tech specs,
9 but that's exempt from 50.59. Okay. Now I lost my
10 train of thought there. Okay. Triggers a change to
11 the FSAR.

12 The emergency plan although it's usually
13 handled as a standalone document is Chapter 13.3 in
14 the FSAR.

15 MS. HOOPER: Right. I understand.

16 PANELIST LaVIE: Okay. So I would expect
17 that NRR when it writes their letter that you're going
18 to get it says that you were authorized. The staff
19 has looked at the change you've proposed to your
20 emergency plan, Chapter 13.3 of the FSAR, and the
21 staff has determined that this change is -- I'm going
22 to use the word acceptable because I don't want to
23 rattle off all those words again. You know they'll be
24 very definite legal language that everybody's going to
25 go over with a fine tooth comb.

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1 But that's the way it will probably be
2 coming to you. I don't know. I'm not in NRR. But
3 that's how it's likely to be imposed. I doubt very
4 highly the letter will say you're allowed to change
5 your emergency plan. It's going to reference Chapter
6 13.3 because the FSAR is part of your license. The
7 emergency plan is part of your license because it's
8 part of the FSAR.

9 PANELIST MILLER: Let me just make a
10 couple of points. We don't, as Steve mentioned, have
11 the staff from NRR here available to predict and
12 answer that question specifically. But it sounds like
13 you did have some experience with other changes that
14 may have been challenging in how you received the SE.

15 So please let us know what those are and if there's a
16 better way to receive it just put that on the
17 www.Regulations.gov.

18 MS. HOOPER: Okay. I think that the
19 question is what's it going to look like when it comes
20 back and I think you guys have to think about that,
21 too, because I know we are struggling with that as far
22 as questions submitting 50.59 changes under 50.90,
23 submitting basis changes under 50.90. Those are
24 coming back kind of confusing.

25 Another question and this was discussed a

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1 little bit. Did you consider when you were revising
2 the 50.54(q) to make it look more like 50.59? I know
3 we talked about margin, but more or less under the
4 addressing activities rather than changes to a
5 specific document and also defining the word change.

6 PANELIST LaVIE: Let me take your second
7 part first. The proposed rule language does have a
8 definition of change. When I drafted the proposed
9 language for 50.54(q) I had 50.59 in front of me. You
10 know, I hope this doesn't cut my salary, but, you
11 know, we tend not to reinvent the wheel because it
12 facilitates getting things through the Office of
13 General Counsel. If it's already been approved once,
14 we can get it through again. So I started with the
15 50.59 and then see what I could do.

16 Now 50.59 you have a list of, I think, its
17 11 items such as change reduction of margin,
18 identification of new accident, increase the
19 consequence of an accident previously evaluated. You
20 probably are more familiar with that than I am now.
21 When we looked at that, we really didn't have
22 something like that for emergency planning.

23 What we had were the planning standards.
24 But we had 16 of them. We started looking at that.
25 We said the rule is going to become very unwieldy if

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1 we put the emergency planning functions in the rule.
2 So the intent was to identify what those were and how
3 they related to the reduction of effectiveness
4 determination, but to put the planning standards by
5 themselves into the guidance document.

6 Now I can make the same comment about the
7 guidance document. When I started drafting the
8 guidance document, I had the NEI document that was
9 written on 50.59 and I used that format to the extent
10 possible. There were places I had to deviate
11 obviously, but we tried to use that format where we
12 outlined all the definitions and discussed then in
13 more detail than we did in the regulation, provided
14 examples of things and then we went into the criteria,
15 each individual criterion. Now in our case it was by
16 emergency planning function instead of margin of
17 safety or whatever else and provided examples for each
18 of those cases.

19 Now if you think I've misrepresented that
20 or there's a better way to do it we would be certainly
21 willing to hear it. Thank you.

22 MODERATOR GIBNEY: Thanks, Steve. We did
23 have one request to follow on the same thread from
24 someone on the phone. Don, are you with us?

25 MR. MOTHEANA: Yes, I am. Thanks, Lisa.

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1 MODERATOR GIBNEY: Okay. Just before you
2 start if we just ask quickly those that are on the
3 phone if everyone could double check for the *6.
4 We're getting requests that there's an awful lot of
5 background noise on the phone. So if everyone could
6 just check for their *6 except you, Don, that would be
7 most appreciated.

8 Don, if you could tell us who you --
9 Perfect. I'm hearing it work. So if I could get you
10 to tell us who you are and who you're with, that would
11 be great. Thanks.

12 MR. MOTHENA: Sure. My name is Don
13 Mothena. I'm with Florida Power and Light Company.
14 My question is similar but on a different text. Reg.
15 Guide 1.101 allows us to submit alternate approaches
16 for meeting the guidance and while at the surface it
17 may appear that an item is a reduction in the
18 effectiveness or really a difference in the way you're
19 meeting an existing commitment, it's not a decrease.
20 It's just a different way to accomplish that.

21 Is it your vision that the 50.90 process
22 would be used for a change that would be an alternate
23 approach to accomplishing a similar activity?

24 PANELIST LaVIE: This is Steve LaVie. The
25 alternate approach was identified in that RIS and in

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1 the reg. guide and in the past year or two we have --
2 people have pointed out to us within management within
3 the NRC that the regulation provided for binary state
4 was either a reduction in effectiveness or -- Well,
5 the original language was either a decrease in
6 effectiveness or it was not. The regulations provided
7 nothing for alternative approaches.

8 As a result of that concern expressed to
9 us in part by Office of General Counsel and
10 management, we have eliminated the alternative
11 approach from DG-1237 and ultimately it will be gone
12 from Reg. Guide 101 as well.

13 MODERATOR GIBNEY: Don, does that answer
14 your question?

15 MR. MOTHEANA: Yes. I'm not so sure I like
16 it, but it does answer me.

17 MODERATOR GIBNEY: That wasn't part of the
18 deal. I just asked if it answered it.

19 PANELIST LaVIE: The bottom line is always
20 going to be you need to make a determination of
21 whether or not it's a reduction in effectiveness.
22 Part of the problem with the alternative approach item
23 just to let you know, full disclosure and all that
24 good stuff, is that the regulation says the licensee
25 makes the determination. It doesn't say the staff

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1 makes it.

2 MR. MOTHENA: I understand and then the
3 inspection takes place and we have the great debates.
4 I understand.

5 PANELIST LaVIE: Right. Now understand
6 that that does not preclude you from talking to the
7 staff. All it addresses is what you submit.

8 MR. MOTHENA: I understand. My next add-
9 on question to this is kind of in a carry-on. I see
10 an unintended consequence from moving to the 50.90
11 process to what may have taken place in the past is
12 changes that were close to the line or that were
13 clearly in the licensee's mind as not a decrease in
14 effectiveness. They're going to force using the
15 license amendment and open it up for possible public
16 interaction and things of that nature. And you're
17 likely not to see some changes that may be of benefit
18 to the program and to the protection of the public.

19 Has the NRC had any discussion or thoughts
20 in that direction?

21 PANELIST LaVIE: I can't say we've had
22 discussions, but it was something I was certainly
23 thinking of.

24 PANELIST KAHLER: I would say at this
25 point, Don, if you see that it may end up with some

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1 unintended consequences please submit that as a
2 comment to provide that to us for our consideration.
3 Okay.

4 MR. MOTHENA: Understood.

5 PANELIST MILLER: And this is Chris
6 Miller. There have been discussions on that. So rest
7 assured that staff has discussed that and management
8 has discussed it and we came up with the approach that
9 we came up with. But you might have a different one or
10 a comment or a better way to approach it and we'd like
11 to hear about it.

12 MR. MOTHENA: Thanks.

13 MODERATOR GIBNEY: Don, did we get to your
14 questions?

15 MR. MOTHENA: You did. Thank you.

16 MODERATOR GIBNEY: Okay.

17 Mr. Amundson who I promised quite a while
18 ago. I didn't forget you and I think Jerry Bonanno
19 was next on the list for questions.

20 MR. AMUNDSON: Thank you. I'm Ted
21 Amundson from South Nuclear. I'm in the Nuclear
22 Development area and I've been working on licensing
23 and permitting for the Vogtle 3 and 4 site. I'm also
24 on the NEI Task Force related to analyzing the impact
25 on rulemaking as it relates to COL applications and/or

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1 ESP applications.

2 My question is related -- Well, first of
3 two questions, but both of them are related to the
4 Federal Register, Section 4, Question 6 part related
5 to effective date of implementation and the effect
6 that that may or may not have on COL applications
7 and/or ESP applications.

8 The first question is if the rule becomes
9 effective after the NRC has completed its reasonable
10 assurance determination -- in other words, we have a
11 final safety evaluation report in hand -- but before
12 the COL is issued itself would the reasonable
13 assurance determination become outdated? In other
14 words, do we need to revisit or reapply and go through
15 the process again to obtain a new reasonable assurance
16 determination?

17 PANELIST MILLER: What you pose -- this is
18 Chris Miller -- is a good question and something that
19 the staff is currently considering across a number of
20 the offices: Office of New Reactors, Nuclear Security
21 and Incident Response, Nuclear Reactor Regulation,
22 Office of General Counsel. We're in active
23 discussions on what's the best way that if a new
24 regulation comes out in the middle of a -- somewhere
25 in the Part 52 application process. What's the best

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1 way to address that and for an applicant to advise us,
2 advise the NRC, or change their application to meet
3 the new rule because obviously you would have to meet
4 the new rule. What's the best way of approaching
5 that?

6 And so I think the best thing to say is
7 stand by. We're in constant discussion on that. We
8 have recently assembled a team that's going to be
9 addressing that in a little bit more detail.

10 You won't see it in this regulation nor
11 these reg. guides specifically. You know, the
12 process, it's going to be generic to more than just
13 this rulemaking. It will be generic to all the
14 rulemaking that might affect an applicant during the
15 Part 52 process.

16 MODERATOR GIBNEY: So, Chris, does that
17 mean that he should still though -- Even though he
18 won't see the outcome in this process, is it still
19 something we'd want for www.Regulations.gov in a
20 comment? This is getting -- I feel like this is going
21 crooked.

22 Bob.

23 PANELIST KAHLER: Yes, if I can. To say
24 you may not see it, we don't know what we're going to
25 do with any comments we may receive as a result of

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1 that request for input and how we may incorporate or
2 may not incorporate that within this particular rule.

3 So at this point we recognize that and we recognize
4 that that exists. We are in discussions.

5 We want to hear from the industry. We
6 want to hear from industry what the impact is during
7 that time period so we can inform us better on how to
8 make our approach. Because we have thoughts, but we
9 can't provide that to you at this time, we want to
10 hear your input into it and your suggestions and
11 recommendations.

12 But I know my General Counsel has always
13 said that we shouldn't say ahead of time what may or
14 may not happen to a proposed rule based upon comments
15 not yet received or will be received. What we can do
16 at this point is to say please provide those comments
17 and we'll give them consideration.

18 MR. AMUNDSON: Right. Understand. Thank
19 you.

20 PANELIST MILLER: We want to hear the
21 timing comments. We want to hear the comments about
22 how they affect you and we'll consider that as we're
23 moving forward with this rule. I think it will apply
24 to this rulemaking, but it will probably apply to
25 other rulemaking as well. It's a good comment or a

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1 good question, turn it into a comment.

2 MR. AMUNDSON: Okay. We'll be working on
3 it. All right. Thank you. And rest assured we
4 certainly plan to address those issues in our
5 comments.

6 The second question is kind of related,
7 but we've also noticed that in the Federal Register
8 you basically are proposing to implement the rule
9 through publication in the Federal Register. Thirty
10 days. Effective 30 days after. One hundred eighty
11 days to implement with exceptions, specifically
12 related to 50.54(q) and certain items in Appendix E
13 related to drills and exercises. We also noted that
14 you are planning it appears to put implementation
15 language related to drills and exercises in Appendix E
16 language itself in terms of the implementation process
17 or schedule.

18 So the question is, "Has the staff
19 considered perhaps embedding the implementation
20 language throughout the regulations and not rely on
21 just the Federal Register notice?"

22 PANELIST TAILLEART: Yes. This is Don
23 Tailleart, NRC. You know, we have discussed among
24 the staff the best way to address this issue, but
25 again we are looking for your input and comments on

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1 your thoughts. Whether or not it goes in the
2 regulation or different parts of the regulation or how
3 we address that is what we're looking for your input
4 on. So if you have some thoughts please submit that
5 as a comment.

6 MR. AMUNDSON: Okay. Thank you. That's
7 all I have.

8 MODERATOR GIBNEY: Great. Thank you and
9 as Jerry Bonanno's coming towards the microphone, it's
10 probably a good time for me to remind everybody that
11 even though we have heard a lot of good questions
12 today all of them even though you've said them out
13 loud please don't assume that that's all we need to
14 take action upon. We do need all your thoughts in
15 writing and I know we've said this 100 times and those
16 of you that have been to the other meetings, I'm past
17 100. But it's still important for us to keep
18 reiterating that we really do need those comments
19 written in www.Regulations.gov or whatever format you
20 choose to use. So we appreciate everyone coming
21 today, but we do still need to have the written
22 comments.

23 Mr. Bonanno.

24 MR. BONANNO: Thanks. Jerry Bonanno from
25 NEI. I had a specific question and it's about Section

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1 (c) (2) in the draft guide and its consistency with the
2 proposed revisions of 50.54(q). So the question is or
3 the setup to the question is Section (c) (2) lists a
4 series of changes that the staff recommends that
5 licensees submit for review and approval pursuant to
6 50.4.

7 The proposed rule as we've discussed
8 contains a legal analysis with the conclusion that
9 changes that will result in a reduction of
10 effectiveness should be submitted pursuant to 50.90 or
11 must be submitted pursuant to 50.90 through a license
12 amendment process.

13 I guess the specific question is what is
14 the legal distinction between the changes described in
15 Section (c) (2) and the changes described in Section
16 50.54(q).

17 PANELIST LaVIE: Okay. Actually it's
18 quite easy, although I will admit that we looked at
19 the language and we need to reconsider parts of it.

20 It's important to understand that the
21 Draft Guide 1237 is a guidance document. The
22 regulation specifies that if your change results in a
23 reduction in effectiveness you must submit it under
24 50.90. You would not submit it under Section (2).
25 You've already submitted it.

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1 Therefore, Section (2) really addresses
2 those changes that you have or your staff has
3 determined do not constitute reduction in
4 effectiveness. Our choice of the particular I think
5 it's seven items was based on as explained in the
6 draft guide our experience in reviewing licensees'
7 submittals done under the old system on some of these
8 changes and enforcement actions associated with some
9 of the changes we've observed. For these specific
10 eight items, we noticed trends that indicated that for
11 instance I think it can be said that very, very few of
12 the license amendment, excuse me, very few of the
13 licensees' submittals under the old scheme got through
14 on the first pass. Okay. We saw weaknesses in the
15 analysis, a weakness in the approach. There were
16 large numbers of RAIs involved and what finally got
17 approved was different than was finally requested.

18 This gives the staff concern in that if
19 we're seeing it, okay, that's great. We saw it and we
20 were able to handle it, but there's an awful lot of
21 changes that because they were determined to be not
22 reductions in effectiveness that we did not see.

23 We started to feel very uncomfortable
24 about this and the draft guide in Section (2) was
25 intended to suggest that you avail yourself of

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1 discussing this with the staff. Okay. I know what
2 the language specifically says. Our intent was is
3 that we were trying to forestall problems. I believe
4 that your organizations and our organizations would
5 just as soon resolve this before we have to cite a
6 violation.

7 These particular changes had caused
8 problems in the past. Now when I say that they caused
9 problems in the past that does not override the fact
10 the regulation says that you're allowed to implement
11 changes that do not decrease the effectiveness of your
12 plan. Under regulation, that is your authority.

13 MR. BONANNO: Okay. So I just have a
14 follow-up question.

15 PANELIST LaVIE: But please make a comment
16 on this because apparently it's unclear.

17 MR. BONANNO: Yes. No, we will and I
18 think you could probably get the language cleared up
19 in the guidance. But the question that it begs since
20 those changes are not necessarily reductions in
21 effectiveness the way that the language is written now
22 you know it begs the questions that what's the
23 regulatory basis for the guidance and is it
24 enforceable.

25 And I think what you're describing helps

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1 me along the way to develop comments. Because if what
2 you're proposing is to promote dialogue on certain
3 things that might be questionable I think that's one
4 thing. But you know recommending that something be
5 submitted for review and approval triggers a different
6 set of thoughts.

7 PANELIST KAHLER: If I can take a direct
8 approach on it, then there is no basis in regulation
9 for that recommendation in the draft Reg. Guide. It
10 is a recommendation by the staff. As Steve had said
11 before, it's a binary type of process. You would have
12 made a determination. If you determine that it's a
13 reduction in effectiveness, you must submit it to us
14 by 50.90. If you determine it's not a reduction in
15 effectiveness, you can go forward with the change.

16 The staff is just recommending that for
17 certain items our past experience says that you may
18 want to take these particular type of issues, submit
19 them to us by 50.4 for our review because we have seen
20 issues in the past with these specific areas and it
21 may benefit all parties for that submittal.

22 You do not have to do that. If you do not
23 do that, if you decide that for those areas you want
24 to go forward with a process and we never hear from
25 you again, that is fine because you have that

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1 authority under 50.54(q) and that's what we're saying.

2 MR. BONANNO: Okay. Thank you.

3 PANELIST KAHLER: There's no regulatory
4 basis for that recommendation.

5 MR. BONANNO: Thanks.

6 MODERATOR GIBNEY: Thanks. Any other
7 questions on this Part 4 from those remotely? I'm not
8 hearing any.

9 The last person that we had signed up is
10 Mike Slobodien. Do you have a question for us and
11 like I said it's the last question that we have listed
12 so far. So kind of a last call. Start thinking.

13 MR. SLOBODIEN: I'm Mike Slobodien from
14 Entergy Corporation and my question really has to do
15 with formatting of comments that are going to be made
16 to you. The Federal Register notice addresses rule
17 changes. There's a discussion of interim staff
18 guidance, a reg. guide and a draft NUREG. Is there a
19 preferred way in which we should comment by topic area
20 which cuts across these or by type of item? For
21 example, comment on proposed regulations one way one
22 comment. Comment on staff guidance and then comment
23 on other documents or if it's a topic area do you see
24 or want to see comments cutting across if they're
25 related?

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1 Let me give an example. On the item on
2 multiple shift responsibilities it's addressed in the
3 rule. It's addressed in staff guidance. And it's
4 addressed in one of the questions that you're asking
5 having to do related to Table B-1 type of approach.
6 Is there a preferred way that would be beneficial to
7 you in the way we post our comments?

8 PANELIST KAHLER: Don, because you're
9 going to be leading the comment team, is there any
10 special format you would like to see? Or is does that
11 ease the process?

12 PANELIST TAILLEART: Yes, I guess my
13 initial reaction to that -- this is Don Tailleart, NRC
14 -- my initial reaction and the way that we were headed
15 with the Comment Adjudication Teams was to, and the
16 way we were planning on vetting the comments or
17 sorting the comments, was to look at each of the 12
18 rulemaking topics and comment specifically on those
19 topics and the rule language itself would go into one
20 bin. Feedback and comments on the questions that were
21 asked in the proposed rule would go into another bin.

22 And then comments on each of the guidance documents
23 would go into separate bins for each of those guidance
24 documents. And then we in working with the Comment
25 Adjudication Teams would look for cross cutting

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1 comments or issues so we could pull those together.

2 But I think it would be most helpful for
3 us and other folks if they have different ideas can
4 chime in on this, but I think it would be most helpful
5 for us to use the approach I just described, address
6 each of the rulemaking topics, each of the questions
7 that are requesting supplemental information and each
8 of the guidance documents and then we can take that
9 information and if we see issues that are common and
10 threads amongst the various documents, we can put
11 those together.

12 MR. SLOBODIEN: Thank you.

13 MODERATOR GIBNEY: Okay. Last call for
14 questions remotely? Hold on a second.

15 MR. YOUNG: I just sent one in.

16 MODERATOR GIBNEY: Here we go.

17 MR. YOUNG: Okay.

18 MODERATOR GIBNEY: Hi.

19 MR. YOUNG: This is David Young of
20 Seabrook.

21 MODERATOR GIBNEY: I'm sorry. Can you
22 tell us who you are again?

23 MR. YOUNG: I'm sorry. David Young,
24 Seabrook Station.

25 MODERATOR GIBNEY: Hi Dave. And you have

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1 a question for us.

2 MR. YOUNG: I do.

3 MODERATOR GIBNEY: Okay.

4 MR. YOUNG: I was just thinking about the
5 clarification that was offered earlier back on Part 1
6 on the staffing analysis. We talked about maintaining
7 the functions (Background conversation.) I guess the
8 follow-up question I have is I'm curious why that
9 becomes part of the assessment or analysis process if
10 in fact there's no associated command and control or
11 infrastructure in place to utilize those functions.
12 Such as an example, I'm curious why we would have a
13 functional commitment to have offsite field monitoring
14 team capability when in fact there's nobody available
15 to direct that offsite monitoring team. So I'm not
16 sure why that function capability is still carrying
17 forward in light of not having anybody direct it.

18 And I have to say there's a related
19 question from a consistency thing on that I was just
20 thinking about where in the answer of the design basis
21 threat it talked assuming that there are no
22 consequences -- Let's see. Where is the wording here?

23 No consequences to plant safety. So again, this kind
24 of thinking of just using the offsite monitoring team
25 again as sort of an example. I'm not sure why we

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1 would have to assess to have that function available
2 within 30 minutes because if there's no consequence to
3 plant safety, there's not going to be any release. So
4 I guess I'm just looking for some clarification as to
5 why these 30 minute functions are still considered to
6 be valuable enough to keep into the assessment
7 process.

8 MODERATOR GIBNEY: Okay. Let's take a --
9 Randy. Let me get you the microphone.

10 PANELIST SULLIVAN: Randy Sullivan, NRC.
11 David, my comment was with respect to those sites that
12 have enveloped their 30-minute responders in their on-
13 shift staff.

14 MR. YOUNG: I'm sorry, Randy. Can you
15 speak up a little bit? I'm having a hard time hearing
16 you.

17 PANELIST SULLIVAN: My comment was with
18 regards to those sites that have enveloped their 30-
19 minute responders in their on-shift staff. You know
20 we've approved several E Plan changes that did that.
21 It eliminated the 30-minute responders and instead put
22 additional staff on shift.

23 So those sites that have that
24 configuration would need to assess the functions of
25 the 30-minute responders as part of this analysis.

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1 Those sites that still have 30-minutes responders
2 wouldn't do that. They would just do the on-shift
3 staff analysis.

4 And, by the way, you understand that this
5 analysis is done against the suite of design basis
6 accidents, not just one. I mean you understand that,
7 right?

8 MR. YOUNG: Yes. We get that. We
9 understand that.

10 PANELIST SULLIVAN: Okay. So some of
11 those design basis accidents call for field
12 monitoring, right, like LOCA maybe. You would want to
13 verify that there's no leakage offsite.

14 MR. YOUNG: Again that goes back to the
15 first part of what I'm commenting on or I guess what
16 I'm asking about here is that if I have a field
17 monitoring team function at 30 minutes, but there's
18 not going to be anybody available to direct it.

19 PANELIST LaVIE: Dave, this is Steve
20 LaVie. It's our expectation and I think it's borne out
21 in NUREG-0654 that the shift supervisor has that
22 responsibility to control and direct all emergency
23 planning activities until relieved by the emergency
24 director.

25 MR. YOUNG: Yes. I would be interested in

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1 -- Well. Okay. So going back it sounds like really
2 what you're saying here is that whatever the site
3 currently has as its basis for on-shift capabilities
4 whether or not -- well, if 30 minutes has been ruled
5 into those that's what's being assessed against for
6 that particular site.

7 PANELIST KAHLER: And that is correct,
8 Dave. And that is how we respond.

9 MODERATOR GIBNEY: Dave, did we get to the
10 thrust of your question there or?

11 MR. YOUNG: Yes and no, but I think I've
12 got a little better understanding.

13 MODERATOR GIBNEY: Okay. Anybody else
14 from the remote group that might have a question?

15 (No verbal response.)

16 Okay. How about here in the room?
17 Anybody else? Okay. If not, Chris, if you could give
18 us some --

19 (Off the record comment.)

20 Oh, you're right. I'm sorry. Mr. Kemper,
21 did you still want to -- Early you wanted to follow up
22 or?

23 MR. KEMPER: (Inaudible.)

24 MODERATOR GIBNEY: Sorry. I'm bad. Can
25 you just --

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1 MR. KEMPER: That last question resolved
2 my question.

3 MODERATOR GIBNEY: Wonderful. Thank you.

4 Okay. Chris, if you had some closing
5 comments for us and then I think we did finish early
6 and on the off chance that there might have been some
7 folks who were joining in anticipation of the public
8 time the staff will be sticking around. We'll keep
9 the phone lines open to at least 3:30 p.m. when we
10 originally would have been on.

11 If you have some closing comments for us,
12 that would be great. Thank you.

13 PANELIST MILLER: Thank you, Lisa. First
14 of all, thank you to all of the participants here and
15 remote. I was talking to one of the participants on
16 the break who said it was a lot more detailed meeting
17 this time than he was expecting based on his
18 participation the last time. And really that's kind
19 of almost the intent.

20 We knew that we were going to get some
21 more specific questions to enable the feedback to us
22 to be that much more detailed and specific. I'm
23 thinking by that comment we accomplished the purpose,
24 but I hope we get your agreement on that. I think it
25 was a collaborative process. We heard from a number

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1 of people how the guidance may need to be tweaked or
2 the regulations may need to be tweaked or changed
3 based on their comments and we look forward again to
4 the comments coming to us on www.Regulations.gov.

5 Again, the closure of the comment period
6 is October 19th. So it's coming. It's not that far
7 away. Please put some real thought into it and give
8 us your best shot on how you think you could improve
9 the regulations or the guidance that we've proposed.

10 And by the way I would like to hear your
11 feedback and Lisa will probably give you one more
12 pitch on that, both on the content of the meeting.
13 Did it meet both remotely and here your needs for
14 having additional information provided and also for
15 the remote folks on the technology. We're interested
16 because I think as we've discussed in some of our
17 earlier meetings this is a new process that we're
18 trying out. We're trying to make these meetings
19 available to more people and to people who can't
20 travel. So we'd like to hear those comments as well
21 and Lisa will give you a few details on how to do
22 that.

23 But again to everybody thank you very
24 much. And I really appreciate the substantive nature
25 of the comments.

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1 MODERATOR GIBNEY: Great. Thanks. Yes, I
2 was just about to do that. Actually when I introduced
3 the staff today I was very negligent. I didn't
4 actually acknowledge any of the Outreach Team who
5 actually makes all the magic happen. So thanks to
6 Sara Sahm, Annette Stang, Ned Wright, Rollie Berry
7 who's been the background of all our errands and if
8 you do have comments about the live meeting and how it
9 works you can actually direct those to Sara. Sara
10 Sahm is who most of you would have registered with
11 when you asked to be included in this. Sara will send
12 you a feedback form and it would be really terrific if
13 you could take a couple minutes and answer that. I
14 know it's an imposition again on your time, but we
15 really are looking for the feedback and some ways on
16 how we can improve and to also know if it's valuable
17 to us. We think it's valuable, but again as you heard
18 today the NRC staff isn't always -- our perceptions
19 aren't always what everyone else's is.

20 Thanks again, everyone, for your
21 participation. Like I said, the staff will stick
22 around for a few minutes in case you have any other
23 questions and again the end of the comment period is
24 October 19th. Thank you. Off the record.

25 (Whereupon, at 3:18 p.m., the above-

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entitled matter was concluded.)

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